

BILL ANALYSIS

Senate Research Center
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H.B. 888
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 7, 79th Legislature, Regular Session, 2005, created the Office of Injured Employee Counsel (office), a state agency that assists injured employees with their workers' compensation claims. Currently, the office does not have the authority to request free copies of an employee's medical records, making it difficult or expensive to assist the employee regarding the employee's workers' compensation case.

H.B. 888 requires a health care provider to provide, upon written request of an ombudsman for the office, medical records of the injured employee at no cost to the ombudsman. This bill provides that the workers' compensation carrier (carrier) is liable for the cost. The fee for the records is reimbursed to the health care provider (provider) by the carrier. This bill also prohibits the carrier from deducting the cost of medical records from any benefit to which the employee is entitled. The provider is required to use the fee schedule established for copying any medical records, as provided by Texas Medical Board rules, and is prohibited from withholding records if the fee is not paid, in order to prevent the insurer from delaying the process of obtaining records. Furthermore, this bill provides that the failure of the carrier to pay is an administrative violation under the authority of the division of worker's compensation. Finally, rulemaking authority is given to the injured employee public counsel to determine a time frame for the provision of the medical records.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the injured employee public counsel in SECTION 1 (Section 404.155, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 404, Labor Code, by adding Section 404.155, as follows:

Sec. 404.155. COST FOR CERTAIN COPIES OF MEDICAL RECORDS; ADMINISTRATIVE VIOLATION. (a) Requires a health care provider, at the written request of an ombudsman designated under this subchapter (Ombudsman Program) who is assisting a specific injured employee, to provide copies of the injured employee's medical records to the ombudsman at no cost to the ombudsman or the office of injured employee counsel.

(b) Provides that the workers' compensation insurance carrier is liable to the health care provider for the cost of providing copies of the employee's medical records under this section. Prohibits the insurance carrier from deducting that cost from any benefit to which the employee is entitled.

(c) Provides that the amount charged for providing copies of an injured employee's medical records under this section is the amount prescribed by rules adopted by the Texas Medical Board under Section 159.005(a)(1) (regarding physician fees for information), Occupations Code, for copying medical records.

(d) Prohibits a health care provider from requiring payment for the cost of providing copies of an injured employee's medical records under this section

before providing the copies to the ombudsman, notwithstanding Section 159.008(a)(2), Occupations Code.

(e) Authorizes the injured employee public counsel to adopt rules regarding a time frame for the provision of copies of an injured employee's medical records under this section and any other matter relating to provision of those copies.

(f) Provides that a health care provider or insurance carrier that fails to comply with the requirements of this section or rules adopted under this section commits an administrative violation. Requires the commissioner of workers' compensation to enforce a violation under this subsection in accordance with Chapter 415 (Administrative Violations).

SECTION 2. Effective date: upon passage or September 1, 2007.