

BILL ANALYSIS

Senate Research Center
83R28781 CAE-F

C.S.H.B. 658
By: Sheets; Krause (Watson)
State Affairs
5/17/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Medicare subrogation lien cases, defendants are currently forced to wait for the issuance of a recovery demand letter from the Center for Medicare and Medicaid before making payment on their judgment. While a defendant is waiting for this letter, post judgment interest accrues on the lien, increasing the total cost paid. Given that the issuance and delivery of the recovery demand letter is completely out of the hands of the defendant, they are often forced to pay additional costs due to delay caused by the federal government (third party).

C.S.H.B. 658 amends current law relating to certain lawsuits seeking damages.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 41, Civil Practice and Remedies Code, by adding Section 41.014, as follows:

Sec. 41.014. INTEREST ON DAMAGES SUBJECT TO MEDICARE SUBROGATION.

(a) Provides that subject to this section, postjudgment interest does not accrue on the unpaid balance of an award of damages to a plaintiff attributable to any portion of the award to which the United States has a subrogation right under 42 U.S.C. Section 1395y(b)(2)(B) before the defendant receives a recovery demand letter issued by the Centers for Medicare and Medicaid Services or a designated contractor under 42 C.F.R. Section 411.22.

(b) Provides that postjudgment interest under this section does not accrue if the defendant pays the unpaid balance before the 31st day after the date the defendant receives the recovery demand letter.

(c) Provides that if the defendant appeals the award of damages, this section does not apply.

(d) Provides that this section does not prevent the accrual of postjudgment interest on any portion of an award to which the United States does not have a subrogation right under 42 U.S.C. Section 1395y(b)(2)(B).

SECTION 2. Amends Section 74.351(a), Civil Practice and Remedies Code, as follows:

(a) Requires a claimant, in a health care liability claim, not later than the 120th day after the date each defendant's original answer is filed, to serve on that party or the party's attorney one or more expert reports, with certain curriculum vitae, rather than requiring a claimant, in a health care liability claim, not later than the 120th day after the date the original petition was filed, to serve on each party or the party's attorney one or more expert reports, with certain curriculum vitae. Requires each defendant physician or health care provider whose conduct is implicated in a report to file and serve any

objection to the sufficiency of the report not later than the later of the 21st day after the date the report is served or the 21st day after the date the defendant's answer is filed, failing which all objections are waived, rather than providing that each defendant physician or health care provider whose conduct is implicated in a report to file and serve any objection to the sufficiency of the report not later than the 21st day after the date it was served, failing which all objections are waived.

SECTION 3. (a) Provides that Section 41.014, Civil Practice and Remedies Code, as added by this Act, applies only to an award of damages made on or after the effective date of this Act. Provides that an award of damages made before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Provides that Section 74.351(a), Civil Practice and Remedies Code, as amended by this Act, applies only to an action commenced on or after the effective date of this Act. Provides that an action commenced before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2013.