

- SUBJECT:** Required worker's compensation information for employees
- COMMITTEE:** State Affairs —favorable, without amendment
- VOTE:** 8 ayes — Cook, Menendez, Gallego, Harless, Hilderbran, Oliveira, Smithee, Turner
- 3 nays — Craddick, Frullo, Huberty
- 2 absent — Geren, Solomons
- WITNESSES:** For — (*Registered, but did not testify:* Royce Bicklein)
- Against — None
- On — (*Registered, but did not testify:* Jonathan Bow, Barbara Klein, State Office of Risk Management; Norman Darwin, Office of Injured Employee Counsel; Amy Lee, Texas Department of Insurance, Division of Worker's Compensation)
- BACKGROUND:** Worker's compensation carriers are required to provide information about network benefits, terms and conditions, and network providers to injured employees who were using non-network providers prior to the employer's contract with the carrier. Employees are required to select a network doctor within 14 days after receipt of the information, and if not, the carrier may assign a network doctor for the employee.
- DIGEST:** HB 1872 would specify that issues regarding whether a worker's compensation carrier provided proper information to employees about network benefits and providers, among other information, could be resolved using the Division of Worker's Compensation's adjudication process.
- The bill would take effect September 1, 2011.
- SUPPORTERS SAY:** HB 1872 is needed to help resolve disputes about whether carriers complied with employee notification requirements, and it would help both injured workers and carriers. It simply would specify that any such

disputes would be resolved using the current worker's compensation adjudication processes. HB 1872 would follow the same process for a dispute on all requirements for the guarantee of medical care under the Labor Code and is a recommendation from the Office of Injured Employee Council.

Without proper notification that they must select a network provider, injured workers new to a carrier's network could continue their treatment with their initial provider, only to find out later that their claims were noncompensable because the provider was non-network. The only recourse injured workers now have when they believe that a carrier did not properly inform them of network terms is to file a complaint with the Texas Department of Insurance (TDI). But TDI may not have sufficient information from the complaint submission or appropriate jurisdiction to explore the issues involved in each complaint. Texas law specifically requires that there be evidence of notice kept by the network. This is a fact-based situation where both sides should have an opportunity to submit evidence and therefore elevates issues about notification to a dispute, not a complaint.

The adjudication process is well established and would provide fair and impartial oversight without unnecessarily prolonging a claims dispute. It is unlikely that the process would be needed very often, since it is expected that in many cases an employer would be able to show injured workers that they had signed a required document indicating their receipt of notification. However, in cases where documentation was missing or in question, having an impartial venue to hear the dispute would only be fair. This process also would benefit carriers who were accused of being noncompliant by helping them prove that they actually had given proper notice.

**OPPONENTS
SAY:**

This bill is trying to fix a situation that is not broken and would increase bureaucratic activity and prolong the resolution of claims disputes. Employees are required to sign a document stating they have received required notification. Allegations that they have not been notified are easily resolved by either showing them their signed document, indicating proper receipt of notification, or finding an absence of such documentation, indicating notification was not delivered.