

SUBJECT: Amending compensation and hearing processes

COMMITTEE: Business & Industry — committee substitute recommended

VOTE: 7 ayes — Longoria, Vasut, Cole, Frazier, J. González, Hinojosa, Neave Criado

0 nays

2 absent — Isaac, Lambert

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas; John Wilkerson, TMPA; and 8 individuals (*Registered, but did not testify*: Christopher Irwin, Thomas Villarreal, Austin Police Association; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Clay Taylor, DPSOA; Larry Young, Game Warden Peace Officers Association; Robin Foster, Harris County Deputies' Organization FOP #39; Ray Hunt, Hpou; Aidan Alvarado, Laredo Firefighters Association; Joaquin Criner, Lewisville Firefighters Association Local 3606; Ben Wright, Texas Medical Association; Glenn Deshields, Texas State Association of Firefighters; Andy Allison; Justin Berry)

Against — Bob Graves, TAC Risk Pool; Robert Stokes, TMLIRP (*Registered, but did not testify*: Ray Sullivan, American Property and Casualty Insurance Association; Ward Tisdale, National Association of Mutual Insurance Companies)

On — George Christian, Texas Civil Justice League (*Registered, but did not testify*: Allen Craddock, Texas Department of Insurance, Division of Workers' Compensation)

DIGEST: On the request of an injured employee who was a custodial officer, detention officer, emergency medical technician, firefighter, or peace officer, CSHB 790 would allow the Division of Workers' Compensation (DWC) to authorize a medical examination to define the compensable

injury, regardless of whether an examination requested by the insurance carrier was previously performed.

If an insurance carrier failed to begin payment or provide notice to an injured employee on or by the 60th day after the date the carrier received written notice of an injury, the carrier would waive its right to contest the extent of injury specifically claimed by the employee or reasonably reflected in the employee's medical record.

If an insurance carrier refused to pay benefits, the notice of refusal to an injured employee would be required to include the specific reasons for why the carrier was disputing the compensability of the injury or the extent of the injury and the evidence reviewed in making a determination to dispute the issue.

CSHB 790 would prohibit a contested hearing case regarding a dispute over extent of injury or compensable injury from taking place more than 75 miles away from the employee's residence unless the DWC determined good cause existed for the selection of a different location or the hearing was conducted by videoconference. The division would be required to conduct a contested hearing by videoconference on request of the injured employee or their attorney.

An insurance carrier would reimburse an injured employee, notwithstanding the amount of benefits awarded by an administrative law judge, for all medical expenses related to the injury claimed by the employee if:

- the carrier denied the employee's claim for medical benefits on or by the 60th day after the carrier had reasonable notice of the injury;
- an administrative law judge determined the injury was compensable; and
- the decision of the judge was not appealed to the appeals panel and became final.

An insurance carrier also would be required to directly reimburse an injured employee for a claim denied within 60 days of receiving notice if either an administrative law judge determined benefits were owed and the decision became final without an appeal, or an appeals panel affirmed or reversed the judge's ruling. If an appeal was upheld and it was determined that the benefits were owed, the carrier would be required to directly

reimburse the injured employee regardless of the amount of benefits awarded.

The carrier would be required to reimburse all medical expenses regardless of whether the appeals panel's decision was appealed for judicial review.

The bill would take effect September 1, 2023 and would apply only to a claim for worker's compensation benefits based on a compensable injury that occurred on or after the effective date.

**SUPPORTERS
SAY:**

CSHB 790 would ensure that certain injured first responders could receive the treatment they needed while waiting for hearings to conclude and provide more transparency to these injured employees. Currently, insurance carriers can deny a claim without giving a reason for why the claim was denied, which can lead to an extensive hearing process. This leaves the injured employee unable to get treatment for their injury due to the carrier denying them compensation. CSHB 790 would address this issue by requiring carriers to provide notice of a denial within an appropriate amount of time or forfeit the right to deny the extent of injury, giving employees a better idea of which injuries would be compensable and which would not.

The bill also would create a mechanism for employees to be compensated by their carriers for being treated by private practitioners related to their injury.

CSHB 790 would allow for hearing to take place virtually, which could save both carriers and employees time and money.

**CRITICS
SAY:**

CSHB 790 could increase disputes within the workers' compensation system and encourage carriers to deny claims on the basis of extent of injury upfront instead of later on in the process. Requiring carriers to provide payment, deny compensable injury, and contest the extent of injury within 60 days may not give carriers sufficient time to investigate the extent of the injury. This could lead to carriers denying a claim based on the extent of the injury upfront, which could in turn lead to more

disputed cases. CSHB 790 also could lead carriers to file disputes on any medical condition on the employee's medical record before a claim was necessarily made. This could lead to more hearings to determine whether an injury was compensable before a claim was made.