

BILL ANALYSIS

Senate Research Center

C.S.S.B. 929
By: Jackson, Mike
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 7, enacted by the 79th Legislature, Regular Session, 2005, provided that appeals of workers' compensation medical fee disputes would go directly from the Texas Department of Insurance, Division of Workers' Compensation, to the Travis County district court rather than to the State Office of Administrative Hearings (SOAH). This change has resulted in decisions of medical fee disputes being based solely on the papers submitted by the carriers and providers in the medical dispute resolution process. No testimony is taken, no exhibits are introduced, and no opportunity to cross-examine or rebut the other side's information is given. These appeals are based on a substantial evidence review, where the reviewing court examines the record before the agency, as provided by the papers filed by the involved parties, and determines whether there is substantial evidence to support a decision. By contrast, prior law handled such appeals, made to SOAH, as contested case hearings based on actual evidence, including exhibits and witnesses subject to cross-examination. Since such appeals are not currently handled as contested case hearings, the court's decision is not based on actual evidence, and a Travis County district court has ruled that the statutory failure to provide for evidentiary hearings in such fee disputes is unconstitutional.

C.S.S.B. 929 restores SOAH as the proper venue for the appeal of workers' compensation fee disputes and requires such disputes to be handled in an evidence-based hearing, thereby remedying the constitutional defect in current law.

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 Section 413.031, Labor Code, by amending Subsection (k) and adding Subsections (k-1) and (k-2), as follows:

(k) Entitles a party to a medical dispute that remains unresolved after a medical review under this section, other than a dispute regarding spinal surgery subject to Subsection (l) , to a hearing, rather than a judicial review of the decision. Requires such a hearing to be conducted by the State Office of Administrative Hearings (SOAH) no later than the 60th day after the date on which the party notifies the division of workers' compensation (division) of the Texas Department of Insurance (TDI) of the hearing request. Requires the hearing to be conducted as provided in Chapter 2001 (Administrative Procedure), Government Code. Makes a nonsubstantive deletion.

(k-1) Authorizes a party who has exhausted all administrative remedies under Subsection (k) and who is aggrieved by a final decision of SOAH to seek judicial review of the decision. Requires such judicial review to be conducted as provided in Subchapter G (Contested Cases: Judicial Review), Chapter 2001, Government Code.

(k-2) Creates this subsection from existing text. Provides that the division and TDI are not considered to be parties to the dispute for purposes of Subsection (k) and (k-1). Makes a conforming deletion.

SECTION 2. (a) Sets forth the medical disputes described by Section 413.031, Labor Code, as amended by this Act, to which this Act applies, except as provided by Subsection (b).

(b) Requires a court in which judicial review of a workers' compensation medical dispute described by Section 413.031, Labor Code, as amended by this Act, is pending on the Act's effective date to dismiss the case so that the party bringing the action is able to obtain a hearing in the manner described by Section 413.031(k), Labor Code, as amended by this Act. Provides that a dismissal under this is without prejudice to the ability of the party to bring a new action under Section 413.031(k-1), Labor Code, as added by this Act.

SECTION 3. Effective date: September 1, 2007.