

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 408

2026 Regular Session

Myers

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

WORKERS' COMPENSATION: Provides relative to the workers' compensation reimbursement schedule. (gov sig)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Provides for the controversion of compensation and medical benefits.
2. Provide for preliminary determination hearings.
3. Provides for certain notice delivery requirements for the conversion of compensation and medical benefits and preliminary determination hearings.
4. Defines "maximum medical improvement".
5. Provides for the compensation of certain income benefits, such as temporary total disability and supplemental earning benefits, under workers' compensation.
6. Requires the assistant secretary of the office of workers' compensation administration to initiate formal rulemaking to update and modernize the workers' compensation medical fee schedule beginning no later than June 30, 2029.
7. Requires the approval of the revised schedule by the Senate and House committees on labor and industrial relations and the Senate and House committees on health and welfare.
8. Provides special effective dates.
9. Makes technical changes.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 408 Re-Reengrossed

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Present law requires the assistant secretary of the office of workers' compensation administration (OWCA) to create a reimbursement schedule that sets the maximum amount that can be paid to doctors, hospitals, pharmacies, or providers for prescription drugs, medical supplies, hospital care and services, and medical and surgical treatments provided to injured workers.

Proposed law retains present law and adds that if a medical service has a CPT code, then the reimbursement amount shall be calculated using that code. Proposed law also provides that the reimbursement amount shall be set at the 75th percentile of the PMIC Medical Fees Directory.

Proposed law prohibits "by report" billing.

Proposed law provides that individual CPT, HCPCS, facility classification, or reimbursement schedules shall increase or decrease by more than 5% in any 12-month period unless the following criteria are satisfied:

- (1) Demonstration of material access-to-care deficiencies.
- (2) Clear actuarial evidence of system imbalance.

(3) Approval by concurrent resolution of the legislature.

Proposed law further provides that any decrease shall be phased in over not less than two years.

Present law requires the schedule to include charges which reflect the mean of the usual and customary charge for medical care, services, treatment, drugs, and supplies.

Proposed law repeals present law.

Proposed law requires reimbursement for implants to be the total of the original manufacturer's invoice or the authorized distributor's invoice amount paid plus 20%.

Proposed law defines "by report", "database", "electronic claim", "maximum medical improvement", "medical claim", and "payor".

Present law requires the assistant secretary to collect the information and data necessary to calculate the reimbursement schedule.

Present law further requires the information and data to be governed by the following guidelines:

- (1) The assistant secretary is to create a written survey detailing the information requested.
- (2) The survey is to be managed by the OWCA in conjunction with an academic institution.
- (3) The information requested must be based upon data at least six months old.
- (4) A minimum of 30 healthcare providers reporting data upon which each disseminated statistic is based.
- (5) No individual healthcare provider's data can represent more than 25% on a weighted basis of each statistic.
- (6) Any information disseminated must be sufficiently aggregated such that it will not allow recipients to identify the prices charged or compensation paid by any particular healthcare provider.

Proposed law repeals present law.

Present law provides that disputes between healthcare providers and employees, employers, or insurers may be submitted to the OWCA in the same manner as established for dispute resolution of claims for workers' compensation benefits.

Present law retains proposed law and adds that if the dispute is regarding billing, payment, explanation of benefits, reconsideration, or the appropriate amount owed for the provision of medical services that have been rendered, the disputing party shall submit the dispute for resolution to the OWCA's medical services section.

Proposed law requires the nonprevailing party to pay the cost of the review.

Proposed law provides an appeals process.

Proposed law provides that reimbursement due for certain professional services that do not have specific CPT code or a comparable CPT code, then reimbursement shall be the mean of the usual and customary payment for the professional service.

Proposed law provides that the fee schedule in present law shall remain in effect until the House and Senate Labor committees adopt the new fee schedule.

Proposed law instructs the assistant secretary to impose a civil fine of at least \$1,000 but not more than \$5,000 to any workers' compensation payor who does not timely pay medical benefits.

Proposed law provides that a request for authorization for certain medical services is deemed authorized if not denied within five business days.

Present law provides that upon the first payment of compensation or upon any modification, suspension, termination, or controversion of compensation or medical benefits for any reason, including but not limited to issues of medical causation, compensability of the claim, or issues arising out of provisions of present law, the employer or payor who has been notified of the claim shall do all of the following:

- (1) Prepare a "Notice of Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits".
- (2) Send the notice of the initial indemnity payment to the injured employee on the same day as the first payment of compensation is made by the payor after the payor has received notice of the claim from the employer.
- (3) Send a copy of the notice of the initial payment of indemnity to the office within 10 days from the date the original notice was sent to the injured employee or to his representative.
- (4) Send the "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" to the injured employee by certified mail, to the employee's address where he receives payments of compensation, on or before the effective date of a modification, suspension, termination, or controversion.
- (5) Send a copy of the "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" to the office on the same business day as sent to the employee or his representative.

Proposed law removes provisions of present law that reference sending a copy of the indemnity payment. Proposed law also adds certain delivery requirements that must be made within 10 business days.

Present law requires the OWCA to promulgate the "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" form.

Proposed law instead requires upon any modification, suspension, termination, or controversion of compensation or medical benefits for any reason, including but not limited to issues of medical causation, compensability of the claim, or issues arising out of provisions of present law the employer or payor to do all of the following:

- (1) Prepare a "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" on a LWC-WC 1002 form or any other form promulgated by the assistant secretary.
- (2) Send the notice to the injured employee within three business days after the effective date of the modification, suspension, termination, or controversion.
- (3) Send a copy of the notice to the OWCA on the same date the original notice was sent to the employee.

Proposed law requires the employee to provide a mailing address and an email address upon the employer's or payor's request. Proposed law also provides that any notice required to be sent shall be sent and delivered in any of the following ways:

- (1) The address where the injured employee receives payment of indemnity benefits.
- (2) The employee's email address.

(3) Hand delivered to the employee.

Present law provides notice requirements for when the injured employee is represented by an attorney. Proposed law adds additional delivery options and otherwise retains present law.

Present law provides that if there is a dispute between the parties and upon a rule to show cause held prior to the preliminary determination or any other hearing, the workers' compensation judge shall determine whether the employer is in compliance.

Proposed law repeals present law and instead requires an employee who objects to a request for a preliminary determination to file a motion to strike the request within 10 business days of receiving the required documentation.

Proposed law requires the motion to contain factual and legal bases for the objection. Proposed law also requires the workers' compensation judge to consider the motion by a rule to show cause prior to any preliminary determination hearing.

Proposed law states that failure to file the motion to strike within the prescribed time period shall be considered a waiver of any objection to the preliminary determination hearing.

Present law provides that if any dispute arises as to the condition of the employee or the employee's capacity to work, the assistant secretary of the OWCA, upon application of any party, shall order an additional medical opinion regarding an examination of the employee.

Present law further provides that the examination shall be conducted by a medical practitioner who is selected and appointed by the assistant secretary.

Proposed law adds and clarifies that a dispute of the parties can include but is not limited to the cause of the employee's condition regardless of whether the employee has reached maximum medical improvement. Proposed law otherwise retains present law.

Present law requires the medical examiner to report his conclusions from the examination to the assistant secretary of OWCA and to the parties. Present law provides that the report shall be prima facie evidence of the facts stated in any subsequent proceedings pursuant to present law.

Proposed law retains present law.

Present law provides that compensation owed in workers' compensation claims shall be paid in accordance with the established schedule of payments provided for in present law, which includes temporary total disability and supplemental earnings benefits.

Present law provides that temporary total disability benefits shall cease when the employee's physical condition has resolved itself to the point that a reasonably reliable determination of the extent of the employee's disability may be made and the employee's physical condition has improved to the point that continued, regular treatment by a physician is not required.

Proposed law instead provides that temporary total disability benefits shall cease when the employee's physical condition has resolved itself to the point of maximum medical improvement.

Proposed law provides that payment of temporary total disability benefits shall not exceed a maximum of 208 weeks. Proposed law further provides that the termination of temporary total disability benefits shall not preclude an award of benefits provided for permanent total disability, supplemental earning benefits, and permanent partial disability.

Present law provides for the award of supplemental earnings benefits for an injury resulting in the employee's inability to earn a certain percentage of his pre-injury wages and provides for the calculation of that amount. Proposed law retains present law.

Present law provides that supplemental earnings benefits shall not exceed a maximum of 520 weeks.

Proposed law changes the weeks from 520 weeks to 416 weeks.

Proposed law states that an employee who has exhausted eligibility for temporary total disability benefits shall be entitled to supplemental earning benefits in the manner provided for in present law and proposed law.

Proposed law requires the assistant secretary to establish and maintain the "All Workers' Compensation Medical Claims Database" (database).

Proposed law provides that the purpose of the database is to:

- (1) Improve transparency in medical reimbursement trends.
- (2) Assist in enforcement and maintenance of an appropriate fee schedule.
- (3) Evaluate medical utilization patterns and outcomes.
- (4) Detect fraud, waste, and abuse.
- (5) Support policy development, rate analysis, and system oversight.

Proposed law requires all workers' compensation payors to submit medical and pharmacy claims data for all workers' compensation claims arising pursuant to state law to the assistant secretary of the OWCA.

Proposed law requires the medical and pharmacy data to include all of the following:

- (1) Date of injury.
- (2) Employer industry classification.
- (3) Provider specialty and identifier.
- (4) CPT, HCPCS, ICD, and NDC codes as applicable.
- (5) Billed charge and allowed amount.
- (6) Paid amount.
- (7) Service dates.
- (8) Utilization review actions.
- (9) Claim status indicators.

Proposed law requires medical and pharmacy data to be submitted quarterly, unless otherwise required by provisions of present law that establish, promulgate, and update the reimbursement schedule.

Proposed law requires the information collected and maintained in the database to be confidential and privileged. Proposed law also provides for criminal penalties for unauthorized disclosure.

Proposed law states that the assistant secretary shall only use the data collected for the database for any of the following reasons:

- (1) Monitoring compliance with medical fee schedule regulations.
- (2) Studying medical cost drivers and utilization trends.
- (3) Supporting actuarial review and rate analysis.
- (4) Evaluating the effectiveness of medical treatment guidelines.

- (5) Developing, revising, or modernizing the workers' compensation medical fee schedule.
- (6) Reporting annually to the legislature.

Proposed law provides that payors who fail to submit required information to the database or correct submissions rejected because of errors shall receive a notice from the assistant secretary, and an extension of time may be granted for just cause. Proposed law further provides that the assistant secretary may assess a fine that does not exceed \$500 per day for noncompliance.

Present law requires the assistant secretary to adopt rules and regulations regarding an electronic system of submission, processing, and payment of workers' compensation-related medical bills.

Present law requires insurance carriers to accept medical bills electronically submitted by healthcare providers and electronic payment of such bills, and healthcare providers to accept payment of medical claims submitted electronically by insurance carriers.

Proposed law requires, beginning July 1, 2027, claims for medical services rendered to be submitted to a workers' compensation payor in electronic format.

Proposed law requires the assistant secretary to develop and implement a Workers' Compensation Medical Quality and Outcomes Program designed to measure, evaluate, and improve the quality and effectiveness of medical care provided to injured employees.

Proposed law adds provisions of proposed law relative to the medical claims database to the list of public records exceptions.

Proposed law provides that beginning no later than June 30, 2029, the assistant secretary of OWCA shall initiate formal rulemaking to update and modernize the workers' compensation medical fee schedule using data derived from the database established pursuant to proposed law. Proposed law provides requirements for the updated fee schedule.

Proposed law provides that the revised fee schedule shall not become effective, unless it is approved by the Senate and House committees on labor and industrial relations and the Senate and House committees on health and welfare.

Proposed law allows the legislature to approve, reject, or return the proposal with recommendations.

Proposed law requires the assistant secretary of OWCA to submit all of the following:

- (1) The proposed fee schedule.
- (2) The published methodology.
- (3) The actuarial impact analysis.

Proposed law requires the assistant secretary of OWCA to submit a progress report to the House and Senate committees on labor and industrial relations.

Proposed law for effectiveness.

(Amends R.S. 23:1021(intro. para.), 1034.2(B), (C), and (F), 1123, 1201(E) and (F)(intro. para.) and (2), 1201.1(A), (B), (D), (E), (G) through (I), (J)(2) through (4), (K)(1)(intro. para.) and (2) through (5), 1203(B), 1203.1(J)(1), 1203.2, and 1221(intro. para.), (1)(d), and (3)(d)(intro. para.) and (ii) and R.S. 44:4.1(B)(12); Adds R.S. 23:1021(14) through (16), 1221(3)(a)(iii), 1200.18.1 - 1200.18.9; Repeals R.S. 23:1201(A)(4) and (5))