

By: Zaffirini

S.B. No. 1493

A BILL TO BE ENTITLED

AN ACT

relating to changing statutory references to hearing officer and
hearings officer to administrative law judge under the workers'
compensation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1305.356(b), Insurance Code, is amended
to read as follows:

(b) At a contested case hearing held under Subsection (a),
the administrative law judge [~~hearing officer~~] conducting the
hearing shall consider evidence-based treatment guidelines adopted
by the network under Section 1305.304.

SECTION 2. Section 409.0091(m), Labor Code, is amended to
read as follows:

(m) In a dispute filed under Chapter 410 that arises from a
subclaim under this section, an administrative law judge [~~a hearing
officer~~] may issue an order regarding compensability or eligibility
for benefits and order the workers' compensation insurance carrier
to reimburse health care services paid by the health care insurer as
appropriate under this subtitle. Any dispute over the amount of
medical benefits owed under this section, including medical
necessity issues, shall be determined by medical dispute resolution
under Sections 413.031 and 413.032.

SECTION 3. Section 410.152, Labor Code, is amended to read
as follows:

1 Sec. 410.152. ADMINISTRATIVE LAW JUDGES [~~HEARING~~
2 ~~OFFICERS~~]; QUALIFICATIONS. (a) An administrative law judge [A
3 ~~hearing officer~~] shall conduct a contested case hearing.

4 (b) An administrative law judge [A ~~hearing officer~~] must be
5 licensed to practice law in this state.

6 SECTION 4. Section 410.156(b), Labor Code, is amended to
7 read as follows:

8 (b) A party commits an administrative violation if the
9 party, without good cause as determined by the administrative law
10 judge [~~hearing officer~~], does not attend a contested case hearing.

11 SECTION 5. Section 410.158(a), Labor Code, is amended to
12 read as follows:

13 (a) Except as provided by Section 410.162, discovery is
14 limited to:

15 (1) depositions on written questions to any health
16 care provider;

17 (2) depositions of other witnesses as permitted by the
18 administrative law judge [~~hearing officer~~] for good cause shown;
19 and

20 (3) interrogatories as prescribed by the
21 commissioner.

22 SECTION 6. Section 410.162, Labor Code, is amended to read
23 as follows:

24 Sec. 410.162. ADDITIONAL DISCOVERY. For good cause shown,
25 a party may obtain permission from the administrative law judge
26 [~~hearing officer~~] to conduct additional discovery as necessary.

27 SECTION 7. Section 410.163, Labor Code, is amended to read

1 as follows:

2 Sec. 410.163. POWERS AND DUTIES OF ADMINISTRATIVE LAW JUDGE
3 ~~[HEARING OFFICER]~~. (a) At a contested case hearing the
4 administrative law judge ~~[hearing officer]~~ shall:

5 (1) swear witnesses;

6 (2) receive testimony;

7 (3) allow examination and cross-examination of
8 witnesses;

9 (4) accept documents and other tangible evidence; and

10 (5) allow the presentation of evidence by affidavit.

11 (b) An administrative law judge ~~[A hearing officer]~~ shall
12 ensure the preservation of the rights of the parties and the full
13 development of facts required for the determinations to be made. An
14 administrative law judge ~~[A hearing officer]~~ may permit the use of
15 summary procedures, if appropriate, including witness statements,
16 summaries, and similar measures to expedite the proceedings.

17 SECTION 8. Section 410.164(c), Labor Code, is amended to
18 read as follows:

19 (c) At each contested case hearing, as applicable, the
20 insurance carrier shall file with the administrative law judge
21 ~~[hearing officer]~~ and shall deliver to the claimant a single
22 document stating the true corporate name of the insurance carrier
23 and the name and address of the insurance carrier's registered
24 agent for service of process. The document is part of the record of
25 the contested case hearing.

26 SECTION 9. Section 410.165, Labor Code, is amended to read
27 as follows:

1 Sec. 410.165. EVIDENCE. (a) The administrative law judge
2 ~~[hearing officer]~~ is the sole judge of the relevance and
3 materiality of the evidence offered and of the weight and
4 credibility to be given to the evidence. Conformity to legal rules
5 of evidence is not necessary.

6 (b) An administrative law judge ~~[A hearing officer]~~ may
7 accept a written statement signed by a witness and shall accept all
8 written reports signed by a health care provider.

9 SECTION 10. Section 410.167, Labor Code, is amended to read
10 as follows:

11 Sec. 410.167. EX PARTE CONTACTS PROHIBITED. A party and an
12 administrative law judge ~~[a hearing officer]~~ may not communicate
13 outside the contested case hearing unless the communication is in
14 writing with copies provided to all parties or relates to
15 procedural matters.

16 SECTION 11. Sections 410.168(a), (c), (d), and (e), Labor
17 Code, are amended to read as follows:

18 (a) The administrative law judge ~~[hearing officer]~~ shall
19 issue a written decision that includes:

- 20 (1) findings of fact and conclusions of law;
21 (2) a determination of whether benefits are due; and
22 (3) an award of benefits due.

23 (c) The administrative law judge ~~[hearing officer]~~ may
24 enter an interlocutory order for the payment of all or part of
25 medical benefits or income benefits. The order may address accrued
26 benefits, future benefits, or both accrued benefits and future
27 benefits. The order is binding during the pendency of an appeal to

1 the appeals panel.

2 (d) On a form that the commissioner by rule prescribes, the
3 administrative law judge [~~hearing officer~~] shall issue a separate
4 written decision regarding attorney's fees and any matter related
5 to attorney's fees. The decision regarding attorney's fees and the
6 form may not be made known to a jury in a judicial review of an
7 award, including an appeal.

8 (e) The commissioner by rule shall prescribe the times
9 within which the administrative law judge [~~hearing officer~~] must
10 file the decisions with the division.

11 SECTION 12. Section 410.169, Labor Code, is amended to read
12 as follows:

13 Sec. 410.169. EFFECT OF DECISION. A decision of an
14 administrative law judge [~~a hearing officer~~] regarding benefits is
15 final in the absence of a timely appeal by a party and is binding
16 during the pendency of an appeal to the appeals panel.

17 SECTION 13. Sections 410.202(a) and (c), Labor Code, are
18 amended to read as follows:

19 (a) To appeal the decision of an administrative law judge [~~a~~
20 ~~hearing officer~~], a party shall file a written request for appeal
21 with the appeals panel not later than the 15th day after the date on
22 which the decision of the administrative law judge [~~hearing~~
23 ~~officer~~] is received from the division and shall on the same date
24 serve a copy of the request for appeal on the other party.

25 (c) A request for appeal or a response must clearly and
26 concisely rebut or support the decision of the administrative law
27 judge [~~hearing officer~~] on each issue on which review is sought.

SECTION 14. Section 410.203(b), Labor Code, is amended to read as follows:

(b) The appeals panel may:

(1) reverse the decision of the administrative law judge ~~[hearings officer]~~ and render a new decision;

(2) reverse the decision of the administrative law judge ~~[hearings officer]~~ and remand the case to the administrative law judge ~~[hearing officer]~~ for further consideration and development of evidence; or

(3) affirm the decision of the administrative law judge ~~[hearings officer]~~ in a case described by Section 410.204(a-1).

SECTION 15. Sections 410.204(a-1) and (c), Labor Code, are amended to read as follows:

(a-1) An appeals panel may only issue a written decision in a case in which the panel affirms the decision of an administrative law judge ~~[a hearings officer]~~ if the case:

(1) is a case of first impression;

(2) involves a recent change in law; or

(3) involves errors at the contested case hearing that require correction but do not affect the outcome of the hearing, including:

(A) findings of fact for which insufficient evidence exists;

(B) incorrect conclusions of law;

(C) findings of fact or conclusions of law regarding matters that were not properly before the administrative

1 law judge [~~hearings officer~~]; and

2 (D) legal errors not otherwise described by this
3 subdivision.

4 (c) If the appeals panel does not issue a decision in
5 accordance with this section, the decision of the administrative
6 law judge [~~hearing officer~~] becomes final and is the final decision
7 of the appeals panel.

8 SECTION 16. Sections [413.0311](#)(b), (c), and (d), Labor Code,
9 are amended to read as follows:

10 (b) A party to a medical dispute described by Subsection (a)
11 is entitled to a contested case hearing. A contested case hearing
12 under this section shall be conducted by an administrative law
13 judge [~~a hearings officer~~] in the manner provided for contested
14 case hearings under Subchapter D, Chapter [410](#). Notwithstanding
15 Section [410.024](#), a benefit review conference is not a prerequisite
16 to a contested case hearing under this section.

17 (c) The decision of an administrative law judge [~~a hearings~~
18 ~~officer~~] under this section is final in the absence of a timely
19 appeal by a party for judicial review under Subsection (d).

20 (d) A party who has exhausted all administrative remedies
21 under Section [413.031](#) and this section and who is aggrieved by a
22 final decision of the administrative law judge [~~hearings officer~~]
23 under Subsection (c) may seek judicial review of the decision.
24 Judicial review under this subsection shall be conducted in the
25 manner provided for judicial review of a contested case under
26 Subchapter G, Chapter [2001](#), Government Code, except that the party
27 seeking judicial review under this section must file suit not later

1 than the 45th day after the date on which the division mailed the
2 party the decision of the administrative law judge [~~hearings~~
3 ~~officer~~]. For purposes of this subsection, the mailing date is
4 considered to be the fifth day after the date the decision of the
5 administrative law judge [~~hearings officer~~] was filed with the
6 division.

7 SECTION 17. Section 504.054(b), Labor Code, is amended to
8 read as follows:

9 (b) The administrative law judge [~~hearing officer~~]
10 conducting the contested case hearing under Subsection (a) shall
11 consider any treatment guidelines adopted by the political
12 subdivision or pool that provides medical benefits under Section
13 504.053(b)(2) if those guidelines meet the standards provided by
14 Section 413.011(e).

15 SECTION 18. This Act takes effect September 1, 2017.