

LABOR CODE

TITLE 5. WORKERS' COMPENSATION

SUBTITLE A. TEXAS WORKERS' COMPENSATION ACT

CHAPTER 410. ADJUDICATION OF DISPUTES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 410.002. LAW GOVERNING LIABILITY PROCEEDINGS. A proceeding before the division to determine the liability of an insurance carrier for compensation for an injury or death under this subtitle is governed by this chapter.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.150, eff. September 1, 2005.

Sec. 410.003. APPLICATION OF ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. Except as otherwise provided by this chapter, Chapter 2001, Government Code does not apply to a proceeding under this chapter.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Sec. 410.005. CONDUCTING ADMINISTRATIVE PROCEEDINGS.

(a) Unless the division determines that good cause exists for the selection of a different location, a contested case hearing may not be conducted at a site more than 75 miles from the claimant's residence at the time of the injury.

(b) Unless the assigned arbitrator determines that good cause exists for the selection of a different location, arbitration may not be conducted at a site more than 75 miles from the claimant's residence at the time of the injury.

(c) All appeals panel proceedings shall be conducted in Travis County.

(d) The division may conduct a benefit review conference:

- (1) telephonically;
- (2) by videoconference; or

(3) in person, on showing of good cause as determined by the division.

(e) Unless the division determines that good cause exists for the selection of a different location, a benefit review conference conducted in person under Subsection (d)(3) may not be conducted at a site more than 75 miles from the claimant's residence at the time of the injury.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.151, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 261 (H.B. 1752), Sec. 1, eff. June 4, 2021.

Acts 2021, 87th Leg., R.S., Ch. 261 (H.B. 1752), Sec. 2, eff. June 4, 2021.

Sec. 410.006. REPRESENTATION AT ADMINISTRATIVE PROCEEDINGS. (a) A claimant may be represented at a benefit review conference, a contested case hearing, or arbitration by an attorney or may be assisted by an individual of the claimant's choice who does not work for an attorney or receive a fee. An employee of an attorney may represent a claimant if that employee:

- (1) is a relative of the claimant; and
- (2) does not receive a fee.

(b) An insurance carrier may be represented by an attorney or adjuster.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.007. INFORMATION LIST. (a) The division shall determine the type of information that is most useful to parties to help resolve disputes regarding income benefits. That information may include:

- (1) reports regarding the compensable injury;
- (2) medical information regarding the injured employee; and
- (3) wage records.

(b) The division shall publish a list developed from the

information described under Subsection (a) in appropriate media, including the division's Internet website, to provide guidance to a party to a dispute regarding the type of information the party should have available at a benefit review conference or a contested case hearing.

(c) At the time a benefit review conference or contested case hearing is scheduled, the division shall make available a copy of the list developed under Subsection (b) to each party to the dispute.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.152, eff. September 1, 2005.

#### SUBCHAPTER B. BENEFIT REVIEW CONFERENCE

Sec. 410.021. PURPOSE. A benefit review conference is a nonadversarial, informal dispute resolution proceeding designed to:

(1) explain, orally and in writing, the rights of the respective parties to a workers' compensation claim and the procedures necessary to protect those rights;

(2) discuss the facts of the claim, review available information in order to evaluate the claim, and delineate the disputed issues; and

(3) mediate and resolve disputed issues by agreement of the parties in accordance with this subtitle and the policies of the division.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.153, eff. September 1, 2005.

Sec. 410.022. BENEFIT REVIEW OFFICERS; QUALIFICATIONS.

(a) A benefit review officer shall conduct a benefit review conference.

(b) A benefit review officer must:

(1) be an employee of the division;

(2) be trained in the principles and procedures of

dispute mediation; and

(3) have documentation satisfactory to the commissioner that evidences the completion by the officer of at least 40 classroom hours of training in dispute resolution techniques from an alternative dispute resolution organization recognized by the commissioner.

(c) The division shall institute and maintain an education and training program for benefit review officers and shall consult or contract with the Federal Mediation and Conciliation Service or other appropriate organizations for this purpose.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.154, eff. September 1, 2005.

Sec. 410.023. REQUEST FOR BENEFIT REVIEW CONFERENCE. (a) On receipt of a request from a party or on its own motion, the division may direct the parties to a disputed workers' compensation claim to meet in a benefit review conference to attempt to reach agreement on disputed issues involved in the claim.

(b) The division shall require the party requesting the benefit review conference to provide documentation of efforts made to resolve the disputed issues before the request was submitted.

(c) The commissioner by rule shall:

(1) adopt guidelines regarding the type of information necessary to satisfy the requirements of Subsection (b); and

(2) establish a process through which the division evaluates the sufficiency of the documentation provided under Subsection (b).

(d) The division may deny a request for a benefit review conference if the party requesting the benefit review conference does not provide the documentation required under Subsection (b).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.155, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 14,

eff. September 1, 2011.

Sec. 410.024. BENEFIT REVIEW CONFERENCE AS PREREQUISITE TO FURTHER PROCEEDINGS ON CERTAIN CLAIMS. (a) Except as otherwise provided by law or commissioner rule, the parties to a disputed compensation claim are not entitled to a contested case hearing or arbitration on the claim unless a benefit review conference is conducted as provided by this subchapter.

(b) The commissioner by rule shall adopt guidelines relating to claims that do not require a benefit review conference and may proceed directly to a contested case hearing or arbitration.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.156, eff. September 1, 2005.

Sec. 410.025. SCHEDULING OF BENEFIT REVIEW CONFERENCE; NOTICE. (a) The commissioner by rule shall prescribe the time within which a benefit review conference must be scheduled.

(b) The division shall schedule a contested case hearing to be held not later than the 60th day after the date of the benefit review conference if the disputed issues are not resolved at the benefit review conference.

(c) The division shall send written notice of the benefit review conference to the parties to the claim and the employer.

(d) The commissioner by rule shall provide for expedited proceedings in cases in which compensability or liability for essential medical treatment is in dispute.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.157, eff. September 1, 2005.

Sec. 410.026. POWERS AND DUTIES OF BENEFIT REVIEW OFFICER.

(a) A benefit review officer shall:

(1) mediate disputes between the parties and assist in

the adjustment of the claim consistent with this subtitle and the policies of the division;

(2) thoroughly inform all parties of their rights and responsibilities under this subtitle, especially in a case in which the employee is not represented by an attorney or other representative;

(3) ensure that all documents and information relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file at the conference, especially in a case in which the employee is not represented by an attorney or other representative; and

(4) prepare a written report that details each issue that is not resolved at the benefit review conference, as required under Section 410.031, including any issue raised for the first time at the conclusion of an additional benefit review conference conducted under Subsection (b).

(b) A benefit review officer may schedule an additional benefit review conference if:

(1) the benefit review officer determines that any available information pertinent to the resolution of disputed issues was not produced at the initial benefit review conference; and

(2) a second benefit review conference has not already been conducted.

(c) A benefit review officer may not take testimony but may direct questions to an employee, an employer, or a representative of an insurance carrier to supplement or clarify information in a claim file.

(d) A benefit review officer may not make a formal record.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.158, eff. September 1, 2005.

Sec. 410.027. RULES. (a) The commissioner shall adopt rules for conducting benefit review conferences.

(b) A benefit review conference is not subject to common law or statutory rules of evidence or procedure.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.159, eff. September 1, 2005.

Sec. 410.028. FAILURE TO ATTEND; ADMINISTRATIVE VIOLATION.

(a) A scheduled benefit review conference shall be conducted even though a party fails to attend unless the benefit review officer determines that good cause, as defined by commissioner rule, exists to reschedule the conference.

(b) If a party to a benefit review conference under Section 410.023 requests that the benefit review conference be rescheduled under this section, the party must submit a request in the same manner as an initial request under Section 410.023. The division shall evaluate a request for a rescheduled benefit review conference received under this section in the same manner as an initial request received under Section 410.023.

(c) If a party fails to request that a benefit review conference be rescheduled in the time required by commissioner rule or fails to attend a benefit review conference without good cause as defined by commissioner rule, the party forfeits the party's entitlement to attend a benefit review conference on the issue in dispute, unless a benefit review officer is authorized to schedule an additional benefit review conference under Section 410.026(b).

(d) The commissioner shall adopt rules necessary to implement and enforce this section, including rules that:

(1) define good cause; and

(2) establish deadlines for requesting that a benefit review conference be rescheduled under Subsection (b).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.160, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 15, eff. September 1, 2011.

Sec. 410.029. RESOLUTION AT BENEFIT REVIEW CONFERENCE; WRITTEN AGREEMENT. (a) A dispute may be resolved either in whole or in part at a benefit review conference.

(b) If the conference results in the resolution of some disputed issues by agreement or in a settlement, the benefit review officer shall reduce the agreement or the settlement to writing. The benefit review officer and each party or the designated representative of the party shall sign the agreement or settlement.

(c) A settlement takes effect on the date it is approved by the director in accordance with Section 408.005.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.030. BINDING EFFECT OF AGREEMENT. (a) An agreement signed in accordance with Section 410.029 is binding on the insurance carrier through the conclusion of all matters relating to the claim, unless the division or a court, on a finding of fraud, newly discovered evidence, or other good and sufficient cause, relieves the insurance carrier of the effect of the agreement.

(b) The agreement is binding on the claimant, if represented by an attorney, to the same extent as on the insurance carrier. If the claimant is not represented by an attorney, the agreement is binding on the claimant through the conclusion of all matters relating to the claim while the claim is pending before the division, unless the commissioner for good cause relieves the claimant of the effect of the agreement.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.161, eff. September 1, 2005.

Sec. 410.031. INCOMPLETE RESOLUTION; REPORT. (a) If a dispute is not entirely resolved at a benefit review conference, the benefit review officer shall prepare a written report that details each issue that is not resolved at the conference.

(b) The report must also include:



(1) a statement of each resolved issue;  
(2) a statement of each issue raised but not resolved;  
(3) a statement of the position of the parties regarding each unresolved issue;

(4) a statement of the procedures required to request a contested case hearing or arbitration and a complete explanation of the differences in those proceedings and the rights of the parties to subsequent review of the determinations made in those proceedings; and

(5) the date of the contested case hearing scheduled in accordance with Section 410.025(b).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.162, eff. September 1, 2005.

Text of section as amended by Acts 2007, 80th Leg., R.S., Ch. 1177  
(H.B. 473), Sec. 1

For text of section as amended by Acts 2007, 80th Leg., R.S., Ch.  
1150 (S.B. 1169), Sec. 4, see other Sec. 410.032.

Sec. 410.032. PAYMENT OF BENEFITS UNDER INTERLOCUTORY ORDER.

(a) The benefit review officer who presides at the benefit review conference shall consider a request for an interlocutory order and shall give the opposing party the opportunity to respond before issuing an interlocutory order.

(b) The interlocutory order may address the payment or suspension of accrued benefits, future benefits, or both accrued benefits and future benefits.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 955, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.162, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1177 (H.B. 473), Sec. 1, eff. September 1, 2007.

Text of section as amended by Acts 2007, 80th Leg., R.S., Ch. 1150

(S.B. 1169), Sec. 4

For text of section as amended by Acts 2007, 80th Leg., R.S., Ch.

1177 (H.B. 473), Sec. 1, see other Sec. 410.032.

Sec. 410.032. PAYMENT OF BENEFITS UNDER INTERLOCUTORY ORDER. (a) The benefit review officer who presides at the benefit review conference shall:

(1) consider a written or verbal request for an interlocutory order for the payment of benefits; and

(2) if the benefit review officer determines that issuance of an interlocutory order is appropriate, issue the interlocutory order not later than the third day after the date of receipt of the request under Subdivision (1).

(b) The interlocutory order may address accrued benefits, future benefits, or both accrued benefits and future benefits.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 955, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.162, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1150 (S.B. 1169), Sec. 4, eff. September 1, 2007.

Sec. 410.033. MULTIPLE CARRIERS. (a) If there is a dispute as to which of two or more insurance carriers is liable for compensation for one or more compensable injuries, the commissioner may issue an interlocutory order directing each insurance carrier to pay a proportionate share of benefits due pending a final decision on liability. The proportionate share is computed by dividing the compensation due by the number of insurance carriers involved.

(b) On final determination of liability, an insurance carrier determined to be not liable for the payment of benefits is entitled to reimbursement for the share paid by the insurance carrier from any insurance carrier determined to be liable.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.163, eff.

September 1, 2005.

Sec. 410.034. FILING OF AGREEMENT AND REPORT. (a) The benefit review officer shall file the signed agreement and the report with the division.

(b) The commissioner by rule shall prescribe the times within which the agreement and report must be filed.

(c) The division shall furnish a copy of the file-stamped report to:

- (1) the claimant;
- (2) the employer; and
- (3) the insurance carrier.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.164, eff. September 1, 2005.

#### SUBCHAPTER C. ARBITRATION

Sec. 410.101. PURPOSE. The purpose of arbitration is to:

- (1) enter into formal, binding stipulations on issues on which the parties agree;
- (2) resolve issues on which the parties disagree; and
- (3) render a final award with respect to all issues in dispute.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.102. ARBITRATORS; QUALIFICATIONS. (a) An arbitrator must be an employee of the division, except that the division may contract with qualified arbitrators on a determination of special need.

(b) An arbitrator must:

- (1) be a member of the National Academy of Arbitrators;
- (2) be on an approved list of the American Arbitration Association or Federal Mediation and Conciliation Service; or
- (3) meet qualifications established by the

commissioner by rule.

(c) The division shall require that each arbitrator have appropriate training in the workers' compensation laws of this state. The commissioner shall establish procedures to carry out this subsection.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.165, eff. September 1, 2005.

Sec. 410.103. DUTIES OF ARBITRATOR. An arbitrator shall:

- (1) protect the interests of all parties;
- (2) ensure that all relevant evidence has been disclosed to the arbitrator and to all parties; and
- (3) render an award consistent with this subtitle and the policies of the division.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.166, eff. September 1, 2005.

Sec. 410.104. ELECTION OF ARBITRATION; EFFECT. (a) If issues remain unresolved after a benefit review conference, the parties, by agreement, may elect to engage in arbitration in the manner provided by this subchapter. Arbitration may be used only to resolve disputed benefit issues and is an alternative to a contested case hearing. A contested case hearing scheduled under Section 410.025(b) is canceled by an election under this subchapter.

(b) To elect arbitration, the parties must file the election with the division not later than the 20th day after the last day of the benefit review conference. The commissioner shall prescribe a form for that purpose.

(c) An election to engage in arbitration under this subchapter is irrevocable and binding on all parties for the resolution of all disputes arising out of the claims that are under the jurisdiction of the division.

(d) An agreement to elect arbitration binds the parties to the provisions of Chapter 408 relating to benefits, and any award, agreement, or settlement after arbitration is elected must comply with that chapter.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.167, eff. September 1, 2005.

Sec. 410.105. LISTS OF ARBITRATORS. (a) The division shall establish regional lists of arbitrators who meet the qualifications prescribed under Sections 410.102(a) and (b). Each regional list shall be initially prepared in a random name order, and subsequent additions to a list shall be added chronologically.

(b) The commissioner shall review the lists of arbitrators annually and determine if each arbitrator is fair and impartial and makes awards that are consistent with and in accordance with this subtitle and the rules of the commissioner. The commissioner shall remove an arbitrator if, after the review, the commissioner determines that the arbitrator is not fair and impartial or does not make awards consistent with this subtitle and commissioner rules.

(c) The division's lists are confidential and are not subject to disclosure under Chapter 552, Government Code. The lists may not be revealed by any division employee to any person who is not a division employee. The lists are exempt from discovery in civil litigation unless the party seeking the discovery establishes reasonable cause to believe that a violation of the requirements of this section or Section 410.106, 410.107, 410.108, or 410.109(b) occurred and that the violation is relevant to the issues in dispute.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.168, eff. September 1, 2005.

Sec. 410.106. SELECTION OF ARBITRATOR. The division shall

assign the arbitrator for a particular case by selecting the next name after the previous case's selection in consecutive order. The division may not change the order of names once the order is established under this subchapter, except that once each arbitrator on the list has been assigned to a case, the names shall be randomly reordered.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.169, eff. September 1, 2005.

Sec. 410.107. ASSIGNMENT OF ARBITRATOR. (a) The division shall assign an arbitrator to a pending case not later than the 30th day after the date on which the election for arbitration is filed with the division.

(b) When an arbitrator has been assigned to a case under Subsection (a), the parties shall be notified immediately.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.170, eff. September 1, 2005.

Sec. 410.108. REJECTION OF ARBITRATOR. (a) Each party is entitled, in its sole discretion, to one rejection of the arbitrator in each case. If a party rejects the arbitrator, the division shall assign another arbitrator as provided by Section 410.106.

(b) A rejection must be made not later than the third day after the date of notification of the arbitrator's assignment.

(c) When all parties have exercised their right of rejection or if no rejection is registered, the assignment is final.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.171, eff. September 1, 2005.

Sec. 410.109. SCHEDULING OF ARBITRATION. (a) The

arbitrator shall schedule arbitration to be held not later than the 30th day after the date of the arbitrator's assignment and shall notify the parties and the division of the scheduled date.

(b) If an arbitrator is unable to schedule arbitration in accordance with Subsection (a), the division shall appoint the next arbitrator on the applicable list. Each party is entitled to reject the arbitrator appointed under this subsection in the manner provided under Section 410.108.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.172, eff. September 1, 2005.

Sec. 410.110. CONTINUANCE. (a) A request by a party for a continuance of the arbitration to another date must be directed to the director. The director may grant a continuance only if the director determines, giving due regard to the availability of the arbitrator, that good cause for the continuance exists.

(b) If the director grants a continuance under this section, the rescheduled date may not be later than the 30th day after the original date of the arbitration.

(c) Without regard to whether good cause exists, the director may not grant more than one continuance to each party.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.111. RULES. The commissioner shall adopt rules for arbitration consistent with generally recognized arbitration principles and procedures.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.173, eff. September 1, 2005.

Sec. 410.112. EXCHANGE AND FILING OF INFORMATION; ADMINISTRATIVE VIOLATION. (a) Not later than the seventh day before the first day of arbitration, the parties shall exchange and file with the arbitrator:

(1) all medical reports and other documentary evidence not previously exchanged or filed that are pertinent to the resolution of the claim; and

(2) information relating to their proposed resolution of the disputed issues.

(b) A party commits an administrative violation if the party, without good cause as determined by the arbitrator, fails to comply with Subsection (a).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.174, eff. September 1, 2005.

Sec. 410.113. DUTIES OF PARTIES AT ARBITRATION; ATTENDANCE; ADMINISTRATIVE VIOLATION. (a) Each party shall attend the arbitration prepared to set forth in detail its position on unresolved issues and the issues on which it is prepared to stipulate.

(b) A party commits an administrative violation if the party does not attend the arbitration unless the arbitrator determines that the party had good cause not to attend.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.175, eff. September 1, 2005.

Sec. 410.114. TESTIMONY; RECORD. (a) The arbitrator may require witnesses to testify under oath and shall require testimony under oath if requested by a party.

(b) The division shall make an electronic recording of the proceeding.

(c) An official stenographic record is not required, but any party may at the party's expense make a stenographic record of the proceeding.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.176, eff.



September 1, 2005.

Sec. 410.115. EVIDENCE. (a) The parties may offer evidence as they desire and shall produce additional evidence as the arbitrator considers necessary to an understanding and determination of the dispute.

(b) The arbitrator is the judge of the relevance and materiality of the evidence offered. Conformity to legal rules of evidence is not required.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.116. CLOSING STATEMENTS; BRIEFS. The parties may present closing statements as they desire, but the record may not remain open for written briefs unless requested by the arbitrator.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.117. EX PARTE CONTACTS PROHIBITED. A party and an arbitrator may not communicate outside the arbitration unless the communication is in writing with copies provided to all parties or relates to procedural matters.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.118. AWARD. (a) The arbitrator shall enter the arbitrator's award not later than the seventh day after the last day of arbitration.

(b) The arbitrator shall base the award on the facts established at arbitration, including stipulations of the parties, and on the law as properly applied to those facts.

(c) The award must:

(1) be in writing;

(2) be signed and dated by the arbitrator; and

(3) include a statement of the arbitrator's decision on the contested issues and the parties' stipulations on uncontested issues.

(d) The arbitrator shall file a copy of the award as part of the permanent claim file at the division and shall notify the parties in writing of the decision.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.177, eff. September 1, 2005.

Sec. 410.119. EFFECT OF AWARD. (a) An arbitrator's award is final and binding on all parties. Except as provided by Section 410.121, there is no right to appeal.

(b) An arbitrator's award is a final order of the division. Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.178, eff. September 1, 2005.

Sec. 410.120. CLERICAL ERROR. For the purpose of correcting a clerical error, an arbitrator retains jurisdiction of the award for 20 days after the date of the award.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.121. COURT VACATING AWARD. (a) On application of an aggrieved party, a court of competent jurisdiction shall vacate an arbitrator's award on a finding that:

(1) the award was procured by corruption, fraud, or misrepresentation;

(2) the decision of the arbitrator was arbitrary and capricious; or

(3) the award was outside the jurisdiction of the division.

(b) If an award is vacated, the case shall be remanded to the division for another arbitration proceeding.

(c) A suit to vacate an award must be filed not later than the 30th day after:

(1) the date of the award; or

(2) the date the appealing party knew or should have known of a basis for suit under this section, but in no event later than 12 months after an order denying compensation or after the expiration of the income or death benefit period.

(d) Venue for a suit to vacate an award is in the county in which the arbitration was conducted.

(e) In a suit to vacate an arbitrator's award, only the court may make determinations, including findings of fact or conclusions of law.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.179, eff. September 1, 2005.

#### SUBCHAPTER D. CONTESTED CASE HEARING

Sec. 410.151. CONTESTED CASE HEARING; SCOPE. (a) If arbitration is not elected under Section 410.104, a party to a claim for which a benefit review conference is held or a party eligible to proceed directly to a contested case hearing as provided by Section 410.024 is entitled to a contested case hearing.

(b) An issue that was not raised at a benefit review conference or that was resolved at a benefit review conference may not be considered unless:

(1) the parties consent; or

(2) if the issue was not raised, the commissioner determines that good cause existed for not raising the issue at the conference.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.180, eff. September 1, 2005.

Sec. 410.152. ADMINISTRATIVE LAW JUDGES; QUALIFICATIONS.

(a) An administrative law judge shall conduct a contested case hearing.

(b) An administrative law judge must be licensed to practice law in this state.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. 2111), Sec. 3, eff.

September 1, 2017.

Sec. 410.153. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. Chapter 2001, Government Code, applies to a contested case hearing to the extent that the commissioner finds appropriate, except that the following do not apply:

- (1) Section 2001.054;
- (2) Sections 2001.061 and 2001.062;
- (3) Section 2001.202; and
- (4) Subchapters F, G, I, and Z, except for Section 2001.141(c).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.93, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.181, eff. September 1, 2005.

Sec. 410.154. SCHEDULING OF HEARING. The division shall schedule a contested case hearing in accordance with Section 410.024 or 410.025(b).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.182, eff. September 1, 2005.

Sec. 410.155. CONTINUANCE. (a) A written request by a party for a continuance of a contested case hearing to another date must be directed to the division.

(b) The division may grant a continuance only if the division determines that there is good cause for the continuance.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.183, eff. September 1, 2005.

Sec. 410.156. ATTENDANCE REQUIRED; ADMINISTRATIVE VIOLATION. (a) Each party shall attend a contested case hearing.

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

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.184, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. 2111), Sec. 4, eff. September 1, 2017.

Sec. 410.157. RULES. The commissioner shall adopt rules governing procedures under which contested case hearings are conducted.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.185, eff. September 1, 2005.

Sec. 410.158. DISCOVERY. (a) Except as provided by Section 410.162, discovery is limited to:

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

(2) depositions of other witnesses as permitted by the administrative law judge for good cause shown; and

(3) interrogatories as prescribed by the commissioner.

(b) Discovery under Subsection (a) may not seek information that may readily be derived from documentary evidence described in Section 410.160. Answers to discovery under Subsection (a) need not duplicate information that may readily be derived from documentary evidence described in Section 410.160.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.186, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. 2111), Sec. 5, eff. September 1, 2017.

Sec. 410.159. STANDARD INTERROGATORIES. (a) The commissioner by rule shall prescribe standard form sets of interrogatories to elicit information from claimants and insurance carriers.

(b) Standard interrogatories shall be answered by each party and served on the opposing party within the time prescribed by commissioner rule, unless the parties agree otherwise.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.187, eff. September 1, 2005.

Sec. 410.160. EXCHANGE OF INFORMATION. Within the time prescribed by commissioner rule, the parties shall exchange:

(1) all medical reports and reports of expert witnesses who will be called to testify at the hearing;

(2) all medical records;

(3) any witness statements;

(4) the identity and location of any witness known to the parties to have knowledge of relevant facts; and

(5) all photographs or other documents that a party intends to offer into evidence at the hearing.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.188, eff. September 1, 2005.

Sec. 410.161. FAILURE TO DISCLOSE INFORMATION. A party who fails to disclose information known to the party or documents that are in the party's possession, custody, or control at the time disclosure is required by Sections 410.158-410.160 may not introduce the evidence at any subsequent proceeding before the division or in court on the claim unless good cause is shown for not having disclosed the information or documents under those sections.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.189, eff. September 1, 2005.

Sec. 410.162. ADDITIONAL DISCOVERY. For good cause shown, a party may obtain permission from the administrative law judge to conduct additional discovery as necessary.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. 2111), Sec. 6, eff. September 1, 2017.

Sec. 410.163. POWERS AND DUTIES OF ADMINISTRATIVE LAW JUDGE. (a) At a contested case hearing the administrative law judge shall:

- (1) swear witnesses;
- (2) receive testimony;
- (3) allow examination and cross-examination of witnesses;
- (4) accept documents and other tangible evidence; and
- (5) allow the presentation of evidence by affidavit.

(b) An administrative law judge shall ensure the preservation of the rights of the parties and the full development of facts required for the determinations to be made. An administrative law judge may permit the use of summary procedures, if appropriate, including witness statements, summaries, and similar measures to expedite the proceedings.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. 2111), Sec. 7, eff. September 1, 2017.

Sec. 410.164. RECORD. (a) The proceedings of a contested case hearing shall be recorded electronically. A party may request a transcript of the proceeding and shall pay the reasonable cost of the transcription.

(b) A party may request that the proceedings of the contested case hearing be recorded by a court reporter. The party

making the request shall bear the cost.

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

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1456, Sec. 11.01, eff. June 17, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 8, eff. September 1, 2017.

Sec. 410.165. EVIDENCE. (a) The administrative law judge is the sole judge of the relevance and materiality of the evidence offered and of the weight and credibility to be given to the evidence. Conformity to legal rules of evidence is not necessary.

(b) An administrative law judge may accept a written statement signed by a witness and shall accept all written reports signed by a health care provider.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 9, eff. September 1, 2017.

Sec. 410.166. STIPULATIONS. A written stipulation or agreement of the parties that is filed in the record or an oral stipulation or agreement of the parties that is preserved in the record is final and binding.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.167. EX PARTE CONTACTS PROHIBITED. A party and an administrative law judge may not communicate outside the contested case hearing unless the communication is in writing with copies provided to all parties or relates to procedural matters.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.



Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 10, eff. September 1, 2017.

Sec. 410.168. DECISION. (a) The administrative law judge shall issue a written decision that includes:

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

(b) The decision may address accrued benefits, future benefits, or both accrued benefits and future benefits.

(c) The administrative law judge may enter an interlocutory order for the payment of all or part of medical benefits or income benefits. The order may address accrued benefits, future benefits, or both accrued benefits and future benefits. The order is binding during the pendency of an appeal to the appeals panel.

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

(e) The commissioner by rule shall prescribe the times within which the administrative law judge must file the decisions with the division.

(f) The division shall send a copy of the decision to each party.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 955, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.190, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 11, eff. September 1, 2017.

Sec. 410.169. EFFECT OF DECISION. A decision of an administrative law judge regarding benefits is final in the absence

of a timely appeal by a party and is binding during the pendency of an appeal to the appeals panel.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 12, eff. September 1, 2017.

#### SUBCHAPTER E. APPEALS PANEL

Sec. 410.201. APPEALS JUDGES; QUALIFICATIONS. (a) Appeals judges, in a three-member panel, shall conduct administrative appeals proceedings.

(b) An appeals judge must be licensed to practice law in this state.

(c) An appeals judge may not conduct a benefit review conference or a contested case hearing.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.191, eff. September 1, 2005.

Sec. 410.202. REQUEST FOR APPEAL; RESPONSE. (a) To appeal the decision of an administrative law judge, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the administrative law judge is received from the division and shall on the same date serve a copy of the request for appeal on the other party.

(b) The respondent shall file a written response with the appeals panel not later than the 15th day after the date on which the copy of the request for appeal is served and shall on the same date serve a copy of the response on the appellant.

(c) A request for appeal or a response must clearly and concisely rebut or support the decision of the administrative law judge on each issue on which review is sought.

(d) Saturdays and Sundays and holidays listed in Section [662.003](#), Government Code, are not included in the computation of

the time in which a request for an appeal under Subsection (a) or a response under Subsection (b) must be filed.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1456, Sec. 12.01, eff. June 17, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 13, eff. September 1, 2017.

Sec. 410.203. POWERS AND DUTIES OF APPEALS PANEL; PRIORITY OF HEARING ON REMAND. (a) The appeals panel shall consider:

(1) the record developed at the contested case hearing; and

(2) the written request for appeal and response filed with the appeals panel.

(b) The appeals panel may:

(1) reverse the decision of the administrative law judge and render a new decision;

(2) reverse the decision of the administrative law judge and remand the case to the administrative law judge for further consideration and development of evidence; or

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

(c) The appeals panel may not remand a case under Subsection (b)(2) more than once.

(d) A hearing on remand shall be accelerated and the commissioner shall adopt rules to give priority to the hearing over other proceedings.

(e) The appeals panel shall issue and maintain a precedent manual. The precedent manual shall be composed of precedent-establishing decisions and may include other information as identified by the appeals panel.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.192, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. [2605](#)), Sec. 16, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. [2111](#)), Sec. 14, eff. September 1, 2017.

Sec. 410.204. DECISION. (a) The appeals panel shall review each request and issue a written decision on each reversed or remanded case. The appeals panel may issue a written decision on an affirmed case as described by Subsection (a-1). The decision must be in writing and shall be issued not later than the 45th day after the date on which the written response to the request for appeal is filed. The appeals panel shall file a copy of the decision with the commissioner.

(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 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 law judge; and

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

(b) A copy of the decision of the appeals panel shall be sent to each party not later than the seventh day after the date the decision is filed with the division.

(c) If the appeals panel does not issue a decision in accordance with this section, the decision of the administrative law judge becomes final and is the final decision of the appeals panel.

(d) Each final decision of the appeals panel shall conclude with a separate paragraph stating: "The true corporate name of the insurance carrier is (NAME IN BOLD PRINT) and the name and address

of its registered agent for service of process is (NAME AND ADDRESS IN BOLD PRINT)."

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1456, Sec. 11.02, eff. June 17, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.193, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 17, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 839 (H.B. 2111), Sec. 15, eff. September 1, 2017.

Sec. 410.205. EFFECT OF DECISION. (a) A decision of the appeals panel regarding benefits is final in the absence of a timely appeal for judicial review.

(b) The decision of the appeals panel regarding benefits is binding during the pendency of an appeal under Subchapter F or G. Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 955, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.194, eff. September 1, 2005.

Sec. 410.206. CLERICAL ERROR. The division may revise a decision in a contested case hearing on a finding of clerical error. Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.195, eff. September 1, 2005.

Sec. 410.207. CONTINUATION OF DIVISION JURISDICTION. During judicial review of the appeals panel decision on any disputed issue relating to a workers' compensation claim, the division retains jurisdiction of all other issues related to the claim.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.196, eff. September 1, 2005.

Sec. 410.208. JUDICIAL ENFORCEMENT OF ORDER OR DECISION; ADMINISTRATIVE VIOLATION. (a) If a person refuses or fails to comply with an interlocutory order, final order, or decision of the commissioner, the division may bring suit in Travis County to enforce the order or decision.

(b) If an insurance carrier refuses or fails to comply with an interlocutory order, a final order, or a decision of the commissioner, the claimant may bring suit in the county of the claimant's residence at the time of the injury, or death if the employee is deceased, or, in the case of an occupational disease, in the county in which the employee resided on the date disability began or any county agreed to by the parties.

(c) If the division brings suit to enforce an interlocutory order, final order, or decision of the commissioner, the division is entitled to reasonable attorney's fees and costs for the prosecution and collection of the claim, in addition to a judgment enforcing the order or decision and any other remedy provided by law.

(d) A claimant who brings suit to enforce an interlocutory order, final order, or decision of the commissioner is entitled to a penalty equal to 12 percent of the amount of benefits recovered in the judgment, interest, and reasonable attorney's fees for the prosecution and collection of the claim, in addition to a judgment enforcing the order or decision.

(e) A person commits an administrative violation if the person fails or refuses to comply with an interlocutory order, final order, or decision of the commissioner within 20 days after the date the order or decision becomes final.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 397, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.197, eff. September 1, 2005.

Sec. 410.209. REIMBURSEMENT FOR OVERPAYMENT. The subsequent injury fund shall reimburse an insurance carrier for any overpayments of benefits made under an interlocutory order or decision if that order or decision is reversed or modified by final arbitration, order, or decision of the commissioner or a court. The commissioner shall adopt rules to provide for a periodic reimbursement schedule, providing for reimbursement at least annually.

Added by Acts 1999, 76th Leg., ch. 955, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.198, eff. September 1, 2005.

#### SUBCHAPTER F. JUDICIAL REVIEW--GENERAL PROVISIONS

Sec. 410.251. EXHAUSTION OF REMEDIES. A party that has exhausted its administrative remedies under this subtitle and that is aggrieved by a final decision of the appeals panel may seek judicial review under this subchapter and Subchapter G, if applicable.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.252. TIME FOR FILING PETITION; VENUE. (a) A party may seek judicial review by filing suit not later than the 45th day after the date on which the division mailed the party the decision of the appeals panel. For purposes of this section, the mailing date is considered to be the fifth day after the date the decision of the appeals panel was filed with the division.

(b) The party bringing suit to appeal the decision must file a petition with the appropriate court in:

(1) the county where the employee resided at the time of the injury or death, if the employee is deceased; or

(2) in the case of an occupational disease, in the county where the employee resided on the date disability began or any county agreed to by the parties.

(c) If a suit under this section is filed in a county other than the county described by Subsection (b), the court, on

determining that it does not have jurisdiction to render judgment on the merits of the suit, shall transfer the case to a proper court in a county described by Subsection (b). Notice of the transfer of a suit shall be given to the parties. A suit transferred under this subsection shall be considered for all purposes the same as if originally filed in the court to which it is transferred.

(d) If a suit is initially filed within the 45-day period in Subsection (a), and is transferred under Subsection (c), the suit is considered to be timely filed in the court to which it is transferred.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1200 (H.B. [4545](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1066 (S.B. [809](#)), Sec. 1, eff. September 1, 2011.

Sec. 410.253. SERVICE. (a) A party seeking judicial review shall simultaneously:

- (1) file a copy of the party's petition with the court;
- (2) serve any opposing party to the suit; and
- (3) provide a copy of the party's petition to the

division.

(b) A party may not seek judicial review under Section [410.251](#) unless the party has provided the copy of the petition to the division under Subsection (a)(3).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 397, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.199, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 271 (H.B. [2061](#)), Sec. 1, eff. September 1, 2017.

Sec. 410.254. INTERVENTION. On timely motion initiated by the commissioner, the division shall be permitted to intervene in



any judicial proceeding under this subchapter or Subchapter G.  
Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.200, eff.  
September 1, 2005.

Sec. 410.255. JUDICIAL REVIEW OF ISSUES OTHER THAN  
COMPENSABILITY OR INCOME OR DEATH BENEFITS. (a) For all issues  
other than those covered under Section 410.301(a), judicial review  
shall be conducted in the manner provided for judicial review of a  
contested case under Subchapter G, Chapter 2001, Government Code.

(b) Judicial review conducted under this section is  
governed by the substantial evidence rule.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended  
by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(53), eff. Sept. 1, 1995.

Sec. 410.256. COURT APPROVAL OF SETTLEMENT. (a) A claim or  
issue may not be settled contrary to the provisions of the appeals  
panel decision issued on the claim or issue unless a party to the  
proceeding has filed for judicial review under this subchapter or  
Subchapter G. The trial court must approve a settlement made by  
the parties after judicial review of an award is sought and before  
the court enters judgment.

(b) The court may not approve a settlement except on a  
finding that:

(1) the settlement accurately reflects the agreement  
between the parties;

(2) the settlement adheres to all appropriate  
provisions of the law; and

(3) under the law and facts, the settlement is in the  
best interest of the claimant.

(c) A settlement may not provide for:

(1) payment of any benefits in a lump sum except as  
provided by Section 408.128; or

(2) limitation or termination of the claimant's right  
to medical benefits under Section 408.021.

(d) A settlement or agreement that resolves an issue of

impairment may not be made before the claimant reaches maximum medical improvement and must adopt one of the impairment ratings under Subchapter G, Chapter 408.

(e) A party proposing a settlement before judgment is entered by the trial court may petition the court orally or in writing for approval of the settlement.

(f) Settlement of a claim or issue under this section does not constitute a modification or reversal of the decision awarding benefits for the purpose of Section 410.209.

(g) Settlement of a claim or issue must be in compliance with all appropriate provisions of the law, including this section and Section 410.258 of this subchapter. A settlement which on its face does not comply with this section is void.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1267, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 397, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.2001, eff. September 1, 2005.

Sec. 410.257. JUDGMENT AFTER JUDICIAL REVIEW. (a) A judgment entered by a court on judicial review of the appeals panel decision under this subchapter or Subchapter G must comply with all appropriate provisions of the law.

(b) A judgment under this section may not provide for:

(1) payment of benefits in a lump sum except as provided by Section 408.128; or

(2) the limitation or termination of the claimant's right to medical benefits under Section 408.021.

(c) A judgment that resolves an issue of impairment may not be entered before the date the claimant reaches maximum medical improvement. The judgment must adopt an impairment rating under Subchapter G, Chapter 408, except to the extent Section 410.307 applies.

(d) A judgment under this section may not order reimbursement from the subsequent injury fund.

(e) A judgment under this section based on default or on an

agreement of the parties does not constitute a modification or reversal of a decision awarding benefits for the purpose of Section 410.209.

(f) A judgment that on its face does not comply with this section is void.

Added by Acts 1997, 75th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 397, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.2002, eff. September 1, 2005.

Sec. 410.258. NOTIFICATION OF DIVISION OF PROPOSED JUDGMENTS AND SETTLEMENTS; RIGHT TO INTERVENE. (a) The party who initiated a proceeding under this subchapter or Subchapter G must file any proposed judgment or settlement, including a proposed default judgment or proposed agreed judgment, with the division not later than the 30th day before the date on which the court is scheduled to enter the judgment or approve the settlement.

(a-1) If the terms of the proposed settlement or proposed agreed judgment, including all payments to be made, are not described in the proposed settlement or proposed agreed judgment, the party must also file with the division at the time of filing the proposed settlement or proposed agreed judgment a separate document that fully describes the terms of the proposed settlement or proposed agreed judgment.

(a-2) The proposed settlement or proposed agreed judgment and any separate document described by Subsection (a-1) must be mailed to the division by certified mail, return receipt requested.

(a-3) The separate document filed with the division under Subsection (a-1) is not subject to disclosure under Chapter 552, Government Code.

(b) The division may intervene in a proceeding under Subsection (a) not later than the 30th day after the date of receipt of the proposed judgment or settlement.

(c) The commissioner shall review the proposed judgment or settlement to determine compliance with all appropriate provisions

of the law. If the commissioner determines that the proposal is not in compliance with the law, the division may intervene as a matter of right in the proceeding not later than the 30th day after the date of receipt of the proposed judgment or settlement. The court may limit the extent of the division's intervention to providing the information described by Subsection (e).

(d) If the division does not intervene before the 31st day after the date of receipt of the proposed judgment or settlement, the court shall enter the judgment or approve the settlement if the court determines that the proposed judgment or settlement is in compliance with all appropriate provisions of the law.

(e) If the division intervenes in the proceeding, the commissioner shall inform the court of each reason the commissioner believes the proposed judgment or settlement is not in compliance with the law. The court shall give full consideration to the information provided by the commissioner before entering a judgment or approving a settlement.

(f) A judgment entered or settlement approved without complying with the requirements of this section is void.

Added by Acts 1997, 75th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.201, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.202, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 271 (H.B. 2061), Sec. 2, eff. September 1, 2017.

#### SUBCHAPTER G. JUDICIAL REVIEW OF ISSUES REGARDING COMPENSABILITY OR INCOME OR DEATH BENEFITS

Sec. 410.301. JUDICIAL REVIEW OF ISSUES REGARDING COMPENSABILITY OR INCOME OR DEATH BENEFITS. (a) Judicial review of a final decision of the appeals panel regarding compensability or eligibility for or the amount of income or death benefits shall be conducted as provided by this subchapter.

(b) A determination of benefits before a court shall be in

accordance with this subtitle.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.203, eff. September 1, 2005.

Sec. 410.302. ADMISSIBILITY OF RECORDS; LIMITATION OF ISSUES. (a) The records of a contested case hearing conducted under this chapter are admissible in a trial under this subchapter in accordance with the Texas Rules of Evidence.

(b) A trial under this subchapter is limited to issues decided by the appeals panel and on which judicial review is sought. The pleadings must specifically set forth the determinations of the appeals panel by which the party is aggrieved.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.204, eff. September 1, 2005.

Sec. 410.303. BURDEN OF PROOF. The party appealing the decision on an issue described in Section 410.301(a) has the burden of proof by a preponderance of the evidence.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.304. CONSIDERATION OF APPEALS PANEL DECISION. (a) In a jury trial, the court, before submitting the case to the jury, shall inform the jury in the court's instructions, charge, or questions to the jury of the appeals panel decision on each disputed issue described by Section 410.301(a) that is submitted to the jury.

(b) In a trial to the court without a jury, the court in rendering its judgment on an issue described by Section 410.301(a) shall consider the decision of the appeals panel.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.205, eff.

September 1, 2005.

Sec. 410.305. CONFLICT WITH RULES OF CIVIL PROCEDURE. (a) To the extent that this subchapter conflicts with the Texas Rules of Civil Procedure or any other rules adopted by the supreme court, this subchapter controls.

(b) Notwithstanding Section 22.004, Government Code, or any other law, the supreme court may not adopt rules in conflict with or inconsistent with this subchapter.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 410.306. EVIDENCE. (a) Evidence shall be adduced as in other civil trials.

(b) The division on payment of a reasonable fee shall make available to the parties a certified copy of the division's record. All facts and evidence the record contains are admissible to the extent allowed under the Texas Rules of Evidence.

(c) Except as provided by Section 410.307, evidence of extent of impairment shall be limited to that presented to the division. The court or jury, in its determination of the extent of impairment, shall adopt one of the impairment ratings under Subchapter G, Chapter 408.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.206, eff. September 1, 2005.

Sec. 410.307. SUBSTANTIAL CHANGE OF CONDITION. (a) Evidence of the extent of impairment is not limited to that presented to the division if the court, after a hearing, finds that there is a substantial change of condition. The court's finding of a substantial change of condition may be based only on:

(1) medical evidence from the same doctor or doctors whose testimony or opinion was presented to the division;

(2) evidence that has come to the party's knowledge since the contested case hearing;

(3) evidence that could not have been discovered

earlier with due diligence by the party; and

(4) evidence that would probably produce a different result if it is admitted into evidence at the trial.

(b) If substantial change of condition is disputed, the court shall require the designated doctor in the case to verify the substantial change of condition, if any. The findings of the designated doctor shall be presumed to be correct, and the court shall base its finding on the medical evidence presented by the designated doctor in regard to substantial change of condition unless the preponderance of the other medical evidence is to the contrary.

(c) The substantial change of condition must be confirmable by recognized laboratory or diagnostic tests or signs confirmable by physical examination.

(d) If the court finds a substantial change of condition under this section, new medical evidence of the extent of impairment must be from and is limited to the same doctor or doctors who made impairment ratings before the division under Section [408.123](#).

(e) The court's finding of a substantial change of condition may not be made known to the jury.

(f) The court or jury in its determination of the extent of impairment shall adopt one of the impairment ratings made under this section.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.207, eff. September 1, 2005.

Sec. 410.308. CERTIFIED COPY OF NOTICE SECURING COMPENSATION. (a) The division shall furnish any interested party in the claim with a certified copy of the notice of the employer securing compensation with the insurance carrier, filed with the division.

(b) The certified copy of the notice is admissible in evidence on trial of the claim pending and is prima facie proof of the facts stated in the notice unless the facts are denied under

oath by the opposing party.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.208, eff.  
September 1, 2005.