

1-1 By: Zaffirini S.B. No. 1493
 1-2 (In the Senate - Filed March 8, 2017; March 20, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 18, 2017, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; April 18, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Creighton	X			
1-9 Campbell	X			
1-10 Estes	X			
1-11 Nichols	X			
1-12 Schwertner	X			
1-13 Taylor of Galveston	X			
1-14 Whitmire	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to changing statutory references to hearing officer and
 1-20 hearings officer to administrative law judge under the workers'
 1-21 compensation system.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 1305.356(b), Insurance Code, is amended
 1-24 to read as follows:

1-25 (b) At a contested case hearing held under Subsection (a),
 1-26 the administrative law judge [~~hearing officer~~] conducting the
 1-27 hearing shall consider evidence-based treatment guidelines adopted
 1-28 by the network under Section 1305.304.

1-29 SECTION 2. Section 409.0091(m), Labor Code, is amended to
 1-30 read as follows:

1-31 (m) In a dispute filed under Chapter 410 that arises from a
 1-32 subclaim under this section, an administrative law judge [~~a hearing~~
 1-33 ~~officer~~] may issue an order regarding compensability or eligibility
 1-34 for benefits and order the workers' compensation insurance carrier
 1-35 to reimburse health care services paid by the health care insurer as
 1-36 appropriate under this subtitle. Any dispute over the amount of
 1-37 medical benefits owed under this section, including medical
 1-38 necessity issues, shall be determined by medical dispute resolution
 1-39 under Sections 413.031 and 413.032.

1-40 SECTION 3. Section 410.152, Labor Code, is amended to read
 1-41 as follows:

1-42 Sec. 410.152. ADMINISTRATIVE LAW JUDGES [~~HEARING~~
 1-43 ~~OFFICERS~~]; QUALIFICATIONS. (a) An administrative law judge [~~A~~
 1-44 ~~hearing officer~~] shall conduct a contested case hearing.

1-45 (b) An administrative law judge [~~A hearing officer~~] must be
 1-46 licensed to practice law in this state.

1-47 SECTION 4. Section 410.156(b), Labor Code, is amended to
 1-48 read as follows:

1-49 (b) A party commits an administrative violation if the
 1-50 party, without good cause as determined by the administrative law
 1-51 judge [~~hearing officer~~], does not attend a contested case hearing.

1-52 SECTION 5. Section 410.158(a), Labor Code, is amended to
 1-53 read as follows:

1-54 (a) Except as provided by Section 410.162, discovery is
 1-55 limited to:

1-56 (1) depositions on written questions to any health
 1-57 care provider;

1-58 (2) depositions of other witnesses as permitted by the
 1-59 administrative law judge [~~hearing officer~~] for good cause shown;
 1-60 and

1-61 (3) interrogatories as prescribed by the

2-1 commissioner.

2-2 SECTION 6. Section 410.162, Labor Code, is amended to read
2-3 as follows:

2-4 Sec. 410.162. ADDITIONAL DISCOVERY. For good cause shown,
2-5 a party may obtain permission from the administrative law judge
2-6 [~~hearing officer~~] to conduct additional discovery as necessary.

2-7 SECTION 7. Section 410.163, Labor Code, is amended to read
2-8 as follows:

2-9 Sec. 410.163. POWERS AND DUTIES OF ADMINISTRATIVE LAW JUDGE
2-10 [~~HEARING OFFICER~~]. (a) At a contested case hearing the
2-11 administrative law judge [~~hearing officer~~] shall:

2-12 (1) swear witnesses;
2-13 (2) receive testimony;
2-14 (3) allow examination and cross-examination of
2-15 witnesses;

2-16 (4) accept documents and other tangible evidence; and
2-17 (5) allow the presentation of evidence by affidavit.

2-18 (b) An administrative law judge [~~A hearing officer~~] shall
2-19 ensure the preservation of the rights of the parties and the full
2-20 development of facts required for the determinations to be made. An
2-21 administrative law judge [~~A hearing officer~~] may permit the use of
2-22 summary procedures, if appropriate, including witness statements,
2-23 summaries, and similar measures to expedite the proceedings.

2-24 SECTION 8. Section 410.164(c), Labor Code, is amended to
2-25 read as follows:

2-26 (c) At each contested case hearing, as applicable, the
2-27 insurance carrier shall file with the administrative law judge
2-28 [~~hearing officer~~] and shall deliver to the claimant a single
2-29 document stating the true corporate name of the insurance carrier
2-30 and the name and address of the insurance carrier's registered
2-31 agent for service of process. The document is part of the record of
2-32 the contested case hearing.

2-33 SECTION 9. Section 410.165, Labor Code, is amended to read
2-34 as follows:

2-35 Sec. 410.165. EVIDENCE. (a) The administrative law judge
2-36 [~~hearing officer~~] is the sole judge of the relevance and
2-37 materiality of the evidence offered and of the weight and
2-38 credibility to be given to the evidence. Conformity to legal rules
2-39 of evidence is not necessary.

2-40 (b) An administrative law judge [~~A hearing officer~~] may
2-41 accept a written statement signed by a witness and shall accept all
2-42 written reports signed by a health care provider.

2-43 SECTION 10. Section 410.167, Labor Code, is amended to read
2-44 as follows:

2-45 Sec. 410.167. EX PARTE CONTACTS PROHIBITED. A party and an
2-46 administrative law judge [~~a hearing officer~~] may not communicate
2-47 outside the contested case hearing unless the communication is in
2-48 writing with copies provided to all parties or relates to
2-49 procedural matters.

2-50 SECTION 11. Sections 410.168(a), (c), (d), and (e), Labor
2-51 Code, are amended to read as follows:

2-52 (a) The administrative law judge [~~hearing officer~~] shall
2-53 issue a written decision that includes:

2-54 (1) findings of fact and conclusions of law;
2-55 (2) a determination of whether benefits are due; and
2-56 (3) an award of benefits due.

2-57 (c) The administrative law judge [~~hearing officer~~] may
2-58 enter an interlocutory order for the payment of all or part of
2-59 medical benefits or income benefits. The order may address accrued
2-60 benefits, future benefits, or both accrued benefits and future
2-61 benefits. The order is binding during the pendency of an appeal to
2-62 the appeals panel.

2-63 (d) On a form that the commissioner by rule prescribes, the
2-64 administrative law judge [~~hearing officer~~] shall issue a separate
2-65 written decision regarding attorney's fees and any matter related
2-66 to attorney's fees. The decision regarding attorney's fees and the
2-67 form may not be made known to a jury in a judicial review of an
2-68 award, including an appeal.

2-69 (e) The commissioner by rule shall prescribe the times

3-1 within which the administrative law judge [~~hearing officer~~] must
3-2 file the decisions with the division.

3-3 SECTION 12. Section 410.169, Labor Code, is amended to read
3-4 as follows:

3-5 Sec. 410.169. EFFECT OF DECISION. A decision of an
3-6 administrative law judge [~~a hearing officer~~] regarding benefits is
3-7 final in the absence of a timely appeal by a party and is binding
3-8 during the pendency of an appeal to the appeals panel.

3-9 SECTION 13. Sections 410.202(a) and (c), Labor Code, are
3-10 amended to read as follows:

3-11 (a) To appeal the decision of an administrative law judge [~~a~~
3-12 ~~hearing officer~~], a party shall file a written request for appeal
3-13 with the appeals panel not later than the 15th day after the date on
3-14 which the decision of the administrative law judge [~~hearing~~
3-15 ~~officer~~] is received from the division and shall on the same date
3-16 serve a copy of the request for appeal on the other party.

3-17 (c) A request for appeal or a response must clearly and
3-18 concisely rebut or support the decision of the administrative law
3-19 judge [~~hearing officer~~] on each issue on which review is sought.

3-20 SECTION 14. Section 410.203(b), Labor Code, is amended to
3-21 read as follows:

3-22 (b) The appeals panel may:

3-23 (1) reverse the decision of the administrative law
3-24 judge [~~hearings officer~~] and render a new decision;

3-25 (2) reverse the decision of the administrative law
3-26 judge [~~hearings officer~~] and remand the case to the administrative
3-27 law judge [~~hearing officer~~] for further consideration and
3-28 development of evidence; or

3-29 (3) affirm the decision of the administrative law
3-30 judge [~~hearings officer~~] in a case described by Section
3-31 410.204(a-1).

3-32 SECTION 15. Sections 410.204(a-1) and (c), Labor Code, are
3-33 amended to read as follows:

3-34 (a-1) An appeals panel may only issue a written decision in
3-35 a case in which the panel affirms the decision of an administrative
3-36 law judge [~~a hearings officer~~] if the case:

3-37 (1) is a case of first impression;

3-38 (2) involves a recent change in law; or

3-39 (3) involves errors at the contested case hearing that
3-40 require correction but do not affect the outcome of the hearing,
3-41 including:

3-42 (A) findings of fact for which insufficient
3-43 evidence exists;

3-44 (B) incorrect conclusions of law;

3-45 (C) findings of fact or conclusions of law
3-46 regarding matters that were not properly before the administrative
3-47 law judge [~~hearings officer~~]; and

3-48 (D) legal errors not otherwise described by this
3-49 subdivision.

3-50 (c) If the appeals panel does not issue a decision in
3-51 accordance with this section, the decision of the administrative
3-52 law judge [~~hearing officer~~] becomes final and is the final decision
3-53 of the appeals panel.

3-54 SECTION 16. Sections 413.0311(b), (c), and (d), Labor Code,
3-55 are amended to read as follows:

3-56 (b) A party to a medical dispute described by Subsection (a)
3-57 is entitled to a contested case hearing. A contested case hearing
3-58 under this section shall be conducted by an administrative law
3-59 judge [~~a hearings officer~~] in the manner provided for contested
3-60 case hearings under Subchapter D, Chapter 410. Notwithstanding
3-61 Section 410.024, a benefit review conference is not a prerequisite
3-62 to a contested case hearing under this section.

3-63 (c) The decision of an administrative law judge [~~a hearings~~
3-64 ~~officer~~] under this section is final in the absence of a timely
3-65 appeal by a party for judicial review under Subsection (d).

3-66 (d) A party who has exhausted all administrative remedies
3-67 under Section 413.031 and this section and who is aggrieved by a
3-68 final decision of the administrative law judge [~~hearings officer~~]
3-69 under Subsection (c) may seek judicial review of the decision.

4-1 Judicial review under this subsection shall be conducted in the
4-2 manner provided for judicial review of a contested case under
4-3 Subchapter G, Chapter 2001, Government Code, except that the party
4-4 seeking judicial review under this section must file suit not later
4-5 than the 45th day after the date on which the division mailed the
4-6 party the decision of the administrative law judge [~~hearings~~
4-7 ~~officer~~]. For purposes of this subsection, the mailing date is
4-8 considered to be the fifth day after the date the decision of the
4-9 administrative law judge [~~hearings officer~~] was filed with the
4-10 division.

4-11 SECTION 17. Section 504.054(b), Labor Code, is amended to
4-12 read as follows:

4-13 (b) The administrative law judge [~~hearing officer~~]
4-14 conducting the contested case hearing under Subsection (a) shall
4-15 consider any treatment guidelines adopted by the political
4-16 subdivision or pool that provides medical benefits under Section
4-17 504.053(b)(2) if those guidelines meet the standards provided by
4-18 Section 413.011(e).

4-19 SECTION 18. This Act takes effect September 1, 2017.

4-20

* * * * *