

CHAPTER 131. BENEFITS--LIFETIME INCOME BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

28 TAC §§131.1, 131.2, 131.3, AND 131.4

SUBCHAPTER B. LIFETIME INCOME BENEFITS – CERTAIN FIRST RESPONDERS

28 TAC §§131.10, 131.11, 131.12, 131.13, AND 131.14

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC Chapter 131, concerning lifetime income benefits. DWC proposes amending §131.1, concerning the initiation of lifetime income benefits, and adding new §§131.10, 131.11, 131.12, 131.13, and 131.14, concerning lifetime income benefits for first responders under Texas Labor Code §408.1615. The proposed amendments and new sections will restructure Chapter 131 into two subchapters. New Subchapter A will include the existing sections of Chapter 131, which are §§131.1, 131.2, 131.3, and 131.4. New Subchapter B will include the new sections of Chapter 131, which are §§131.10, 131.11, 131.12, 131.13, and 131.14. Subchapter B will apply to first responders receiving benefits under §408.1615. The amendments and new sections implement House Bill (HB) 2468, 88th Legislature, Regular Session (2023), which amended Labor Code §408.0041 and enacted Labor Code §408.1615. Section 131.1 implements Labor Code §§408.0041, 408.161 and 408.1615. Sections 131.10, 131.11, 131.12, 131.13, and 131.14 implement Labor Code §408.1615.

EXPLANATION. The amendments to §131.1 and new §§131.10, 131.11, 131.12, 131.13, and 131.14 are necessary to implement HB 2468. HB 2468 enacted Labor Code §408.1615, which allows certain first responders to receive lifetime income benefits.

The proposed amendments and new sections add definitions and create procedures for a first responder's annual certification to the insurance carrier, for the

suspension and reinstatement of lifetime income benefits, and for the dispute of a first responder's continuing entitlement to lifetime income benefits.

The proposed amendments and new sections also include nonsubstantive editorial and formatting changes to conform the sections to the agency's current style and to improve the rule's clarity.

Section 131.1 concerns the initiation of lifetime income benefits by the insurance carrier or at the request of the employee, and provides for the approval or denial of those benefits. Amending §131.1 is necessary to implement Labor Code §408.1615, which makes certain first responders eligible for lifetime income benefits. The amendments add a reference to Labor Code §408.1615 under §131.1 to include individuals who are eligible to receive lifetime income benefits under §408.1615.

Section 131.10 concerns definitions in new Labor Code §408.1615. New §131.10 is necessary to add these definitions for the rule's clarity.

Section 131.11 concerns applicability for new Subchapter B. New §131.11 is necessary to implement Labor Code §408.1615, which created lifetime income benefits for certain first responders. Section 131.11 lists who may be entitled to these benefits under §408.1615.

Section 131.12 concerns a first responder's annual certification to the insurance carrier as required by Labor Code §408.1615. New §131.12 is necessary to implement §408.1615 by listing the content, method, and timing of the certification. To help first responders comply with the certification submission required under §408.1615, new §131.12 requires insurance carriers to provide notice to those receiving benefits under §408.1615 by

sending a certification to complete 30 days before the certification is due, which includes the anniversary date benefits began to accrue.

Section 131.13 concerns the suspension and reinstatement of lifetime income benefits for first responders under Labor Code §408.1615. New §131.13 is necessary to implement Labor Code §408.1615, which states when an insurance carrier can suspend a first responder's lifetime income benefits under that section and when an insurance carrier must reinstate those benefits. Section 408.1615(i) requires the commissioner, by rule, to ensure that an employee receives reasonable notice of the insurance carrier's basis for the suspension and is provided a reasonable opportunity to complete the annual certification or otherwise respond to the notice. DWC interprets a reasonable opportunity as being 20 days. As a result, new §131.13 requires the insurance carrier to give the first responder a plain-language notice of the basis for the suspension, and requires the first responder to respond to the notice within 20 days of receiving it. In addition, new §131.13 states that if the suspension is due to a missing annual certification, the insurance carrier must reinstate benefits within seven days of receiving the certification. It also states that if the suspension is due to failure to attend a designated doctor examination, the insurance carrier must follow §127.25 of this title for suspension and reinstatement of the first responder's benefits. If the first responder believes that the insurance carrier's assertion that the first responder was employed is not correct, then the first responder would request dispute resolution under Chapters 140 - 144 and 147 of this title (relating to Dispute Resolution). If the suspension is due to employment in any capacity, new §131.13 requires the first responder to submit a new request for lifetime income benefits under §131.1. Finally, new §131.13 clarifies that if the insurance carrier suspends or reinstates benefits under §131.13, the insurance carrier must comply with the electronic notification requirements to DWC

in §124.2 and Chapter 124, Subchapter B (relating to Insurance Carrier Claim Electronic Data Interchange Reporting to the Division).

Section 131.14 provides for the dispute of a first responder's continuing entitlement to lifetime income benefits. New §131.14 is necessary to implement Labor Code §408.1615, which allows an insurance carrier to review a first responder's continuing entitlement to the lifetime income benefits more than once in a five-year period if the insurance carrier provides evidence to DWC that the first responder's annual certification is not accurate, and the commissioner finds that the evidence is sufficient. If the evidence is sufficient, the insurance carrier must request a designated doctor (DD) exam to determine whether the first responder remains eligible to receive lifetime income benefits under §408.1615. New §131.14 provides procedures for this process. Once DWC receives the evidence from an insurance carrier, DWC will issue an order stating whether the insurance carrier is entitled to require the first responder to submit to a DD examination under §408.1615(h). If a DD exam is completed, the parties may dispute the DD's opinion on the first responder's continuing entitlement to lifetime income benefits through DWC's dispute resolution process.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner for Hearings Allen Craddock has determined that during each year of the first five years the proposed amendments and new sections are in effect, there will be minimal fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Deputy Commissioner Craddock does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments and new sections are in effect, Deputy Commissioner Craddock expects that enforcing and administering the proposed amendments and sections will have the public benefit of ensuring that DWC's rules conform to Labor Code §§408.0041, 408.161 and 408.1615.

Deputy Commissioner Craddock also expects that the proposed amendments and new sections will impose an economic cost on persons required to comply with the rule. Section 131.12 requires insurance carriers to provide notice to first responders receiving lifetime income benefits under Labor Code §408.1615 by sending the first responder the annual certification to complete 30 days before the certification is due and including the anniversary date the first responder's benefits began to accrue. Labor Code §408.1615 requires first responders receiving lifetime income benefits under the section to annually submit to the insurance carrier a certification stating they have not worked in any capacity during the preceding year.

Based on dispute data from years 2017 – 2023, DWC anticipates that, each year, there will be about 10 first responders who will be entitled to lifetime income benefits under §408.1615. DWC estimates that the cost for insurance carriers to send one certification to a first responder to be \$0.68 for postage and about \$0.50 for the cost to print the certification and pay for the envelope. As a result, the total cost to comply with this requirement would be \$1.18 for each certification sent. With DWC's estimated number of first responders receiving lifetime income benefits under §408.1615 to be 10 individuals, the annual total cost to comply with the rule would be \$11.80 for all insurance carriers combined.

First responders receiving lifetime income benefits under §408.1615 have been severely injured, and requiring insurance carriers to send the annual certification to complete to the first responder along with their accrual date will make it easier for the first responder to comply with the statutory requirement to submit the certification. DWC finds that the benefit of helping severely injured first responders submit the annual certification to complete required under §408.1615 outweighs the minimal cost to insurance carriers to provide notice and the certification to these first responders.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendments and new sections may have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to these small and micro businesses and rural communities. Most of the potential cost from these rules impacts insurance carriers. DWC identified 145 insurance carriers that had more than \$0 but less than \$6 million total direct written premium nationally for workers' compensation insurance. These insurance carriers writing workers' compensation insurance in Texas meet the definition of a small business under Government Code §2006.001(2)(C). As a result, DWC estimates that the changes may affect 145 small or micro businesses.

In addition, most rural political subdivisions self-insure their workers' compensation responsibilities individually or as part of a pool, so their impacts and benefits will be similar to the insurance carriers. The data readily available from the Texas Demographic Center and the United States Census Bureau divides the Texas population into "places" and counties. For census purposes, "place" includes census designated places, consolidated cities, and incorporated places. There are often multiple places in a county, and some places span multiple counties, so the reports DWC collects from political

subdivisions that self-insure their workers' compensation liabilities may include places that span different counties. As a result, to get the best estimate of affected rural communities, DWC looked at the Texas Demographic Center's January 2023 estimated county populations. Government Code Chapter 487 defines "rural county" at various population levels, ranging from a maximum population of 125,000 to 150,000. But Government Code Chapter 490G defines "rural county" in part as a county with a population of less than 60,000. Insurance Code Chapter 845 defines "rural area" as a county with a population of 50,000 or less. Using the most inclusive definition, of the 254 Texas counties, 222 have a population of less than 150,000, and all of those contain one or more self-insuring political subdivisions. As a result, DWC estimates that the changes may affect 222 rural counties on some level.

The primary objectives of this proposal are to implement new Labor Code §408.1615, which provides lifetime income benefits to certain severely injured first responders, and to make the process easier for these first responders. Requiring insurance carriers to send the annual certification to complete helps reduce the burden from first responders to remember to submit their certification and reminds them of their accrual date. DWC considered the following alternatives to minimize any adverse impact on small and micro businesses and rural communities while accomplishing the proposal's objectives:

(1) Not proposing the requirement. DWC considered not proposing the changes but rejected that option. As stated in the cost note, the individuals receiving lifetime income benefits under Labor Code §408.1615 have been severely injured, and requiring insurance carriers to send the annual certification to complete to the first responder along with their accrual date will help first responders comply with §408.1615. Requiring insurance carriers to notify and send the first responder their annual certification to complete makes the process less difficult for these severely injured first responders to

retain the benefits they are entitled to. For this reason, not proposing the changes is not a viable option.

(2) Proposing a different requirement for small and micro businesses or rural communities. The proposed rule requires insurance carriers to send notice and the annual certification to complete to the first responder 30 days before the certification is due. The only alternatives are to not require insurance carriers to send notice and the certification to the first responder, or to adjust the timeframe. Given the number of insurance carriers writing workers' compensation policies in Texas that qualify as small businesses based on their premium volume, proposing a different requirement for small and micro businesses or rural communities would mean the different requirement would likely affect a large percentage of first responders. If DWC were to not require small or micro businesses or rural communities to send a first responder the annual certification to complete, the first responders affected by that would not have the same assistance as those in other areas. If DWC were to adopt a different timeframe for small and micro businesses or rural communities, it would not substantially lower the cost of compliance, and receiving the form too early or too late for an annual certification might make it more difficult for injured first responders to comply with the requirement. As stated in option one, requiring insurance carriers to notify and send the first responder their annual certification to complete makes the process less difficult for these severely injured first responders to retain the benefits they are entitled to. For this reason, proposing a different requirement is not a viable option.

(3) Exempting small or micro businesses or rural communities from the proposed requirement. DWC considered exempting small or micro businesses or rural communities from all or part of the rules but rejected that option. Like the second option, exempting small and micro businesses or rural communities from the proposed rule would likely affect a large percentage of first responders. If DWC were to not require small or micro

businesses or rural communities to send a first responder the annual certification to complete, the first responders affected by that would not have the same assistance as those in other areas. As stated in options one and two, requiring insurance carriers to notify and send the first responder their annual certification to complete makes the process less difficult for these severely injured first responders to retain the benefits they are entitled to. For this reason, exempting small and micro businesses or rural communities from the proposed requirement is not a viable option.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does impose a possible cost on regulated persons. However, the cost for insurance carriers to send a certification to complete each year to first responders receiving lifetime income benefits under Labor Code §408.1615 is minimal, and necessary to implement Labor Code §§408.0041 and 408.1615, as amended and added by HB 2468. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments and new sections are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;

- will expand, limit, or repeal an existing regulation;
- will increase or decrease the number of individuals subject to the rule's applicability; or
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposal adds new sections, amends existing sections, and changes the people the sections affect. However, these changes are necessary to implement Labor Code §§408.0041 and 408.1615, as amended by HB 2468. HB 2468 expanded the types of injured employees that qualify for lifetime income benefits and created a special category and specific requirements for first responders with specific types of injuries.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on July 1, 2024. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

DWC will also consider written and oral comments on the proposal at a public hearing at 10:00 a.m., Central time, on June 25, 2024. The hearing will take place remotely. DWC will publish details of how to view and participate in the hearing on the agency website at www.tdi.texas.gov/alert/event/index.html.

SUBCHAPTER A. GENERAL PROVISIONS.

28 TAC §§131.1, 131.2, 131.3, AND 131.4

STATUTORY AUTHORITY. DWC proposes creating Subchapter A, Chapter 131; amendments to §131.1; and locating §§131.1, 131.2, 131.3, and 131.4 in new Subchapter A under Labor Code §§408.0041, 408.161, 408.1615, 402.00111, 402.00116, and 402.061.

Labor Code §408.0041 provides that the commissioner may order a DD exam to resolve questions about an individual's injuries. It also provides that an insurance carrier may suspend benefits for a period in which the individual does not attend the required DD exam, and provides for when the insurance carrier must reinstate benefits.

Labor Code §408.161 provides lifetime income benefits for certain injuries.

Labor Code §408.1615 provides lifetime income benefits for certain first responders who sustain a serious bodily injury, other than an injury described by §408.161, in the course and scope of the employee's employment or volunteer service as a first responder that renders the employee permanently unemployable.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 131.1 implements Labor Code §§408.0041, 408.161, and 408.1615. Labor Code §408.0041 was enacted by HB 2600, 77th Legislature, Regular Session (2001) and amended by HB 7, 79th Legislature, Regular Session (2005); Senate Bill (SB) 1169, 80th Legislature, Regular Session (2007); HB 2004, 80th Legislature, Regular Session (2007); HB 2605, 82nd Legislature, Regular Session (2011); and HB 2468, 88th Legislature, Regular Session (2023). Labor Code §408.161 was enacted by HB 752, 73rd Legislature, Regular Session (1993) and amended by HB 3196, 75th Legislature, Regular Session (1997); HB 2510, 76th Legislature, Regular Session (1999); HB 2600, 77th Legislature, Regular Session (2001); HB 7, 79th Legislature, Regular Session (2005); and HB 2468, 88th Legislature, Regular Session (2023). Labor Code §408.1615 was enacted by HB 2468, 88th Legislature, Regular Session (2023).

TEXT.

Subchapter A. General Provisions.

§131.1. Initiation of Lifetime Income Benefits; Notice of Denial.

(a) The insurance carrier must [~~shall~~] initiate the payment of lifetime income benefits without a final decision, order, or other action of the commissioner if an injured employee meets the eligibility criteria for lifetime income benefits listed under Labor Code §408.161 or §408.1615 as a result of the compensable injury.

(b) An injured employee may submit a written request for lifetime income benefits to the insurance carrier. The insurance carrier must [~~shall~~] either initiate lifetime income benefits or deny the injured employee's eligibility for lifetime income benefits considering all of the eligibility criteria listed under Labor Code §408.161 or §408.1615 within 60 days of receiving [~~from the receipt of~~] the injured employee's written request. An insurance carrier's failure to respond to the request for lifetime income benefits within the

timeframes described in this subsection does not constitute a waiver of the insurance carrier's right to dispute the injured employee's eligibility for lifetime income benefits.

(c) The insurance carrier must [~~shall~~] make the first payment of lifetime income benefits on or before the 15th day after the date the insurance carrier reasonably believes that the injured employee is eligible for lifetime income benefits as a result of the compensable injury. The initiation of lifetime income benefits without a final decision, order, or other action of the commissioner does not waive the insurance carrier's right to contest the compensability of the injury under [~~in accordance with~~] Labor Code §409.021(c).

(d) If the injured employee submits a written request for lifetime income benefits, and the insurance carrier denies that the injured employee is eligible for lifetime income benefits, the insurance carrier must [~~shall~~] deny eligibility by sending a plain-language [~~plain language~~] notice of denial of eligibility to the division, the injured employee, and the injured employee's representative, if any, in the form and manner prescribed by the division up to the 60th day after it receives [~~receipt of~~] the written request. The notice of denial of eligibility must [~~shall~~] include:

(1) a full and complete statement describing the insurance carrier's reasons for denial. The statement must contain sufficient claim-specific substantive information to enable the injured employee to understand the insurance carrier's position or action taken under the claim. A generic statement that simply states the insurance carrier's position with phrases such as "not part of compensable injury," "not meeting criteria," "liability is in question," "under investigation," "eligibility questioned," or other similar phrases with no further description of the factual basis for the denial does not satisfy the requirements of paragraph (1) of this subsection;

(2) contact information, including the adjuster's name, toll-free telephone and fax numbers, and email address; and

(3) a statement informing the injured employee of his or her right to request a benefit review conference to resolve the dispute.

(e) An injured employee may contest the insurance carrier's denial of eligibility for lifetime income benefits or failure to respond to the written request for lifetime income benefits by requesting dispute resolution [~~a benefit review conference~~] as provided by Chapters 141 - 144 and 147 [~~Chapter 141~~] of this title (relating to Dispute Resolution) [~~(relating to Dispute Resolution--Benefit Review Conference)~~].

(f) Nothing in this section is intended to limit an [~~any~~] insurance carrier's duty to initiate payment of lifetime income benefits before the time limit established in subsection (c) of this section.

~~[(g) Effective date. This section is effective on June 1, 2015].~~

§131.2. Calculation of Lifetime Income Benefits. (No change.)

§131.3. Carrier's Petition for Payment of Benefits by the Subsequent Injury Fund.

(No change.)

§131.4. Change in Payment Period; Purchase of Annuity for Lifetime Income Benefits. (No change.)

SUBCHAPTER B. LIFETIME INCOME BENEFITS--CERTAIN FIRST RESPONDERS

28 TAC §§131.10, 131.11, 131.12, 131.13, AND 131.14

STATUTORY AUTHORITY. DWC proposes new §§131.10 131.11, 131.12, 131.13, and 131.14 under Labor Code §§408.0041, 408.1615, 402.00111, 402.00116, and 402.061.

Labor Code §408.0041 provides that the commissioner may order a DD exam to resolve questions about an individual's injuries. It also provides that an insurance carrier may suspend benefits for a period in which the individual does not attend the required DD exam, and provides for when the insurance carrier must reinstate benefits.

Labor Code §408.1615 provides lifetime income benefits for certain first responders who sustain a serious bodily injury, other than an injury described by §408.161, in the course and scope of the employee's employment or volunteer service as a first responder that renders the employee permanently unemployable.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 131.1 implements Labor Code §§408.0041 and 408.1615. Labor Code §408.0041 was enacted by HB 2600, 77th Legislature, Regular Session (2001) and amended by HB 7, 79th Legislature, Regular Session (2005); SB 1169, 80th Legislature, Regular Session (2007); HB 2004, 80th Legislature, Regular Session (2007); HB 2605, 82nd Legislature, Regular Session (2011); and HB 2468, 88th Legislature, Regular Session (2023). Labor Code §408.1615 was enacted by HB 2468, 88th Legislature, Regular Session (2023).

TEXT.

Subchapter B. Lifetime Income Benefits--Certain First Responders.

§131.10. Definitions. In Subchapter B of this chapter:

(1) "First responders" means "first responders" as defined in Labor Code §408.1615.

(2) "Serious bodily injury" means "serious bodily injury" as defined in Penal Code §1.07.

§131.11. Applicability. This subchapter applies to a first responder who sustains a serious bodily injury:

(1) that is an injury described under Labor Code §408.1615;

(2) in the course and scope of the first responder's employment or volunteer service as a first responder; and

(3) that renders the first responder permanently unemployable.

§131.12. First Responder's Annual Certification to Insurance Carrier.

(a) Requirement. A first responder receiving lifetime income benefits under §408.1615 must file a certification with the insurance carrier annually.

(b) Content. The certification must state that the first responder was not employed in any capacity during the preceding year.

(c) Method and Timing. The first responder must submit the certification to the insurance carrier in the form and manner prescribed by the division:

(1) by first class mail, by personal delivery, or electronically; and

(2) no later than 30 days after the anniversary of the date the first responder's lifetime income benefits began to accrue.

(d) Notice. Every year, 30 days before the first responder's annual certification is due, an insurance carrier must send the annual certification to complete to the first responder and include the anniversary date the first responder's lifetime income benefits began to accrue.

§131.13. Suspension and Reinstatement of Lifetime Income Benefits.

(a) An insurance carrier may suspend the payment of lifetime income benefits to a first responder during and for a period in which:

(1) The first responder fails to complete the annual certification as required by §408.1615(e).

(2) The first responder, without good cause, fails to attend a designated doctor examination as required by §408.0041(j).

(3) The first responder is employed in any capacity.

(4) A designated doctor's report indicates that the first responder is no longer entitled to lifetime income benefits as provided in §408.0041(k-1).

(b) Before an insurance carrier may suspend lifetime income benefits under this section, the insurance carrier must send a plain-language notice to the first responder that explains the basis for the suspension.

(1) Within 20 days of receiving this notice, the first responder must respond to the insurance carrier's notice by:

(A) submitting the annual certification to the insurance carrier;

(B) notifying the insurance carrier of an examination under §127.25 of this title (relating to Failure to Attend a Designated Doctor Examination); or

(C) requesting dispute resolution under Chapters 140 - 144 and 147 of this title (relating to Dispute Resolution).

(2) If the first responder does not respond within 20 days of receiving this notice, the insurance carrier may suspend the first responder's benefits.

(c) If an insurance carrier suspends benefits under subsection (a)(1) of this section, the insurance carrier must reinstate benefits effective on the date the insurance carrier receives the first responder's annual certification. The reinstatement of benefits must occur no later than the seventh day following the date the insurance carrier receives the annual certification.

(d) If an insurance carrier suspends benefits under subsection (a)(2) of this section (failure to attend a designated doctor examination), the insurance carrier must follow §127.25 of this title for suspension and reinstatement of the first responder's benefits.

(e) If an insurance carrier suspends benefits under subsection (a)(3) of this section (employment in any capacity), the first responder must submit a new request for lifetime income benefits under §131.1 of this chapter (relating to Initiation of Lifetime Income Benefits; Notice of Denial).

(f) If the insurance carrier suspends or reinstates benefits under this section, the insurance carrier must also comply with the electronic notification requirements to DWC in §124.2 and Chapter 124, Subchapter B (relating to Insurance Carrier Claim Electronic Data Interchange Reporting to the Division).

§131.14. Dispute of Continuing Entitlement of Lifetime Income Benefits.

(a) If the insurance carrier disputes the accuracy of the first responder's annual certification under Labor Code §408.1615(g), the insurance carrier must provide a copy of the annual certification along with supporting evidence to the division and to the first responder.

(b) Upon receipt of the information in subsection (a) of this section, the division will issue an order stating whether the insurance carrier is entitled to an examination under Labor Code §408.1615(h).

(c) The parties may dispute the determination of the division through the dispute resolution processes outlined in Chapters 140 - 144 and 147 of this title (relating to Dispute Resolution).

(d) After receiving the designated doctor's report under Labor Code §408.1615(h), a party may dispute the designated doctor's opinion on continuing entitlement to lifetime income benefits through the dispute resolution processes outlined in Chapters 140 - 144 and 147 of this title (relating to Dispute Resolution).

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on May 17, 2024.



Kara Mace
General Counsel
TDI, Division of Workers' Compensation