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## DIGEST

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Gaines

HB No. 1190

**Abstract:** Provides for the procedure for determining disputes and appeals of the medical director's decision.

Present law provides that the director of the office of workers' compensation (OWCA) may hire a medical director and associate medical director to render decisions on disputed cases.

Present law provides for the development of a medical treatment schedule based on conscientious, explicit, and judicious use of current best evidence about the care of patients.

Present law authorizes a review and update of the medical treatment schedule no less than every 2 years.

Present law provides that all medical care and treatment due after the promulgation of the medical treatment schedule shall be in accordance with the medical treatment schedule.

Proposed law clarifies that the date before which an accident or injury would have to have occurred to not be required to be treated in accordance with the medical treatment schedule is July 13, 2011.

Present law provides that after a medical provider has submitted a request for authorization as required to the payor, that the payor shall notify the provider of his action on the request within 5 business days of receipt of the request.

Proposed law retains present law and further provides that any request for authorization that is not specifically denied within the five business days as required in present law shall be authorized and paid by the payor.

Present law specifies that if any dispute arises after Jan. 1, 2011 as to whether the recommended treatment is in accordance with the medical treatment schedule or whether a variance in treatment is appropriate, any aggrieved party shall file an appeal with the medical director.

Proposed law revises present law by deleting the Jan. 1, 2011 date and specifically providing that the payor shall file the appeal instead of "any aggrieved party".

Present law allows for the filing of an appeal by LWC Form 1008, "Disputed Claim for Compensation".

Proposed law retains present law and further requires that the Form 1008 be filed within 30 days of the issuance of the decision of the medical director.

Present law allows the decision to be overturned by clear and convincing evidence that the decision was not in accordance with present law.

Proposed law changes the evidential standard from clear and convincing to a preponderance of the evidence.

Proposed law allows any competent, relevant evidence at the hearing of appeal.

Proposed law requires that the OWCA director be notified that an appeal has been filed within 10 days.

Proposed law requires the director to compile and forward the entire record reviewed by the medical director to the district hearing office within fifteen days of receiving notice. Proposed law further requires the record to be made available to the parties to the appeal upon request.

Present law provides that all treatment not specified in the medical treatment schedule shall be due by the employer when a preponderance of scientific medical evidence supports approval of the treatment.

Proposed law repeals present law.

(Amends R.S. 23:1203.1(I), (J)(1), (K), and (M))