

**SUBCHAPTER A. Impairment Income Benefits
§130.5**

**SUBCHAPTER B. Supplemental Income Benefits
§130.110**

1. **INTRODUCTION.** The Commissioner of the Division of Workers' Compensation, Texas Department of Insurance, adopts the repeal of §130.5 and §130.110, concerning impairment and supplemental income benefits. The repeal is adopted without changes to the proposal as published in the February 3, 2006 issue of the *Texas Register* (31 TexReg 678).

2. **REASONED JUSTIFICATION.** The repealed sections are necessary to implement new statutory provisions contained in House Bill (HB) 7, enacted by the 79th Legislature, Regular Session, effective September 1, 2005. HB 7 changed the Labor Code §408.0041 by expanding the list of issues that a designated doctor may be asked to address to include the injured employee's (employee) ability to return to work, the extent of the injury, whether the employee's disability is a direct result of the injury and similar issues. As a result of the change, the designated doctor will now be asked to address issues that may affect the delivery of income benefits in general, rather than just impairment income benefits (IIBs) as is currently the case.

3. HOW THE SECTIONS WILL FUNCTION. Sections 130.5 and 130.110 are repealed effective December 31, 2006. In response to the HB 7 changes, §130.5 is repealed as the process for entitlement to, and request for, a designated doctor, applies to benefits in general, and the process for entitlement to and request for a designated doctor have been moved to new §126.7. Additionally, §130.110 is repealed due to the changes in Labor Code §408.0041 for designated doctor examinations and the ability of the employee to return to work. The process for, entitlement to, and requesting a designated doctor exam regarding the employee's ability to return to work after the second anniversary of entitlement to supplemental income benefits (SIBs) is also addressed in new §126.7. The combination of repealed §§130.5 and 130.110 into new §126.7 will provide consistency throughout the designated doctor process regardless of the issue being addressed. The Division simultaneously adopts new §126.7, effective January 1, 2007, published elsewhere in this issue of the *Texas Register*. The adopted rules will permit compliance with statutory changes to the Labor Code §408.0041.

4. SUMMARY OF COMMENTS AND AGENCY'S RESPONSE TO COMMENTS.

General: Several commenters support the repeal of the rules.

Agency Response: The Division appreciates the support.

5. NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTIONS.

For: Insurance Council of Texas, Association of Fire & Casualty Insurers of Texas.

Against: None.

6. STATUTORY AUTHORITY. The repeals are adopted under the Labor Code §§408.0041, 402.00111, and 402.061. Section 408.0041 provides for designated doctor examinations. Section 402.00111 provides that the Commissioner of Workers' Compensation shall exercise all executive authority, including rulemaking authority, under the Labor Code and other laws of this state. Section 402.061 provides the Commissioner the authority to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

7. TEXT.

SUBCHAPTER A. Impairment Income Benefits

§130.5. Entitlement and Procedure for Requesting Designated Doctor Examinations related to Maximum Medical Improvement and Impairment Rating.

SUBCHAPTER B. Supplemental Income Benefits

§130.110. Return to Work Disputes During Supplemental Income Benefits; Designated Doctor.

TITLE 28. INSURANCE
Part 2. Texas Department of Insurance
Division of Workers Compensation
Chapter 130. Impairment and Supplemental Income Benefits

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CERTIFICATION. This agency hereby certifies that the adopted sections have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on _____, 2006.

Norma Garcia
General Counsel
Division of Workers' Compensation
Texas Department of Insurance

IT IS THEREFORE THE ORDER of the Commissioner of Workers' Compensation that the repeal of §§130.5 and 130.110, concerning impairment and supplemental income benefits, is adopted.

AND IT IS SO ORDERED.

ALBERT BETTS
COMMISSIONER OF WORKERS' COMPENSATION
TEXAS DEPARTMENT OF INSURANCE

DWC-06-0033

TITLE 28. INSURANCE
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ATTEST:

Norma Garcia
General Counsel

COMMISSIONER'S ORDER NO. DWC-06-0033