

ADVISORY NO. 439

###

TOPIC: DWC Adopts New SIBs Rules

The Division of Workers' Compensation has adopted new Supplemental Income Benefits rules. The new regulations, codified in rules 130.101 – 130.109, implement changes mandated by the 79<sup>th</sup> Legislature's addition of Texas Lab. Code Ann. § 408.1415. The new rules clarify the process injured employees are required to follow to qualify for SIBs.

**The rules were adopted March 11, 2009. They will be published in the Texas Register on March 27, 2009. The adoption becomes effective on July 1, 2009.**

House Bill 7 created new §408.1415, which requires the Commissioner to adopt compliance standards for SIBs recipients that require each recipient to demonstrate an active effort to obtain employment.

Section 408.1415 requires the Commissioner to: (1) establish the level of activity that a recipient should have with the Texas Workforce Commission (TWC) and the Department of Assistive and Rehabilitative Services (DARS); (2) define the number of job applications required to be submitted by a recipient to satisfy the work search requirements; and, (3) consider factors affecting the availability of employment, including the recognition of access to employment in rural areas, economic conditions, and other appropriate employment availability factors.

House Bill 7 also amended §408.142 and §408.143 to eliminate the prior "good faith" work search standard and require injured employees seeking SIBs to comply with §408.1415 and the compliance standards for recipients established by the Commissioner.

We are reviewing the new rules as well as the Division's response to public comments and will provide you with a more detailed analysis of the effect of the new rules in the near future.

FLAHIVE, OGDEN & LATSON

Advisory No. 439

March 19, 2009