

CHAPTER 272

LABOR AND INDUSTRY

SENATE BILL 16-217

BY SENATOR(S) Hill, Cooke, Crowder, Merrifield, Newell, Tate, Woods;
also REPRESENTATIVE(S) Williams, Lawrence, Rosenthal, Roupe.

AN ACT**CONCERNING MEASURES TO EXPEDITE THE LITIGATION OF WORKERS' COMPENSATION CLAIMS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly declares that this act contains changes to existing law that are procedural and apply to all workers' compensation claims, regardless of the date the claim was filed.

SECTION 2. In Colorado Revised Statutes, 8-42-112, **add** (3), (4), (5), and (6) as follows:

8-42-112. Acts of employees reducing compensation. (3) AN ADMISSION OF LIABILITY REDUCING COMPENSATION UNDER THIS SECTION MUST INCLUDE A STATEMENT BY A REPRESENTATIVE OF THE EMPLOYER LISTING THE SPECIFIC FACTS ON WHICH THE REDUCTION IS BASED.

(4) IF THE INSURER OR SELF-INSURED EMPLOYER ADMITS LIABILITY FOR THE CLAIM, ANY PARTY MAY REQUEST AN EXPEDITED HEARING ON THE ISSUE OF WHETHER THE EMPLOYER OR INSURER MAY REDUCE COMPENSATION UNDER THIS SECTION IF THE APPLICATION FOR HEARING IS FILED WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE ADMISSION REDUCING COMPENSATION UNDER THIS SECTION. THE DIRECTOR SHALL SET ANY EXPEDITED MATTER FOR HEARING WITHIN SIXTY DAYS AFTER THE DATE OF THE APPLICATION. THE TIME SCHEDULE FOR AN EXPEDITED HEARING IS SUBJECT TO THE EXTENSIONS SET FORTH IN SECTION 8-43-209. IF THE PARTY ELECTS NOT TO REQUEST AN EXPEDITED HEARING UNDER THIS SUBSECTION (4), THE TIME SCHEDULE FOR HEARING THE MATTER IS AS SET FORTH IN SECTION 8-43-209.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(5) NOTHING IN THIS SECTION LIMITS THE RIGHT OF A PARTY TO SUBMIT EVIDENCE AT A HEARING SCHEDULED UNDER THIS SECTION OR SECTION 8-43-209.

(6) NOTHING IN THIS SECTION PRECLUDES A PARTY FROM REQUESTING A HEARING PURSUANT TO THE TIME SCHEDULE SET FORTH IN SECTION 8-43-209.

SECTION 3. In Colorado Revised Statutes, 8-43-203, **amend** (1) (a) as follows:

8-43-203. Notice concerning liability - notice to claimants - notice of rights and claims process - rules. (1) (a) The employer or, if insured, the employer's insurance carrier shall notify in writing the division and the injured employee or, if deceased, the decedent's dependents within twenty days after a report is, or should have been, filed with the division pursuant to section 8-43-101, whether liability is admitted or contested; except that, for the purpose of this section, any knowledge on the part of the employer, if insured, is not knowledge on the part of the insurance carrier. The employer or the employer's insurance carrier may notify the division electronically. Unless exempted by the director pursuant to rule because of a small number of filings or a showing of financial hardship, beginning July 1, 2006, all notices of contest shall be filed electronically. The rejection of an electronically filed notice by the division for a technical error shall not affect the validity of the notice to the claimant. If the insurance carrier or self-insured employer denies liability for the claim, the claimant may request an expedited hearing on the issue of compensability if the application therefor is filed within forty-five days after the date of mailing of the notice of contest. The director shall set any such expedited matter for hearing within ~~forty~~ SIXTY days after the date of the application, when the issue is liability for the disease or injury. The time schedule for such an expedited hearing is subject to the extensions set forth in section 8-43-209. If a claimant elects not to request an expedited hearing pursuant to this subsection (1), the time schedule for hearing the matter shall be as set forth in section 8-43-209.

SECTION 4. In Colorado Revised Statutes, 8-43-404, **amend** (5) (a) (VI); and **add** (5) (a) (I) (D) and (5) (a) (I) (E) as follows:

8-43-404. Examination - refusal - personal responsibility - physicians to testify and furnish results - injured worker right to select treating physicians - injured worker right to third-party communications - definitions - rules. (5) (a) (I) (D) EXCEPT AS OTHERWISE PROVIDED BY SUB-SUBPARAGRAPH (E) OF THIS SUBPARAGRAPH (I), ANY PARTY MAY REQUEST AN EXPEDITED HEARING ON THE ISSUE OF WHETHER THE EMPLOYER OR INSURER PROVIDED A LIST IN COMPLIANCE WITH THIS SUBSECTION (5) IF THE APPLICATION FOR EXPEDITED HEARING IS FILED WITHIN FORTY-FIVE DAYS AFTER THE CLAIMANT PROVIDES NOTICE OF THE INJURY TO THE EMPLOYER.

(E) IF THE INSURER OR SELF-INSURED EMPLOYER ADMITS LIABILITY FOR THE CLAIM, ANY PARTY MAY REQUEST AN EXPEDITED HEARING ON THE ISSUE OF WHETHER THE EMPLOYER OR INSURER PROVIDED A LIST IN COMPLIANCE WITH THIS SUBSECTION (5) IF THE APPLICATION FOR EXPEDITED HEARING IS FILED WITHIN FORTY-FIVE DAYS AFTER THE INITIAL ADMISSION OF LIABILITY FOR THE CLAIM. THE DIRECTOR SHALL SET ANY EXPEDITED MATTER FOR HEARING WITHIN SIXTY DAYS AFTER THE DATE OF THE APPLICATION. THE TIME SCHEDULE FOR AN EXPEDITED HEARING IS SUBJECT TO THE EXTENSIONS SET FORTH IN SECTION 8-43-209. IF THE

PARTY ELECTS NOT TO REQUEST AN EXPEDITED HEARING UNDER THIS SUBSECTION (5), THE TIME SCHEDULE FOR HEARING THE MATTER IS AS SET FORTH IN SECTION 8-43-209.

(VI) (A) In addition to the one-time change of physician allowed in subparagraph (III) of this paragraph (a), upon written request to the insurance carrier or to the employer's authorized representative if self-insured, an injured employee may procure written permission to have a personal physician or chiropractor treat the employee. THE WRITTEN REQUEST MUST BE COMPLETED ON A FORM THAT IS PRESCRIBED BY THE DIRECTOR. If permission is neither granted nor refused within twenty days AFTER THE DATE OF THE CERTIFICATE OF SERVICE OF THE REQUEST FORM, the employer or insurance carrier shall be deemed to have waived any objection to the employee's request. Objection shall be in writing ON A FORM PRESCRIBED BY THE DIRECTOR and shall be ~~deposited in the United States mail or hand-delivered to~~ SERVED ON the employee OR, IF REPRESENTED, THE EMPLOYEE'S AUTHORIZED REPRESENTATIVE within twenty days AFTER THE DATE OF THE CERTIFICATE OF SERVICE OF THE REQUEST FORM. An insurance carrier, or an employer's authorized representative if self-insured, shall track how often an injured employee requests to change his or her physician and how often such change is granted or denied and shall report such information to the division upon request. Upon the proper showing to the division, the employee may procure the division's permission at any time to have a physician of the employee's selection treat the employee, and in any nonsurgical case the employee, with such permission, in lieu of medical aid, may procure any nonmedical treatment recognized by the laws of this state as legal. The practitioner administering the treatment shall receive fees under the medical provisions of articles 40 to 47 of this title as specified by the division.

(B) IF AN INJURED EMPLOYEE IS PERMITTED TO CHANGE PHYSICIANS UNDER SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (VI) RESULTING IN A NEW AUTHORIZED TREATING PHYSICIAN WHO WILL PROVIDE PRIMARY CARE FOR THE INJURY, THEN THE PREVIOUSLY AUTHORIZED TREATING PHYSICIAN PROVIDING PRIMARY CARE SHALL CONTINUE AS THE AUTHORIZED TREATING PHYSICIAN PROVIDING PRIMARY CARE FOR THE INJURED EMPLOYEE UNTIL THE INJURED EMPLOYEE'S INITIAL VISIT WITH THE NEWLY AUTHORIZED TREATING PHYSICIAN, AT WHICH TIME THE TREATMENT RELATIONSHIP WITH THE PREVIOUSLY AUTHORIZED TREATING PHYSICIAN PROVIDING PRIMARY CARE IS TERMINATED.

(C) NOTHING IN THIS SUBPARAGRAPH (VI) PRECLUDES ANY FORMER AUTHORIZED TREATING PHYSICIAN FROM PERFORMING AN EXAMINATION UNDER SUBSECTION (1) OF THIS SECTION.

(D) IF AN INJURED EMPLOYEE IS PERMITTED TO CHANGE PHYSICIANS PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (VI) RESULTING IN A NEW AUTHORIZED TREATING PHYSICIAN WHO WILL PROVIDE PRIMARY CARE FOR THE INJURY, THEN THE OPINION OF THE PREVIOUSLY AUTHORIZED TREATING PHYSICIAN PROVIDING PRIMARY CARE REGARDING WORK RESTRICTIONS AND RETURN TO WORK CONTROLS UNLESS THAT OPINION IS EXPRESSLY MODIFIED BY THE NEWLY AUTHORIZED TREATING PHYSICIAN.

SECTION 5. Effective date. This act takes effect July 1, 2016.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2016