

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0490.01 Kristen Forrestal x4217

HOUSE BILL 21-1050

HOUSE SPONSORSHIP

Gray and Van Winkle,

SENATE SPONSORSHIP

Bridges and Cooke,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE "WORKERS' COMPENSATION ACT OF COLORADO",
102 AND, IN CONNECTION THEREWITH, MAKING CHANGES THAT
103 AFFECT THE TIMELY PAYMENT OF BENEFITS, GUARDIAN AD
104 LITEM AND CONSERVATOR SERVICES, BENEFIT OFFSETS
105 RELATED TO THE RECEIPT OF FEDERAL DISABILITY OR
106 RETIREMENT BENEFITS, THE REDUCTION OF BENEFITS BASED ON
107 APPORTIONMENT, THE SELECTION OF INDEPENDENT MEDICAL
108 EXAMINERS, LIMITS ON TEMPORARY DISABILITY AND
109 PERMANENT PARTIAL DISABILITY PAYMENTS, THE WITHDRAWAL
110 OF ADMISSIONS OF LIABILITY, MILEAGE EXPENSE
111 REIMBURSEMENT, THE AUTHORITY OF PREHEARING
112 ADMINISTRATIVE LAW JUDGES, THE REOPENING OF PERMANENT
113 TOTAL DISABILITY AWARDS, AND PETITIONS FOR REVIEW AND

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill:

- Adds guardian ad litem and conservator services to the list of medical aid that an employer is required to furnish to an employee who is incapacitated as a result of a work-related injury or occupational disease (**section 1** of the bill);
- Requires an injured worker who is claiming mileage reimbursement for travel related to obtaining compensable medical care to submit a request to the employer or insurer within 120 days after the expense is incurred, and requires the employer or insurer to pay or dispute mileage within 30 days after submittal and to include in the brochure of claimants' rights an explanation of rights to mileage reimbursement and the deadline for filing a request (**sections 1 and 7**);
- Clarifies that offsets to disability benefits granted by the federal "Old-Age, Survivors, and Disability Insurance Amendments of 1965" only apply if the payments were not already being received by the employee at the time of the work-related injury (**section 2**);
- Prohibits the reduction of an employee's temporary total disability, temporary partial disability, or medical benefits based on apportionment under any circumstances; limits apportionment of permanent impairment to specific situations; and declares that the employer or insurer bears the burden of proof, by a preponderance of the evidence, at a hearing regarding apportionment of permanent impairment or permanent total disability benefits (**section 3**);
- Adds the following conditions that must be met for an employer or insurer to request the selection of an independent medical examiner when an authorized treating physician has not determined that the employee has reached maximum medical improvement (MMI): An examining physician must have examined the employee at least 20 months after the date of the injury, have determined that the

employee has reached MMI, and have served a written report to the authorized treating physician specifying that the examining physician has determined that the employee has reached MMI; and the authorized treating physician must have responded that the employee has not reached MMI or must have failed to respond within 15 days after service of the report (**section 4**);

- Changes the whole person impairment rating applicable to an injured worker from 25% to 19% for purposes of determining the maximum amount of combined temporary disability and permanent partial disability payments an injured worker may receive (**section 5**);
- Clarifies when benefits and penalties payable to an injured worker are deemed paid (**section 6**);
- Prohibits an employer or insurer from withdrawing an admission of liability when 2 years or more have passed since the date the admission of liability on the issue of compensability was filed, except in cases of fraud (**section 7**);
- Prohibits the director of the division of workers' compensation or an administrative law judge from determining issues of compensability or liability unless specific benefits or penalties are awarded or denied at the same time (**section 8**);
- Clarifies the scope of authority of prehearing administrative law judges (**section 9**);
- Increases the threshold amount that an injured worker must earn in order for permanent total disability payments to cease and allows for annual adjustment of the threshold amount starting in 2022 (**section 11**); and
- Clarifies the orders that are subject to review or appeal (**sections 10 and 12**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-42-101, **amend**
3 (1)(a); and **add** (7) as follows:

4 **8-42-101. Employer must furnish medical aid - approval of**
5 **plan - fee schedule - contracting for treatment - no recovery from**
6 **employee - medical treatment guidelines - accreditation of physicians**
7 **and other medical providers - rules - repeal.** (1) (a) (I) Every

1 employer, regardless of ~~said~~ THE employer's method of insurance, shall
2 furnish ~~such~~ medical, surgical, dental, nursing, and hospital treatment;
3 medical, hospital, and surgical supplies; crutches; ~~and~~ apparatus; AND
4 GUARDIAN AD LITEM OR CONSERVATOR SERVICES as may reasonably be
5 needed at the time of the injury or occupational disease and thereafter
6 during the disability to cure and relieve the employee from the effects of
7 the injury.

8 (II) AN EMPLOYER OR AN EMPLOYER'S INSURER THAT IS REQUIRED
9 TO FURNISH GUARDIAN AD LITEM OR CONSERVATOR SERVICES PURSUANT
10 TO THIS SUBSECTION (1)(a) SHALL PAY AN AMOUNT SET IN A FEE SCHEDULE
11 ESTABLISHED BY THE DIRECTOR BY RULE. THE DIRECTOR SHALL INCLUDE
12 IN THE FEE SCHEDULE:

13 (A) REASONABLE ATTORNEY FEES AND COSTS TO APPOINT A
14 GUARDIAN AD LITEM OR CONSERVATOR THROUGH THE APPROPRIATE
15 PROBATE COURT FOR AN EMPLOYEE WHO IS LEGALLY INCAPACITATED AS
16 THE RESULT OF A WORK-RELATED INJURY OR OCCUPATIONAL DISEASE; AND

17 (B) REASONABLE FEES AND COSTS OF A GUARDIAN AD LITEM OR
18 CONSERVATOR APPOINTED FOR AN EMPLOYEE FOR SERVICES THAT ARE
19 REASONABLY NECESSARY AS A RESULT OF THE WORK-RELATED INJURY OR
20 OCCUPATIONAL DISEASE.

21 (7) A CLAIMANT MUST SUBMIT A REQUEST FOR MILEAGE EXPENSE
22 REIMBURSEMENT FOR TRAVEL REASONABLY NECESSARY AND RELATED TO
23 OBTAINING COMPENSABLE TREATMENT, SUPPLIES, OR SERVICES SPECIFIED
24 IN SUBSECTION (1)(a) OF THIS SECTION TO THE EMPLOYER OR, IF INSURED,
25 TO THE EMPLOYER'S INSURER NO LATER THAN ONE HUNDRED TWENTY
26 DAYS AFTER THE DATE THE EXPENSE IS INCURRED UNLESS GOOD CAUSE
27 FOR A LATER SUBMISSION IS SHOWN. GOOD CAUSE INCLUDES A FAILURE BY

1 THE EMPLOYER OR EMPLOYER'S INSURER TO PROVIDE THE NOTICE IN THE
2 BROCHURE REQUIRED BY SECTION 8-43-203 (3)(c)(IV). WITHIN THIRTY
3 DAYS AFTER THE DATE THE CLAIMANT SUBMITS THE REQUEST FOR
4 MILEAGE EXPENSE REIMBURSEMENT, THE EMPLOYER OR EMPLOYER'S
5 INSURER SHALL PAY THE MILEAGE EXPENSES OR, IF DENYING THE REQUEST,
6 PROVIDE WRITTEN NOTICE TO THE CLAIMANT STATING THE REASON THE
7 REQUEST WAS DENIED.

8 **SECTION 2.** In Colorado Revised Statutes, 8-42-103, **add**
9 (1)(c)(V) as follows:

10 **8-42-103. Disability indemnity payable as wages - period of**
11 **disability.** (1) If the injury or occupational disease causes disability, a
12 disability indemnity shall be payable as wages pursuant to section
13 8-42-105 (2)(a) subject to the following limitations:

14 (c) (V) THE REDUCTIONS OR OFFSETS IN THIS SUBSECTION (1)(c)
15 APPLY ONLY IF THE EMPLOYEE WAS NOT RECEIVING THE PERIODIC
16 DISABILITY BENEFITS OR RETIREMENT BENEFITS GRANTED BY THE FEDERAL
17 "OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AMENDMENTS OF
18 1965", PUB.L. 89-97, AS AMENDED, OR EMPLOYER-PAID RETIREMENT
19 BENEFITS AT THE TIME OF THE WORK-RELATED INJURY.

20 **SECTION 3.** In Colorado Revised Statutes, 8-42-104, **amend** (3),
21 (4), and (5) introductory portion; and **add** (7) as follows:

22 **8-42-104. Effect of previous injury or compensation.** (3) An
23 employee's temporary total disability, temporary partial disability, or
24 medical benefits shall not be reduced based on a ~~previous injury~~
25 APPORTIONMENT UNDER ANY CIRCUMSTANCES. THIS SUBSECTION (3)
26 SUPERCEDES THE COLORADO COURT OF APPEALS DECISIONS IN *HUTCHISON*
27 *V. INDUSTRIAL CLAIM APPEALS OFFICE OF COLORADO*, 405 P.3d 458

1 (COLO. APP. 2017) AND *DUNCAN V. INDUSTRIAL CLAIM APPEALS OFFICE OF*
2 *COLORADO*, 107 P.3d 999 (COLO. APP. 2004).

3 (4) An employee's recovery of permanent total disability shall not
4 be reduced when the disability is the result of A work-related injury or A
5 work-related injury combined with genetic, congenital, or similar
6 conditions; BODY HABITUS; OR FAMILY HISTORY; except that this
7 subsection (4) ~~shall~~ DOES not apply to reductions in recovery or
8 apportionments allowed pursuant to the Colorado supreme court's
9 decision in the case denominated *Anderson v. Brinkhoff*, 859 P.2d 819
10 (Colo. 1993).

11 (5) In cases of permanent medical impairment, the employee's
12 award or settlement shall NOT be reduced EXCEPT:

13 (7) FOR THE PURPOSES OF SUBSECTIONS (4) AND (5) OF THIS
14 SECTION, THE EMPLOYER OR, IF THE EMPLOYER IS INSURED, THE
15 EMPLOYER'S INSURER HAS THE BURDEN OF PROOF, BY A PREPONDERANCE
16 OF THE EVIDENCE, AT ANY HEARING REGARDING APPORTIONMENT THAT
17 MAY RESULT IN A REDUCTION OF BENEFITS TO AN EMPLOYEE UNDER THIS
18 SECTION.

19 **SECTION 4.** In Colorado Revised Statutes, 8-42-107, **amend**
20 (8)(b)(II)(B), (8)(b)(II)(C), and (8)(b)(II)(D); and **add** (8)(b)(II)(E) as
21 follows:

22 **8-42-107. Permanent partial disability benefits - schedule -**
23 **medical impairment benefits - how determined. (8) Medical**
24 **impairment benefits - determination of MMI for scheduled and**
25 **nonscheduled injuries. (b) (II) If either party disputes a determination**
26 **by an authorized treating physician on the question of whether the injured**
27 **worker has or has not reached maximum medical improvement, an**

1 independent medical examiner may be selected in accordance with
2 section 8-42-107.2; except that, if an authorized treating physician has not
3 determined that the employee has reached maximum medical
4 improvement, the employer or insurer may only request the selection of
5 an independent medical examiner if all of the following conditions are
6 met:

7 (B) A party has requested in writing that an authorized treating
8 physician determine whether the employee has reached maximum medical
9 improvement AND HAS PROVIDED THE AUTHORIZED TREATING PHYSICIAN
10 WITH THE WRITTEN REPORT REQUIRED BY SUBSECTION (8)(b)(II)(E) OF
11 THIS SECTION;

12 (C) ~~Such~~ THE authorized treating physician has not determined
13 that the employee has reached maximum medical improvement; ~~and~~

14 (D) A physician other than ~~such~~ THE authorized treating physician
15 has EXAMINED THE EMPLOYEE AT LEAST TWENTY MONTHS AFTER THE
16 DATE OF THE INJURY AND determined that the employee has reached
17 maximum medical improvement; AND

18 (E) THE REQUESTING PARTY HAS PROVIDED THE AUTHORIZED
19 TREATING PHYSICIAN AND ALL OTHER PARTIES WITH A WRITTEN REPORT
20 FROM THE PHYSICIAN WHO HAS EXAMINED THE EMPLOYEE PURSUANT TO
21 SUBSECTION (8)(b)(II)(D) OF THIS SECTION, INDICATING THAT THE
22 EXAMINING PHYSICIAN HAS DETERMINED THAT THE EMPLOYEE HAS
23 REACHED MAXIMUM MEDICAL IMPROVEMENT, AND THE AUTHORIZED
24 TREATING PHYSICIAN HAS RESPONDED IN WRITING TO ALL THE PARTIES
25 THAT THE EMPLOYEE HAS NOT REACHED MAXIMUM MEDICAL
26 IMPROVEMENT OR HAS FAILED TO RESPOND IN WRITING WITHIN FIFTEEN
27 CALENDAR DAYS AFTER THE SERVICE OF THE WRITTEN REPORT.

1 **SECTION 5.** In Colorado Revised Statutes, **amend** 8-42-107.5
2 as follows:

3 **8-42-107.5. Limits on temporary disability payments and**
4 **permanent partial disability payments.** (1) ~~No~~ A claimant whose
5 impairment rating is ~~twenty-five~~ NINETEEN percent or less may NOT
6 receive more than seventy-five thousand dollars from combined
7 temporary disability payments and permanent partial disability payments.
8 ~~No~~ A claimant whose impairment rating is greater than ~~twenty-five~~
9 NINETEEN percent may receive more than one hundred fifty thousand
10 dollars from combined temporary disability payments and permanent
11 partial disability payments.

12 (2) For the purposes of this section, any mental impairment rating
13 shall be combined with the physical impairment rating to establish a
14 claimant's impairment rating for determining the applicable cap. For
15 injuries sustained on and after January 1, 2012, the director shall adjust
16 these limits on the amount of compensation for combined temporary
17 disability payments and permanent partial disability payments on July 1,
18 2011, and each July 1 thereafter, by the percentage of THE adjustment
19 made by the director to the state average weekly wage pursuant to section
20 8-47-106.

21 **SECTION 6.** In Colorado Revised Statutes, **add** 8-42-126 as
22 follows:

23 **8-42-126. Monetary benefits and penalties - timely payment**
24 **- determination of date deemed paid.** FOR THE PURPOSES OF ARTICLES
25 40 TO 47 OF THIS TITLE 8, RULES PROMULGATED PURSUANT TO ARTICLES
26 40 TO 47 OF THIS TITLE 8, AND ANY ORDERS OF THE DIVISION AND OFFICE
27 OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL,

1 MONETARY BENEFITS OR PENALTIES REQUIRED TO BE PAID TO AN INJURED
2 WORKER ARE DEEMED PAID ON THE DATE THE PAYMENT IS RECEIVED BY
3 OR DELIVERED TO THE INTENDED PAYEE; EXCEPT THAT PAYMENT
4 DELIVERY ATTEMPTED THROUGH THE UNITED STATES POSTAL SERVICE IS
5 DEEMED PAID THREE DAYS AFTER THE DATE OF THE POSTMARK IF THE
6 PAYMENT IS ADDRESSED TO THE PAYEE'S LAST-KNOWN ADDRESS
7 REPORTED TO THE DIVISION AND POSTMARKED AT LEAST THREE BUSINESS
8 DAYS BEFORE THE DATE THE PAYMENT IS DUE.

9 **SECTION 7.** In Colorado Revised Statutes, 8-43-203, **amend** (3)
10 introductory portion and (3)(c)(IV); and **add** (1)(c) as follows:

11 **8-43-203. Notice concerning liability - notice to claimants -**
12 **notice of rights and claims process - rules.** (1) (c) THE EMPLOYER OR,
13 IF INSURED, THE EMPLOYER'S INSURANCE CARRIER MAY NOT WITHDRAW
14 AN INITIAL ADMISSION OF LIABILITY ON THE ISSUE OF COMPENSABILITY
15 FILED PURSUANT TO THIS SUBSECTION (1) IF TWO YEARS OR MORE HAVE
16 ELAPSED SINCE THE DATE THE INITIAL ADMISSION OF LIABILITY WAS FILED
17 WITH THE DIVISION, EXCEPT IN CASES OF FRAUD.

18 (3) In addition to any other notice required by this section, at the
19 time that the employer or, if insured, the employer's insurance carrier
20 provides the notice required by subsection (1) of this section, the
21 employer or insurance carrier shall provide to the claimant a brochure
22 written in easily understood language, in a form developed by the director
23 after consultation with employers, insurance carriers, and representatives
24 of injured workers, describing the claims process and informing the
25 claimant of ~~his or her~~ THE CLAIMANT'S rights. If the claimant has
26 previously authorized the employer or, if insured, the employer's
27 insurance carrier to communicate with the claimant through electronic

1 transmission, the brochure may be sent to the claimant electronically. The
2 brochure shall, at a minimum, contain the following information:

3 (c) A description of the claimant's right to receive benefit
4 payments, including the claimant's right to receive:

5 (IV) Mileage ~~expenses~~ EXPENSE REIMBURSEMENT for travel to and
6 from work-related medical care and to and from pharmacies to obtain
7 medical prescriptions for work-related medical care. THE DESCRIPTION OF
8 THE RIGHT TO RECEIVE MILEAGE EXPENSE REIMBURSEMENT MUST INCLUDE
9 INFORMATION CONCERNING THE CLAIMANT'S REQUIREMENT TO SUBMIT A
10 REQUEST FOR REIMBURSEMENT TO THE EMPLOYER OR EMPLOYER'S
11 INSURANCE CARRIER NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER
12 THE EXPENSE IS INCURRED PURSUANT TO SECTION 8-42-101 (7) AND AN
13 EXAMPLE OF A MILEAGE REIMBURSEMENT FORM.

14 **SECTION 8.** In Colorado Revised Statutes, 8-43-207, **add** (2) as
15 follows:

16 **8-43-207. Hearings.** (2) NOTWITHSTANDING ANY OTHER
17 PROVISION OF THIS ARTICLE 43, NEITHER THE DIRECTOR NOR AN
18 ADMINISTRATIVE LAW JUDGE SHALL DETERMINE THE ISSUES OF THE
19 COMPENSABILITY OF A CLAIM OR THE LIABILITY OF ANY PARTY TO A CLAIM
20 UNLESS SPECIFIC BENEFITS OR PENALTIES ARE AWARDED OR DENIED
21 CONTEMPORANEOUSLY WITH THE DETERMINATION.

22 **SECTION 9.** In Colorado Revised Statutes, 8-43-207.5, **amend**
23 (1) and (2) as follows:

24 **8-43-207.5. Prehearing conferences.** (1) Notwithstanding any
25 provision of articles 40 to 47 of this ~~title~~ TITLE 8 to the contrary, at any
26 time ~~not less than ten days~~ prior to the formal adjudication on the record
27 of any issue before the director or an administrative law judge in the

1 office of administrative courts IN THE DEPARTMENT OF PERSONNEL, any
2 party to a claim may request a prehearing conference before a prehearing
3 administrative law judge in the division of ~~workers' compensation~~ for the
4 speedy resolution of or simplification of any issues and to determine the
5 general readiness of remaining issues for formal adjudication on the
6 record. The issues addressed in ~~such~~ THE prehearing conference ~~shall be~~
7 ~~limited to: Ripeness of legal, but not factual, issues for formal~~
8 ~~adjudication on the record before the director or an administrative law~~
9 ~~judge in the office of administrative courts; discovery matters; and~~
10 ~~evidentiary disputes~~ MAY INCLUDE ANY ISSUES PROPERLY WITHIN THE
11 AUTHORITY OF A PREHEARING ADMINISTRATIVE LAW JUDGE PURSUANT TO
12 SUBSECTION (2) OF THIS SECTION. The filing of an application for hearing
13 with the office of administrative courts ~~shall~~ IN THE DEPARTMENT OF
14 PERSONNEL IS ~~not be~~ a prerequisite to a request for a prehearing
15 conference under this section. The director and the administrative law
16 judges in the office of administrative courts IN THE DEPARTMENT OF
17 PERSONNEL may also request a prehearing conference under this section.

18 (2) (a) "Prehearing administrative law judge" means a qualified
19 person appointed by the director pursuant to section 8-47-101 to preside
20 over prehearing conferences pursuant to this section, to approve
21 settlements pursuant to section 8-43-204, to conduct settlement
22 conferences pursuant to section 8-43-206, and to conduct arbitrations
23 pursuant to section 8-43-206.5. ~~Such~~

24 (b) Prehearing administrative law judges ~~shall~~ have authority to
25 ~~Order any party to participate in a prehearing conference; issue~~
26 ~~interlocutory orders; issue subpoenas in the name of the division for~~
27 ~~production of documentary evidence which shall be served in the same~~

1 ~~manner as subpoenas in the district court, make evidentiary rulings;~~
2 ~~permit parties to cause depositions to be taken; determine the competency~~
3 ~~of any party to a claim to enter into a settlement agreement; and strike the~~
4 ~~application for hearing of a party for failure to comply with any provision~~
5 ~~of this section.~~ APPROVE ANY STIPULATIONS OF THE PARTIES AND ISSUE
6 INTERLOCUTORY ORDERS REGARDING PROCEDURAL MATTERS.

7 PROCEDURAL MATTERS INCLUDE:

8 (I) ISSUING SUBPOENAS FOR WITNESSES AND DOCUMENTARY
9 EVIDENCE THAT MUST BE SERVED IN THE SAME MANNER AS SUBPOENAS
10 SERVED IN DISTRICT COURT;

11 (II) RESOLVING PREHEARING EVIDENTIARY DISPUTES;

12 (III) DETERMINING IF DEPOSITIONS MUST BE TAKEN;

13 (IV) RULING ON THE IMPOSITION OF SANCTIONS FOR DISCOVERY
14 DISPUTES PROVIDED IN THE COLORADO RULES OF CIVIL PROCEDURE,
15 EXCEPT RULE 107;

16 (V) GRANTING OR DENYING REQUESTS FOR EXTENSIONS OF TIME
17 FOR TAKING ANY ACTION SPECIFIED IN THIS ARTICLE 43;

18 (VI) RESOLVING DISPUTES REGARDING DISCOVERY, INCLUDING
19 PERMISSION TO ENGAGE IN DISCOVERY WITH A SELF-REPRESENTED PARTY;

20 (VII) APPOINTING GUARDIANS AD LITEM AND CONSERVATORS, AS
21 APPROPRIATE, AND ASSESSING THE REASONABLE FEES AND COSTS FOR ANY
22 APPOINTMENTS FROM ONE OR MORE OF THE PARTIES;

23 (VIII) DETERMINING THE RIPENESS OF LEGAL ISSUES FOR FORMAL
24 ADJUDICATION; AND

25 (IX) DETERMINING THE COMPETENCY OF ANY PARTY TO A CLAIM
26 TO ENTER INTO SETTLEMENT AGREEMENTS.

27 **SECTION 10.** In Colorado Revised Statutes, 8-43-301, **amend**

1 (2) as follows:

2 **8-43-301. Petitions to review.** (2) (a) (I) ~~Any~~ IF A party IS
3 dissatisfied with an order that DETERMINES COMPENSABILITY OF A CLAIM
4 OR LIABILITY OF ANY PARTY, THAT requires any party to pay a penalty or
5 benefits, or THAT denies a claimant any benefit or penalty, THE PARTY
6 may file a petition to review ~~with the division,~~ THE ORDER. If the order
7 was entered by the director, ~~or~~ THE PARTY MUST FILE THE PETITION WITH
8 THE DIVISION. IF THE ORDER WAS ENTERED BY AN ADMINISTRATIVE LAW
9 JUDGE, THE PARTY MUST FILE THE PETITION at the Denver office of the
10 office of administrative courts in the department of personnel. ~~if the order~~
11 ~~was entered by an administrative law judge, and~~ THE PARTY MUST serve
12 the ~~same~~ PETITION TO REVIEW by mail on all the parties.

13 (II) The PARTY MUST FILE THE petition ~~shall be filed~~ TO REVIEW
14 within twenty days after the date of the certificate of mailing of the order,
15 and, unless ~~so~~ TIMELY filed, the order ~~shall be~~ IS final.

16 (b) A DISSATISFIED PARTY MAY FILE the petition to review ~~may be~~
17 ~~filed~~ by mail, and ~~shall be~~ THE PETITION IS deemed filed upon the date of
18 mailing, as determined by the certificate of mailing, if the certificate of
19 mailing indicates that the petition to review was mailed to the division or
20 to the Denver office of the office of administrative courts in the
21 department of personnel, as appropriate. The petition to review ~~shall~~
22 MUST be in writing and ~~shall~~ MUST set forth in detail the particular errors
23 and objections of the petitioner. A petitioner ~~shall~~ MUST, at the ~~same~~ time
24 OF FILING THE PETITION, order any transcript relied upon for the petition
25 to review, arrange with the hearing reporter to pay for the ~~same~~
26 TRANSCRIPT, and notify opposing parties of the transcript ordered.
27 Opposing parties ~~shall have twenty days after the date of the certificate~~

1 of mailing of the petition to review to MUST order any other transcript not
2 ordered by the petitioner and arrange with the hearing reporter to pay for
3 the ~~same~~ OTHER TRANSCRIPT WITHIN TWENTY DAYS AFTER THE DATE OF
4 THE CERTIFICATE OF MAILING OF THE PETITION TO REVIEW THE ORDER.

5 **SECTION 11.** In Colorado Revised Statutes, 8-43-303, **amend**
6 (3) as follows:

7 **8-43-303. Reopening.** (3) (a) ~~In cases where a claimant is~~
8 ~~determined to be permanently totally disabled, any such case~~ WHEN A
9 CLAIMANT HAS BEEN AWARDED PERMANENT TOTAL DISABILITY BENEFITS,
10 THE AWARD may be reopened at any time to determine if the claimant has
11 returned to employment. If the claimant has returned to employment and
12 ~~is earning~~ HAS EARNED in excess of ~~four~~ SEVEN thousand FIVE HUNDRED
13 dollars per year or has participated in activities ~~which~~ THAT indicate that
14 the claimant has the ability to return to employment ~~such~~ AND EARN IN
15 EXCESS OF SEVEN THOUSAND FIVE HUNDRED DOLLARS IN A YEAR, THE
16 claimant's permanent total disability award shall cease and the claimant
17 ~~shall~~ IS not ~~be~~ entitled to further permanent total disability benefits as a
18 result of the injury or occupational disease ~~which~~ THAT led to the original
19 permanent total disability award. Any subsequent permanent partial
20 disability benefits awarded for the same injury or occupational disease
21 shall be decreased by the amount of permanent total disability benefits
22 previously received by the employee.

23 (b) ON JULY 1, 2022, AND EACH JULY 1 THEREAFTER, FOR INJURIES
24 SUSTAINED ON OR AFTER JANUARY 1, 2022, THE DIRECTOR SHALL ADJUST
25 THE AMOUNT OF EARNINGS REQUIRED FOR CEASING PERMANENT TOTAL
26 DISABILITY BY THE PERCENTAGE OF THE ADJUSTMENT MADE BY THE
27 DIRECTOR TO THE STATE AVERAGE WEEKLY WAGE PURSUANT TO SECTION

1 8-47-106.

2 **SECTION 12.** In Colorado Revised Statutes, 8-43-307, **amend**
3 (1) as follows:

4 **8-43-307. Appeals to court of appeals.** (1) The final order of ~~the~~
5 ~~director or the panel shall constitute~~ CONSTITUTES the final order of the
6 division. ~~Any~~ IF A person in interest, including Pinnacol Assurance, ~~being~~
7 IS dissatisfied with any final order of the division THAT DETERMINES
8 COMPENSABILITY OF A CLAIM OR LIABILITY OF ANY PARTY, THAT REQUIRES
9 ANY PARTY TO PAY A PENALTY OR BENEFITS, OR THAT DENIES A CLAIMANT
10 ANY BENEFIT OR PENALTY, THE PERSON may commence an action in the
11 court of appeals against the industrial claim appeals office as defendant
12 to modify or vacate ~~any such~~ THE order on the grounds set forth in section
13 8-43-308.

14 **SECTION 13. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly; except that, if a referendum petition is filed pursuant
18 to section 1 (3) of article V of the state constitution against this act or an
19 item, section, or part of this act within such period, then the act, item,
20 section, or part will not take effect unless approved by the people at the
21 general election to be held in November 2022 and, in such case, will take
22 effect on the date of the official declaration of the vote thereon by the
23 governor.

24 (2) (a) Sections 4, 6, 8, 9, 10, and 12; section 8-42-101 (7),
25 Colorado Revised Statutes, in section 1; and section 8-43-203 (3)(c)(IV),
26 Colorado Revised Statutes, in section 7 of this act apply to workers'
27 compensation claims pending or filed on or after the applicable effective

1 date of this act.

2 (b) Section 8-42-104 (4), (5) introductory portion, and (7),
3 Colorado Revised Statutes, in section 3 of this act apply to applications
4 for hearings regarding apportionment filed on or after the applicable
5 effective date of this act.

6 (c) Section 8-43-203 (1)(c), Colorado Revised Statutes, in section
7 7 of this act applies to initial admissions of liability on the issue of
8 compensability filed on or after the applicable effective date of this act.

9 (d) Sections 2, 5, and 11; section 8-42-101 (1)(a), Colorado
10 Revised Statutes, in section 1; and section 8-42-104 (3), Colorado
11 Revised Statutes, in section 3 of this act apply to injuries occurring on or
12 after the applicable effective date of this act.