

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-1284.01 Bart Miller x2173

SENATE BILL 16-217

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

Williams,

Senate Committees
State, Veterans, & Military Affairs

House Committees
Business Affairs and Labor

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO EXPEDITE THE LITIGATION OF WORKERS'**
102 **COMPENSATION CLAIMS.**

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://www.leg.state.co.us/billsummaries>.)

The bill requires that any admission of liability in a workers' compensation case that purports to reduce the amount of compensation normally provided by law must include a statement by a representative of the employer listing the specific facts on which the reduction is based and permitting a party to request an expedited hearing on the issue of whether the reduction may be taken. The bill extends the time in which an

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

HOUSE
3rd Reading Unamended
May 11, 2016

HOUSE
2nd Reading Unamended
May 10, 2016

SENATE
3rd Reading Unamended
May 9, 2016

SENATE
2nd Reading Unamended
May 6, 2016

expedited hearing must be held from 40 to 60 days and permits a party to request an expedited hearing on the issue of whether a compliant designated medical provider list was provided. The bill provides for the creation of forms by the division of workers' compensation regarding a request for a change of physician and clarifies when, following a change of physician, an injured worker's treatment relationship with a previously authorized treating physician is terminated.

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

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

6 **SECTION 2.** In Colorado Revised Statutes, 8-42-112, **add** (3),
7 (4), (5), and (6) as follows:

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

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

1 AS SET FORTH IN SECTION 8-43-209.

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

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

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

10 **8-43-203. Notice concerning liability - notice to claimants -**
11 **notice of rights and claims process - rules.** (1) (a) The employer or, if
12 insured, the employer's insurance carrier shall notify in writing the
13 division and the injured employee or, if deceased, the decedent's
14 dependents within twenty days after a report is, or should have been, filed
15 with the division pursuant to section 8-43-101, whether liability is
16 admitted or contested; except that, for the purpose of this section, any
17 knowledge on the part of the employer, if insured, is not knowledge on
18 the part of the insurance carrier. The employer or the employer's
19 insurance carrier may notify the division electronically. Unless exempted
20 by the director pursuant to rule because of a small number of filings or a
21 showing of financial hardship, beginning July 1, 2006, all notices of
22 contest shall be filed electronically. The rejection of an electronically
23 filed notice by the division for a technical error shall not affect the
24 validity of the notice to the claimant. If the insurance carrier or
25 self-insured employer denies liability for the claim, the claimant may
26 request an expedited hearing on the issue of compensability if the
27 application therefor is filed within forty-five days after the date of mailing

1 of the notice of contest. The director shall set any such expedited matter
2 for hearing within ~~forty~~ SIXTY days after the date of the application, when
3 the issue is liability for the disease or injury. The time schedule for such
4 an expedited hearing is subject to the extensions set forth in section
5 8-43-209. If a claimant elects not to request an expedited hearing pursuant
6 to this subsection (1), the time schedule for hearing the matter shall be as
7 set forth in section 8-43-209.

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

10 **8-43-404. Examination - refusal - personal responsibility -**
11 **physicians to testify and furnish results - injured worker right to**
12 **select treating physicians - injured worker right to third-party**
13 **communications - definitions - rules.** (5) (a) (I) (D) EXCEPT AS
14 OTHERWISE PROVIDED BY SUB-SUBPARAGRAPH (E) OF THIS
15 SUBPARAGRAPH (I), ANY PARTY MAY REQUEST AN EXPEDITED HEARING ON
16 THE ISSUE OF WHETHER THE EMPLOYER OR INSURER PROVIDED A LIST IN
17 COMPLIANCE WITH THIS SUBSECTION (5) IF THE APPLICATION FOR
18 EXPEDITED HEARING IS FILED WITHIN FORTY-FIVE DAYS AFTER THE
19 CLAIMANT PROVIDES NOTICE OF THE INJURY TO THE EMPLOYER.

20 (E) IF THE INSURER OR SELF-INSURED EMPLOYER ADMITS LIABILITY
21 FOR THE CLAIM, ANY PARTY MAY REQUEST AN EXPEDITED HEARING ON THE
22 ISSUE OF WHETHER THE EMPLOYER OR INSURER PROVIDED A LIST IN
23 COMPLIANCE WITH THIS SUBSECTION (5) IF THE APPLICATION FOR
24 EXPEDITED HEARING IS FILED WITHIN FORTY-FIVE DAYS AFTER THE INITIAL
25 ADMISSION OF LIABILITY FOR THE CLAIM. THE DIRECTOR SHALL SET ANY
26 EXPEDITED MATTER FOR HEARING WITHIN SIXTY DAYS AFTER THE DATE OF
27 THE APPLICATION. THE TIME SCHEDULE FOR AN EXPEDITED HEARING IS

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

5 (VI) (A) In addition to the one-time change of physician allowed
6 in subparagraph (III) of this paragraph (a), upon written request to the
7 insurance carrier or to the employer's authorized representative if
8 self-insured, an injured employee may procure written permission to have
9 a personal physician or chiropractor treat the employee. THE WRITTEN
10 REQUEST MUST BE COMPLETED ON A FORM THAT IS PRESCRIBED BY THE
11 DIRECTOR. If permission is neither granted nor refused within twenty days
12 AFTER THE DATE OF THE CERTIFICATE OF SERVICE OF THE REQUEST FORM,
13 the employer or insurance carrier shall be deemed to have waived any
14 objection to the employee's request. Objection shall be in writing ON A
15 FORM PRESCRIBED BY THE DIRECTOR and shall be ~~deposited in the United~~
16 ~~States mail or hand-delivered to~~ SERVED ON the employee OR, IF
17 REPRESENTED, THE EMPLOYEE'S AUTHORIZED REPRESENTATIVE within
18 twenty days AFTER THE DATE OF THE CERTIFICATE OF SERVICE OF THE
19 REQUEST FORM. An insurance carrier, or an employer's authorized
20 representative if self-insured, shall track how often an injured employee
21 requests to change his or her physician and how often such change is
22 granted or denied and shall report such information to the division upon
23 request. Upon the proper showing to the division, the employee may
24 procure the division's permission at any time to have a physician of the
25 employee's selection treat the employee, and in any nonsurgical case the
26 employee, with such permission, in lieu of medical aid, may procure any
27 nonmedical treatment recognized by the laws of this state as legal. The

1 practitioner administering the treatment shall receive fees under the
2 medical provisions of articles 40 to 47 of this title as specified by the
3 division.

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

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

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

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

26 **SECTION 6. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.