

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0641.01 Kristen Forrestal x4217

HOUSE BILL 21-1207

HOUSE SPONSORSHIP

Daugherty and Benavidez,

SENATE SPONSORSHIP

Lee and Fields,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE OVERPAYMENT OF WORKERS' COMPENSATION
102 BENEFITS.

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 limits the definition of "overpayments" of workers' compensation benefits to include only benefits paid as a result of fraud or duplicate benefits that result from offsets that reduce disability or death benefits paid to a claimant. The bill also:

- Clarifies that this limit does not prevent an insurance carrier from receiving a credit against permanent disability

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.

- benefits for temporary disability benefits paid beyond the date of maximum medical improvement; and
- Prohibits the director of the division of workers' compensation or an administrative law judge from reopening an award of benefits paid to a claimant due to an overpayment except in limited, specific circumstances.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-40-201, **amend** the
3 introductory portion and (15.5) as follows:

4 **8-40-201. Definitions.** As used in articles 40 to 47 of this ~~title~~
5 TITLE 8, unless the context otherwise requires:

6 (15.5) (a) "Overpayment" means money received by a claimant
7 that: ~~exceeds the amount that should have been paid, or which the~~
8 ~~claimant was not entitled to receive, or which~~

9 (I) IS THE RESULT OF FRAUD; OR

10 (II) Results in duplicate benefits because of offsets that reduce
11 disability or death benefits payable under ~~said~~ articles 40 TO 47 OF THIS
12 TITLE 8.

13 (b) For an overpayment to result, it is not necessary that the
14 overpayment exist at the time the claimant received disability or death
15 benefits under ~~said~~ articles 40 TO 47 OF THIS TITLE 8.

16 (c) NOTHING IN THIS SUBSECTION (15.5) PREVENTS AN INSURANCE
17 CARRIER OR AN EMPLOYER FROM RECEIVING A CREDIT AGAINST
18 PERMANENT DISABILITY BENEFITS FOR TEMPORARY DISABILITY BENEFITS
19 PAID BEYOND THE DATE OF MAXIMUM MEDICAL IMPROVEMENT.

20 **SECTION 2.** In Colorado Revised Statutes, 8-43-303, **amend** (1)
21 as follows:

22 **8-43-303. Reopening.** (1) At any time within six years after the

1 date of injury, the director or an administrative law judge may, after
2 notice to all parties, review and reopen any award on the ground of fraud,
3 an overpayment INVOLVING THE CIRCUMSTANCES DESCRIBED IN SECTION
4 8-42-113.5, an error, a mistake, or a change in condition, except for those
5 settlements entered into pursuant to section 8-43-204 in which the
6 claimant waived all ~~right~~ RIGHTS to reopen an award; but a settlement
7 may be reopened at any time on the ground of fraud or mutual mistake of
8 material fact. ~~Upon a prima facie showing that the claimant received~~
9 ~~overpayments, the award shall be reopened solely as to overpayments and~~
10 ~~repayment shall be ordered.~~ In cases involving the circumstances
11 described in section 8-42-113.5, recovery of overpayments shall be
12 ordered in accordance with said section. If an award is reopened on
13 grounds of an error, a mistake, or a change in condition, compensation
14 and medical benefits previously ordered may be ended, diminished,
15 maintained, or increased. ~~No such Reopening shall~~ DOES NOT affect the
16 earlier award as to ~~moneys~~ MONEY already paid except in cases of fraud.
17 ~~or overpayment.~~ Any order entered under this subsection (1) ~~shall be~~ IS
18 subject to review in the same manner as other orders.

19 **SECTION 3. Effective date.** This act takes effect January 1,
20 2022.

21 **SECTION 4. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.