

CHAPTER 49

LABOR AND INDUSTRY

SENATE BILL 09-070

BY SENATOR(S) Foster, Carroll M., Tapia;
also REPRESENTATIVE(S) Acree, Green, Labuda, Looper, Merrifield, Nikkel, Priola, Ryden, Stephens, Todd.

AN ACT**CONCERNING CLARIFICATIONS TO WORKERS' COMPENSATION PROCEDURES.**

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

SECTION 1. 8-42-105 (2) (a), Colorado Revised Statutes, is amended to read:

8-42-105. Temporary total disability. (2) (a) The first installment of compensation shall be paid no later than the ~~twentieth day after the insurance carrier or self-insured employer has written notice or knowledge of the claim, unless the claim is denied~~ DATE THAT LIABILITY FOR THE CLAIM IS ADMITTED BY THE INSURANCE CARRIER OR SELF-INSURED EMPLOYER. 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 ~~of~~ AFTER the date of mailing of the notice of contest. The director shall set any such expedited matter for hearing within forty days ~~of~~ 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 paragraph (a), the time schedule for hearing the matter shall be as set forth in section 8-43-209. Compensation shall be paid at least once every two weeks, except where the director determines that payment in installments should be made at some other interval. The director may by rule convert monthly benefit schedules to weekly or other periodic schedules.

SECTION 2. Repeal. 8-42-111 (5), Colorado Revised Statutes, is repealed as follows:

8-42-111. Award for permanent total disability. (5) ~~For injuries occurring on and after July 1, 1991, and before July 1, 1994, compensation payable pursuant to~~

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

~~this section shall cease when the employee reaches the age of sixty-five years.~~

SECTION 3. 8-43-301 (2), (6), and (7), Colorado Revised Statutes, are amended to read:

8-43-301. Petitions to review. (2) Any party dissatisfied with an order ~~which~~ THAT requires any party to pay a penalty or benefits or denies a claimant any benefit or penalty may file a petition to review with the ~~director~~ DIVISION, if the order was entered by the director, or ~~with the administrative law judge at the place indicated in the order~~ DENVER OFFICE OF THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL, if the order was entered by ~~the~~ AN administrative law judge, and serve the same by mail on all the parties. ~~Such~~ THE petition shall be filed within twenty days ~~from~~ AFTER the date of the certificate of mailing of the order, and, unless so filed, ~~such~~ THE order shall be final. The petition to review may be filed by mail, and shall be deemed filed upon the date of mailing, as determined by the certificate of mailing, ~~provided~~ IF the certificate of mailing indicates that the petition to review was mailed to the ~~appropriate administrative law judge~~ DIVISION or to the ~~director, if~~ DENVER OFFICE OF THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL, AS appropriate. The petition to review shall be in writing and shall set forth in detail the particular errors and objections of the petitioner. A petitioner shall, at the same time, order any transcript relied upon for the petition to review, arrange with the hearing reporter to pay for the same, and notify opposing parties of the transcript ordered. Opposing parties shall have twenty days ~~from~~ AFTER the date of the certificate of mailing of the petition to review to order any other transcript not ordered by the petitioner and arrange with the hearing reporter to pay for the same.

(6) A party dissatisfied with a supplemental order may file a petition for review by the panel. ~~Such~~ THE petition shall be filed with the division IF THE SUPPLEMENTAL ORDER WAS ISSUED BY THE DIRECTOR, OR AT THE OFFICE OF THE ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL IF THE SUPPLEMENTAL ORDER WAS ISSUED BY AN ADMINISTRATIVE LAW JUDGE. THE PETITION SHALL BE FILED within twenty days ~~from~~ AFTER the date of the certificate of mailing of the supplemental order. The petition shall be in writing, shall set forth in detail the particular errors and objections relied upon, and shall be accompanied by a brief in support thereof. The petition and brief shall be mailed by petitioner to all other parties at the time the petition is filed. All parties, except the petitioner, shall be deemed opposing parties and shall have twenty days ~~from~~ AFTER the date of the certificate of mailing of the petition and brief to file with the division OR THE OFFICE OF ADMINISTRATIVE COURTS, AS APPROPRIATE, briefs in opposition to the petition.

(7) When any petition for review by the panel is filed, the division OR THE OFFICE OF ADMINISTRATIVE COURTS shall, when all briefs are submitted to ~~it~~ THE DIVISION OR OFFICE OF ADMINISTRATIVE COURTS or within fifteen days ~~of~~ AFTER the date briefs were due, certify and transmit the record to the industrial claim appeals office along with the petitions and briefs. The division shall simultaneously send notice to the parties including the date that the record has been transmitted to the industrial claim appeals office.

SECTION 4. The introductory portion to 8-43-409 (2) and 8-43-409 (2) (a), Colorado Revised Statutes, are amended to read:

8-43-409. Defaulting employers - penalties - enjoined from continuing business - fines - procedure - definition. (2) A cease-and-desist order issued or fine imposed by the director under subsection (1) of this section shall include specific findings of fact that ~~are based upon evidence that~~ REFLECT:

- (a) The employer received notice of ~~the~~ A hearing, WHEN APPLICABLE;

SECTION 5. 8-47-107, Colorado Revised Statutes, is amended to read:

8-47-107. Adoption of rules. The director has the power to adopt reasonable and proper rules relative to the administration of articles 40 to 47 of this title and proper rules to govern proceedings and hearings of the division, and the director has the discretion to amend the rules from time to time. No such rule shall limit the jurisdiction of an administrative law judge in the office of administrative courts to hear and decide all matters arising under articles 40 to 47 of this title; EXCEPT THAT IN ANY MATTER WHERE THE DIRECTOR HAS ISSUED AN ORDER TO ENFORCE A PROVISION OF THE "WORKERS' COMPENSATION ACT OF COLORADO", AN ADMINISTRATIVE LAW JUDGE IN THE OFFICE OF ADMINISTRATIVE COURTS SHALL NOT HEAR AND DECIDE THE SAME MATTER WHILE IT IS PENDING BEFORE THE DIRECTOR. The rules shall be promulgated in accordance with section 24-4-103, C.R.S.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to workers' compensation claims on or after the applicable effective date of this act.

Approved: March 24, 2009

Editor's note: The August 4 date specified in the effective date section of this act reflects the ninetieth day, therefore the act takes effect at 12:01 a.m. on August 5, 2009.