

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0093.01 Kristen Forrestal x4217

HOUSE BILL 20-1154

HOUSE SPONSORSHIP

Kraft-Tharp and Van Winkle,

SENATE SPONSORSHIP

Marble and Bridges,

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 AND
104 CONSERVATOR SERVICES, OFFSETS RELATED TO THE RECEIPT OF
105 FEDERAL DISABILITY OR RETIREMENT BENEFITS, THE
106 APPORTIONMENT OF BENEFITS, THE SELECTION OF
107 INDEPENDENT MEDICAL EXAMINERS, LIMITS ON TEMPORARY
108 DISABILITY AND PERMANENT PARTIAL DISABILITY PAYMENTS,
109 THE WITHDRAWAL OF ADMISSIONS OF LIABILITY, MILEAGE
110 EXPENSE REIMBURSEMENT, THE AUTHORITY OF PREHEARING
111 ADMINISTRATIVE LAW JUDGES, PETITIONS TO REVIEW, THE
112 REOPENING OF PERMANENT TOTAL DISABILITY AWARDS, AND
113 APPEALS TO THE COURT OF APPEALS.

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:

- ! Clarifies when payments for benefits and penalties payable to an injured worker are deemed paid (**section 1**);
- ! Adds guardian 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 2**);
- ! Requires a claimant for 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 of 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 2 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 3**);
- ! 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 evidence, at a hearing regarding apportionment of permanent impairment or permanent total disability benefits (**section 4**);
- ! Adds the conditions that, in order 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 serve a written report to the authorized treating physician specifying that the examining physician has determined

that the employee has reached MMI; the authorized treating physician must examine the employee at least 20 months after the date of the injury and determine that the employee has reached MMI; the authorized treating physician must be served with a written report indicating MMI; and the authorized treating physician has responded that the employee has not reached MMI or has failed to respond within 15 days after service of the report (**section 5**);

- ! 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 6**);
- ! Prohibits an employer or insurer from withdrawing an admission of liability 2 years after 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 2021 (**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, **add** 8-40-201.5 as
3 follows:

4 **8-40-201.5. Monetary benefits and penalties - timely payment**
5 **- determination of date deemed paid.** FOR THE PURPOSES OF ARTICLES
6 40 TO 47 OF THIS TITLE 8, RULES PROMULGATED PURSUANT TO ARTICLES
7 40 TO 47 OF THIS TITLE 8, AND ANY ORDERS OF THE DIVISION AND OFFICE
8 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 2.** In Colorado Revised Statutes, 8-42-101, **amend**
10 (1)(a); and **add** (7) as follows:

11 **8-42-101. Employer must furnish medical aid - approval of**
12 **plan - fee schedule - contracting for treatment - no recovery from**
13 **employee - medical treatment guidelines - accreditation of physicians**
14 **and other medical providers - rules - repeal.** (1) (a) (I) Every
15 employer, regardless of ~~said~~ THE employer's method of insurance, shall
16 furnish ~~such~~ medical, surgical, dental, nursing, and hospital treatment;
17 medical, hospital, and surgical supplies; crutches; ~~and~~ apparatus; AND
18 GUARDIAN OR CONSERVATOR SERVICES as may reasonably be needed at
19 the time of the injury or occupational disease and thereafter during the
20 disability to cure and relieve the employee from the effects of the injury.

21 (II) AN EMPLOYER OR AN EMPLOYER'S INSURER THAT IS REQUIRED
22 TO FURNISH GUARDIAN OR CONSERVATOR SERVICES PURSUANT TO THIS
23 SUBSECTION (1)(a) SHALL PAY AN AMOUNT SET IN A FEE SCHEDULE
24 ESTABLISHED BY THE DIRECTOR BY RULE. THE DIRECTOR SHALL INCLUDE
25 IN THE FEE SCHEDULE:

26 (A) REASONABLE ATTORNEY FEES AND COSTS TO APPOINT A
27 GUARDIAN OR CONSERVATOR THROUGH THE APPROPRIATE PROBATE

1 COURT FOR AN EMPLOYEE WHO IS LEGALLY INCAPACITATED AS THE
2 RESULT OF A WORK-RELATED INJURY OR OCCUPATIONAL DISEASE; AND

3 (B) REASONABLE FEES AND COSTS OF A GUARDIAN OR
4 CONSERVATOR APPOINTED FOR AN EMPLOYEE FOR SERVICES THAT ARE
5 REASONABLY NECESSARY AS A RESULT OF THE WORK-RELATED INJURY OR
6 OCCUPATIONAL DISEASE.

7 (7) A CLAIMANT MUST SUBMIT A REQUEST FOR MILEAGE EXPENSE
8 REIMBURSEMENT FOR TRAVEL REASONABLY NECESSARY AND RELATED TO
9 OBTAINING COMPENSABLE TREATMENT, SUPPLIES, OR SERVICES SPECIFIED
10 IN SUBSECTION (1)(a) OF THIS SECTION TO THE EMPLOYER OR, IF INSURED,
11 TO THE EMPLOYER'S INSURER NO LATER THAN ONE HUNDRED TWENTY
12 DAYS AFTER THE DATE THE EXPENSE IS INCURRED UNLESS GOOD CAUSE
13 FOR A LATER SUBMISSION IS SHOWN. GOOD CAUSE INCLUDES A FAILURE BY
14 THE EMPLOYER OR EMPLOYER'S INSURER TO PROVIDE THE NOTICE
15 REQUIRED BY SECTION 8-43-203 (3)(c)(IV). WITHIN THIRTY DAYS AFTER
16 THE DATE THE CLAIMANT SUBMITS THE REQUEST FOR MILEAGE EXPENSE
17 REIMBURSEMENT, THE EMPLOYER OR EMPLOYER'S INSURER SHALL PAY THE
18 MILEAGE EXPENSES OR, IF DENYING THE REQUEST, PROVIDE WRITTEN
19 NOTICE TO THE CLAIMANT STATING THE REASON THE REQUEST WAS
20 DENIED.

21 **SECTION 3.** In Colorado Revised Statutes, 8-42-103, **add**
22 (1)(c)(V) as follows:

23 **8-42-103. Disability indemnity payable as wages - period of**
24 **disability.** (1) If the injury or occupational disease causes disability, a
25 disability indemnity shall be payable as wages pursuant to section
26 8-42-105 (2)(a) subject to the following limitations:

27 (c) (V) THE REDUCTIONS OR OFFSETS IN THIS SUBSECTION (1)(c)

1 APPLY ONLY IF THE EMPLOYEE WAS NOT RECEIVING THE PERIODIC
2 DISABILITY BENEFITS OR RETIREMENT BENEFITS GRANTED BY THE FEDERAL
3 "OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AMENDMENTS OF
4 1965", PUB.L. 89-97, AS AMENDED, OR EMPLOYER-PAID RETIREMENT
5 BENEFITS AT THE TIME OF THE WORK-RELATED INJURY.

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

8 **8-42-104. Effect of previous injury or compensation.** (3) An
9 employee's temporary total disability, temporary partial disability, or
10 medical benefits shall not be reduced based on a ~~previous injury~~
11 APPORTIONMENT UNDER ANY CIRCUMSTANCES. THIS SUBSECTION (3)
12 SUPERCEDES THE COLORADO COURT OF APPEALS DECISIONS IN *HUTCHISON*
13 *V. INDUSTRIAL CLAIM APPEALS OFFICE*, 405 P.3d 458 (COLO. APP. 2017)
14 AND *DUNCAN V. INDUSTRIAL CLAIM APPEALS OFFICE*, 107 P.3d 999 (COLO.
15 APP. 2004).

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

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

26 (7) FOR THE PURPOSES OF SUBSECTIONS (4) AND (5) OF THIS
27 SECTION, THE EMPLOYER OR, IF THE EMPLOYER IS INSURED, THE

1 EMPLOYER'S INSURER HAS THE BURDEN OF PROOF, BY A PREPONDERANCE
2 OF THE EVIDENCE, AT ANY HEARING REGARDING APPORTIONMENT THAT
3 MAY RESULT IN A REDUCTION OF BENEFITS TO AN EMPLOYEE UNDER THIS
4 SECTION.

5 **SECTION 5.** In Colorado Revised Statutes, 8-42-107, **amend**
6 (8)(b)(II)(B), (8)(b)(II)(C), and (8)(b)(II)(D); and **add** (8)(b)(II)(E) as
7 follows:

8 **8-42-107. Permanent partial disability benefits - schedule -**
9 **medical impairment benefits - how determined. (8) Medical**
10 **impairment benefits - determination of MMI for scheduled and**
11 **nonscheduled injuries. (b) (II) If either party disputes a determination**
12 **by an authorized treating physician on the question of whether the injured**
13 **worker has or has not reached maximum medical improvement, an**
14 **independent medical examiner may be selected in accordance with**
15 **section 8-42-107.2; except that, if an authorized treating physician has not**
16 **determined that the employee has reached maximum medical**
17 **improvement, the employer or insurer may only request the selection of**
18 **an independent medical examiner if all of the following conditions are**
19 **met:**

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

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

27 (D) A physician other than ~~such~~ THE authorized treating physician

1 has EXAMINED THE EMPLOYEE AT LEAST TWENTY MONTHS AFTER THE
2 DATE OF THE INJURY AND determined that the employee has reached
3 maximum medical improvement; AND

4 (E) THE REQUESTING PARTY HAS PROVIDED THE AUTHORIZED
5 TREATING PHYSICIAN AND ALL OTHER PARTIES WITH THE WRITTEN REPORT
6 FROM THE PHYSICIAN WHO HAS EXAMINED THE EMPLOYEE PURSUANT TO
7 SUBSECTION (8)(b)(II)(D) OF THIS SECTION, INDICATING THAT THE
8 EXAMINING PHYSICIAN HAS DETERMINED THAT THE EMPLOYEE HAS
9 REACHED MAXIMUM MEDICAL IMPROVEMENT, AND THE AUTHORIZED
10 TREATING PHYSICIAN HAS RESPONDED IN WRITING TO ALL THE PARTIES
11 THAT THE EMPLOYEE HAS NOT REACHED MAXIMUM MEDICAL
12 IMPROVEMENT OR HAS FAILED TO RESPOND IN WRITING WITHIN FIFTEEN
13 CALENDAR DAYS AFTER THE SERVICE OF THE WRITTEN REPORT.

14 **SECTION 6.** In Colorado Revised Statutes, **amend 8-42-107.5**
15 as follows:

16 **8-42-107.5. Limits on temporary disability payments and**
17 **permanent partial disability payments.** (1) ~~No~~ A claimant whose
18 impairment rating is ~~twenty-five~~ NINETEEN percent or less may NOT
19 receive more than seventy-five thousand dollars from combined
20 temporary disability payments and permanent partial disability payments.
21 ~~No~~ A claimant whose impairment rating is greater than ~~twenty-five~~
22 NINETEEN percent may NOT receive more than one hundred fifty thousand
23 dollars from combined temporary disability payments and permanent
24 partial disability payments.

25 (2) For the purposes of this section, any mental impairment rating
26 shall be combined with the physical impairment rating to establish a
27 claimant's impairment rating for determining the applicable cap. For

1 injuries sustained on and after January 1, 2012, the director shall adjust
2 these limits on the amount of compensation for combined temporary
3 disability payments and permanent partial disability payments on July 1,
4 2011, and each July 1 thereafter, by the percentage of THE adjustment
5 made by the director to the state average weekly wage pursuant to section
6 8-47-106.

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

9 **8-43-203. Notice concerning liability - notice to claimants -**
10 **notice of rights and claims process - rules.** (1) (c) THE EMPLOYER OR,
11 IF INSURED, THE EMPLOYER'S INSURANCE CARRIER MAY NOT WITHDRAW
12 AN INITIAL ADMISSION OF LIABILITY ON THE ISSUE OF COMPENSABILITY
13 FILED PURSUANT TO THIS SUBSECTION (1) IF TWO YEARS OR MORE HAVE
14 ELAPSED SINCE THE DATE THE INITIAL ADMISSION OF LIABILITY WAS FILED
15 WITH THE DIVISION, EXCEPT IN CASES OF FRAUD.

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

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

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

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

14 **8-43-207. Hearings.** (2) NOTWITHSTANDING ANY OTHER
15 PROVISION OF THIS ARTICLE 43, NEITHER THE DIRECTOR NOR AN
16 ADMINISTRATIVE LAW JUDGE SHALL DETERMINE THE ISSUES OF THE
17 COMPENSABILITY OF A CLAIM OR THE LIABILITY OF ANY PARTY TO A CLAIM
18 UNLESS SPECIFIC BENEFITS OR PENALTIES ARE AWARDED OR DENIED
19 CONTEMPORANEOUSLY WITH THE DETERMINATION.

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

22 **8-43-207.5. Prehearing conferences - rules.**

23 (1) Notwithstanding any provision of articles 40 to 47 of this ~~title~~ TITLE
24 8 to the contrary, at any time ~~not less than ten days~~ prior to the formal
25 adjudication on the record of any issue before the director or an
26 administrative law judge in the office of administrative courts, any party
27 to a claim may request a prehearing conference before a prehearing

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

15 (2) "Prehearing administrative law judge" means a qualified
16 person appointed by the director pursuant to section 8-47-101 to preside
17 over prehearing conferences pursuant to this section, to approve
18 settlements pursuant to section 8-43-204, to conduct settlement
19 conferences pursuant to section 8-43-206, and to conduct arbitrations
20 pursuant to section 8-43-206.5. ~~Such~~ Prehearing administrative law
21 judges shall have authority to ~~Order any party to participate in a~~
22 ~~prehearing conference; issue interlocutory orders; issue subpoenas in the~~
23 ~~name of the division for production of documentary evidence which shall~~
24 ~~be served in the same manner as subpoenas in the district court; make~~
25 ~~evidentiary rulings; permit parties to cause depositions to be taken;~~
26 ~~determine the competency of any party to a claim to enter into a~~
27 ~~settlement agreement; and strike the application for hearing of a party for~~

1 ~~failure to comply with any provision of this section~~ APPROVE ANY
2 STIPULATIONS OF THE PARTIES AND ISSUE INTERLOCUTORY ORDERS
3 REGARDING PROCEDURAL MATTERS. PROCEDURAL MATTERS INCLUDE:

4 (a) ISSUING SUBPOENAS FOR WITNESSES AND DOCUMENTARY
5 EVIDENCE THAT MUST BE SERVED IN THE SAME MANNER AS SUBPOENAS
6 SERVED IN DISTRICT COURT;

7 (b) RESOLVING PREHEARING EVIDENTIARY DISPUTES;

8 (c) DETERMINING IF DEPOSITIONS MUST BE TAKEN;

9 (d) RULING ON THE IMPOSITION OF SANCTIONS FOR DISCOVERY
10 DISPUTES PROVIDED IN THE COLORADO RULES OF CIVIL PROCEDURE,
11 EXCEPT FOR RULE 107;

12 (e) GRANTING OR DENYING REQUESTS FOR EXTENSIONS OF TIME
13 FOR TAKING ANY ACTION CONTAINED IN THIS ARTICLE 43;

14 (f) RESOLVING DISPUTES REGARDING DISCOVERY, INCLUDING
15 PERMISSION TO ENGAGE IN DISCOVERY WITH A SELF-REPRESENTED PARTY;

16 (g) APPOINTING GUARDIANS AD LITEM, AS APPROPRIATE, AND
17 ASSESSING THE REASONABLE FEES AND COSTS FOR ANY APPOINTMENTS
18 FROM ONE OR MORE OF THE PARTIES;

19 (h) DETERMINING THE RIPENESS OF LEGAL ISSUES FOR FORMAL
20 ADJUDICATION; AND

21 (i) DETERMINING THE COMPETENCY OF ANY PARTY TO A CLAIM TO
22 ENTER INTO SETTLEMENT AGREEMENTS.

23 **SECTION 10.** In Colorado Revised Statutes, 8-43-301, **amend**
24 (2) as follows:

25 **8-43-301. Petitions to review.** (2) (a) Any party dissatisfied with
26 an order that DETERMINES COMPENSABILITY OF A CLAIM OR LIABILITY OF
27 ANY PARTY, requires any party to pay a penalty or benefits, or denies a

1 claimant any benefit or penalty may file a petition to review THE ORDER
2 with the division, if the order was entered by the director, or at the Denver
3 office of the office of administrative courts in the department of
4 personnel, if the order was entered by an administrative law judge, and
5 serve the ~~same~~ PETITION TO REVIEW by mail on all the parties. The PARTY
6 MUST FILE THE petition ~~shall be filed~~ within twenty days after the date of
7 the certificate of mailing of the order, and, unless ~~so~~ TIMELY filed, the
8 order ~~shall be~~ IS final.

9 (b) A DISSATISFIED PARTY MAY FILE the petition to review ~~may be~~
10 ~~filed~~ by mail, and ~~shall be~~ THE PETITION IS deemed filed upon the date of
11 mailing, as determined by the certificate of mailing, if the certificate of
12 mailing indicates that the petition to review was mailed to the division or
13 to the Denver office of the office of administrative courts in the
14 department of personnel, as appropriate. The petition to review ~~shall~~
15 MUST be in writing and ~~shall~~ MUST set forth in detail the particular errors
16 and objections of the petitioner. A petitioner ~~shall~~ MUST, at the ~~same~~ time
17 OF FILING THE PETITION, order any transcript relied upon for the petition
18 to review, arrange with the hearing reporter to pay for the ~~same~~
19 TRANSCRIPT, and notify opposing parties of the transcript ordered.
20 Opposing parties ~~shall have twenty days after the date of the certificate~~
21 ~~of mailing of the petition to review to~~ MUST order any other transcript not
22 ordered by the petitioner and arrange with the hearing reporter to pay for
23 the ~~same~~ OTHER TRANSCRIPT WITHIN TWENTY DAYS AFTER THE DATE OF
24 THE CERTIFICATE OF MAILING OF THE PETITION TO REVIEW THE ORDER.

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

27 **8-43-303. Reopening.** (3) (a) ~~In cases where a claimant is~~

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

16 (b) FOR INJURIES SUSTAINED ON OR AFTER JANUARY 1, 2021, THE
17 DIRECTOR SHALL ADJUST THE AMOUNT OF EARNINGS REQUIRED FOR
18 CEASING PERMANENT TOTAL DISABILITY ON JULY 1, 2021, AND EACH JULY
19 1 THEREAFTER, BY THE PERCENTAGE OF THE ADJUSTMENT MADE BY THE
20 DIRECTOR TO THE STATE AVERAGE WEEKLY WAGE PURSUANT TO SECTION
21 8-47-106.

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

24 **8-43-307. Appeals to court of appeals.** (1) The final order of ~~the~~
25 ~~director or the panel shall constitute~~ CONSTITUTES the final order of the
26 division. Any person in interest, including Pinnacol Assurance, ~~being~~
27 THAT IS dissatisfied with any final order of the division THAT DETERMINES

1 COMPENSABILITY OF A CLAIM OR LIABILITY OF ANY PARTY, REQUIRES ANY
2 PARTY TO PAY A PENALTY OR BENEFITS, OR DENIES A CLAIMANT ANY
3 BENEFIT OR PENALTY may commence an action in the court of appeals
4 against the industrial claim appeals office as defendant to modify or
5 vacate ~~any such~~ THE order on the grounds set forth in section 8-43-308.

6 **SECTION 13. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly (August 5, 2020, if adjournment sine die is on May 6,
10 2020); except that, if a referendum petition is filed pursuant to section 1
11 (3) of article V of the state constitution against this act or an item, section,
12 or part of this act within such period, then the act, item, section, or part
13 will not take effect unless approved by the people at the general election
14 to be held in November 2020 and, in such case, will take effect on the
15 date of the official declaration of the vote thereon by the governor.

16 (2) (a) Sections 1, 5, 8, 9, 10, and 12; section 8-42-101 (7) of
17 Section 2; and section 8-43-203 (3)(c)(IV) of Section 7 of this act apply
18 to workers' compensation claims pending or filed on or after the
19 applicable effective date of this act;

20 (b) Sections 8-42-104 (4), 8-42-104 (5) introductory portion, and
21 8-42-104 (7) of Section 4 apply to applications for hearings regarding
22 apportionment filed on or after the applicable effective date of this act;

23 (c) Section 8-43-203 (1)(c) of Section 7 applies to initial
24 admissions of liability on the issue of compensability filed on or after the
25 applicable effective date of this act;

26 (d) Sections 3, 6, and 11; section 8-42-101 (1)(a) of Section 2; and

- 1 section 8-42-104 (3) of Section 4 apply to injuries occurring on or after
- 2 the applicable effective date of this act.