

## CHAPTER 112

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**LABOR AND INDUSTRY**

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**HOUSE BILL 96-1226**

BY REPRESENTATIVES Prinzier, Musgrave, Paschall, and Young;  
also SENATORS Ament, Tebedo, and Weddig.

**AN ACT**

**CONCERNING THE RIGHT TO REQUEST AN INDEPENDENT MEDICAL EXAMINATION UPON A FINDING THAT AN INJURED WORKER HAS NOT REACHED MAXIMUM MEDICAL IMPROVEMENT IN A WORKERS' COMPENSATION CASE.**

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

**SECTION 1.** 8-42-107 (8) (a) and (8) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**8-42-107. Permanent partial disability benefits - schedule - medical impairment benefits - how determined. (8) Medical impairment benefits - determination of MMI for scheduled and nonscheduled injuries.** (a) When an injury results in permanent medical impairment not set forth in the schedule in subsection (2) of this section, the employee shall be limited to medical impairment benefits calculated as provided in this subsection (8). THE PROCEDURES FOR DETERMINATION OF MAXIMUM MEDICAL IMPROVEMENT SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (8) SHALL BE AVAILABLE IN CASES OF INJURIES SET FORTH IN THE SCHEDULE IN SUBSECTION (2) OF THIS SECTION AND ALSO IN CASES OF INJURIES THAT ARE NOT SET FORTH IN SAID SCHEDULE.

(b) (I) ~~The AN authorized treating physician who has provided the primary care shall determine~~ MAKE A DETERMINATION AS TO when the injured employee reaches maximum medical improvement as defined in section 8-40-201 (11.5).

(II) If AT ANY TIME either party disputes ~~the~~ A DETERMINATION BY AN authorized treating ~~physician's finding of~~ PHYSICIAN ON THE QUESTION OF WHETHER THE INJURED WORKER HAS OR HAS NOT REACHED maximum medical improvement, the parties may select an independent medical examiner by mutual agreement. The finding of such

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

independent medical examiner shall be binding on the parties and on the division. If the parties are unable to mutually agree on the selection of an independent medical examiner, the division shall select an independent medical examiner from a list of independent medical examiners maintained by the division; EXCEPT THAT, IF AN AUTHORIZED TREATING PHYSICIAN HAS NOT DETERMINED THAT THE EMPLOYEE HAS REACHED MAXIMUM MEDICAL IMPROVEMENT, THE EMPLOYER OR INSURER MAY ONLY REQUEST THE DIVISION TO SELECT AN INDEPENDENT MEDICAL EXAMINER IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(A) AT LEAST EIGHTEEN MONTHS HAVE PASSED SINCE THE DATE OF INJURY;

(B) A PARTY HAS REQUESTED IN WRITING THAT AN AUTHORIZED TREATING PHYSICIAN DETERMINE WHETHER THE EMPLOYEE HAS REACHED MAXIMUM MEDICAL IMPROVEMENT;

(C) SUCH AUTHORIZED TREATING PHYSICIAN HAS NOT DETERMINED THAT THE EMPLOYEE HAS REACHED MAXIMUM MEDICAL IMPROVEMENT; AND

(D) A PHYSICIAN OTHER THAN SUCH AUTHORIZED TREATING PHYSICIAN HAS DETERMINED THAT THE EMPLOYEE HAS REACHED MAXIMUM MEDICAL IMPROVEMENT.

(III) The finding of ~~such~~ AN independent medical examiner APPOINTED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) regarding maximum medical improvement shall be overcome only by clear and convincing evidence. A hearing on this matter shall not take place until the finding of the independent medical examiner selected by the director has been filed with the division.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 1996, and shall apply to determinations of maximum medical improvement made on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 23, 1996