

CHAPTER 173

LABOR AND INDUSTRY

HOUSE BILL 96-1230

BY REPRESENTATIVES Acquafresca, Dyer, Foster, Chlouber, Dean, Entz, Pankey, Paschall, Sullivant, and Young;
also SENATORS Schroeder, Perlmutter, and Tebedo.

AN ACT

CONCERNING CRITERIA FOR TERMINATION OF TEMPORARY DISABILITY BENEFITS UNDER THE WORKERS' COMPENSATION SYSTEM.

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

SECTION 1. 8-40-201, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-40-201. Definitions - repeal. As used in articles 40 to 47 of this title, unless the context otherwise requires:

(18.5) "TEMPORARY HELP CONTRACTING FIRM" MEANS ANY PERSON WHO IS IN THE BUSINESS OF EMPLOYING INDIVIDUALS AND, FOR COMPENSATION FROM A THIRD PARTY, PROVIDING THOSE INDIVIDUALS TO PERFORM WORK FOR THE THIRD PARTY, UNDER THE SUPERVISION OF THE THIRD PARTY.

SECTION 2. 8-42-105 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

8-42-105. Temporary total disability. (3) Temporary total disability benefits shall continue until THE FIRST OCCURRENCE OF any one of the following: ~~first occurs:~~

- (a) The employee reaches maximum medical improvement;
- (b) The employee returns to regular or modified employment;
- (c) The attending physician gives the employee a written release to return to regular employment; or

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

(d) (I) The attending physician gives the employee a written release to return to modified employment, such employment is offered to the employee in writing, and the employee fails to begin such employment.

(II) IN THE CASE OF EMPLOYMENT BY A TEMPORARY HELP CONTRACTING FIRM, ONCE THE EMPLOYEE HAS RECEIVED ONE WRITTEN OFFER OF MODIFIED EMPLOYMENT MEETING THE REQUIREMENTS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (d), THE EMPLOYEE SHALL BE DEEMED TO BE ON NOTICE THAT MODIFIED EMPLOYMENT IS AVAILABLE. SUBSEQUENT OFFERS OF MODIFIED EMPLOYMENT NEED NOT BE IN WRITING SO LONG AS THE JOB REQUIREMENTS OF SUCH MODIFIED EMPLOYMENT ARE WITHIN THE RESTRICTIONS GIVEN THE EMPLOYEE BY THE EMPLOYEE'S ATTENDING PHYSICIAN AND THE EMPLOYEE IS ALLOWED A PERIOD OF AT LEAST TWENTY-FOUR HOURS, NOT INCLUDING ANY PART OF A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, WITHIN WHICH TO RESPOND TO ANY SUCH OFFER.

(III) A WRITTEN OFFER OF MODIFIED EMPLOYMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) SHALL CLEARLY STATE:

(A) THAT FUTURE OFFERS OF EMPLOYMENT NEED NOT BE IN WRITING;

(B) THE POLICY OF THE TEMPORARY HELP CONTRACTING FIRM REGARDING HOW AND WHEN EMPLOYEES ARE EXPECTED TO LEARN OF SUCH FUTURE OFFERS; AND

(C) THAT BENEFITS UNDER THIS SECTION WILL BE TERMINATED IF AN EMPLOYEE FAILS TO RESPOND TO AN OFFER OF MODIFIED EMPLOYMENT.

SECTION 3. 8-42-106, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

8-42-106. Temporary partial disability. (1) In case of temporary partial disability, the employee shall receive sixty-six and two-thirds percent of the difference between said employee's average weekly wage at the time of the injury and said employee's average weekly wage during the continuance of the temporary partial disability, not to exceed a maximum of ninety-one percent of the state average weekly wage per week.

(2) Temporary partial disability payments shall ~~cease when the employee reaches maximum improvement from medical care or as otherwise determined by the director~~ CONTINUE UNTIL THE FIRST OCCURRENCE OF EITHER ONE OF THE FOLLOWING:

(a) THE EMPLOYEE REACHES MAXIMUM MEDICAL IMPROVEMENT; OR

(b) (I) THE ATTENDING PHYSICIAN GIVES THE EMPLOYEE A WRITTEN RELEASE TO RETURN TO MODIFIED EMPLOYMENT, SUCH EMPLOYMENT IS OFFERED TO THE EMPLOYEE IN WRITING, AND THE EMPLOYEE FAILS TO BEGIN SUCH EMPLOYMENT.

(II) IN THE CASE OF EMPLOYMENT BY A TEMPORARY HELP CONTRACTING FIRM, ONCE THE EMPLOYEE HAS RECEIVED ONE WRITTEN OFFER OF MODIFIED EMPLOYMENT MEETING THE REQUIREMENTS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (b), THE EMPLOYEE SHALL BE DEEMED TO BE ON NOTICE THAT MODIFIED EMPLOYMENT IS

AVAILABLE. SUBSEQUENT OFFERS OF MODIFIED EMPLOYMENT NEED NOT BE IN WRITING SO LONG AS THE JOB REQUIREMENTS OF SUCH MODIFIED EMPLOYMENT ARE WITHIN THE RESTRICTIONS GIVEN THE EMPLOYEE BY THE EMPLOYEE'S ATTENDING PHYSICIAN AND THE EMPLOYEE IS ALLOWED A PERIOD OF AT LEAST TWENTY-FOUR HOURS, NOT INCLUDING ANY PART OF A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, WITHIN WHICH TO RESPOND TO ANY SUCH OFFER.

(III) A WRITTEN OFFER OF MODIFIED EMPLOYMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) SHALL CLEARLY STATE:

(A) THAT FUTURE OFFERS OF EMPLOYMENT NEED NOT BE IN WRITING;

(B) THE POLICY OF THE TEMPORARY HELP CONTRACTING FIRM REGARDING HOW AND WHEN EMPLOYEES ARE EXPECTED TO LEARN OF SUCH FUTURE OFFERS; AND

(C) THAT BENEFITS UNDER THIS SECTION WILL BE TERMINATED IF AN EMPLOYEE FAILS TO RESPOND TO AN OFFER OF MODIFIED EMPLOYMENT.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to claims for injuries occurring on or after said date.

SECTION 5. 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: May 23, 1996