

CHAPTER 269

LABOR AND INDUSTRY

SENATE BILL 09-243

BY SENATOR(S) Boyd, Carroll M., Foster;
also REPRESENTATIVE(S) Riesberg, Fischer, Green, Labuda, Ryden, Schafer S., Todd, Vigil.

AN ACT**CONCERNING PAYMENTS FOR WORKERS' COMPENSATION BENEFITS.**

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

SECTION 1. 8-41-301 (2) (b), Colorado Revised Statutes, is amended to read:

8-41-301. Conditions of recovery. (2) (b) Notwithstanding any other provision of articles 40 to 47 of this title, where a claim is by reason of mental impairment, the claimant shall be limited to twelve weeks of medical impairment benefits, which shall be in an amount not less than one hundred fifty dollars per week and not more than fifty percent of the state average weekly wage, inclusive of any temporary disability benefits; EXCEPT THAT this limitation shall not apply to any victim of a crime of violence, without regard to the intent of the perpetrator of the crime, nor to the victim of a physical injury or occupational disease that causes neurological brain damage; AND NOTHING IN THIS SECTION SHALL LIMIT THE DETERMINATION OF THE PERCENTAGE OF IMPAIRMENT PURSUANT TO SECTION 8-42-107 (8) FOR THE PURPOSES OF ESTABLISHING THE APPLICABLE CAP ON BENEFITS PURSUANT TO SECTION 8-42-107.5.

SECTION 2. 8-42-101 (3) (a) (I), Colorado Revised Statutes, is amended to read:

8-42-101. Employer must furnish medical aid - approval of plan - fee schedule - contracting for treatment - no recovery from employee - medical treatment guidelines - accreditation of physicians - rules - repeal. (3) (a) (I) The director shall establish a schedule fixing the fees for which all ~~medical~~, surgical, hospital, dental, nursing, vocational rehabilitation, and medical services, whether related to treatment or not, pertaining to injured employees under this section shall be compensated, and it is unlawful, void, and unenforceable as a

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

debt for any physician, chiropractor, hospital, person, expert witness, reviewer, evaluator, or institution to contract with, bill, or charge any party for services, rendered in connection with injuries coming within the purview of this article or an applicable fee schedule, which are or may be in excess of said fee schedule unless such charges are approved by the director. Fee schedules shall be reviewed on or before July 1 of each year by the director, and appropriate health care practitioners shall be given a reasonable opportunity to be heard as required pursuant to section 24-4-103, C.R.S., prior to fixing the fees, impairment rating guidelines, which shall be based on the revised third edition of the "American Medical Association Guides to the Evaluation of Permanent Impairment", in effect as of July 1, 1991, and medical treatment guidelines and utilization standards. Fee schedules established pursuant to this subparagraph (I) shall take effect on January 1. The director shall promulgate rules concerning reporting requirements, penalties for failure to report correctly or in a timely manner, utilization control requirements for services provided under this section, and the accreditation process in subsection (3.6) of this section. THE FEE SCHEDULE SHALL APPLY TO ALL SURGICAL, HOSPITAL, DENTAL, NURSING, VOCATIONAL REHABILITATION, AND MEDICAL SERVICES, AND EXPERT WITNESS, EXPERT REVIEWER, OR EXPERT EVALUATOR SERVICES, WHETHER RELATED TO TREATMENT OR NOT, PROVIDED AFTER ANY FINAL ORDER, FINAL ADMISSION, OR FULL OR PARTIAL SETTLEMENT OF THE CLAIM.

SECTION 3. 8-42-107 (7) (b) (III), Colorado Revised Statutes, is amended to read:

8-42-107. Permanent partial disability benefits - schedule - medical impairment benefits - how determined. (7) (b) (III) Mental or emotional stress shall be compensated pursuant to section 8-41-301 (2) and shall not be combined with a scheduled or a nonscheduled injury, EXCEPT FOR THE PURPOSES OF CALCULATING A CLAIMANT'S IMPAIRMENT RATING TO DETERMINE THE APPLICABLE CAP FOR BENEFITS PURSUANT TO SECTION 8-42-107.5.

SECTION 4. 8-42-107.5, Colorado Revised Statutes, is amended to read:

8-42-107.5. Limits on temporary disability payments and permanent partial disability payments. No claimant whose impairment rating is twenty-five percent or less may receive more than seventy-five thousand dollars from combined temporary disability payments and permanent partial disability payments. No claimant whose impairment rating is greater than twenty-five percent may receive more than one hundred fifty thousand dollars from combined temporary disability payments and permanent partial disability payments. FOR THE PURPOSES OF THIS SECTION, ANY MENTAL IMPAIRMENT RATING SHALL BE COMBINED WITH THE PHYSICAL IMPAIRMENT RATING TO ESTABLISH A CLAIMANT'S IMPAIRMENT RATING FOR DETERMINING THE APPLICABLE CAP.

SECTION 5. 8-43-404, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-43-404. Examination - refusal - personal responsibility - physicians to testify and furnish results - definitions. (9) (a) HEALTH CARE SERVICES PROVIDED SHALL BE DEEMED AUTHORIZED IF THE CLAIM IS FOUND TO BE COMPENSABLE WHEN:

(I) COMPENSABILITY OF A CLAIM IS INITIALLY DENIED;

(II) THE SERVICES OF THE PHYSICIAN SELECTED BY THE EMPLOYER ARE NOT TENDERED AT THE TIME OF THE INJURY; AND

(III) THE INJURED WORKER IS TREATED:

(A) AT A PUBLIC HEALTH FACILITY IN THE STATE;

(B) AT A PUBLIC HEALTH FACILITY WITHIN ONE HUNDRED FIFTY MILES OF THE RESIDENCE OF THE INJURED WORKER; OR

(C) THROUGH A PUBLICLY FUNDED PROGRAM.

(b) A CLAIMANT SHALL NOT BE LIABLE FOR PAYMENT FOR TREATMENT BY THE PROVIDER UNDER THIS SUBSECTION (9) IF THE TREATMENT IS REASONABLY NEEDED, AND RELATED TO THE INJURY.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2009, and shall apply to injuries that occur on or after said date.

SECTION 7. 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 18, 2009