

## CHAPTER 196

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**LABOR AND INDUSTRY**

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## SENATE BILL 11-199

BY SENATOR(S) Tochtrop, Boyd, Guzman;  
also REPRESENTATIVE(S) Riesberg, Fields, Pace, Solano.

**AN ACT****CONCERNING WORKERS' COMPENSATION.**

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

**SECTION 1.** 8-42-107 (8), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH 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.** (f) IN ALL CLAIMS IN WHICH AN AUTHORIZED TREATING PHYSICIAN RECOMMENDS MEDICAL BENEFITS AFTER MAXIMUM MEDICAL IMPROVEMENT, AND THERE IS NO CONTRARY MEDICAL OPINION IN THE RECORD, THE EMPLOYER SHALL, IN A FINAL ADMISSION OF LIABILITY, ADMIT LIABILITY FOR RELATED REASONABLE AND NECESSARY MEDICAL BENEFITS BY AN AUTHORIZED TREATING PHYSICIAN.

**SECTION 2.** 8-43-207 (1) (e), Colorado Revised Statutes, is amended to read:

**8-43-207. Hearings.** (1) Hearings shall be held to determine any controversy concerning any issue arising under articles 40 to 47 of this title. In connection with hearings, the director and administrative law judges are empowered to:

(e) Upon written motion and for good cause shown, permit parties to engage in discovery; except that permission need not be sought if each party is represented by an attorney. ~~and the parties agree to engage in discovery.~~ The director or administrative law judge may rule on discovery matters and impose the sanctions provided in the rules of civil procedure in the district courts for willful failure to comply with permitted discovery.

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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.*

**SECTION 3.** 8-43-404 (1), Colorado Revised Statutes, is amended to read:

**8-43-404. Examination - refusal - personal responsibility - physicians to testify and furnish results - injured worker right to select treating physicians - injured worker right to third-party communications - definitions - rules.**

(1) (a) If in case of injury the right to compensation under articles 40 to 47 of this title exists in favor of an employee, upon the written request of the employee's employer or the insurer carrying such risk, the employee shall from time to time submit to examination by a physician or surgeon or to a vocational evaluation, which shall be provided and paid for by the employer or insurer, and the employee shall likewise submit to examination from time to time by any regular physician selected and paid for by the division.

(b) (I) AT LEAST THREE BUSINESS DAYS IN ADVANCE OF AN EXAMINATION UNDER PARAGRAPH (a) OF THIS SUBSECTION (1), IF REQUESTED BY THE CLAIMANT, THE EMPLOYER OR INSURER SHALL PAY TO THE CLAIMANT THE CLAIMANT'S ESTIMATED EXPENSES OF ATTENDING THE EXAMINATION, INCLUDING TRANSPORTATION, MILEAGE, FOOD, AND HOTEL COSTS. FAILURE TO PROVIDE PAYMENT IN ACCORDANCE WITH THIS SUBPARAGRAPH (I) CONSTITUTES GROUNDS FOR THE CLAIMANT TO REFUSE TO ATTEND THE EXAMINATION.

(II) IF AN EMPLOYER PAYS ESTIMATED EXPENSES UNDER THIS PARAGRAPH (b) AND THE CLAIMANT DOES NOT ATTEND THE EXAMINATION, THE EMPLOYER OR INSURER MAY RECOVER THE COSTS PAID FOR THE EMPLOYEE'S EXPENSES FROM FUTURE INDEMNITY BENEFITS.

**SECTION 4.** Section 9 (1) of chapter 310, Session Laws of Colorado 2010, is amended to read:

Section 9. **Specified effective date - applicability.** (1) Except as otherwise provided in subsection (2) of this section, this act shall take effect July 1, 2010, and shall apply to injuries sustained on or after said date; EXCEPT THAT SECTION 8 OF THIS ACT SHALL APPLY TO ALL REQUESTS FOR LUMP-SUM PAYMENTS, REGARDLESS OF THE DATE OF A CLAIMANT'S INJURY.

**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, 2011