
DIGEST

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HB 668 Original

2024 Regular Session

Melerine

Abstract: Provides relative to temporary total and partial disability benefits.

Present law requires, upon application of any party, the assistant secretary, if there is a dispute concerning the condition of the employee or the employee's capacity to work, to order an additional medical opinion regarding an exam of the employee. Present law further requires the assistant secretary to select and appoint the medical practitioner to conduct the exam.

Proposed law adds disputes concerning the diagnosis or causation of the injury or occupational disease, work restrictions, physical limitations, and degree of disability to the aforementioned criteria that can be subjected to an additional medical opinion. Proposed law otherwise retains present law.

Present law requires the medical examiner to report his conclusions to the assistant secretary and to the parties and that the report will serve as prima facie evidence. Proposed law otherwise retains present law.

Present law requires, in every case that results in a death, an employer to pay or cause to pay, in addition to any other benefits allowed under present law, reasonable burial expenses, not to exceed \$8,500.

Proposed law increases the maximum burial expenses amount from \$8,500 to \$12,500.

Proposed law otherwise retains present law.

Present law provides that if the burial expenses are less than \$7,000, the employer is required to be paid the difference to the deceased employee's heirs.

Proposed law changes the amount from \$7,500 to \$12,500. Proposed law otherwise retains present law.

Present law provides that an award of benefits based on temporary total disability shall cease when the physical condition of the employee has resolved itself to the point that a reasonably reliable determination of the extent of disability of the employee may be made and the employee's physical condition has improved to the point that continued, regular treatment by a physician is not required.

Proposed law repeals present law.

Proposed law provides that benefits based on temporary total disability shall cease when any of the following circumstances have been reached:

(1) The employee is engaged or has the capacity to engage in any self-employment or occupation for wages.

(2) The employee has reached maximum medical improvement, which is defined as the physical condition of the employee, which has stabilized and is unlikely to improve or worsen substantially in the next year, with or without treatment.

(3) 26 weeks following the work accident, provided that temporary total disability may be extended beyond 26 weeks where the preponderance of the medical evidence shows that the employee remains temporarily totally disabled and he is unable to engage in any self-employment or occupation for wages. In no event shall benefits be paid pursuant to present law and proposed law for more than a total of 350 weeks following the work accident.

Present law provides that if an employee is not engaged in any employment or self-employment, or is earning wages less than the employee is able to earn, the amount determined to be the wages the employee is able to earn in any month shall in no case be less than the sum the employee would have earned in any employment or self-employment.

Proposed law retains present law.

Present law provides that if the employee establishes by clear and convincing evidence, unaided by any presumption of disability, that solely as a consequence of substantial pain, the employee cannot perform employment offered, tendered, or otherwise proven to be available to him.

Proposed law repeals present law.

Present law provides that any compensable supplemental earning benefits loss shall be reported by the employee to the insurer or self-insured employer within 30 days after the termination of the week for which such loss is claimed. Present law further provides that the assistant secretary shall provide by rule for the reporting of supplemental earnings benefits loss by the injured worker and for the reporting of supplemental earnings benefits and payment of supplemental earnings benefits by the employer or insurer.

Proposed law replaces supplemental earnings benefits in provisions of present law with temporary partial disability. Proposed law otherwise retains present law.

Present law requires the employer to select a licensed professional vocational rehabilitation counselor to evaluate and assist the employee in his job placement or vocational training. Proposed law retains present law.

Present law provides that if the employer refuses to provide these services, or a dispute arises concerning the work of the vocational counselor, the employee may file a claim with the office to

review the need for such services or the quality of services being provided.

Proposed law adds an additional criterion for when an employee or employer may file a claim with the office to review the need for job placement or vocational training. Proposed law otherwise retains present law.

Present law provides that the employee shall not be required to submit the dispute on the issue of vocational services to mediation or go through a pretrial conference before obtaining a hearing. Present law further provides that the hearing shall be conducted as a rule to show cause.

Proposed law instead provides that all parties shall not be required to submit the dispute on the issue of vocational services. Proposed law otherwise retains present law.

Present law provides that if the employee leaves no legal dependents, whether biological or adopted, entitled to benefits, then one lump sum payment of \$75,000 shall be paid to the employee's surviving biological and adopted children who are over the age of majority.

Proposed law increases the lump sum amount from \$75,000 to \$100,000. Proposed law otherwise retains present law.

Present law provides that if the employee leaves no legal dependents and no biological or adopted children, then one lump sum payment of \$75,000 shall be paid to the employee's surviving parent.

Proposed law increases the lump sum amount from \$75,000 to \$100,000. Proposed law otherwise retains present law.

(Amends R.S. 23:1123, 1210, 1221(1)(a) and (d), (3)(a) through (f), 1226(A) and (B)(3)(a) and (c), and 1231(B)(2) and (3); Adds R.S. 23:1221(2)(f), 1223(C), and 1226(H))