

2018 Regular Session

HOUSE BILL NO. 257

BY REPRESENTATIVE GAINES

WORKERS COMPENSATION: Provides for certain deadlines for treatment and appeals pursuant to the medical treatment schedule

1 AN ACT

2 To amend and reenact R.S. 23:1203.1(K) and 1209(C), relative to the workers' compensation
3 medical treatment schedule; to provide with respect to the application, prescription,
4 procedure, and time limits for workers' compensation treatment and an appeal of the
5 decision of the medical director; to provide a definition; to provide with respect to
6 future treatment requests; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:1203.1(K) and 1209(C) are hereby amended and reenacted to read
9 as follows:

10 §1203.1. Definitions; medical treatment schedule; medical advisory council

11 * * *

12 K. After the issuance of the decision by the medical director or associate
13 medical director of the office, any party who disagrees with the decision, may then
14 appeal by filing a "Disputed Claim for Compensation", which is LWC Form 1008
15 within thirty days of the date of issuance of the decision. The failure to file an appeal
16 from a decision of the medical director denying requested treatment or testing shall
17 not have the effect of res judicata on any future request for the same treatment or
18 testing. The decision may be overturned when it is shown, by clear and convincing
19 evidence, the decision of the medical director or associate medical director was not
20 in accordance with the provisions of this Section.

21 * * *

1 §1209. Prescription; timeliness of filing; dismissal for want of prosecution

2 * * *

3 C.(1) All claims for medical benefits payable pursuant to R.S. 23:1203 shall
4 be forever barred unless within one year after the accident or death the parties have
5 agreed upon the payments to be made ~~under~~ pursuant to the provisions of this
6 Chapter, or unless within one year after the accident a formal claim has been filed
7 with the office as provided in this Chapter. Where such payments have been made
8 in any case, this limitation shall not take effect until the expiration of three years
9 from the time of making the last payment of medical benefits.

10 (2)(a) The time limit for an appeal of a decision of the medical director
11 pursuant to R.S. 23:1203.1 shall be within thirty days of the date of issuance of the
12 decision. The time limit for appeal shall only apply to the current request for
13 treatment or testing on which the medical director has made a decision. Failure to
14 file an appeal shall not preclude approval of a subsequent request for or appeal of a
15 decision for the same treatment or testing on the grounds of prescription.

16 (b) For the purposes of this Section, "current request" shall mean the specific
17 request for treatment or testing made by a healthcare provider on a specific date.

18 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 257 Original

2018 Regular Session

Gaines

Abstract: Provides time limits and guidelines for the appeal of a decision by the medical director.

Present law (R.S. 23:1203.1) provides that upon a disagreement with the decision of the medical director, the aggrieved party may appeal by filing LWC Form 1008, "Disputed Claim for Compensation".

Present law allows that the decision may be overturned by clear and convincing evidence that it was not in accordance with the provisions of present law.

Proposed law retains present law and provides a 30 day time period during which a party may appeal the decision of the medical director. Proposed law further allows that a decision on a course of treatment does not preclude a future decision on the same treatment.

Present law (R.S. 23:1209) bars any workers' compensation payment unless the parties have agreed to payment or a formal claim has been made within a year of the injury or death.

Proposed law retains present law and reiterates that an appeal, if desired, shall be taken within 30 days of the medical director's decision.

Proposed law provides that failure to appeal does not preclude an injured worker from later requesting the same treatment or testing and appealing a later ruling denying it.

Proposed law defines "current request" as the specific request for treatment or testing made by a healthcare provider on a specific date.

(Amends R.S. 23:1203.1(K) and 1209(C))