
DIGEST

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Cromer

HB No. 606

Abstract: Amends the Workers' Compensation Law.

Present law creates the Workers' Compensation Law.

Present law provides for the timely payment of temporary permanent disability benefits to all injured workers who suffer an injury or disease arising out of the course and scope of their employment.

Proposed law changes "temporary and permanent" disability benefits to indemnity benefits.

Proposed law further provides that a timely payment shall be made to the injured employee while limiting and reducing the cost increases of LWC, and to avoid the cost shifting of medical cost obligations for workers' compensation benefits onto Medicare and Medicaid.

Present law provides that the Louisiana Workers' Compensation Law is to be interpreted as to assure the delivery of benefits to an injured employee and to facilitate the injured employee's return to work at a reasonable cost to the employer.

Proposed law deletes "at a reasonable cost to the employer" and adds that the purpose of the Louisiana Workers' Compensation Law is to facilitate the injured employee's return to employment after he has received all of the medical treatment and rehabilitation due him.

Proposed law further provides that the Louisiana Workers' Compensation Law shall assure that due process is extended to the injured employee through benefits that are delivered in a constitutional manner that affords him unburdened access to the courts.

Proposed law further seeks to assure that litigation is not filed for intimidation or harassment, and that the injured employee has equal access to and treatment in the judicial process.

Proposed law provides for retroactive application.

Present law provides for the mutual renunciation of legal rights and defenses, providing that neither party shall have the advantage.

Proposed law deletes present law and provides that because the employer has immunity from tort damages, and because workers' compensation is the only legal remedy to recover for injured

workers, that all workers' compensation cases shall be decided on the merits with full and due consideration of the disproportional economic disadvantage an injured employee may face.

Present law provides that disputes concerning the facts in workers' compensation cases shall not be examined in favor of either the employer or the injured employee.

Proposed law deletes present law, and instead provides that disputes in workers' compensation cases shall be given a broad, liberal construction in favor of the injured employee.

Proposed law deletes the clause "except as otherwise provided in this Chapter" to provide that with no exceptions, failure to provide payment in accordance with present law or failure to consent to the injured employee's request to select a physician when required to do so, shall result in penalties and attorney fees.

Proposed law removes the term "payor" from present law and uses "the employer or his workers' compensation insurance carrier".

Present law requires that notice of payment be sent to the injured employee with the first payment of compensation.

Proposed law further requires that all documentation that was relied upon to make the final determination of payment be included with the notice of payment to the injured employee.

Proposed law requires an employer to send the injured employee a notice of modification by certified mail any time he seeks to modify or suspend indemnity benefits.

Present law requires that notice be sent within 10 days of a suspension.

Proposed law changes present law to require the notice be sent 10 days before any suspension or modification and that with the notice, the employer include all documentation that was relied upon for the determination of modification or suspension of payment.

Proposed law provides that interest shall be calculated from the date of the written communication of disagreement of the employee.

Present law provides that if the payor believes the determined amount is correct, he shall file a request for preliminary determination and provide a copy to the injured employee.

Proposed law deletes present law and provides that if the employer believes the determination is correct, he shall provide a notice of refusal to alter the payment amount, to the injured employee.

Present law provides the procedure for the preliminary determination, which proposed law deletes. Present law provides that the preliminary determination shall be performed by the director's designee, a workers' compensation judge, and shall be within 15 days of the filing of a request.

Present law further provides that the injured employee, the payor, and the employer shall participate in a preliminary determination by phone, during which the workers' compensation judge may require any of the parties to produce relevant records necessary to a determination. The workers' compensation judge shall provide a recommendation within 30 days.

Proposed law deletes present law.

Proposed law requires the payor to either mail a revised notice of payment with the recommended amount to the payor, or notify the injured employee in writing that the payor does not accept the recommendation, within 10 days of the mailing of the recommendation from the workers' compensation judge.

Proposed law deletes present law.

Present law provides that no disputed claim over the amount of compensation shall be filed until the provisions of present law have been exhausted, unless the disputed claim is in regard to a payor's failure to provide a notice of payment.

Proposed law deletes present law.

Present law provides that if a payor provides the compensation amounts due as recommended by the workers' compensation judge, he shall not be subject to any penalty and attorney fees regarding such calculation of the compensation due, and payment provided with the revised notice for payment.

Proposed law deletes present law.

Present law further provides that a payor who provides the compensation amounts recommended by the workers' compensation judge, but disagrees with the preliminary recommendation, he shall file a disputed claim for compensation within 15 days of mailing the revised notice of payment.

Proposed law deletes present law and provides that within fourteen days after the final payment of compensation has been made, the employer shall send notice to the office which states the name of the injured employee, the date of injury, the dates on which compensation has been paid, the total amount of compensation paid, and the fact that final payment has been made.

Present law provides that disputes over medical treatment, pursuant to the medical treatment guidelines, shall be premature until the medical director has made a decision.

Proposed law deletes present law.

Present law provides that the employer shall be permitted to file a disputed claim to controvert benefits or concerning any other dispute.

Proposed law provides that in those disputed claims directly caused by the fraudulent acts of an

employee, the employer shall specifically allege the benefit paid which was not due and the monetary amount of the benefit paid which was not due.

(Amends R.S. 23:1020.1(B)(1), (C), and (D), 1201(F) and (H), and 1314(D) and (E))