

FOR OFFICE USE ONLY	

HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Broadwater to Engrossed House Bill No. 728 by Representative Cromer

1 AMENDMENT NO. 1

2 On page 1, line 2, after "1124," delete the remainder of the line and insert in lieu thereof
3 "1201(H), 1208(F), (G), and (H), 1226(B)(3), 1310.8(B),"

4 AMENDMENT NO. 2

5 On page 1, line 11, after "1124," delete the remainder of the line and insert in lieu thereof
6 "1201(H), 1208(F), (G), and (H), 1226(B)(3), 1310.8(B), and 1314(E)"

7 AMENDMENT NO. 3

8 On page 2, line 5, after "proceeding" insert "pursuant to R.S. 23:1201.1 (K)(8)"

9 AMENDMENT NO. 4

10 On page 2, on lines 13 and 14, delete "medical examination" and insert in lieu thereof
11 "choice of physician"

12 AMENDMENT NO. 5

13 On page 2, on lines 18 and 19, delete "Any claims for penalties and attorney fees alleged by
14 the employee will be subject to the provisions of R.S. 23:1201.1."

15 AMENDMENT NO. 6

16 On page 2, lines 26, 27, and 28, delete "his insurer shall be entitled to seek an expedited
17 hearing to be held within ten days, and upon order of the court," and insert in lieu thereof
18 "payor"

19 AMENDMENT NO. 7

20 On page 3, line 1, delete "Any suspension" and insert in lieu thereof "Suspension of medical
21 benefits"

22 AMENDMENT NO. 8

23 On page 3, line 2, delete "R.S. 23:1201.1." and insert in lieu thereof "R.S. 23:1201.1(A)(4)
24 and (5). When the employee has filed a disputed claim, the employer or payor may move
25 for an order to compel the employee to return the form."

26 AMENDMENT NO. 9

27 On page 3, line 8, delete "shall" and insert "may" and after "suspended" and before "until"
28 insert "by the employer or payor"

1 AMENDMENT NO. 10

2 On page 3, line 9, after "place." and before "The" insert the following:

3 "Such suspension of benefits by the employer or payor shall be made in accordance
 4 with the provisions of R.S. 23:1201.1(A)(4) and (5). When the employee has filed
 5 a disputed claim, the employer or payor may move for an order to compel the
 6 employee to appear for an examination."

7 AMENDMENT NO. 11

8 On page 3, after line 27, insert the following:

9 "§1201. Time and place of payment; failure to pay timely; failure to authorize;
 10 penalties and attorney fees

11 * * *

12 ~~H.(1) Upon making the first payment of compensation and upon~~
 13 ~~modification or suspension of payment for any cause, the employer or insurer shall~~
 14 ~~immediately send a notice to the office, in the manner prescribed by the rules of the~~
 15 ~~director, that payment of compensation has begun or has been suspended, as the case~~
 16 ~~may be. After February 1, 2013, a payor, which shall mean that entity which is~~
 17 ~~responsible by law or contract for the payment of benefits or medical expenses~~
 18 ~~incurred by the claimant as a result of an injury covered by this Chapter, shall do all~~
 19 ~~of the following:~~

20 ~~(a) Prepare a notice of payment. The form for the notice of payment shall~~
 21 ~~be promulgated by the office pursuant to the Administrative Procedure Act.~~

22 ~~(b) Send the notice of payment to the injured employee, or the employee's~~
 23 ~~representative, with the first payment of compensation.~~

24 ~~(c) Send the notice of payment to the injured employee, or the employee's~~
 25 ~~representative, within ten days of a suspension or modification to compensation for~~
 26 ~~any cause or within ten days of the suspension or modification of the supplemental~~
 27 ~~earnings benefit.~~

28 ~~(d) Send a copy of the notice of payment to the office within ten days from~~
 29 ~~the date that the original notice of payment was sent to the injured employee or the~~
 30 ~~employee's representative.~~

31 ~~(2)(a) The injured employee or the employee's representative who disagrees~~
 32 ~~with any information provided on the notice of payment shall, in writing, notify the~~
 33 ~~payor of the basis for disagreement and provide the amounts believed appropriate.~~

34 ~~(b) The payor, within five business days of receipt of the notice of~~
 35 ~~disagreement, shall do one of the following:~~

36 ~~(i) Send a revised notice of payment along with a revised payment in~~
 37 ~~accordance therewith to the injured employee or the employee's representative.~~

38 ~~(ii) If the payor believes that the amount determined in the original notice~~
 39 ~~of payment was correct, then the payor shall file a request for preliminary~~
 40 ~~determination, on a form to be promulgated by the office, and shall provide a copy~~
 41 ~~to the injured employee or the employee's representative.~~

42 ~~(c) The preliminary determination shall be performed by the director's~~
 43 ~~designee, who shall be a workers' compensation judge specifically assigned to handle~~
 44 ~~preliminary determinations. Such preliminary determination hearing shall occur~~
 45 ~~within fifteen days of the filing of a request.~~

46 ~~(d) The injured employee, the employee's representative, the payor and the~~
 47 ~~employer, which includes the direct employer of a statutory employee pursuant to~~
 48 ~~R.S. 23:1061, shall participate in a preliminary determination hearing by phone. The~~
 49 ~~workers' compensation judge may require any of these parties to produce relevant~~
 50 ~~records necessary for the determination of compensation provided for in the notice~~
 51 ~~of payment. No later than thirty days from the filing of the request for a preliminary~~
 52 ~~determination, the workers' compensation judge shall provide, in writing, a~~
 53 ~~recommended amount of compensation.~~

1 C. The director shall make the notice available upon request by the employee
2 and the employee's representative.

3 D. If the injured employee is represented by an attorney, the notice shall also
4 be provided to the employee's representative by facsimile. Proof that the notice was
5 sent to the employee's representative by facsimile shall be prima facie evidence of
6 compliance with Subsection A of this Section.

7 E. The provisions of this Section shall not apply to questions of medical
8 necessity as provided by R.S. 23:1203.1.

9 AMENDMENT NO. 13

10 On page 5, line 4, change "C." to "F."

11 AMENDMENT NO. 14

12 On page 5, line 8, after "appropriate." delete the remainder of the line and delete lines 9 and
13 10 in their entirety and insert in lieu thereof the following:

14 "(2) No disputed claim shall be filed regarding any such disagreement unless
15 the notice required by this Section has been sent to the employer or payor who
16 initially sent the notice."

17 AMENDMENT NO. 15

18 On page 5, line 11, change "(2)" to "G. (1)"

19 AMENDMENT NO. 16

20 On page 5, line 17, change "(3)" to "(2)"

21 AMENDMENT NO. 17

22 On page 5, line 28, change "(4) Only the" to "H. The" and delete "who initially sent the
23 notice and has"

24 AMENDMENT NO. 18

25 On page 5, delete line 29 in its entirety

26 AMENDMENT NO. 19

27 On page 6, line 1, delete "suspension modification, termination, or controversion of
28 benefits."

29 AMENDMENT NO. 20

30 On page 6, line 3, after "payment" delete the comma "," and insert in lieu thereof "or any
31 subsequent"

32 AMENDMENT NO. 21

33 On page 6, at the end of line 4, add the following:

34 "In cases where a disputed claim is already pending when an issue arises from a
35 subsequent notice of payment, modification, suspension, termination, or
36 controversion of benefits, such request shall be made in an amended pleading filed
37 within fifteen days of the expiration of the seven-day period set forth in Paragraph
38 (F)(2) of this Section."

1 AMENDMENT NO. 22

2 On page 6, line 5, change "(5)" to "I. (1)" and delete "provided the first payment as required"

3 AMENDMENT NO. 23

4 On page 6, delete lines 6 through 8 in their entirety and insert in lieu thereof:

5 "complied with the requirements set forth in Subsections A through E of this Section
6 or has not initially accepted the claim as compensable, subject to further
7 investigation and subsequent controversion shall not be entitled to a preliminary
8 determination. An employer or payor who is not entitled to a preliminary
9 determination or who is so entitled but fails to request a preliminary determination
10 may"

11 AMENDMENT NO. 24

12 On page 6, line 9, after "R.S. 23:23:1201" delete the period "." and insert "at a trial on the
13 merits or hearing held pursuant to Paragraph (K)(8) this Section.

14 (2) If disputed by the parties, upon a rule to show cause held prior to the
15 preliminary determination or any hearing held pursuant to this Section, the workers'
16 compensation judge shall determine whether the employer is in compliance."

17 AMENDMENT NO. 25

18 On page 6, line 10, change "D." to "J."

19 AMENDMENT NO. 26

20 On page 7, line 3, change "E." to "K."

21 AMENDMENT NO. 27

22 On page 7, lines 16 and 17, delete "of compensation/controversion of compensation and/or
23 medical benefits"

24 AMENDMENT NO. 28

25 On page 8, delete line 17 and insert in lieu thereof the following:

26 "(7) In matters where the employee has filed a disputed claim and the
27 employer or payor is not entitled to a preliminary determination, the matter shall
28 proceed to trial on the merits.

29 (8)(a) Upon motion of either party, whether or not the employer or payor is
30 entitled to a preliminary determination, the workers' compensation judge's ruling in
31 a hearing shall be conducted as an expedited summary proceeding and shall be
32 considered an order of the court and not requiring a further trial on the merits, if it
33 concerns any of the following matters:

34 (i) The employee has sought choice of physician pursuant to R.S.
35 23:1121(B)(1).

36 (ii) The employee has filed a claim pursuant to R.S. 23:1226(B)(3)(a).

37 (iii) The employer or payor seeks to compel the employee to sign the choice
38 of physician form pursuant to R.S. 23:1121(B)(5).

39 (iv) The employer or payor seeks to compel the employee's submission to
40 a medical examination pursuant to R.S. 23:1124.

41 (v) The employer seeks to require the employee to return form LWC-1025
42 or LWC-1020.

43 (vi) The employee seeks to have a suspension of benefits for failure to
44 comply with R.S. 23:1121(B)(1) lifted.

1 provided in this Chapter ~~may be suspended~~. If otherwise eligible for benefits, the
2 employee shall be entitled to all of the suspended benefits after the form has been
3 provided to the ~~insurer payor~~. Suspension of benefits by the employer or payor shall
4 be made in accordance with the provisions of R.S. 23:1201.1(A) through (E). The
5 employer or payor may move for an order to compel the employee to return the form.

6 (2) Whenever an employer fails to report to its ~~insurer payor~~ as required by
7 this Section, the employer may be subject to a penalty of five hundred dollars,
8 payable to the ~~insurer payor~~.

9 (3) The ~~insurer payor~~ may request a suspension of benefits or an assessment
10 of a penalty for the employer's failure to report as provided in this Subsection by
11 filing a form LDOL-WC-1008 with the director.

12 * * *

13 AMENDMENT NO. 29

14 On page 8, line 27, delete "claims"

15 AMENDMENT NO. 30

16 On page 8, lines 28 and 29, delete "shall be heard in an expedited hearing." and insert in lieu
17 thereof "employee shall have a right to an expedited summary proceeding pursuant to R.S.
18 23:1201.1(K)(8)."

19 AMENDMENT NO. 31

20 On page 9, line 1, delete "employer's or payor's"

21 AMENDMENT NO. 32

22 On page 9, line 2, change "employee or his representative" to "employer or payor"

23 AMENDMENT NO. 33

24 On page 9, line 3, change "employer's or payor's" to "employee's"

25 AMENDMENT NO. 34

26 On page 9, lines 7 and 8, delete "medical examination" and insert in lieu thereof "issue of
27 vocational services"

28 AMENDMENT NO. 35

29 On page 9, line 9, delete "Unless the" and delete lines 10 through 17 in their entirety

30 AMENDMENT NO. 36

31 On page 9, line 24, delete "Refusal to accept" and delete lines 25 through 27 in their entirety
32 and insert in lieu thereof the following:

33 "rehabilitation as deemed necessary by the worker's compensation judge shall
34 result in a fifty percent reduction in Upon refusal by the employee, the employer or
35 payor may reduce weekly compensation, including supplemental earnings benefits
36 pursuant to R.S. 23:1221(3), by fifty percent for each week of the period of refusal.
37 Reduction of benefits by the employer or payor shall be made in accordance with the
38 provisions of R.S. 23:1201.1(A) through (E)."

1 AMENDMENT NO. 37

2 On page 10, line 17, delete "employee" and insert "employee, his dependant, or beneficiary"

3 AMENDMENT NO. 38

4 On page 10, line 18, delete "employee." and insert "employee, his dependant, or beneficiary;
5 or when the employer or payor is an aggrieved party appealing a decision of the medical
6 director pursuant to R.S. 23:1203(K)."

7 AMENDMENT NO. 39

8 On page 10, at the end of line 24, insert "However, should any provision of this Act be
9 declared to apply prospectively only, all provisions of this Act shall be applied prospectively
10 only."