

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0814.01 Kate Meyer

**SENATE BILL 11-199**

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**SENATE SPONSORSHIP**

**Tochtrop,**

**HOUSE SPONSORSHIP**

**Riesberg,**

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**Senate Committees**  
Business, Labor and Technology

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING WORKERS' COMPENSATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill makes various changes to the laws regarding workers' compensation.

**Section 1** of the bill requires an employer to admit liability for reasonable and necessary medical benefits in claims in which an authorized treating physician recommends medical benefits after maximum medical improvement, if there is no contrary medical opinion in the record.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

Currently, when all parties are represented by an attorney and agree to engage in discovery, the parties are exempt from the requirement to obtain permission to engage in discovery in connection with a controversy arising under the "Workers' Compensation Act of Colorado" (act). **Section 2** repeals the condition that the represented parties all agree to engage in discovery, with the result that if all parties are represented, discovery is available.

**Section 3** requires employers or insurers to pay in advance a claimant's costs of attending an examination requested by the employer or insurer.

**Section 4** states that the requirement, added by Senate Bill 10-187, that lump-sum compensation not be conditioned on a claimant waiving the right to pursue permanent total disability payments applies to all requests for lump-sum payments, regardless of the date of a claimant's injury.

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

2 **SECTION 1.** 8-42-107 (8), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **8-42-107. Permanent partial disability benefits - schedule -**  
5 **medical impairment benefits - how determined.** (8) **Medical**  
6 **impairment benefits - determination of MMI for scheduled and**  
7 **nonscheduled injuries.** (f) IN ALL CLAIMS IN WHICH AN AUTHORIZED  
8 TREATING PHYSICIAN RECOMMENDS MEDICAL BENEFITS AFTER MAXIMUM  
9 MEDICAL IMPROVEMENT, AND THERE IS NO CONTRARY MEDICAL OPINION  
10 IN THE RECORD, THE EMPLOYER SHALL, IN A FINAL ADMISSION OF  
11 LIABILITY, ADMIT LIABILITY FOR RELATED REASONABLE AND NECESSARY  
12 MEDICAL BENEFITS BY AN AUTHORIZED TREATING PHYSICIAN.

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

15 **8-43-207. Hearings.** (1) Hearings shall be held to determine any  
16 controversy concerning any issue arising under articles 40 to 47 of this  
17 title. In connection with hearings, the director and administrative law

1 judges are empowered to:

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

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

11 **8-43-404. Examination - refusal - personal responsibility -**  
12 **physicians to testify and furnish results - injured worker right to**  
13 **select treating physicians - injured worker right to third-party**  
14 **communications - definitions - rules.** (1) (a) If in case of injury the  
15 right to compensation under articles 40 to 47 of this title exists in favor  
16 of an employee, upon the written request of the employee's employer or  
17 the insurer carrying such risk, the employee shall from time to time  
18 submit to examination by a physician or surgeon or to a vocational  
19 evaluation, which shall be provided and paid for by the employer or  
20 insurer, and the employee shall likewise submit to examination from time  
21 to time by any regular physician selected and paid for by the division.

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

1 SUBPARAGRAPH (I) CONSTITUTES GROUNDS FOR THE CLAIMANT TO REFUSE  
2 TO ATTEND THE EXAMINATION.

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

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

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

15 **SECTION 5. Safety clause.** The general assembly hereby finds,  
16 determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, and safety.