
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Yoursheka D. Butler.

DIGEST

SB 319 Original2024 Regular SessionSeabaugh

Present law provides that failure to pay workers' compensation benefits or failure to consent to the employee's request to select a treating physician or change physicians when such consent is required by present law will result in the assessment of a penalty in an amount up to the greater of 12% of any unpaid compensation or medical benefits, or \$50 per calendar day for each day in which any and all compensation or medical benefits remain unpaid or consent is withheld, together with reasonable attorney fees for each disputed claim, up to a maximum of \$2,000 in the aggregate for any claim.

Proposed law makes the penalty 12% of any unpaid compensation and deletes dollar amounts as possible penalties, and otherwise retains present law. Proposed law further provides that the maximum amount of attorney fees which may be imposed at a hearing on the merits regardless of the number of penalties which might be imposed under this Section is \$8,000, excluding any additional fees which may be paid pursuant to certain provisions of present law.

Present law provides that an award of penalties and attorney fees at any hearing on the merits will be res judicata as to any and all claims for which penalties may be imposed under present law which precedes the date of the hearing. Present law further sets forth how penalties are to be assessed.

Proposed law retains present law and adds that present law does not apply if the employee has failed to submit amicable demand for the benefit in dispute to the employer or insurer, in writing with sufficient particularity and proof thereof, or if following receipt of the employee's amicable demand, the employer or insurer pays the disputed benefit as required by present law within 10 business days.

Present law provides that upon first payment of benefits or upon any modification, suspension, termination, or controversion of compensation or medical benefits for any reason, including but not limited to issues of medical causation or compensability of the claim, or issues arising out of present law, the employer or payor who has been notified of the claim, must prepare a "Notice of Modification, Suspension, Termination, or Controversion of Compensation and/or Medical Benefits" and send the notice of the initial indemnity payment to the injured employee on the same day as the first payment of compensation.

Proposed law provides that present law notice is to be sent at any time within 10 business days of the first payment of indemnity benefits by either U.S. Regular Mail, U.S. Certified Mail, email, facsimile, hand delivery, or any commercial carrier express delivery.

Proposed law otherwise retains present law.

Present law further provides relative to the sending of notice to various parties.

Proposed law requires the notice be sent by either U.S. Regular Mail, U.S. Certified Mail, email, facsimile, hand delivery, or any commercial carrier express delivery, and otherwise retains present law.

Proposed law provides that if no first payment of compensation has been made on the claim, any injured employee or his representative who contends that entitlement to compensation or medical benefits exists must notify the employer or payor by letter of amicable demand specifying the basis for such contention of entitlement to compensation or medical benefits.

Present law provides that if the employer or the payor provides the benefit that the employee claims is due, including any arrearage, on the returned form or letter of amicable demand within seven days of receipt of the employee's demand, the employer or payor will not be subject to any claim for any penalties or attorney fees arising from the disputed payment, modification, suspension, termination, or controversion.

Proposed law changes the time for making amicable demand from seven days to 10 days and otherwise retains present law.

Present law provides that an employer or payor who has not complied with the certain present law requirements or has not initially accepted the claim as compensable, subject to further investigation and subsequent controversion, is not be entitled to a preliminary determination. Present law further provides that an employer or payor who is not entitled to a preliminary determination or who is so entitled but fails to request a preliminary determination may be subject to penalties and attorney fees at a trial on the merits or hearing held pursuant to present law.

Proposed law deletes present law and adds provisions relative to when an employer or payor is entitled to a preliminary determination regarding the notice of the initial indemnity payment, any notice of modification, suspension, termination, or controversion, and any amicable demand.

Proposed law provides relative to an employer or payor who is not entitled to a preliminary determination.

Proposed law provides that any dispute by the employee or his representative as to the request for a preliminary determination hearing by the employer or payor must be filed by a formal motion with the court within 10 business days of the employer's or payor's motion with the court requesting a preliminary determination hearing.

Present law provides that the employer or payor must be permitted to file a disputed claim against an employee, his dependent, or beneficiary only when the employer or payor alleges the employee, his dependent, or beneficiary has committed fraud which caused the employer or payor to pay a benefit which was not due to the employee, his dependent, or beneficiary, or when the employer or payor is an aggrieved party appealing a decision of the medical director.

Proposed law deletes present law requiring an allegation of fraud and otherwise retains present law.

Effective August 1, 2024.

(Amends R.S. 23:1201(F), 1201.1(A), (D), (F), (G)(1), and (I) and 1314(E)(1))