

HOUSE BILL 94

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29, Part 2; Title 4, Chapter 3, Part 14; Title 8, Chapter 21, Part 4; Title 50, Chapter 6; Title 50, Chapter 9 and Title 50, Chapter 3, Part 7, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-3-1405(c), is amended by deleting the language "the state's Workers' Compensation Law, compiled in title 50, chapter 6,".

SECTION 2. Tennessee Code Annotated, Section 8-21-409(a)(7)(F), is amended by deleting the language "under § 50-6-304" and substituting instead the language "under § 50-6-240".

SECTION 3. Tennessee Code Annotated, Section 50-6-124(a), is amended by deleting the subsection in its entirety and substituting instead the following:

The administrator of the division of workers' compensation shall establish a system of utilization review of selected outpatient and inpatient healthcare providers for employees claiming benefits under this chapter, by providers accredited by a utilization review organization accredited by either the Utilization Review Accreditation Commission (URAC) or the National Committee for Quality Assurance (NCQA). Providers shall be required to provide proof of such accreditation beginning July 1, 2016.

SECTION 4. Tennessee Code Annotated, Section 50-6-203, is amended by adding the following as a new, appropriately designated subsection:

(j) In any case where an employer has paid permanent partial disability benefits to an employee in an attempt to settle a claim for workers' compensation benefits but the employee and employer have not entered into a settlement agreement that has been

approved by a workers' compensation judge, the statute of limitations for filing a claim to recover workers' compensation benefits pursuant to this chapter shall be extended for two (2) years from the date the last payment of permanent partial disability benefits was made to the employee.

SECTION 5. Tennessee Code Annotated, Section 50-6-204(j)(2)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) For purposes of the panel required by subdivision (j)(2)(A), "qualified physician" means a physician who has met the requirements set forth in the Chronic Pain Guidelines of the State of Tennessee, Department of Health, definition of "Pain Management Specialist."

SECTION 6. Tennessee Code Annotated, Section 50-6-208(e), is amending by adding the language "and for costs associated with legal counsel to defend the administrator in actions claiming compensation from the second injury fund pursuant to this section" in the first sentence between the words "section" and "and".

SECTION 7. Tennessee Code Annotated, Section 50-6-217(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a)

(1) The administrator shall establish a workers' compensation appeals board, which shall be wholly separate from the court of workers' compensation claims, to review interlocutory and final orders entered by workers' compensation judges upon application of any party to a workers' compensation claim.

(2) Any party aggrieved by an order for temporary disability or medical benefits or an order either awarding permanent disability or medical benefits or denying a claim for permanent disability or medical benefits issued by a workers' compensation judge may appeal the order to the workers' compensation appeals board by filing a notice of appeal on a form prescribed by the administrator.

Review shall be accomplished in the following manner:

(A) Within seven (7) business days after issuance of an interlocutory order for temporary disability or medical benefits by a workers' compensation judge, either party may appeal the interlocutory order by filing a notice of appeal with the clerk of the court of workers' compensation claims. Upon the expiration of the time established by division rules for the parties to file a transcript prepared by a licensed court reporter or a statement of the evidence, along with briefs or position statements specifying the issues presented for review and supporting arguments, the record on appeal shall be submitted by the clerk of the court of workers' compensation claims to the clerk of the workers' compensation appeals board. Within seven (7) business days of the receipt of the record on appeal by the clerk of the workers' compensation appeals board, the appeals board shall enter an order affirming, reversing, or modifying and remanding the interlocutory order of the workers' compensation judge. The workers' compensation appeals board's order shall not be subject to further review; and

(B) Within thirty (30) calendar days after issuance of a compensation order pursuant to § 50-6-239(c)(2), either party may appeal the compensation order by filing a notice of appeal with the clerk of the court of workers' compensation claims. Thereafter, the appealing party shall have fifteen (15) calendar days after the record is filed with the clerk of the workers' compensation appeals board to file a brief. A brief in response, if any, shall be filed within fifteen (15) calendar days of the filing of the appellant's brief. No later than forty-five (45) calendar days after the expiration of the fifteen-day period for a responsive brief to be filed,

the workers' compensation appeals board shall issue a decision either affirming and certifying as final the compensation order, or reversing or modifying the compensation order and remanding the case. If the compensation order is affirmed and certified, the final order of the workers' compensation judge shall be immediately appealable to the Tennessee Supreme Court. If a compensation order is timely appealed to the appeals board, the order issued by the workers' compensation judge shall not become final, as provided in § 50-6-239(c)(7), until the workers' compensation appeals board issues a written decision certifying the order as a final order.

(3) The workers' compensation appeals board may reverse or modify and remand the decision of the workers' compensation judge if the rights of any party have been prejudiced because findings, inferences, conclusions, or decisions of a workers' compensation judge:

(A) Violate constitutional or statutory provisions;

(B) Exceed the statutory authority of the workers' compensation judge;

(C) Do not comply with lawful procedure;

(D) Are arbitrary, capricious, characterized by abuse of discretion, or clearly an unwarranted exercise of discretion; or

(E) Are not supported by evidence that is both substantial and material in the light of the entire record.

SECTION 8. Tennessee Code Annotated, Section 50-6-217, is further amended by adding the following as a new subsection:

(d)

(1) In the appeal of an interlocutory order, with the exception of the filing of the notice of appeal, when an act is required to be performed within a specified time, the workers' compensation appeals board may extend the specified time only in exceptional circumstances not to exceed five (5) additional business days, either upon its own motion or upon motion of any party. In the appeal of a compensation order, with the exception of the filing of the notice of appeal, when an act is required to be performed within a specified time, the workers' compensation appeals board may extend the specified time only in exceptional circumstances not to exceed twenty-one (21) additional calendar days, either upon its own motion or upon motion of any party.

(2) The administrator shall have the authority to assess filing fees sufficient to offset the costs of administering this chapter.

SECTION 9. Tennessee Code Annotated, Section 50-6-238(a)(3), is further amended by deleting the second sentence in its entirety and substituting instead the following:

Workers' compensation judges shall conduct hearings in accordance with the Tennessee Rules of Civil Procedure, the Tennessee Rules of Evidence, and the rules adopted by the division and shall have authority to swear in witnesses at hearings and other court of workers' compensation claims functions, to issue subpoenas, and to compel obedience to their judgments, orders, and process through the assessment of a penalty as provided in § 50-6-118.

SECTION 10. Tennessee Code Annotated, Section 50-6-238(a), is amended by adding the following as a new subdivision:

(4) In any claim for workers' compensation death benefits, a workers' compensation judge shall have the authority to appoint a guardian ad litem consistent with § 37-1-149 and Tennessee Supreme Court Rule 40. For purposes of this section,

“guardian ad litem” means a lawyer appointed by the court to advocate for the best interests of a child and to ensure that the child’s concerns and preferences are effectively advocated. The court shall have authority to award a reasonable fee for the services provided by the guardian ad litem, which shall be paid by the employer.

SECTION 11. Tennessee Code Annotated, Section 50-6-238, is further amended by adding the following as a new subsection:

(i) The judges of the court of workers’ compensation claims shall have execution authority as provided in title 26.

SECTION 12. Tennessee Code Annotated, Section 50-6-239(g), is amended by deleting the words “a filing fee” and substituting instead the words “filing fees”.

SECTION 13. Tennessee Code Annotated, Section 50-6-240, is amended by adding the following as a new, appropriately designated subsection:

(f) No party may settle a claim for permanent disability benefits unless the settlement agreement has been approved by a workers’ compensation judge. Any settlement agreement not approved pursuant to this subsection (f) is void.

SECTION 14. Tennessee Code Annotated, Section 50-6-102(10), is amended by deleting the subdivision in its entirety.

SECTION 15. Tennessee Code Annotated, Title 50, Chapter 6, is amended by deleting the language “division” wherever it appears and substituting instead the language “bureau”.

SECTION 16. Tennessee Code Annotated, Sections 4-3-1408, 4-3-1409, 4-29-239, 50-3-702, 50-9-102, 50-9-103, and 50-9-111, are amended by deleting the language “division of workers’ compensation” and substituting instead the language “bureau of workers’ compensation” wherever it appears.

SECTION 17. Tennessee Code Annotated, Section 50-6-412, is amended by deleting the language “division’s” wherever it appears and substituting instead the language “bureau’s”.

SECTION 18. Tennessee Code Annotated, Section 50-6-102, is amended by adding the following new, appropriately designated subdivision:

() "Bureau" or "bureau of workers' compensation" means the bureau of workers' compensation of the department of labor and workforce development;

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it, and SECTION 4 shall apply to injuries occurring on or after the effective date of this act.