

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 10-1038

BY REPRESENTATIVE(S) Miklosi, Pace, Ryden, Apuan, Casso, Frangas, Labuda, Schafer S., Solano, Vigil;
also SENATOR(S) Carroll M., Hodge, Tochtrop, Boyd.

CONCERNING A BROCHURE TO DESCRIBE THE PROCESS FOR WORKERS' COMPENSATION CLAIMS, AND MAKING ADJUSTMENTS TO APPROPRIATIONS IN CONNECTION THEREWITH.

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

SECTION 1. 8-43-203, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-43-203. Notice concerning liability - notice to claimants - notice of rights and claims process - rules. (3) IN ADDITION TO ANY OTHER NOTICE REQUIRED BY THIS SECTION, AT THE TIME THAT THE EMPLOYER OR, IF INSURED, THE EMPLOYER'S INSURANCE CARRIER PROVIDES THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE EMPLOYER OR INSURANCE CARRIER SHALL PROVIDE TO THE CLAIMANT A BROCHURE WRITTEN IN EASILY UNDERSTOOD LANGUAGE, IN A FORM DEVELOPED BY THE DIRECTOR AFTER CONSULTATION WITH EMPLOYERS, INSURANCE CARRIERS, AND REPRESENTATIVES OF INJURED WORKERS, DESCRIBING THE CLAIMS PROCESS AND INFORMING THE CLAIMANT OF HIS OR HER RIGHTS. IF THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

CLAIMANT HAS PREVIOUSLY AUTHORIZED THE EMPLOYER OR, IF INSURED, THE EMPLOYER'S INSURANCE CARRIER TO COMMUNICATE WITH THE CLAIMANT THROUGH ELECTRONIC TRANSMISSION, THE BROCHURE MAY BE SENT TO THE CLAIMANT ELECTRONICALLY. THE BROCHURE SHALL, AT A MINIMUM, CONTAIN THE FOLLOWING INFORMATION:

(a) WHO THE CLAIMANT MAY CONTACT WITH QUESTIONS CONCERNING THE CLAIM, THE CLAIM'S PROCESS, AND ASSISTANCE WITH THE CLAIM, INCLUDING:

(I) THE INSURANCE CARRIER OR EMPLOYER;

(II) THE DIVISION AND THE WEB SITE FOR THE DIVISION;

(III) THE OFFICE OF ADMINISTRATIVE COURTS AND THE WEB SITE FOR THE OFFICE; AND

(IV) AN ATTORNEY HIRED AT THE EXPENSE OF THE CLAIMANT.

(b) THE CLAIMANT'S RIGHT TO RECEIVE MEDICAL CARE FOR WORK RELATED INJURIES OR OCCUPATIONAL DISEASES PAID FOR BY THE EMPLOYER OR THE EMPLOYER'S INSURANCE CARRIER INCLUDING:

(I) THAT MOST CLAIMANTS HAVE A RIGHT TO CHOOSE FROM A LIST OF AT LEAST TWO DIFFERENT DOCTORS;

(II) THAT MOST CLAIMANTS HAVE A RIGHT TO CHANGE DOCTORS ONE TIME WITHIN NINETY DAYS AFTER THE INJURY AND ALL CLAIMANTS HAVE THE RIGHT TO REQUEST A CHANGE OF DOCTOR AT OTHER TIMES UNDER CERTAIN OTHER CIRCUMSTANCES;

(III) THE CLAIMANT'S DOCTOR'S RIGHT TO REFER THE CLAIMANT TO OTHER MEDICAL PROVIDERS AND SPECIALISTS TO PROVIDE THE REASONABLE AND NECESSARY MEDICAL CARE THAT THE CLAIMANT'S WORK-RELATED INJURIES OR ILLNESS REQUIRE;

(IV) THE CLAIMANT'S RIGHT TO DISCUSS WITH HIS OR HER DOCTOR WHO SHOULD BE PRESENT DURING A CLAIMANT'S MEDICAL APPOINTMENT, AND THE RIGHT TO REFUSE TO HAVE A NURSE CASE MANAGER EMPLOYED ON THE CLAIMANT'S CLAIM PRESENT AT THE CLAIMANT'S MEDICAL

APPOINTMENT;

(V) THE CLAIMANT'S RIGHT TO SEE AND HAVE COPIES OF ALL OF THE CLAIMANT'S MEDICAL RECORDS RELATED TO THE MEDICAL CARE THE CLAIMANT RECEIVED FOR HIS OR HER WORK-RELATED INJURY OR ILLNESS;

(VI) THE CLAIMANT'S RIGHT TO SEEK MEDICAL CARE AND MEDICAL OPINIONS ABOUT THE CLAIMANT'S WORK-RELATED INJURY AT THE CLAIMANT'S OWN EXPENSE; AND

(VII) THE CLAIMANT'S RIGHT TO A MEDICAL EXAMINATION BY A DOCTOR CHOSEN BY THE CLAIMANT OR BY THE DIVISION AT THE CLAIMANT'S EXPENSE;

(VIII) THE CLAIMANT'S RIGHT TO A PERMANENT IMPAIRMENT EVALUATION AFTER THE CLAIMANT'S TREATING DOCTORS DETERMINE THAT THE CLAIMANT HAS REACHED MAXIMUM MEDICAL IMPROVEMENT; AND

(IX) THE CLAIMANT'S RIGHT TO BE INFORMED WHETHER MEDICAL CARE AFTER MAXIMUM MEDICAL IMPROVEMENT WILL BE PROVIDED AND TO RECEIVE REASONABLE CONTINUED MEDICAL CARE IF IT IS NECESSARY TO MAINTAIN MAXIMUM MEDICAL IMPROVEMENT.

(c) A DESCRIPTION OF THE CLAIMANT'S RIGHT TO RECEIVE BENEFIT PAYMENTS, INCLUDING THE CLAIMANT'S RIGHT TO RECEIVE:

(I) WAGE REPLACEMENT PAYMENTS IN THE FORM OF TEMPORARY TOTAL DISABILITY PAYMENTS OR TEMPORARY PARTIAL DISABILITY PAYMENTS;

(II) PERMANENT IMPAIRMENT BENEFITS IF THE CLAIMANT IS LEFT WITH A PERMANENT IMPAIRMENT AS A RESULT OF A WORK-RELATED INJURY OR DISEASE;

(III) DISFIGUREMENT PAYMENTS FOR PERMANENT SCARRING OR DISFIGUREMENT CAUSED BY THE CLAIMANT'S WORK-RELATED INJURY OR SURGERY REQUIRED BECAUSE OF THE CLAIMANT'S WORK-RELATED INJURY; AND

(IV) MILEAGE EXPENSES FOR TRAVEL TO AND FROM WORK-RELATED

MEDICAL CARE AND TO AND FROM PHARMACIES TO OBTAIN MEDICAL PRESCRIPTIONS FOR WORK-RELATED MEDICAL CARE.

(d) A DESCRIPTION OF HOW THE CLAIMS PROCESS WORKS, INCLUDING:

(I) THE CLAIMANT'S RIGHT TO FILE A CLAIM FOR WORKERS' COMPENSATION WITH THE DIVISION WITHIN TWO YEARS AFTER THE DATE OF THE CLAIMANT'S INJURY OR OCCUPATIONAL DISEASE;

(II) THE CLAIMANT'S RIGHT TO RECEIVE A GENERAL ADMISSION OF LIABILITY OR NOTICE OF CONTEST ONCE THE CLAIM HAS BEEN PROPERLY REPORTED TO THE DIVISION;

(III) THE CLAIMANT'S RIGHT TO VERIFY THAT THE CLAIMANT'S AVERAGE WEEKLY WAGE PAYMENTS FOR TEMPORARY TOTAL DISABILITY HAVE BEEN PROPERLY CALCULATED BY THE CLAIMANT'S EMPLOYER OR THE EMPLOYER'S INSURANCE CARRIER;

(IV) THE CLAIMANT'S RIGHT TO PREHEARINGS AND HEARINGS ON DISPUTED ISSUES;

(V) THE CLAIMANT'S RIGHT TO PRESENT EVIDENCE, TESTIFY, INTRODUCE MEDICAL AND OTHER RECORDS, PRESENT WITNESSES, AND MAKE ARGUMENTS AT ANY HEARING;

(VI) THE CLAIMANT'S RIGHT TO OBJECT TO AND REQUEST A HEARING ON ANY FINAL ADMISSION OF LIABILITY WITHIN THIRTY DAYS AFTER THE MAILING OF THE ADMISSION IN ORDER TO RETAIN CERTAIN RIGHTS;

(VII) THE CLAIMANT'S RIGHT TO CHALLENGE A FINDING OF AN IMPAIRMENT RATING OR MAXIMUM MEDICAL IMPROVEMENT IN A FINAL ADMISSION OF LIABILITY WITHIN THIRTY DAYS AFTER THE MAILING OF THE ADMISSION IN ORDER TO RETAIN CERTAIN RIGHTS;

(VIII) THE CLAIMANT'S RIGHT TO PURSUE PENALTIES FOR VIOLATIONS OF THE LAW INCLUDING LATE PAYMENT OF BENEFITS OR IMPROPER REFUSAL TO PAY BENEFITS;

(IX) THE CLAIMANT'S RIGHT, SUBJECT TO CERTAIN REQUIREMENTS,

TO REOPEN A CLAIM WITHIN SIX YEARS AFTER THE DATE OF THE INJURY OR ILLNESS OR WITHIN TWO YEARS AFTER THE DATE OF THE LAST RECEIPT OF MEDICAL OR WAGE BENEFITS; AND

(X) A DESCRIPTION OF OTHER RIGHTS CONFERRED UPON A CLAIMANT PURSUANT TO LAW OR RULE.

SECTION 2. Appropriations in 2010 long bill to be adjusted.

For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2010, to the department of employment and training, division of workers' compensation, are decreased by eighteen thousand dollars (\$18,000) cash funds. Said sum shall be from the workers' compensation cash fund created in section 8-44-112 (7) (a), Colorado Revised Statutes.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO