

2009 Amendments to Colorado Workers' Compensation Statute

(Please note that these statutory amendments have different effective dates)

8-41-301 **Effective 7/1/09** **Amended** **SB-09-243**

Conditions of recovery. (2)(b) Notwithstanding any other provision of articles 40 to 47 of this title, where a claim is by reason of mental impairment, the claimant shall be limited to twelve weeks of medical impairment benefits, which shall be in an amount not less than one hundred fifty dollars per week and not more than fifty percent of the state average weekly wage, inclusive of any temporary disability benefits; EXCEPT THAT this limitation shall not apply to any victim of a crime of violence, without regard to the intent of the perpetrator of the crime, nor to the victim of a physical injury or occupational disease that causes neurological brain damage; AND NOTHING IN THIS SECTION SHALL LIMIT THE DETERMINATION OF THE PERCENTAGE OF IMPAIRMENT PURSUANT TO SECTION 8-42-107 (8) FOR THE PURPOSES OF ESTABLISHING THE APPLICABLE CAP ON BENEFITS PURSUANT TO SECTION 8-42-107.5

8-41-501 **Effective 7/1/09** **Amended** **HB-09-1260**

Persons presumed wholly dependent. (1)(a.5) A PERSON WHO IS DESIGNATED IN A DESIGNATED BENEFICIARY AGREEMENT FOR PURPOSES OF RECEIVING WORKERS' COMPENSATION BENEFITS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 22 OF TITLE 15, C.R.S., UNLESS IT IS SHOWN THAT THE DESIGNATED BENEFICIARY WAS VOLUNTARILY SEPARATED AND LIVING APART FROM THE OTHER DESIGNATED BENEFICIARY AT THE TIME OF THE INJURY OR DEATH OR WAS NOT DEPENDENT IN WHOLE OR IN PART ON THE DECEASED FOR SUPPORT;

8-42-101 **Effective 7/1/09** **Amended** **SB-09-243**

Employer must furnish medical aid - approval of plan - fee schedule - contracting for treatment - no recovery from employee - medical treatment guidelines - accreditation of physicians - rules - repeal. (3)(a)(I) The director shall establish a schedule fixing the fees for which all ~~medical~~, surgical, hospital, dental, nursing, vocational rehabilitation, and medical services, whether related to treatment or not, pertaining to injured employees under this section shall be compensated, and it is unlawful, void, and unenforceable as a debt for any physician, chiropractor, hospital, person, expert witness, reviewer, evaluator, or institution to contract with, bill, or charge any party for services, rendered in connection with injuries coming within the purview of this article or an applicable fee schedule, which are or may be in excess of said fee schedule unless such charges are approved by the director. Fee schedules shall be reviewed on or before July 1 of each year by the director, and appropriate health care practitioners shall be given a reasonable opportunity to be heard as required pursuant to section 24-4-103, C.R.S., prior to fixing the fees, impairment rating guidelines, which shall be based on the revised third edition of the "American Medical Association Guides to the Evaluation of Permanent Impairment", in effect as of July 1, 1991, and medical treatment guidelines and utilization standards. Fee schedules established pursuant to this subparagraph (I) shall take effect on January 1. The director shall promulgate rules concerning reporting requirements, penalties for failure to report correctly or in a timely manner, utilization control requirements for services provided under this section, and the accreditation process in subsection (3.6) of this section. THE FEE SCHEDULE SHALL APPLY TO ALL SURGICAL, HOSPITAL, DENTAL, NURSING, VOCATIONAL REHABILITATION, AND MEDICAL SERVICES, AND EXPERT WITNESS, EXPERT REVIEWER, OR EXPERT EVALUATOR SERVICES, WHETHER RELATED TO TREATMENT OR NOT, PROVIDED AFTER ANY FINAL ORDER, FINAL ADMISSION, OR FULL OR PARTIAL SETTLEMENT OF THE CLAIM.

8-42-105

Effective 8/5/09

Amended

SB-09-070

Temporary total disability. (2) (a) The first installment of compensation shall be paid no later than the ~~twentieth day after the insurance carrier or self-insured employer has written notice or knowledge of the claim, unless the claim is denied~~ DATE THAT LIABILITY FOR THE CLAIM IS ADMITTED BY THE INSURANCE CARRIER OR SELF-INSURED EMPLOYER. If the insurance carrier or self-insured employer denies liability for the claim, the claimant may request an expedited hearing on the issue of compensability if the application ~~therefor~~ is filed within forty-five days of AFTER the date of mailing of the notice of contest. The director shall set any such expedited matter for hearing within forty days of AFTER the date of the application, when the issue is liability for the disease or injury. The time schedule for such an expedited hearing is subject to the extensions set forth in section 8-43-209. If a claimant elects not to request an expedited hearing pursuant to this paragraph (a), the time schedule for hearing the matter shall be as set forth in section 8-43-209. Compensation shall be paid at least once every two weeks, except where the director determines that payment in installments should be made at some other interval. The director may by rule convert monthly benefit schedules to weekly or other periodic schedules.

8-42-107

Effective 7/1/09

Amended

SB-09-243

Permanent partial disability benefits - schedule - medical impairment benefits - how determined. (7)(b)(III) Mental or emotional stress shall be compensated pursuant to section 8-41-301 (2) and shall not be combined with a scheduled or a nonscheduled injury, EXCEPT FOR THE PURPOSES OF CALCULATING A CLAIMANT'S IMPAIRMENT RATING TO DETERMINE THE APPLICABLE CAP FOR BENEFITS PURSUANT TO SECTION 8-42-107.5.

8-42-107.2

Effective for claims filed on or after 8/5/09

New

SB-09-168

Selection of independent medical examiner - procedure - time - applicability. (3)(d) THE IME SHALL NEITHER CONTACT ANY OF THE AUTHORIZED TREATING PHYSICIANS NOR ANY EXAMINING OR REVIEWING PHYSICIAN, NOR REQUEST A CLAIMANT TO UNDERGO REPEAT TESTING WHEN THE TESTING RESULTS WERE VALID AND THE IME HAS RESOLVED ANY DISPARITY IN TESTING RESULTS.

8-42-107.5

Effective 7/1/09

Amended

SB-09-243

Limits on temporary disability payments and permanent partial disability payments. No claimant whose impairment rating is twenty-five percent or less may receive more than seventy-five thousand dollars from combined temporary disability payments and permanent partial disability payments. No claimant whose impairment rating is greater than twenty-five percent may receive more than one hundred fifty thousand dollars from combined temporary disability payments and permanent partial disability payments. FOR THE PURPOSES OF THIS SECTION, ANY MENTAL IMPAIRMENT RATING SHALL BE COMBINED WITH THE PHYSICAL IMPAIRMENT RATING TO ESTABLISH A CLAIMANT'S IMPAIRMENT RATING FOR DETERMINING THE APPLICABLE CAP.

8-42-111

Effective 8/5/09

Repealed

SB-09-070

Award for permanent total disability. (5) ~~For injuries occurring on and after July 1, 1991, and before July 1, 1994, compensation payable pursuant to this section shall cease when the employee reaches the age of sixty-five years.~~

8-42-113.5 Effective for claims filed on or after 8/5/09 New SB-09-168

Recovery of overpayments - notice required. (1)(b.5) AFTER THE FILING OF A FINAL ADMISSION OF LIABILITY, EXCEPT IN CASES OF FRAUD, ANY ATTEMPT TO RECOVER AN OVERPAYMENT SHALL BE ASSERTED WITHIN ONE YEAR AFTER THE TIME THE REQUESTOR KNEW OF THE EXISTENCE OF THE OVERPAYMENT.

8-43-201 Effective for claims filed on or after 8/5/09 Amended SB-09-168

Disputes arising under "Workers' Compensation Act of Colorado". The director and administrative law judges employed by the office of administrative courts in the department of personnel shall have original jurisdiction to hear and decide all matters arising under articles 40 to 47 of this title; except that the following principles shall apply: A claimant in a workers' compensation claim shall have the burden of proving entitlement to benefits by a preponderance of the evidence; the facts in a workers' compensation case shall not be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer; ~~and~~ a workers' compensation case shall be decided on its merits; AND A PARTY SEEKING TO MODIFY AN ISSUE DETERMINED BY A GENERAL OR FINAL ADMISSION, A SUMMARY ORDER, OR A FULL ORDER, SHALL BEAR THE BURDEN OF PROOF FOR ANY SUCH MODIFICATION.

8-43-203 Effective for claims filed on or after 8/5/09 Amended SB-09-168

Notice concerning liability - notice to claimant - rules. (2)(b)(II) An admission of liability for final payment of compensation shall include a statement that this is the final admission by the workers' compensation insurance carrier in the case, that the claimant may contest this admission if the claimant feels entitled to more compensation, to whom the claimant should provide written objection, and notice to the claimant that the case will be automatically closed as to the issues admitted in the final admission if the claimant does not, within thirty days after the date of the final admission, contest the final admission in writing and request a hearing on any disputed issues that are ripe for hearing, including the selection of an independent medical examiner pursuant to section 8-42-107.2 if an independent medical examination has not already been conducted. If an independent medical examination is requested pursuant to section 8-42-107.2, the claimant is not required to file a request for hearing on disputed issues that are ripe for hearing until ~~after completion of~~ the division's independent medical examination PROCESS IS TERMINATED FOR ANY REASON. ANY ISSUE FOR WHICH A HEARING OR AN APPLICATION FOR A HEARING IS PENDING AT THE TIME THAT THE FINAL ADMISSION OF LIABILITY IS FILED SHALL PROCEED TO THE HEARING WITHOUT THE NEED FOR THE APPLICANT TO REFILE AN APPLICATION FOR HEARING ON THE ISSUE. This information shall also be included in the admission of liability for final payment of compensation. The respondents shall have thirty days after the date of mailing of the report from the division's independent medical examiner to file a revised final admission or to file an application for hearing. The claimant shall have thirty days after the date respondents file the revised final admission or application for hearing to file an application for hearing, or a response to the respondents' application for hearing, as applicable, on any disputed issues that are ripe for hearing. The revised final admission shall contain the statement required by this subparagraph (II) and the provisions relating to contesting the revised final admission shall apply. When the final admission is predicated upon medical reports, such reports shall accompany the final admission.

Petitions to review. (2) Any party dissatisfied with an order ~~which~~ THAT requires any party to pay a penalty or benefits or denies a claimant any benefit or penalty may file a petition to review with the ~~director~~ DIVISION, if the order was entered by the director, or ~~with the administrative law judge~~ at the ~~place indicated in the order~~ DENVER OFFICE OF THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL, if the order was entered by ~~the~~ AN administrative law judge, and serve the same by mail on all the parties. ~~Such~~ THE petition shall be filed within twenty days ~~from~~ AFTER the date of the certificate of mailing of the order, and, unless so filed, ~~such~~ THE order shall be final. The petition to review may be filed by mail, and shall be deemed filed upon the date of mailing, as determined by the certificate of mailing, ~~provided~~ IF the certificate of mailing indicates that the petition to review was mailed to the ~~appropriate administrative law judge~~ DIVISION or to the ~~director~~, if DENVER OFFICE OF THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL, AS appropriate. The petition to review shall be in writing and shall set forth in detail the particular errors and objections of the petitioner. A petitioner shall, at the same time, order any transcript relied upon for the petition to review, arrange with the hearing reporter to pay for the same, and notify opposing parties of the transcript ordered. Opposing parties shall have twenty days ~~from~~ AFTER the date of the certificate of mailing of the petition to review to order any other transcript not ordered by the petitioner and arrange with the hearing reporter to pay for the same.

(6) A party dissatisfied with a supplemental order may file a petition for review by the panel. ~~Such~~ THE petition shall be filed with the division IF THE SUPPLEMENTAL ORDER WAS ISSUED BY THE DIRECTOR, OR AT THE OFFICE OF THE ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL IF THE SUPPLEMENTAL ORDER WAS ISSUED BY AN ADMINISTRATIVE LAW JUDGE. THE PETITION SHALL BE FILED within twenty days ~~from~~ AFTER the date of the certificate of mailing of the supplemental order. The petition shall be in writing, shall set forth in detail the particular errors and objections relied upon, and shall be accompanied by a brief in support thereof. The petition and brief shall be mailed by petitioner to all other parties at the time the petition is filed. All parties, except the petitioner, shall be deemed opposing parties and shall have twenty days ~~from~~ AFTER the date of the certificate of mailing of the petition and brief to file with the division OR THE OFFICE OF ADMINISTRATIVE COURTS, AS APPROPRIATE, briefs in opposition to the petition.

(7) When any petition for review by the panel is filed, the division OR THE OFFICE OF ADMINISTRATIVE COURTS shall, when all briefs are submitted to ~~it~~ THE DIVISION OR OFFICE OF ADMINISTRATIVE COURTS or within fifteen days ~~of~~ AFTER the date briefs were due, certify and transmit the record to the industrial claim appeals office along with the petitions and briefs. The division shall simultaneously send notice to the parties including the date that the record has been transmitted to the industrial claim appeals office.

Examination - refusal - personal responsibility - physicians to testify and furnish results - definitions - rules. (2) The employee shall be entitled to have a physician, provided and paid for by the employee, present at any such examination. If an employee is examined by a chiropractor at the request of the employer, the employee shall be entitled to have a chiropractor provided and paid for by the employee present at any such examination. AFTER ANY EXAMINATION CONDUCTED UNDER THIS SECTION, THE EXAMINER SHALL PREPARE A WRITTEN REPORT GIVING A DESCRIPTION OF THE EXAMINATION PERFORMED, THE WRITTEN DOCUMENTS OR ANY OTHER

MATERIALS REVIEWED, AND ALL FINDINGS OR CONCLUSIONS OF THE EXAMINER. The employee shall ~~also~~ be entitled to receive from the examining physician or chiropractor a copy of any report ~~which said~~ THAT THE physician or chiropractor makes to the employer, insurer, or division upon ~~said~~ THE examination, ~~said~~ AND THE copy ~~to~~ SHALL be furnished to the employee at the same time it is furnished to the employer, insurer, or division. The employee shall also be entitled to receive reports from any physician selected by the employer to treat ~~said~~ THE employee upon the same terms and conditions and at the same time the reports are furnished by the physician to the employer. ALL SUCH EXAMINATIONS SHALL BE RECORDED IN AUDIO IN THEIR ENTIRETY AND RETAINED BY THE EXAMINING PHYSICIAN UNTIL REQUESTED BY ANY PARTY. PRIOR TO COMMENCING THE AUDIO RECORDING, THE EXAMINING PHYSICIAN SHALL DISCLOSE TO THE EMPLOYEE THE FACT THAT THE EXAM IS BEING RECORDED. IF REQUESTED, AN EXACT COPY OF THE RECORDING SHALL BE PROVIDED TO THE PARTIES. NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO PREVENT ANY PARTY TO THE CLAIM FROM MAKING AN AUDIO RECORDING OF THE EXAMINATION. THE DIVISION SHALL PROMULGATE RULES REGARDING SUCH RECORDINGS THAT SHALL INCLUDE PROVISIONS FOR THE PROTECTION OF THE AUDIO RECORDINGS AND THE PRIVACY OF INFORMATION CONTAINED IN SUCH RECORDINGS. The employer shall be entitled to receive reports from any physician or chiropractor selected by the employee to treat or examine ~~said~~ THE employee in connection with such injury upon the same terms and at the same time the reports are furnished by the physician or chiropractor to the employee.

8-43-404

Effective 8/5/09

New

SB-09-243

Examination - refusal - personal responsibility - physicians to testify and furnish results - definitions. (9)(a) HEALTH CARE SERVICES PROVIDED SHALL BE DEEMED AUTHORIZED IF THE CLAIM IS FOUND TO BE COMPENSABLE WHEN:

(I) COMPENSABILITY OF A CLAIM IS INITIALLY DENIED;

(II) THE SERVICES OF THE PHYSICIAN SELECTED BY THE EMPLOYER ARE NOT TENDERED AT THE TIME OF THE INJURY; AND

(III) THE INJURED WORKER IS TREATED:

(A) AT A PUBLIC HEALTH FACILITY IN THE STATE;

(B) AT A PUBLIC HEALTH FACILITY WITHIN ONE HUNDRED FIFTY MILES OF THE RESIDENCE OF THE INJURED WORKER; OR

(C) THROUGH A PUBLICLY FUNDED PROGRAM.

(b) A CLAIMANT SHALL NOT BE LIABLE FOR PAYMENT FOR TREATMENT BY THE PROVIDER UNDER THIS SUBSECTION (9) IF THE TREATMENT IS REASONABLY NEEDED, AND RELATED TO THE INJURY.

8-43-409

Effective 8/5/09

Amended

SB-09-070

Defaulting employers - penalties - enjoined from continuing business - fines - procedure - definition. (2) A cease-and-desist order issued or fine imposed by the director under subsection (1) of this section shall include specific findings of fact that ~~are based upon evidence that~~ REFLECT:

- (a) The employer received notice of ~~the~~ A hearing, WHEN APPLICABLE;
- (b) The employer employs employees for whom it must carry workers' compensation insurance under the provisions of articles 40 to 47 of this title;
- (c) The employer does not or did not have a policy of workers' compensation insurance in effect; and
- (d) The employer continues or continued to operate its business in the absence of such coverage.

8-44-112 **Effective 4/20/09** **New** **SB-09-208**

Surcharge on workers' compensation insurance premiums - workers' compensation cash fund. (7)(c) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (7) TO THE CONTRARY, ON MARCH 30, 2009, THE STATE TREASURER SHALL DEDUCT FIFTEEN MILLION SEVEN HUNDRED THOUSAND DOLLARS FROM THE WORKERS' COMPENSATION CASH FUND AND TRANSFER SUCH SUM TO THE GENERAL FUND.

8-45-101 **Effective 6/1/09** **Amended** **SB-09-281**

Pinnacol Assurance - creation - powers and duties. (2)(c) The board shall have the powers, rights, and duties ~~of the board of directors of a domestic mutual insurance company~~, except as SET FORTH IN THIS ARTICLE AND otherwise provided by law.

8-45-121 **Effective 6/1/09** **Amended** **SB-09-281**

Visitation of fund by commissioner of insurance - annual audit - examination. (2) An annual FINANCIAL audit AND, IN 2009, A PERFORMANCE AUDIT of ~~said fund~~ PINNACOL ASSURANCE shall be made AS SOON AS PRACTICABLE by ~~an~~ THE STATE auditor, ~~or~~ SUCH AUDITS TO INCLUDE, BUT NOT BE LIMITED TO, EXECUTIVE COMPENSATION, PREMIUM RATE STRUCTURE, KNOWN LOSS RESERVES, INCURRED BUT NOT REPORTED LOSSES, AND INJURED WORKERS' CLAIMS EXPERIENCE. IN CONDUCTING SUCH AUDITS, THE STATE AUDITOR MAY EMPLOY A firm of auditors ~~having~~ AND ACTUARIES, OR BOTH, WITH the necessary specialized knowledge and experience. ~~retained by the state auditor with the consultation and advice of the chief executive officer and the commissioner of insurance.~~ The cost of such ANNUAL audit ~~and examination~~ shall be borne by the fund PAID FROM THE OPERATING FUNDS OF PINNACOL ASSURANCE. THE STATE AUDITOR SHALL REPORT HIS OR HER FINDINGS FROM SUCH AUDITS, ALONG WITH ANY COMMENTS AND RECOMMENDATIONS TO THE GOVERNOR, THE GENERAL ASSEMBLY, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND THE COMMISSIONER OF INSURANCE. THE STATE AUDITOR SHALL HAVE CONTINUING AUTHORITY TO CONDUCT PERFORMANCE AUDITS OF PINNACOL ASSURANCE AS THE STATE AUDITOR DEEMS APPROPRIATE. THE COST OF PERFORMANCE AUDITS SHALL BE PAID FROM THE OPERATING FUNDS OF PINNACOL ASSURANCE.

Legislative interim committee on operation of Pinnacol Assurance - creation - members - study - report - repeal. (1) THERE IS HEREBY CREATED A LEGISLATIVE INTERIM COMMITTEE TO STUDY ISSUES RELATED TO PINNACOL ASSURANCE AS SET FORTH IN SUBSECTION (3) OF THIS SECTION.

(2)(a) THE MEMBERS OF THE INTERIM COMMITTEE SHALL CONSIST OF THE FOLLOWING SIXTEEN MEMBERS:

(I) FIVE MEMBERS OF THE SENATE, THREE APPOINTED BY THE PRESIDENT OF THE SENATE AND TWO APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(II) FIVE MEMBERS OF THE HOUSE OF REPRESENTATIVES, THREE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TWO APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(III) THE CHIEF EXECUTIVE OFFICER OF PINNACOL ASSURANCE, OR HIS OR HER DESIGNEE;

(IV) A MEMBER OF THE BOARD OF DIRECTORS OF PINNACOL ASSURANCE DESIGNATED BY SUCH BOARD;

(V) THE INSURANCE COMMISSIONER OR HIS OR HER DESIGNEE; AND

(VI) EACH OF THE FOLLOWING APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES:

(A) A POLICYHOLDER INSURED BY PINNACOL ASSURANCE;

(B) AN INJURED WORKER; AND

(C) A MEMBER OF THE PUBLIC WHO HAS KNOWLEDGE OF THE COLORADO WORKERS' COMPENSATION SYSTEM.

(b) THE CHAIR OF THE INTERIM COMMITTEE SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE FROM AMONG THE MEMBERS APPOINTED UNDER SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2). THE VICE-CHAIR OF THE INTERIM COMMITTEE SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FROM AMONG THE MEMBERS APPOINTED UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) THE INTERIM COMMITTEE SHALL STUDY, MAKE RECOMMENDATIONS, AND REPORT FINDINGS ON ALL MATTERS RELATING TO THE OPERATION OF PINNACOL ASSURANCE INCLUDING, BUT NOT LIMITED TO, BOTH THE FEASIBILITY OF THE CONTINUED OPERATION AND THE PUBLIC POLICY IMPLICATIONS OF PINNACOL ASSURANCE AS A DIVISION OF STATE GOVERNMENT OR THE FEASIBILITY AND PUBLIC POLICY IMPLICATIONS OF SELLING PINNACOL ASSURANCE TO A WILLING THIRD-PARTY BUYER.

(4) IN CONDUCTING ITS STUDY, THE INTERIM COMMITTEE IS AUTHORIZED TO UTILIZE THE PROVISIONS OF SECTIONS 2-2-313 TO 2-2-315, C.R.S., AND RULE 33 OF THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

(5) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL ASSIST THE INTERIM COMMITTEE IN ITS ACTIVITIES.

(6) THE INTERIM COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE LEGISLATIVE COUNCIL DURING THE 2009 INTERIM BY THE DATE SPECIFIED IN THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

(7) THE INTERIM COMMITTEE CREATED BY THIS SECTION IS SUBJECT TO THE PROVISIONS OF SECTION 2-3-303.3, C.R.S., WITH RESPECT TO THE CONDUCT OF ADDITIONAL INTERIM STUDIES.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

8-46-101

Effective 4/20/09

New

SB-09-208

Subsequent injury fund. (1.7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON MARCH 30, 2009, THE STATE TREASURER SHALL DEDUCT TWENTY-SIX MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE SUBSEQUENT INJURY FUND AND TRANSFER SUCH SUM TO THE GENERAL FUND.

8-46-102

Effective 8/5/09

Amended

SB-09-037

Funding for subsequent injury fund and major medical insurance fund.

(2)(a)(I) Notwithstanding ~~the provisions of sections 10-3-209 (1) (c) and 10- 6-128 (3), C.R.S.,~~ for the purpose of funding the financial liabilities of the subsequent injury fund pursuant to this section and of the major medical insurance fund pursuant to section 8-46-202, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier, including Pinnacol Assurance, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of articles 40 to 47 of this title shall, as provided in this subsection (2), be levied a tax upon the premiums received in this state, whether or not in cash, or on account of business done in this state for such insurance in this state at a rate ~~not to exceed three and one quarter percent until the balance in either or both funds exceeds the estimated actuarial present value of future claim payments~~ DETERMINED BY THE DIRECTOR TO GENERATE SUFFICIENT REVENUE FOR CLAIM PAYMENTS AND DIRECT AND INDIRECT COSTS OF ADMINISTRATION THAT ARE ANTICIPATED TO BE SUBMITTED IN THE FOLLOWING STATE FISCAL YEAR for which such ~~fund is~~ FUNDS ARE liable. ~~after which time said surcharge shall be reduced or eliminated, as the case may be, as determined by the director in accordance with subsection (3) of this section.~~ IN DETERMINING THE RATE, THE DIRECTOR SHALL, IN ADDITION TO REVENUE FOR CLAIM PAYMENTS AND DIRECT AND INDIRECT COSTS OF ADMINISTRATION THAT ARE ANTICIPATED TO BE DUE IN THE FOLLOWING STATE FISCAL YEAR, MAINTAIN A CASH BALANCE IN BOTH THE MAJOR MEDICAL INSURANCE FUND AND THE SUBSEQUENT INJURY FUND OF AN AMOUNT OF OTHERWISE UNRESTRICTED REVENUES EQUAL TO APPROXIMATELY ONE YEAR'S WORTH OF CLAIM PAYMENTS AND DIRECT AND INDIRECT ADMINISTRATIVE COSTS. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(3)(a) As determined by the director, a portion of the revenue received each year pursuant to subsection (2) of this section shall be deposited into the subsequent injury fund, established in

~~section 8-46-101 (1)(b), based upon the direct and indirect costs of administration of such fund and projections of benefit payments and settlements of benefit claims. The remaining revenue AND A PORTION shall be deposited into the major medical insurance fund, established in section 8-46-202 (1). IN ADDITION, THE DIRECTOR MAY MOVE REVENUE BETWEEN THE FUNDS WHEN THE DIRECTOR DETERMINES THAT DOING SO IS NECESSARY. THE DIRECTOR SHALL CONTINUE TO ESTABLISH A SURCHARGE RATE PURSUANT TO SUBSECTION (2) OF THIS SECTION until the balance in BOTH such fund exceeds the estimated actuarial present value of FUNDS IS SUFFICIENT TO MEET THE future claim payments plus the amount necessary to pay the direct and indirect costs of administration of the fund, at which time such revenue shall be deposited into the subsequent injury fund. Revenue shall continue to be deposited into the subsequent injury fund until the balance in such fund exceeds the estimated actuarial present value of future claim payments FUNDS, at which time the surcharge rate established in paragraph (a) of subsection (2) of this section shall be reduced to zero.~~

8-46-202

Effective 4/20/09

New

SB-09-208

Major medical insurance fund - tax imposed - returns. (1.6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON MARCH 30, 2009, THE STATE TREASURER SHALL DEDUCT SIXTY-NINE MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE MAJOR MEDICAL INSURANCE FUND AND TRANSFER SUCH SUM TO THE GENERAL FUND.

8-46-202

Effective 6/1/09

New

SB-09-279

Major medical insurance fund - tax imposed - returns. (1.7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON MARCH 31, 2010, THE STATE TREASURER SHALL DEDUCT TWENTY-SIX MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE MAJOR MEDICAL INSURANCE FUND AND TRANSFER SUCH SUM TO THE GENERAL FUND.

8-47-107

Effective 8/5/09

Amended

SB-09-070

Adoption of rules. The director has the power to adopt reasonable and proper rules relative to the administration of articles 40 to 47 of this title and proper rules to govern proceedings and hearings of the division, and the director has the discretion to amend the rules from time to time. No such rule shall limit the jurisdiction of an administrative law judge in the office of administrative courts to hear and decide all matters arising under articles 40 to 47 of this title; EXCEPT THAT IN ANY MATTER WHERE THE DIRECTOR HAS ISSUED AN ORDER TO ENFORCE A PROVISION OF THE "WORKERS' COMPENSATION ACT OF COLORADO", AN ADMINISTRATIVE LAW JUDGE IN THE OFFICE OF ADMINISTRATIVE COURTS SHALL NOT HEAR AND DECIDE THE SAME MATTER WHILE IT IS PENDING BEFORE THE DIRECTOR. The rules shall be promulgated in accordance with section 24-4-103, C.R.S.