



## Colorado Division of Workers' Compensation

2016

### *Legislative Advisory*

Legislation enacted by the 2016 General Assembly contained amendments to the Colorado Workers' Compensation Act of importance to practitioners. There are also a number of significant procedural changes of which claims handlers will want to take notice. The following reiteration will highlight changes that should be fully considered and implemented to ensure compliance. This is not intended to be an exhaustive summary.

#### [Senate Bill 16-217](#)

[Signed June 10, 2016; Effective July 1, 2016](#)

- Requires an admission of liability include an employer statement listing specific facts on which a fifty percent reduction in compensation is based, for alleged willful failure to:
    - use a safety device,
    - obey any reasonable safety rule; or
    - where it is alleged the employee willfully misled the employer concerning the employee's physical ability to perform the job and was subsequently injured as the result.
- [C.R.S. § 8-42-112 \(3\)](#)
- Affords any party the right to request an *expedited hearing* on whether compensation may be reduced by fifty percent, if an application is filed within 45 days after the date of the admission. The director is required to set the matter for hearing within 60 days after the date of the application though the schedule is subject to extensions set forth in section 8-43-209. Nothing precludes a party from submitting evidence at hearing or from requesting a non-expedited hearing in accordance with section 8-43-209. [C.R.S. § 8-42-112 \(4\),\(5\) & \(6\)](#)
  - Extends the time for the director to set an expedited hearing from 40 to 60 days after the application, where *liability for a claim is denied*. [C.R.S. § 8-43-203\(1\)\(a\)](#)
  - Treats the alleged failure of an employer to provide a list of medical providers from which the injured worker may select a treating physician in the first instance, as a basis for requesting an expedited hearing:
    - if the application is filed within 45 days *after the injured worker provides notice of the injury to the employer*, or
    - in the case where liability for the claim has been admitted, the application must be filed within 45 days *after the initial admission*.

The director is required to set the matter for hearing within 60 days after the date of the application though the schedule is subject to extensions set forth in section 8-43-209. Nothing precludes a party from requesting a non-expedited hearing in accordance with the time schedule set forth in section 8-43-209. [C.R.S. § 8-43-404\(5\)\(a\)\(I\)\(D\)& \(E\)](#)

- Amends the section in which an injured worker may request a change of physician in writing, to require:
  - that *the request be completed on a form prescribed by the director* (and if permission is neither granted or refused within 20 days, the insurer shall be deemed to have waived any objection to the request), and
  - that *an objection by the insurer shall be in writing on a form prescribed by the director* and shall be served on the injured worker or, if represented, on the injured worker's authorized representative, within 20 days after the certificate of service of the request form. [C.R.S. § 8-43-404\(5\)\(a\)\(VI\)\(A\)](#)
  - If the injured worker is permitted to change to a new authorized treating physician, primary care with the previously authorized physician will continue until the initial visit with the new authorized physician. At that time, primary care with the previously authorized physician will terminate. [C.R.S. § 8-43-404\(5\)\(a\)\(VI\)\(B\)](#)
  - The previously authorized treating physician is not precluded from performing an examination at the request of the insurer. [C.R.S. § 8-43-404\(5\)\(a\)\(VI\)\(C\)](#)
  - The opinion of the previously authorized treating physician regarding work restrictions and return to work controls unless that opinion is expressly modified by the newly authorized treating physician. [C.R.S. § 8-43-404\(5\)\(a\)\(VI\)\(D\)](#)

**Applicability:** The bill takes effect July 1, 2016, is procedural in nature, and applies to all claims regardless of the date of filing or the date of injury.

**Implementation:** Rule making by the Division of Workers' Compensation ("Division") may be indicated at a later date. The form to request a change of physician by the injured worker, and for the insurer to grant/object to the request, will be made available by the Division and distributed on-line, in person or on the website, prior to the effective date of the statute.

**Senate Bill 16-158**

[Signed June 1, 2016: Effective: August 10, 2016, unless a referendum petition is filed by that date](#)

- Defines "physician" for purposes of Level 1 Accreditation, to include a *Physician Assistant* licensed under the Colorado Medical Practice Act. In order for a Level 1 Accredited Physician Assistant to perform medical services requiring Level 1 accreditation, a Level 1 Accredited *Physician* must delegate the performance those services. [C.R.S. § 8-42-101\(3.5\)\(a\)\(I\)\(B\)](#)

**Applicability:** The bill takes effect August 10, 2016, unless a referendum petition is filed by that date, then it will not take effect unless approved by the people in a general election in November, 2016.

**Implementation:** Rule making by the Division may be indicated at a later date.

**Senate Bill 16-198**

[Signed June 8, 2016: Effective upon signature](#)

- Relieves workers' compensation insurance carriers of the requirement to provide a sample of forms of policies, riders, letters, and notices to the commissioner of insurance, (and certify that these documents comply with Colorado law), if the carrier uses unmodified forms prepared by a statutory advisory or rating organization. [C.R.S. § 8-44-102\(2\)\(a\)\(I\),\(II\)&\(III\)](#)
- Deems new or revised policy forms submitted by an advisory or rating organization on behalf of its members to be automatically adopted by the member carrier without modification. [C.R.S. § 8-44-102\(2\)\(b\)\(I\),\(II\)&\(III\)](#)

Applicability: Applies to all insurers authorized to provide workers' compensation insurance in the state and is effective upon signature.

Implementation: No rule making by the Division of Workers' Compensation is anticipated.

**House Bill 16-1323**

Signed April 22, 2016: Effective: August 10, 2016, unless a referendum petition is filed by that date

- Changes the name of the *Division of Labor* to the *Division of Labor Standards and Statistics* wherever referenced in the Colorado statutes. Specific reference is made to the creation of the Division of Workers' Compensation and the transfer of powers and duties on and after July 1, 1991. C.R.S. § 8-47-101(3),(5)&(6)

Applicability: The bill takes effect August 10, 2016, unless a referendum petition is filed by that date, then it will not take effect unless approved by the people in a general election in November, 2016.

Implementation: No rule making by the Division of Workers' Compensation is anticipated.