

# DEPARTMENT OF LABOR AND EMPLOYMENT

## Division of Workers' Compensation

7 CCR 1101-3

### WORKERS' COMPENSATION RULES OF PROCEDURE

#### **Rule 6      Modification, Termination or Suspension of Temporary Disability Benefits**

##### 6-1      TERMINATION OF TEMPORARY DISABILITY BENEFITS IN CLAIMS ARISING FROM INJURIES ON OR AFTER JULY 1, 1991

- (A)      In all claims based upon an injury or disease occurring on or after July 1, 1991, an insurer may terminate temporary disability benefits without a hearing by filing an admission of liability form with:
- (1)      a medical report from an authorized treating physician stating the claimant has reached maximum medical improvement; provided such admission of liability states a position on permanent disability benefits. This paragraph shall not apply in cases where vocational rehabilitation has been offered and accepted, or
  - (2)      a medical report from the authorized treating physician who has provided the primary care, stating the claimant is able to return to regular employment, or
  - (3)      a written report from an employer or the claimant stating the claimant has returned to work and setting forth the wages paid for the work to which the claimant has returned provided such admission of liability admits for temporary partial disability benefits, if any, or
  - (4)      a letter to the claimant or copy of a written offer delivered to the claimant with a signed certificate indicating service, containing both an offer of modified employment, setting forth duties, wages and hours and a statement from an authorized treating physician that the employment offered is within the claimant's physical restrictions. A copy of the written inquiry to the treating physician shall be provided to the claimant by the insurer or the insured at the time the authorized treating physician is asked to provide a statement on the claimant's capacity to perform the offered modified duty. The claimant is allowed a period of 3 business days to return to work in response to an offer of modified duty. The 3 business days runs from the date of receipt of the job offer. Such admission of liability shall admit for temporary partial disability benefits, if any, or
  - (5)      a copy of a certified letter to the claimant or a copy of a written notice delivered to the claimant with a signed certificate of service, advising that temporary disability benefits will be suspended for failure to appear at a rescheduled medical appointment with an authorized treating physician, and a statement from the authorized treating physician documenting the claimant's failure to appear, OR

- (6) a letter or death certificate advising of the death of the claimant with a statement by the insurer as to its liability for death benefits.

6-2 TERMINATION OF TEMPORARY DISABILITY BENEFITS BY AN ADMISSION OF LIABILITY IN CLAIMS ARISING AFTER JULY 2, 1987 AT 4:16 P.M. AND BEFORE JULY 1, 1991

- (A) In all claims based upon an injury or disease which occurred after July 2, 1987, at 4:16 p.m., an insurer may terminate disability benefits without a hearing by filing an admission of liability form with:
  - (1) a medical report from the authorized treating physician who has provided the primary care stating the claimant has reached maximum medical improvement; provided such admission of liability states a position on permanent disability benefits. This paragraph shall not apply in cases where vocational rehabilitation has been offered and accepted, or
  - (2) a medical report from the authorized treating physician who has provided the primary care stating the claimant is able to return to regular employment provided such admission of liability states a position on permanent partial disability benefits, or
  - (3) a written report from the employer or the claimant stating the claimant has returned to work and setting forth the wages paid for the work to which the claimant has returned; provided such admission of liability admits for temporary partial disability benefits, if any, or
  - (4) a letter or death certificate advising of the death of the claimant with a statement by the insurer as to its liability for death benefits.

6-3 TERMINATION OF TEMPORARY DISABILITY BENEFITS BY AN ADMISSION OF LIABILITY IN CLAIMS ARISING PRIOR TO JULY 2, 1987, AT 4:16 P.M.

- (A) In all claims based upon an injury or disease which occurred prior to July 2, 1987, at 4:16 p.m., an insurer may terminate temporary disability benefits without a hearing by filing an admission of liability form with:
  - (1) a report from the authorized treating physician who has provided the primary care stating the claimant has reached maximum medical improvement and is released to return to an occupation which the claimant regularly performed at the time of the injury, or
  - (2) a report from the authorized treating physician who has provided the primary care stating the claimant has reached maximum medical improvement and a Director's determination that the claimant is not eligible for vocational rehabilitation services, or
  - (3) a written report from the employer or the claimant stating the claimant has returned to work and setting forth the wages paid for the work to which the

claimant has returned; provided such admission admits for temporary partial disability benefits, if any, or

- (4) a letter or death certificate advising of the death of the claimant with a statement by the insurer as to its liability for death benefits, OR
- (5) a report from the authorized treating physician who has provided the primary care stating the claimant has reached maximum medical improvement and documentation the claimant has completed an approved vocational rehabilitation plan.

6-4 SUSPENSION, MODIFICATION OR TERMINATION OF TEMPORARY DISABILITY BENEFITS BY A PETITION

- (A) When an insurer seeks to suspend, modify or terminate temporary disability benefits pursuant to a provision of the Act, and Rules 6-1, 6-2, 6-3, 6-5, 6-6, 6-7 or 6-9 are not applicable, the insurer may file a petition to suspend, modify or terminate temporary disability benefits on a form prescribed by the Division. All documentation upon which the petition is based shall be attached to the petition. The petition shall indicate the type, amount and time period of compensation for which the petition has been filed and shall set forth the facts and law upon which the petitioner relies.
- (B) A copy of a response form prescribed by the Division shall be mailed with a copy of the petition to the claimant and claimant's attorney and the Division. Certification of this mailing shall be filed with the petition.
- (C) If the claimant does not file a written objection with the Division within twenty (20) days of the date of mailing of the petition and response form, the Director may grant the insurer's request to suspend, modify or terminate disability benefits as of the date of the petition.
- (D) When a claimant files a timely objection to a petition, the insurer shall continue temporary disability benefits at the previously admitted rate until an application for hearing is filed with the Office of Administrative Courts, and the matter is resolved by order. The Director finds that good cause exists to expedite a hearing to be held within forty (40) days from the date of the setting, because overpayment of benefits may result if the suspension, modification or termination is granted.
- (E) When a hearing is continued at the request of the claimant, the administrative law judge shall temporarily grant the relief requested in the petition, pending the continued hearing, if the reports and evidence attached to the petition and objection indicate a reasonable probability of success by the insurer. The continued hearing shall be held no later than 30 days from the date of the request for continuance.
- (F) When a hearing is continued at the request of the insurer, temporary disability benefits shall continue until the matter is resolved by order after the hearing.

6-5 MODIFICATION OF TEMPORARY DISABILITY BENEFITS PURSUANT TO STATUTORY OFFSET

An insurer may modify temporary disability benefits to offset social security, disability pension or similar benefits pursuant to statute by filing an admission of liability form with the Division, with documentation which substantiates the offset and figures showing how the amount of the offset was calculated pursuant to statute.

6-6 TERMINATION OR MODIFICATION OF TEMPORARY DISABILITY BENEFITS DUE TO CONFINEMENT

An insurer may terminate or modify temporary disability benefits pursuant to statute, by filing an admission of liability form with the Division with a certified copy of a mittimus, or other document issued by a court of criminal jurisdiction, which establishes that the claimant is confined in a jail, prison, or any department of corrections facility as a result of a criminal conviction.

6-7 TERMINATION OF TEMPORARY DISABILITY BENEFITS PURSUANT TO THIRD-PARTY SETTLEMENT

An insurer may terminate temporary disability benefits pursuant to statute, by filing an admission of liability form with the Division with a copy of a document substantiating the claimant received money damages from a third-party claim arising from the worker's compensation injury and the amount of the award that may be offset pursuant to §8-41-203, C.R.S. and case law.

6-8 FAILURE TO COMPLY WITH REQUIREMENTS OF RULE 6

- (A) Temporary disability benefits may not be suspended, modified or terminated except pursuant to the provisions of this rule or pursuant to an order from the Director under 6-4(C), or an order of the Office of Administrative Courts following a hearing.
- (B) If the Director concludes the insurer has not met the applicable requirements of this rule, the Director may order the insurer to continue payment of temporary disability benefits, pursuant to §§8-42-105(3) and 8-42-106(2), C.R.S., until the requirements of this rule are followed or until a hearing is held and further order entered.

6-9 TERMINATION OF TEMPORARY DISABILITY BENEFITS DUE TO FAILURE TO RESPOND TO AN OFFER OF MODIFIED EMPLOYMENT FROM A TEMPORARY HELP CONTRACTING FIRM IN CLAIMS FOR INJURIES OCCURRING ON OR AFTER JULY 1, 1996

- (A) An insurer may terminate temporary disability benefits by filing an admission of liability with:
  - (1) a copy of the initial written offer of modified employment provided to the claimant, which clearly states that future offers of employment need not be in writing, a description of the policy of the temporary help contracting firm regarding how and when employees are expected to learn of such future offers, and a statement that benefits shall be terminated if an employee fails to timely respond to an offer of modified employment;
  - (2) a written statement from the employer representative giving the date, time, and method of notification which forms the basis for the termination of temporary disability benefits; and

- (3) a statement from the attending physician that the employment offered is within the claimant's restrictions.
- (B) The claimant is allowed a period of at least twenty-four hours, not including any part of a Saturday, Sunday, or legal holiday within which to respond to any such offer.