

1 SENATE BILL NO. 270

2 INTRODUCED BY A. WITTICH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE APPEAL PROCESS FOR UNEMPLOYMENT
5 INSURANCE CLAIMS BY ALLOWING DIRECT FILING IN DISTRICT COURT; AND AMENDING SECTIONS
6 39-51-2402, 39-51-2403, 39-51-2405, AND 39-51-2407, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 39-51-2402, MCA, is amended to read:

11 **"39-51-2402. Determination -- redetermination -- appeal.** (1) The department shall promptly examine
12 a claim for benefits, and on the basis of the department's findings of fact, the department shall determine whether
13 or not the claim is valid. If the claim is valid, the department shall determine the week the benefits commence,
14 the weekly benefit amount payable, and the maximum benefit amount. The department may refer the claim or
15 any question involved in the claim to an appeals referee who shall make the decision on the claim in accordance
16 with the procedure prescribed in 39-51-2403. The department shall promptly notify the claimant and any other
17 interested party of its determination and the reasons for reaching the determination.

18 (2) The department may for good cause reconsider its determination and shall promptly notify the
19 claimant and other interested parties of the redetermination and the reasons for the redetermination.

20 (3) (a) A determination or redetermination is final unless an interested party entitled to notice of the
21 decision applies for reconsideration of the determination or appeals the decision within 10 days after the
22 notification was mailed to the interested party's last-known address. The appeal may be made to the department
23 or to a district court for a nonjury trial in the county in which the interested party resides. The 10-day period may
24 be extended for good cause.

25 (b) If an appeal is made directly to a district court, the case must be given precedence over all other civil
26 cases except cases arising under the workers' compensation laws of this state. The court shall hear the matter
27 de novo and may take testimony. The proceedings are summary proceedings, and the court's decision is final
28 unless appealed to the Montana supreme court.

29 (4) Except as provided in subsection (5), a redetermination of any issue of an original determination may
30 not be made after 2 years from the date of the original determination of that issue.

1 (5) A redetermination of any issue of an original determination may be made within 3 years from the date
2 of the original determination of that issue if the original determination was based on a false claim,
3 misrepresentation, or failure to disclose a material fact by the claimant or the employer."
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5 **Section 2.** Section 39-51-2403, MCA, is amended to read:

6 **"39-51-2403. Hearing -- decision of appeals referee.** Upon appeal to the department of a
7 determination or redetermination under 39-51-2402, an appeals referee shall hold a hearing, which may be
8 conducted by telephone or by videoconference. After the hearing, the appeals referee shall promptly make
9 findings and conclusions and affirm, modify, or reverse the department's determination or redetermination. Each
10 interested party must be promptly furnished a copy of the decision and the supporting findings and conclusions.
11 This decision is final unless further review is initiated pursuant to 39-51-2404 within 10 days after notification was
12 mailed to the interested party's last-known address. The 10-day period may be extended for good cause."
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14 **Section 3.** Section 39-51-2405, MCA, is amended to read:

15 **"39-51-2405. Prompt payment of claims.** (1) Benefits must be paid promptly in accordance with the
16 most recently issued:

- 17 (a) determination or redetermination under 39-51-2402;
18 (b) decision of an appeals referee under 39-51-2403;
19 (c) decision of the board under 39-51-2404; or
20 (d) decision of a reviewing court pursuant to a judicial review initiated under 39-51-2404 or a nonjury trial
21 as provided for in 39-51-2402.

22 (2) The filing of a request for redetermination, an appeal, ~~or~~ a request for judicial review, or a request
23 for a nonjury trial as provided for in 39-51-2402 may not delay or postpone the payment of benefits until the
24 determination, redetermination, or decision has been modified or reversed.

25 (3) An individual considered eligible to receive benefits must be paid promptly regardless of any further
26 appeal or disposition of an appeal that is not a final disposition of the case. An injunction, stay, writ, or other
27 process suspending the payment of benefits may not be issued by the board or a court until the final disposition
28 of the case."
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30 **Section 4.** Section 39-51-2407, MCA, is amended to read:

1 **"39-51-2407. Procedure for disputed claims to be prescribed by regulation -- conduct of hearing**
2 **or appeal.** (1) The manner in which disputed claims must be presented, the reports on disputed claims required
3 from the claimant and from employers, and the conduct of hearings and appeals under the department review
4 process must be in accordance with regulations prescribed by the department or the board for determining the
5 rights of the parties, whether or not the regulations conform to common law or statutory rules of evidence and
6 other technical rules or procedure.

7 (2) A hearing or appeal before the department may be conducted by telephone or by videoconference."
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