

SENATE BILL NO. 184

INTRODUCED BY F. MOORE, D. ANKNEY, D. BROWN, E. BUTTREY, P. CONNELL, S. FITZPATRICK, T. GAUTHIER, J. HINKLE, D. HOWARD, D. JONES, R. OSMUNDSON, K. REGIER, T. RICHMOND, D. SALOMON, J. SMALL, C. SMITH, N. SWANDAL, C. VINCENT, J. WELBORN, G. VANCE, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS TO ALLOW A WORKERS' COMPENSATION INSURER TO TERMINATE PAYMENT OF BENEFITS ON THE BASIS OF FRAUD, MISTAKE, OR RECEIPT OF EVIDENCE OF NONLIABILITY; AMENDING SECTION 39-71-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 39-71-609, MCA, is amended to read:

"39-71-609. Denial of claim after payments made or termination of all benefits or reduction to partial benefits by insurer -- 14-day notice required -- termination of payments based on fraud, mistake, or additional information -- criteria for conversion of benefits. (1) Except as provided in ~~subsection~~ subsections (2) and (3), if an insurer determines to deny a claim on which payments have been made under 39-71-608 during a time of further investigation or, after a claim has been accepted, terminates all biweekly compensation benefits, it may do so only after 14 days' written notice to the claimant, the claimant's authorized representative, if any, and the department. For injuries occurring prior to July 1, 1987, an insurer shall give 14 days' written notice to the claimant before reducing benefits from total to partial. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits may be terminated as of the time the claimant returned to work.

(2) After accepting a claim, an insurer may reverse its decision to accept the initial claim under 39-71-601 and terminate payment of compensation benefits if:

(a) the claim was accepted because of fraud or mutual mistake of a material fact; or

(b) the insurer receives clear and convincing evidence that the insurer was not liable for the compensation benefits.

~~(2)~~(3) Temporary total disability benefits may be terminated on the date that the worker has been released to return to work in some capacity. Unless the claimant is found, at maximum healing, to be without a

1 permanent physical impairment from the injury, the insurer, prior to converting temporary total disability benefits  
2 or temporary partial disability benefits to permanent partial disability benefits:  
3 (a) must have a physician's determination that the claimant has reached medical stability;  
4 (b) must have a physician's determination of the claimant's physical restrictions resulting from the  
5 industrial injury;  
6 (c) must have a physician's determination, based on the physician's knowledge of the claimant's job  
7 analysis prepared by a rehabilitation provider, that the claimant can return to work, with or without restrictions,  
8 on the job on which the claimant was injured or on another job for which the claimant is suited by age, education,  
9 work experience, and physical condition;  
10 (d) shall give notice to the claimant of the insurer's receipt of the report of the physician's determinations  
11 required pursuant to subsections ~~(2)(a)~~ (3)(a) through ~~(2)(e)~~ (3)(c). The notice must be attached to a copy of the  
12 report."  
13

14 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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