

House Bill 429

By: Representatives Bordeaux of the 125<sup>th</sup>, Bannister of the 70<sup>th</sup>, Post 1 and Ralston of the 6<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to  
2 workers' compensation, so as to delete the requirement that notice to nonresident parties be  
3 sent by certified mail; to change procedures regarding an employee's cooperation with  
4 authorized medical treatment; to provide that the granting or denial of social security  
5 disability creates no presumption in the determination of whether or not a case is deemed to  
6 be catastrophic; to provide time limitations on the submission of medical bills; to provide for  
7 when an employee is entitled to receive permanent partial disability benefits; to place the  
8 temporary total benefits maximum at \$425.00 per week and to place the minimum at \$42.50  
9 per week; to place the temporary partial benefits maximum at \$284.00 per week; to provide  
10 for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'  
14 compensation, is amended by striking subsection (j) of Code Section 34-9-102, relating to  
15 a hearing before the administrative law judge, and inserting in lieu thereof the following:

16 "*(j) Notice to nonresident party.*

17 (1) Any party subject to this chapter who is or who becomes a nonresident of this state  
18 at the time of or after the injury or death of an employee shall be deemed to have  
19 appointed irrevocably the executive director of the board as that party's agent for service  
20 of notice or any other process in any proceeding under this chapter.

21 (2) Any notice or process served on the executive director shall have the same legal  
22 effect as if served upon the nonresident party personally within the state.

23 (3) The executive director or his or her designated agent shall immediately ~~send~~ mail a  
24 copy of the notice or process ~~by certified mail or statutory overnight delivery~~ to the last  
25 known address of the nonresident party."

**SECTION 2.**

Said chapter is further amended by striking in its entirety subsection (c) of Code Section 34-9-200, relating to compensation for medical care, artificial members, and other treatment and supplies, and inserting in lieu thereof the following:

~~"(c) The refusal of the employee without reasonable cause to accept either medical, surgical, or hospital care or other treatment, as provided by this Code section, when ordered by the board, shall entitle the board in its discretion to suspend or reduce the compensation otherwise payable to such employee unless in the opinion of the board the circumstances justify the refusal, as determined in the manner provided under Code Section 34-9-100. The board may require recommendations from a panel of specialists in determining whether or not suspension or reduction of compensation is justified. As long as an employee is receiving compensation, he or she shall submit himself or herself to examination by the authorized treating physician at reasonable times. If the employee refuses to submit himself or herself to or in any way obstructs such an examination requested by and provided for by the employer, his or her right to compensation shall be suspended until such refusal or objection ceases and no compensation shall at any time be payable for the period of suspension unless in the opinion of the board the circumstances justify the refusal or obstruction."~~

**SECTION 3.**

Said chapter is further amended by striking paragraph (6) of subsection (g) of Code Section 34-9-200.1, relating to rehabilitation benefits, and inserting in lieu thereof the following:

~~"(6) Any other injury of a nature and severity that prevents the employee from being able to perform his or her prior work and any work available in substantial numbers within the national economy for which such employee is otherwise qualified. A decision granting or denying disability income benefits under Title II or supplemental security income benefits under Title XVI of the Social Security Act shall be admissible in evidence and the board shall give the evidence the consideration and deference due under the circumstances regarding the issue of whether the injury is a catastrophic injury; provided, however, that no presumption shall be created by any decision granting or denying disability income benefits under Title II or supplementary security income benefits under Title XVI of the Social Security Act."~~

**SECTION 4.**

Said chapter is further amended by striking paragraphs (2) and (3) of subsection (c) of Code Section 34-9-203, relating to an employer's pecuniary liability for medical charges, and inserting in lieu thereof the following:

1     "(2) The failure by the employee or the health care goods or services ~~provider's failure~~  
2     provider to include with its submission of charges any reports or other documents  
3     required by the board shall constitute a defense for the employer's or insurer's failure to  
4     pay the submitted charges within 30 days of receipt of the charges. However, if the  
5     employer or insurer fails to send the employee or the health care goods or services  
6     provider the requisite notice indicating a need for further documentation within 30 days  
7     of receipt of the charges, the employer and insurer will be deemed to have waived the  
8     right to defend a claim for failure to pay such charges in a timely fashion on the grounds  
9     that the charges were not appropriately accompanied by required reports. Such waiver  
10    shall not extend to any other defense the employer and insurer may have with respect to  
11    a claim of untimely payment.

12    (3) If any charges for health care goods or services are not paid when due, or any  
13    reimbursement for health care goods or services paid by the employee or any charges for  
14    mileage incurred by the employee are not paid when due, penalties shall be added to such  
15    charges and paid at the same time as and in addition to the charges claimed for the health  
16    care goods or services. For any payment of charges paid more than 30 days after their  
17    due date, but paid within 60 days of such date, there shall be added to such charges an  
18    amount equal to 10 percent of the charges. For any payment of charges paid more than  
19    60 days after their due date, but paid within 90 days of such date, there shall be added to  
20    such charges an amount equal to 20 percent of the charges. For any charges not paid  
21    within 90 days of their due date, in addition to the 20 percent add-on penalty, the  
22    employer or insurer shall pay interest on that combined sum in an amount equal to 12  
23    percent per annum from the ninety-first day after the date the charges were due until full  
24    payment is made. All such penalties and interest shall be paid to the provider of the  
25    health care goods or services."

## 26                                   **SECTION 5.**

27    Said chapter is further amended by striking subsection (a) of Code Section 34-9-240, relating  
28    to the effect of refusal of suitable employment by an injured employee, and inserting in lieu  
29    thereof the following:

30    "(a) If an injured employee refuses employment procured for him or her and suitable to his  
31    or her capacity, such employee shall not be entitled to any compensation, except benefits  
32    pursuant to Code Section 34-9-263, at any time during the continuance of such refusal  
33    unless in the opinion of the board such refusal was justified."

**SECTION 6.**

Said chapter is further amended by striking Code Section 34-9-261, relating to compensation for total disability, and inserting in lieu thereof the following:

"34-9-261.

While the disability to work resulting from an injury is temporarily total, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the employee's average weekly wage but not more than ~~\$400.00~~ \$425.00 per week nor less than ~~\$40.00~~ \$42.50 per week, except that when the weekly wage is below ~~\$40.00~~ \$42.50 the employer shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under this Code section shall be payable for a maximum period of 400 weeks from the date of injury; provided, however, in the event of a catastrophic injury as defined in subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall be paid until such time as the employee undergoes a change in condition for the better as provided in paragraph (1) of subsection (a) of Code Section 34-9-104."

**SECTION 7.**

Said chapter is further amended by striking Code Section 34-9-262, relating to compensation for temporary partial disability, and inserting in lieu thereof the following:

"34-9-262.

Except as otherwise provided in Code Section 34-9-263, where the disability to work resulting from the injury is partial in character but temporary in quality, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the difference between the average weekly wage before the injury and the average weekly wage the employee is able to earn thereafter, but not more than ~~\$268.00~~ \$284.00 per week for a period not exceeding 350 weeks from the date of injury."

**SECTION 8.**

All laws and parts of laws in conflict with this Act are repealed.