

Senate Bill 233

By: Senators Lamutt of the 21st, Golden of the 8th, Blich of the 7th and Balfour of the 9th

AS PASSED SENATE

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 a certain legislative intent; to provide for related matters; to repeal conflicting laws; and
 11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

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

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

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

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

24 (3) The executive director or his or her designated agent shall immediately ~~send~~ mail a
 25 copy of the notice or process ~~by certified mail or statutory overnight delivery~~ to the last
 26 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 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:

"(c)(1) All reasonable charges for medical, surgical, hospital, and pharmacy goods and services shall be payable by the employer or its workers' compensation insurer within 30 days from the date that the employer or the insurer receives the charges and reports required by the board. The employer or insurer shall, within 30 days after receipt of charges for health care goods or services, mail to the provider of such health care goods or services payment of such charges or a letter or other written notice that states the reasons the employer or insurer has for not paying the claim, either in whole or in part, and which also gives the person so notified a written itemization of any documents or other information needed to process the claim or any portion thereof.

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

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

1 payment is made. All such penalties and interest shall be paid to the provider of the
2 health care goods or services.

3 (4) Notwithstanding any other provisions of this subsection, if the employee or the
4 provider of healthcare goods or services fails to submit its charges to the employer or its
5 workers' compensation insurer within one year of the date of service of the issuance of
6 such goods or services, then the provider is deemed to have waived its right to collect
7 such charges from the employer, its workers' compensation insurer, and the employee."

8 SECTION 5.

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

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

16 SECTION 6.

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

19 "34-9-261.

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

30 SECTION 7.

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

1 "34-9-262.

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

8 **SECTION 8.**

9 It is the intent of the General Assembly that compensation benefits shall not be suspended
10 under subsection (c) of Code Section 34-9-200 as enacted by this Act without first obtaining
11 an order from the Board of Workers' Compensation authorizing such suspension of benefits.

12 **SECTION 9.**

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