

The Senate Insurance and Labor Committee offered the following substitute to HB 424:

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 provide a definition for the term "farm laborer"; to provide
3 for the applicability of Chapter 9 of Title 34; to provide for the dismissal of certain claims
4 in which no hearing has been held after a certain time period; to extend the period of time in
5 which the employer has to select a rehabilitation supplier; to specify that examinations of the
6 employee may include physical, psychiatric, and psychological examinations; to provide that
7 charges for prescriptions and charges for other items and services shall be subject to the
8 approval of the State Board of Workers' Compensation; to provide that the board may not
9 change any fee without detailed discussion with industry representatives; to increase the
10 weekly wage amounts for compensation for total disability; to increase the maximum weekly
11 benefit for compensation for temporary partial disability; to provide that the board shall
12 cooperate with insurers; to provide for related matters; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'
16 compensation, is amended by revising subsection (a) of Code Section 34-9-2, relating to the
17 applicability of the chapter to employers and employees, as follows:

18 "(a)(1) As used in this subsection, the term 'farm laborer' shall include, without
19 limitation, any person employed by an employer in connection with the raising and
20 feeding of and caring for wildlife, as such term is defined in paragraph (77) of Code
21 Section 27-1-2.

22 (2) This chapter shall not apply to common carriers by railroad engaged in intrastate
23 trade or commerce; nor shall this chapter be construed to lessen the liability of such
24 common carriers or take away or diminish any right that any employee of such common
25 carrier or, in case of his or her death, the personal representative of such employee may
26

1 have under the laws of this state; nor shall this chapter apply to employees whose
 2 employment is not in the usual course of trade, business, occupation, or profession of the
 3 employer or not incidental thereto; nor to farm laborers or domestic servants; nor to
 4 employers of such employees; nor to any person, firm, or private corporation, including
 5 any public service corporation, that has regularly in service less than three employees in
 6 the same business within this state, unless such employees and their employers
 7 voluntarily elect to be bound; nor to any person performing services as a licensed real
 8 estate salesperson or associate broker who has a written contract of employment
 9 providing that he or she shall perform all services as an independent contractor."

10 SECTION 2.

11 Said chapter is further amended by revising Code Section 34-9-100, relating to the filing of
 12 claims with the State Board of Workers' Compensation and the dismissal of stale claims, as
 13 follows:

14 "34-9-100.

15 (a) Subject to Code Section 34-9-82, a claim for compensation may be filed with the board
 16 at any time following an injury or death. The board and its administrative law judges shall
 17 have full authority to hear and determine all questions with respect to such claims.

18 (b) The board shall make or cause to be made any investigation or mediation it considers
 19 necessary and, upon its own motion or application of any interested party, order a hearing
 20 thereon and assign the claim to an administrative law judge for review. Furthermore, the
 21 board may direct the parties to participate in mediation conducted under the supervision
 22 and guidance of the board.

23 (c) ~~On or after July 1, 1985, a~~ Any application for hearing filed with the board pursuant
 24 to this Code section, on or after July 1, 1985, but prior to July 1, 2007, for which no
 25 hearing is conducted for a period of five years shall automatically stand dismissed.

26 (d)(1) For injuries occurring on or after July 1, 2007, any claim filed with the board for
 27 which neither medical nor income benefits have been paid shall stand dismissed with
 28 prejudice by operation of law if no hearing has been held within five years of the alleged
 29 date of injury.

30 (2) This subsection shall not apply to a claim for an occupational disease as defined in
 31 Code Section 34-9-280.

32 (3) The form provided by the board for use in filing a workers' compensation claim shall
 33 include notice of the provisions of this subsection.

34 (e) Any claim, notice, or appeal required by this chapter to be filed with the board shall be
 35 deemed filed on the earlier of:

36 (1) The ~~the~~ date such claim or notice is actually received by the board; or

1 (2) ~~The~~ the official postmark date such claim or notice was mailed to the board, properly
 2 addressed with postage prepaid, by registered or certified mail or statutory overnight
 3 delivery."

4 SECTION 3.

5 Said chapter is further amended by revising subsection (a) of Code Section 34-9-200.1,
 6 relating to rehabilitation benefits and rehabilitation suppliers, as follows:

7 "(a) In the event of a catastrophic injury, the employer shall furnish the employee entitled
 8 to benefits under this chapter with reasonable and necessary rehabilitation services. The
 9 employer either shall appoint a registered rehabilitation supplier or give reasons why
 10 rehabilitation is not necessary within 48 hours of the employer's acceptance of the injury
 11 as compensable or notification of a final determination of compensability, whichever
 12 occurs later. If it is determined that rehabilitation is required under this Code section, the
 13 employer shall have a period of ~~15~~ 20 days from the date of notification of that
 14 determination within which to select a rehabilitation supplier. If the employer fails to
 15 select a rehabilitation supplier within such time period, a rehabilitation supplier ~~will~~ shall
 16 be appointed by the board to provide services at the expense of the employer. The
 17 rehabilitation supplier appointed to a catastrophic injury case shall have the expertise
 18 which, in the judgment of the board, is necessary to provide rehabilitation services in such
 19 case."

20 SECTION 4.

21 Said chapter is further amended by revising subsections (a) and (e) of Code Section
 22 34-9-202, relating to an examination of an injured employee, as follows:

23 "(a) After an injury and as long as he claims compensation, the employee, if so requested
 24 by his or her employer, shall submit himself or herself to examination, at reasonable times
 25 and places, by a duly qualified physician or surgeon designated and paid by the employer
 26 or the board. Such examination may include physical, psychiatric, and psychological
 27 examinations."

28 "(e) Notwithstanding the rights afforded an employee under Code Section 34-9-201, the
 29 employee, after an accepted compensable injury and within 120 days of receipt of any
 30 income benefits, shall have the right to one examination at a reasonable time and place,
 31 within this state or within 50 miles of the employee's residence, by a duly qualified
 32 physician or surgeon designated by the employee and to be paid for by the employer. Such
 33 examination, of which the employer or insurer shall be notified in writing in advance, shall
 34 not repeat any diagnostic procedures which have been performed since the date of the
 35 employee's injury unless the costs of such diagnostic procedures which are in excess of

1 \$250.00 are paid for by a party other than the employer or the insurer. Such examination
 2 may include physical, psychiatric, and psychological examinations."

3 SECTION 5.

4 Said chapter is further amended by revising Code Section 34-9-205, relating to board
 5 approval of physician's fees, hospital, and other charges, as follows:

6 "34-9-205.

7 (a) Fees of physicians, ~~and~~ charges of hospitals, charges for prescription drugs, and
 8 charges for ~~and~~ other items and services under this chapter shall be subject to the approval
 9 of the State Board of Workers' Compensation. No physician, hospital, or other provider
 10 of services shall be entitled to collect any fee unless reports required by the board have
 11 been made.

12 (b) Annually, the board shall publish a list by geographical location of usual, customary,
 13 and reasonable charges for all medical services provided under subsection (a) of this Code
 14 section. The board may consult with medical specialists in preparing said list. Fees within
 15 this list shall be presumed reasonable. No physician or hospital or medical supplier shall
 16 bill the employee for authorized medical treatment; provided, however, that if an employee
 17 fails to notify a physician, hospital, or medical supplier that he or she is being treated for
 18 an injury covered by workers' compensation insurance, such provider of medical services
 19 shall not be civilly liable to any person for erroneous billing for such covered treatment if
 20 the billing error is corrected by the provider upon notice of the same. The board may
 21 require recommendations from a panel of appropriate peers of the physician or hospital or
 22 other authorized medical supplier in determining whether the fees submitted and necessity
 23 of services rendered were reasonable. The recommendations of the panel of appropriate
 24 peers shall be evidence of the reasonableness of fees and necessity of service which the
 25 board shall consider in its determinations.

26 (c) Any party requesting peer review pursuant to the provisions of this Code section shall
 27 pay to the board such filing costs for peer review as established by the board; provided,
 28 however, that the prevailing party in any peer review request shall be entitled to recover
 29 its filing costs, if any, from the party which does not prevail.

30 (d) Prior to the approval of fees by the State Board of Workers' Compensation, the
 31 Commissioner, through the Medical Advisory Council, shall consult with and take into
 32 consideration information and data provided from community stakeholders regarding
 33 appropriate rates of reimbursement for workers' compensation by holding public hearings
 34 and open comment periods. At no time shall the State Board of Workers' Compensation
 35 have the authority to make a fee schedule revision without detailed discussions with
 36 industry stakeholders."

