

House Bill 154

By: Representatives Hamilton of the 24th, Pruett of the 149th, Kirby of the 114th, Lindsey of the 54th, Fleming of the 121st, and others

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 change certain provisions relating to awards and benefits of
3 workers' compensation; to provide for a limitation period on medical benefits; to provide for
4 changes related to reimbursement of mileage charges; to provide for changes related to
5 interest on lump sum payments of compensation; to provide for changes related to benefits
6 for attempting work; to increase the compensation benefits for total disability and temporary
7 partial disability; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'
11 compensation, is amended by revising subsection (a) of Code Section 34-9-200, relating to
12 compensation for medical care, artificial members, and other treatment and supplies, effect
13 of employee's refusal of treatment, and employer's liability for temporary care, as follows:

14 "(a)(1) For all injuries occurring on or before June 30, 2013, and for injuries occurring
15 on or after July 1, 2013, designated as catastrophic injuries pursuant to subsection (g) of
16 Code Section 34-9-200.1, the ~~The~~ employer shall furnish the employee entitled to
17 benefits under this chapter such medical, surgical, and hospital care and other treatment,
18 items, and services which are prescribed by a licensed physician, including medical and
19 surgical supplies, artificial members, and prosthetic devices and aids damaged or
20 destroyed in a compensable accident, which in the judgment of the State Board of
21 Workers' Compensation shall be reasonably required and appear likely to effect a cure,
22 give relief, or restore the employee to suitable employment.

23 (2) For all injuries occurring on or after July 1, 2013, that are not designated as
24 catastrophic injuries pursuant to subsection (g) of Code Section 34-9-200.1, the employer
25 shall, for a maximum period of 400 weeks from the date of injury, furnish the employee
26

27 entitled to benefits under this chapter such medical, surgical, and hospital care and other
 28 treatment, items, and services which are prescribed by a licensed physician, including
 29 medical and surgical supplies, artificial members, and prosthetic devices and aids
 30 damaged or destroyed in a compensable accident, which in the judgment of the State
 31 Board of Workers' Compensation shall be reasonably required and appear likely to effect
 32 a cure, give relief, or restore the employee to suitable employment."

33 SECTION 2.

34 Said chapter is further amended by revising subsection (c) of Code Section 34-9-203, relating
 35 to employer's pecuniary liability for medical charges, liability for medical malpractice,
 36 payment of reasonable charges, inclusion of reports and documentation with charges, defense
 37 for failure to make payments, and penalties, as follows:

38 "(c)(1) All reasonable charges for medical, surgical, hospital, and pharmacy goods and
 39 services shall be payable by the employer or its workers' compensation insurer within 30
 40 days from the date that the employer or the insurer receives the charges and reports
 41 required by the board; provided, however, that the reimbursement for any charges for
 42 mileage incurred by the employee shall be paid within 15 days from the date that the
 43 employer or the insurer receives the charges and reports required by the board. The
 44 employer or insurer shall, within 30 days after receipt of charges and reports for health
 45 care goods or services or within 15 days after receipt of charges and reports for mileage
 46 incurred by the employee, mail to the provider of such health care goods or services or
 47 the employee who incurred the mileage the payment of such charges or a letter or other
 48 written notice that states the reasons the employer or insurer has for not paying the claim,
 49 either in whole or in part, and which also gives the person so notified a written
 50 itemization of any documents or other information needed to process the claim or any
 51 portion thereof.

52 (2) The failure by the employee or the health care goods or services provider to include
 53 with its submission of charges any reports or other documents required by the board shall
 54 constitute a defense for the employer's or insurer's failure to pay the submitted charges
 55 within 30 days of receipt of the charges for health care goods or services or within 15
 56 days of receipt of the charges for mileage incurred by the employee. However, if the
 57 employer or insurer fails to send the employee or the health care goods or services
 58 provider the requisite notice indicating a need for further documentation within 30 days
 59 of receipt of the charges for health care goods or services or within 15 days of receipt of
 60 the charges for mileage incurred by the employee, the employer and insurer ~~will~~ shall be
 61 deemed to have waived the right to defend a claim for failure to pay such charges in a
 62 timely fashion on the grounds that the charges were not appropriately accompanied by

63 required reports. Such waiver shall not extend to any other defense the employer and
64 insurer may have with respect to a claim of untimely payment.

65 (3) If any charges for health care goods or services are not paid when due, or any
66 reimbursement for health care goods or services paid by the employee or any charges for
67 mileage incurred by the employee are not paid when due, penalties shall be added to such
68 charges and paid at the same time as and in addition to the charges claimed for the health
69 care goods or services. For any payment of charges paid more than 30 days after their
70 due date, but paid within 60 days of such date, there shall be added to such charges an
71 amount equal to 10 percent of the charges. For any payment of charges paid more than
72 60 days after their due date, but paid within 90 days of such date, there shall be added to
73 such charges an amount equal to 20 percent of the charges. For any charges not paid
74 within 90 days of their due date, in addition to the 20 percent add-on penalty, the
75 employer or insurer shall pay interest on that combined sum in an amount equal to 12
76 percent per annum from the ninety-first day after the date the charges were due until full
77 payment is made. All such penalties and interest shall be paid to the provider of the
78 health care goods or services.

79 (4) Notwithstanding any other provision of this subsection, if the employee or the
80 provider of health care goods or services fails to submit its charges to the employer or its
81 workers' compensation insurer within one year of the date of service or the issuance of
82 such goods or services or, in the case of an employee, within one year of the date of
83 incurring of mileage expenses, then the provider is shall be deemed to have waived its
84 right to collect such charges from the employer, its workers' compensation insurer, and
85 the employee; and, in regard to mileage expenses, the employee is shall be deemed to
86 have waived his or her right to collect such charges from the employer or its workers'
87 compensation insurer."

88

SECTION 3.

89 Said chapter is further amended by revising Code Section 34-9-222, relating to lump sum
90 payment of all or part of compensation generally, as follows:

91 "34-9-222.

92 (a) Upon the application of any party when benefits have been continued for a period of
93 not less than 26 weeks, if the board determines that it is for the best interest of the claimant
94 to prevent extreme hardship or is essential to the rehabilitation of the claimant, the board
95 may order that the liability of the employer for future income benefits be discharged by the
96 payment of a lump sum equal to the sum of all future payments, reduced to their present
97 value upon the basis of interest calculated at 7 ½ percent per annum.

98 (b) Under the same requirements of subsection (a) of this Code section, the board may
 99 order the employer to make advance payments of a part of the future income benefits by
 100 payment of a lump sum equal to such part of future payments. The repayment of partial
 101 lump sum advance payments, together with interest of ~~7~~ 5 percent per annum, may be
 102 accomplished by reducing the period of payment or reducing the weekly benefit, or both,
 103 as may be directed by the board."

104 **SECTION 4.**

105 Said chapter is further amended by revising Code Section 34-9-240, relating to effect of
 106 refusal of suitable employment by injured employee and attempting or refusing to attempt
 107 work with restrictions, as follows:

108 "34-9-240.

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

113 (b) Notwithstanding the provisions of subsection (a) of this Code section, if the authorized
 114 treating physician releases an employee to return to work with restrictions and the
 115 employer tenders a suitable job to ~~the~~ such employee within those restrictions, then:

116 (1) If ~~the~~ such employee attempts the proffered job for eight cumulative hours or one
 117 scheduled workday, whichever is greater, but ~~and~~ is unable to perform the job for more
 118 than 15 working days, then weekly benefits shall be immediately reinstated, and the
 119 burden shall be upon the employer to prove that ~~the~~ such employee is not entitled to
 120 continuing benefits; or

121 (2) If ~~the~~ such employee attempts the proffered job for less than eight cumulative hours
 122 or one scheduled workday, whichever is greater, or refuses to attempt the proffered job,
 123 then the employer may unilaterally suspend benefits upon filing with the board the
 124 appropriate form with supporting documentation of the release to return to work with
 125 restrictions by the authorized treating physician, the tender of a suitable job within those
 126 restrictions, and a statement that ~~the~~ such employee did not attempt the proffered job.
 127 Under those circumstances, the burden shall shift to the employee to prove continuing
 128 entitlement to benefits."

129 **SECTION 5.**

130 Said chapter is further amended by revising Code Section 34-9-261, relating to compensation
 131 for total disability, as follows:

132 "34-9-261.

133 While the disability to work resulting from an injury is temporarily total, the employer shall
134 pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the
135 employee's average weekly wage but not more than ~~\$500.00~~ \$525.00 per week nor less
136 than \$50.00 per week, except that when the weekly wage is below \$50.00, the employer
137 shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under
138 this Code section shall be payable for a maximum period of 400 weeks from the date of
139 injury; provided, however, that in the event of a catastrophic injury as defined in
140 subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall
141 be paid until such time as the employee undergoes a change in condition for the better as
142 provided in paragraph (1) of subsection (a) of Code Section 34-9-104."

143 **SECTION 6.**

144 Said chapter is further amended by revising Code Section 34-9-262, relating to compensation
145 for temporary partial disability, as follows:

146 "34-9-262.

147 Except as otherwise provided in Code Section 34-9-263, where the disability to work
148 resulting from the injury is partial in character but temporary in quality, the employer shall
149 pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the
150 difference between the average weekly wage before the injury and the average weekly
151 wage the employee is able to earn thereafter but not more than ~~\$334.00~~ \$350.00 per week
152 for a period not exceeding 350 weeks from the date of injury."

153 **SECTION 7.**

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