

February 25, 2021- Meeting Recording

Link:

<https://us02web.zoom.us/rec/share/EhH5G71imEhy2fRzObHqPhP4ZBhlgyFimHh-Gg8pOpdLiApUya9edjikxWtgAdl.XnBkpl1IFp72GHP0>

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Proposed legislation- R.S. 23:1123

§1123. Disputes as to condition or capacity to work; additional medical opinion regarding an examination under supervision of the ~~secretary~~ workers' compensation judge

A. (1) If any dispute arises as to the condition of the employee, or the employee's capacity to work, the ~~assistant secretary~~ workers' compensation judge, upon application of any party, shall, at a scheduling conference, order an additional medical opinion regarding an examination of the employee to be made by a ~~medical practitioner~~ physician selected and appointed by the ~~assistant secretary~~ workers' compensation judge when no disputed claim for compensation has been filed.

(2) After a disputed claim for compensation has been filed, a workers' compensation judge may:

(a) Upon application of any party at the scheduling conference, order an additional medical opinion regarding the examination of the claimant to be made by a physician selected and appointed by the workers' compensation judge; or

(b) On his own motion, order any claimant appearing before him be examined by another physician.

(3) If both parties to the dispute agree on a choice of the physician to conduct the additional medical opinion as provided in this Subsection, they may present the choice to the workers' compensation judge who may appoint the chosen physician.

B. The ~~medical examiner~~ physician selected and appointed by the workers' compensation judge shall report his conclusions from the examination to the ~~assistant secretary~~ workers' compensation judge and to the parties and such report shall be prima facie evidence of the facts therein stated in any subsequent proceedings under this Chapter.

C. Neither the claimant nor the respondent in a hearing before the workers' compensation judge shall be permitted to introduce the testimony of more than two physicians where the evidence of any additional physician would be cumulative testimony.

D. In no circumstance shall a request for an additional medical opinion address causation.

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§1317.1. Additional medical opinion regarding medical examinations

A. Any party wishing to request an additional medical opinion regarding a medical examination of the claimant pursuant to R.S. 23:1123 ~~and 1124.1~~ shall be required to make its request at ~~or prior to the pretrial conference~~ the scheduling conference. Requests for additional medical opinions regarding medical examinations made after that time shall be denied except for good cause or if it is found to be in the best interest of justice to order such examination.

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Section 2. R.S. 23:1124.1 is hereby repealed in its entirety.

Elimination of certain paper reports

Section 1. R.S. 23:1306(A)(introductory paragraph) is hereby amended and reenacted

§1306. Employer reports

A. Within ten days of actual knowledge of injury resulting in death or in lost time in excess of one week after the injury or medical treatment, the employer shall send a report to the insurer, if any, on a form prescribed by the assistant secretary, providing the following information:

Section 2. R.S. 23:1292 is hereby repealed in its entirety

§1310.3. Initiation of claims; voluntary mediation; procedure

A. A claim for benefits, the controversion of entitlement to benefits, or other relief under the Workers' Compensation Act shall be initiated by the filing of the appropriate form with the office of workers' compensation administration. Mailing, facsimile transmission, or electronic transmission of the form and payment of the filing fee within ~~five~~ seven days of any such mailing or transmission constitutes the initiation of a claim under R.S. 23:1209.

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§1201.1. Controversion of compensation and medical benefits

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K.(1) The employer or payor shall, within ten calendar days of the mailing of the determination from the workers' compensation judge, do either of the following:

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(8)(a) Upon motion of either party, whether or not the employer or payor is entitled to a preliminary determination, the workers' compensation judge's ruling in a hearing shall be conducted as an expedited summary proceeding and shall be considered an order of the court and not requiring a further trial on the merits, if it concerns any of the following matters:

(i) The employee has sought choice of physician or seeks to change physician pursuant to R.S. 23:1121(B)(1).

(ii) The employee has filed a claim pursuant to R.S. 23:1226(B)(3)(a).

(iii) The employer or payor seeks to compel the employee to sign the choice of physician form pursuant to R.S. 23:1121(B)(5).

(iv) The employer or payor seeks to compel the employee's submission to a medical examination pursuant to R.S. 23:1124.

(v) The employer seeks to require the employee to return form LWC-1025 or LWC-1020.

(vi) The employee seeks to have a suspension of benefits for failure to comply with R.S. 23:1121(B)(1) lifted.

(vii) The employee seeks to have a suspension of benefits for failure to submit to a medical examination lifted.

(viii) The employee seeks to have a suspension of benefits for failure to comply with R.S. 23:1208(H) lifted.

(ix) The employee seeks to have a reduction in benefits for failure to cooperate with vocational rehabilitation lifted.

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Title 40:5533 General

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F. The court shall have available a list of attorneys, compiled by the ~~director~~ workers' compensation judge, who have indicated a willingness to handle workers' compensation matters.