
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-86, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§386-86~~ **Proceedings upon claim; hearings.** (a) If a
4 claim for compensation is made, the director shall [~~make such~~
5 ~~further investigation as deemed necessary~~] investigate the facts
6 surrounding the claim and render a decision in writing within
7 sixty days after the conclusion of the hearing awarding or
8 denying compensation, stating the findings of fact and
9 conclusions of law. The director may extend the due date for
10 decisions for good cause provided all parties agree. The
11 decision shall be filed with the record of the proceedings and a
12 copy of the decision shall be sent immediately to each party.

13 (b) When the employer denies compensability or indicates
14 compensability is not accepted, the employer, within thirty
15 calendar days of the employer's denial of, or indication to not
16 accept, compensability, which includes the period of time that
17 the employer is conducting any internal investigation, shall
18 submit a written report to the director and the claimant that



1 describes the employer's internal investigation and supporting
2 details that substantiate the employer's denial of, or
3 indication to not accept, compensability. The due date for the
4 employer's written report shall not be extended.

5 [~~(b)~~] (c) The hearing shall be informal and shall afford
6 the parties a full and fair opportunity to present the facts and
7 evidence to be considered. Hearings under this section shall
8 not be subject to chapter 91. No stenographic or tape recording
9 shall be allowed.

10 [~~(e)~~] (d) The order of presentation shall not alter the
11 burden of proof, including the burden of producing evidence and
12 the burden of persuasion. The party or parties who bear these
13 burdens shall be determined by law consistent with the purposes
14 of this section.

15 [~~(d) —Should~~] (e) If the injured employee or injured
16 employee's representative, or the employer or employer's
17 representative fail to appear at the hearing, the director may
18 issue a decision based on the information on file. The decision
19 shall be final unless appealed pursuant to section 386-87. In
20 all other circumstances, a decision shall not be rendered by the
21 director without a hearing, which may not be waived by the
22 parties.



1 [~~(e)~~] (f) For the purpose of obtaining any matter, not
2 privileged, which is relevant to the subject matter involved in
3 the pending action, the director, upon application and for good
4 cause shown, may order the taking of relevant testimony by
5 deposition, upon oral examination, or written interrogatories,
6 or by other means of discovery in the manner and effect
7 prescribed by the Hawaii rules of civil procedure; provided that
8 when the claimant's deposition is taken, the employer shall pay
9 for the cost to the claimant of attending the deposition, any
10 costs associated with having the deposition transcribed and
11 copied, and any and all reasonable attorney's fees and costs
12 incurred by the claimant with respect to the deposition.

13 [~~(f)~~] (g) Subpoenas requiring the attendance of witnesses
14 at a hearing before a hearings officer or for the taking of a
15 deposition or the production of documentary evidence from any
16 place within the State at any designated place of hearing may be
17 issued by the director or a duly authorized representative. The
18 employer shall serve a claimant with a copy of a medical record
19 subpoena unless the employer has previously obtained the
20 claimant's authorization to examine the claimant's medical
21 records. Should the claimant subpoena medical records, the
22 employer shall be served a copy. The party subpoenaing the



1 records shall provide these records within fifteen calendar days
2 of their receipt to the employer, claimant, and the special
3 compensation fund if a joinder has been filed, or their
4 representatives. These records shall be submitted by the party
5 requesting the subpoena to the director within seven calendar
6 days of the date of the notice of hearing or upon request by the
7 director. A party who desires to enforce the director's
8 subpoena shall seek enforcement from a court of competent
9 jurisdiction."

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Karl Rhoads

JAN 21 2011



Report Title:

Workers' Compensation; Claim Proceedings; Employer Report

Description:

Requires an employer who denies a workers' compensation claim, or indicates compensability is not accepted, to submit a written report to DLIR and the claimant that describes the employer's investigation of the claim.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

