
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The legislature finds that injured workers lack
2 the incentive to return to part-time work because the law does
3 not require employers to timely pay the injured workers
4 temporary partial disability benefits. When injured workers do
5 not return to part-time work, the costs of doing business
6 increase.

7 The legislature further finds that disabled workers are
8 often unfairly denied disability benefits because their
9 physicians do not complete and sign a specialized form that
10 certifies that the injured worker is entitled to compensation.
11 In addition, temporary total disability and temporary partial
12 disability benefits are treated differently under the law even
13 though both types of benefits are deemed compensation under
14 section 386-1, Hawaii Revised Statutes.

15 The purpose of this Act is to provide a more uniform
16 application of workers' compensation case law and statutory
17 entitlements that are due to disabled employees.



1 SECTION 2. Section 386-92, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§386-92 Default in payments of compensation, penalty.

4 (a) If any compensation payable under the terms of a final
5 decision or judgment is not paid by a self-insured employer or
6 an insurance carrier within thirty-one days after it becomes
7 due, as provided by the final decision or judgment, or if any
8 temporary total disability benefits are not paid by the employer
9 or carrier within ten days, exclusive of Saturdays, Sundays, and
10 holidays, after the employer or carrier has been notified of the
11 disability, and where the right to benefits are not controverted
12 in the employer's initial report of industrial injury or where
13 temporary total disability benefits are terminated in violation
14 of section 386-31, there shall be added to the unpaid
15 compensation an amount equal to twenty per cent thereof payable
16 at the same time as, but in addition to, the compensation,
17 unless the nonpayment is excused by the director after a showing
18 by the employer or insurance carrier that the payment of the
19 compensation could not be made on the date prescribed therefor
20 owing to the conditions over which the employer or carrier had
21 no control.



1 (b) An employee's eligibility for temporary total
2 disability benefits or temporary partial disability benefits
3 shall be determined by certification from the employee's primary
4 care physician every thirty days or by an examination of the
5 employee's available medical records by a physician who has been
6 involved in the employee's treatment if the employee's primary
7 care physician is not available. The failure of an employee's
8 primary care physician to certify the dates of disability in an
9 interim report, as required under section 386-96, shall not
10 disqualify the employee from receiving temporary total
11 disability benefits or temporary partial disability benefits.
12 Contemporaneous certification of an employee's disability status
13 may be waived and retroactive certification of disability can be
14 allowed; provided that the disability is certified by the
15 employee's primary care physician or another physician who has
16 been involved in the employee's treatment and has an opportunity
17 to examine the employee's previous medical records in the
18 current pending claim. Retroactive certification of disability
19 may be requested for the entire claim. This subsection shall
20 apply only during the period that an employee's injuries have
21 not reached medical stabilization or the employee is enrolled in
22 the vocational rehabilitation process."



- 1 SECTION 3. New statutory material is underscored.
- 2 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Workers' Compensation; Eligibility Determination

Description:

Amends workers' compensation law for temporary total and partial disability benefits through certification by a physician. Allows for contemporaneous certification and retroactive certification of disability status. Applies only during the period that injuries have not reached medical stabilization or enrollment in a vocational rehabilitation process. (HB679 HD1)

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