

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1672

By: Pettigrew

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 41, as amended by Section 9, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1996, Section 41), which relates to the Workers' Compensation Act; requiring periodic payments of attorney fees in certain circumstances; requiring claimants to provide certain information; requiring certain medical records to be open for review by certain persons; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 41, as amended by Section 9, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1996, Section 41), is amended to read as follows:

Section 41. Awards for permanent partial disability under Section 22 of this title shall be made for the total number of weeks of compensation which the Court shall find the claimant will be entitled to receive, less any sums previously paid which the Court may find to be a proper credit thereon. When the award becomes final, the whole sum or any unpaid portion thereof shall operate as

a final adjudicated obligation and payment thereof may be enforced by the claimant or in case of ~~his~~ the claimant's death, by the surviving beneficiary entitled to the proceeds as provided in Section 48 of this title. All awards shall be paid by periodic installments as determined by the Court. Whenever an injured person receives an award for permanent partial disability, permanent total disability or death benefits, the injured employee or claimant, for good cause shown, may have the award commuted to a lump-sum payment by permission of the Court. This authorization for commutation shall not be applicable to attorney fees in permanent total disability cases. The lump-sum payment shall not exceed Four Thousand Dollars (\$4,000.00) or twenty-five percent (25%) of the total award, whichever is the larger sum. Attorney fees shall be based upon not more than a five-hundred-week award and, with respect to attorney fees in a permanent total disability case or any case in which the award is paid in periodic installments, shall be paid periodically. Such commutation shall be in addition to any commutation to a lump-sum payment for legal services. The balance of the total award shall be paid in periodic installments. In case of the death of a claimant due to causes other than ~~his~~ the claimant's accidental personal injury or occupational disease at any time before satisfaction or payment of the total award is made, the award shall not abate, but shall be revived in favor of the persons determined by the Court to be entitled thereto. In proceedings to enforce claims for compensation during a period of healing or temporary total disability, the compensation under the provisions of the Workers' Compensation Act shall be payable periodically, in accordance with the method of payment of the wages of the employee at the time of his injury, and shall be so provided for in any award made.

B. Awards for permanent total disability shall be made by the Court under Section 22 of this title. The Court shall make a

determination that the claimant will be entitled to receive the weekly income benefits provided in this title as long as his permanent total disability continues to exist. When an award for total permanent disability becomes final, the accrued portion thereof shall operate as a final adjudicated obligation and payment thereof may be enforced by the claimant. In proceedings to enforce claims for total permanent disability, the compensation under the provisions of the Workers' Compensation Act shall be payable periodically and shall be so provided in any award made thereon. Total permanent disability awards shall not be commuted to a lump-sum payment.

C. All payments shall be made on any award in the manner and form prescribed by the Court not to exceed the weekly rate of compensation specified in Section 22 of this title, and employers and insurance carriers shall, for such purposes, be permitted, or when necessary to protect the interests of the beneficiary, may be required to make deposits with the Administrator to secure the prompt and convenient payment of awards made. Provided that, all weekly or periodic payments shall be made through the use of United States legal tender, negotiable instruments payable on demand or negotiable drafts when each such payment does not exceed One Thousand Dollars (\$1,000.00). Failure for ten (10) days to pay any final award or any portion thereof, as ordered shall immediately entitle the beneficiary to an order finding the respondent and/or insurance carrier to be in default and all unpaid portions, including future periodic installments unpaid, shall immediately become due and may be immediately enforced as provided by Section 42 of this title.

An award for disability may be made after the death of the injured employee, when death results from causes other than the injury. If an employee dies as a result of a compensable injury or

an occupational disease, any unaccrued portions of an award or order shall abate.

D. Attorney fees shall be paid in periodic installments in any case in which the award is paid in periodic installments.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27.2 of Title 85, unless there is created a duplication in numbering, reads as follows:

After a claim for compensation is submitted pursuant to Section 26 of Title 85 of the Oklahoma Statutes, the claimant shall submit a report to the Court of all previous relevant or contributory injuries with a detailed description of the present injury. The medical records for all previous relevant or contributory injuries shall be open for review by the insurance carrier, the State Insurance Fund, a group self-insurance plan, or self-insured employer involved in the claim for compensation.

SECTION 3. This act shall become effective November 1, 1997.

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