STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1300 By: Settle

COMMITTEE SUBSTITUTE

An Act relating to workers' compensation; amending 85 O.S. 1991, Sections 3.5 and 16, as last amended by Section 7, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1998, Section 16), which relate to workers' compensation; clarifying hearing venues; adding authorization for certain employees to receive benefits during time spent in a retraining or job placement program; and providing an effective date.

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

SECTION 1. AMENDATORY 85 O.S. 1991, Section 3.5, is amended to read as follows:

Section 3.5 The claimant at the time of filing ~~his~~ a notice of injury shall elect where necessary hearings by the Court shall be held~~; provided, that if the claimant is a legal resident of the State of Oklahoma, he shall be required to elect either the judicial district of the county of his legal residence at the time he sustained his injury, the judicial district of the county where the injury occurred or the judicial district of the county of the principal place of business of the employer. In the event that the claimant is not a legal resident of the State of Oklahoma, the necessary hearings shall be held in the judicial district of the county of the principal place of business of the employer; provided, that if the injury occurred within the state, the hearings shall be held in the judicial district of the county where the injury occurred. In the event the claimant is not a legal resident of the State of Oklahoma and the accident resulting in injury occurred~~

~~outside the territorial limits of the state, then the hearings shall be held in the judicial district of the county in this state wherein the contract of employment was entered into~~. The claimant may elect either Oklahoma City or Tulsa. An employer may object to the location selected by the claimant and request a transfer if the employer will have at least two live witnesses at the hearing and the judge determines that good cause has been shown to transfer the hearing. After the election has been made ~~as provided above~~, all future hearings by the Court affecting the claimant's case shall be held ~~in the judicial district so designated~~ at the location determined as provided for in this section unless the Court, upon agreement by the claimant and the employer, ~~shall transfer~~ transfers such cause for hearing to ~~any other judicial district agreed upon~~ another location. ~~In addition, hearings may be held in any jurisdiction if the Judge determines that good cause has been shown.~~

SECTION 2. AMENDATORY 85 O.S. 1991, Section 16, as last amended by Section 7, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1998, Section 16), is amended to read as follows:

Section 16. A. An employee who has suffered an accidental injury or occupational disease covered by the Workers' Compensation Act shall be entitled to prompt and reasonable physical rehabilitation services. When, as a result of the injury, the employee is unable to perform the same occupational duties he was performing prior to the injury, he shall be entitled to such vocational rehabilitation services provided by an area vocational-technical school, a public vocational skills center or public secondary school offering vocational-technical education courses, or a member institution of The Oklahoma State System of Higher Education, which shall include retraining and job placement so as to restore him to gainful employment. No person shall be adjudicated to be permanently and totally disabled unless first having been evaluated as to the practicability of restoration to gainful

employment through vocational rehabilitation services or training. If an employee claiming permanent total disability status unreasonably refuses to be evaluated or to accept vocational rehabilitation services or training, permanent total disability benefits shall not be awarded during the period of such refusal, and the employee shall be limited to permanent partial disability benefits only. The Administrator shall promulgate rules governing notice to an injured employee of the right to receive vocational rehabilitation. If rehabilitation services are not voluntarily offered by the employer and accepted by the employee, the judge of the Court may on his own motion, or if requested by a party may, after affording all parties an opportunity to be heard, refer the employee to a qualified physician or facility for evaluation of the practicability of, need for and kind of rehabilitation services or training necessary and appropriate in order to restore the employee to gainful employment. The cost of the evaluation shall be paid by the employer. Following the evaluation, if the employee refuses the services or training ordered by the court, or fails to complete in good faith the vocational rehabilitation training ordered by the court, then the cost of the evaluation and services or training rendered may, in the discretion of the court, be deducted from any award of benefits to the employee which remains unpaid by the employer. Upon receipt of such report, and after affording all parties an opportunity to be heard, the Court shall order that any rehabilitation services or training, recommended in the report, or such other rehabilitation services or training as the Court may deem necessary, provided the employee elects to receive such services, shall be provided at the expense of the employer. Except as otherwise provided in this subsection, refusal to accept rehabilitation services by the employee shall in no way diminish any benefits allowable to an employee.

B. Vocational rehabilitation services or training shall not extend for a period of more than fifty-two (52) weeks. This period may be extended for an additional fifty-two (52) weeks or portion thereof by special order of the Court, after affording the interested parties an opportunity to be heard. A request for vocational rehabilitation services or training may be filed with the Administrator by an interested party at any time after the date of injury but not later than sixty (60) days from the date of the final determination that permanent partial disability benefits are payable to the employee.

C. Where rehabilitation requires residence at or near the facility or institution which is away from the employee's customary residence, reasonable cost of his board, lodging, travel, tuition, books and necessary equipment in training shall be paid for by the insurer in addition to weekly compensation benefits to which the employee is otherwise entitled under the Workers' Compensation Act.

D. 1. During the period when an employee is actively participating in a retraining or job placement program for purposes of evaluating permanent total disability status, the employee shall be entitled to receive benefits at the same rate as the employee's temporary total disability benefits computed pursuant to Section 22 of this title.

2. An employee determined to be permanently and partially disabled or who is eligible for permanent partial disability benefits shall be entitled to receive benefits at the same rate as the employee’s temporary total disability benefits computed pursuant to Section 22 of this title during the period when the employee is actively participating in a retraining or job placement program authorized by the court or the employer. No compensation for permanent partial disability shall be payable during the pendency of the active participation of the employee in such retraining or job placement program. The period within which vocational

rehabilitation services or training may be requested is governed by subsection B of this section.

3. No attorney fees shall be awarded or deducted from such benefits received during this period. All tuition related to vocational rehabilitation services shall be paid by the employer or the ~~employer's~~ insurer of the employee on a periodic basis directly to the facility providing the vocational rehabilitation services or training to the employee.

SECTION 3. This act shall become effective November 1, 1999.

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