

1                                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2   STATE OF OKLAHOMA

3   1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1347

By: Rousselot

7  
8   COMMITTEE SUBSTITUTE

9                   An Act relating to workers' compensation; amending  
10                   Section 78, Chapter 208, O.S.L. 2013 (85A O.S. Supp.  
11                   2014, Section 78), which relates to the appeals  
12                   process; providing for the continuation of medication  
13                   during the appeals process; and providing an  
14                   effective date.

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

16                   SECTION 1.            AMENDATORY            Section 78, Chapter 208, O.S.L.  
17                   2013 (85A O.S. Supp. 2014, Section 78), is amended to read as  
18                   follows:

19                   Section 78.   A.   Any party feeling aggrieved by the judgment,  
20                   decision, or award made by the administrative law judge may, within  
21                   ten (10) days of issuance, appeal to the Workers' Compensation  
22                   Commission. After hearing arguments, the Commission may reverse or  
23                   modify the decision only if it determines that the decision was  
24                   against the clear weight of the evidence or contrary to law. All

1 such proceedings of the Commission shall be recorded by a court  
2 reporter, if requested by any party. Any judgment of the Commission  
3 which reverses a decision of the administrative law judge shall  
4 contain specific findings relating to the reversal.

5 B. The appellant shall pay a filing fee of One Hundred Seventy-  
6 five Dollars (\$175.00) to the Commission at the time of filing his  
7 or her appeal. The fee shall be deposited in the Workers'  
8 Compensation Fund.

9 C. The judgment, decision or award of the Commission shall be  
10 final and conclusive on all questions within its jurisdiction  
11 between the parties unless an action is commenced in the Supreme  
12 Court of this state to review the judgment, decision or award within  
13 twenty (20) days of being sent to the parties. Any judgment,  
14 decision or award made by an administrative law judge shall be  
15 stayed until all appeal rights have been waived or exhausted. The  
16 Supreme Court may modify, reverse, remand for rehearing, or set  
17 aside the judgment or award only if it was:

- 18 1. In violation of constitutional provisions;
- 19 2. In excess of the statutory authority or jurisdiction of the  
20 Commission;
- 21 3. Made on unlawful procedure;
- 22 4. Affected by other error of law;
- 23 5. Clearly erroneous in view of the reliable, material,  
24 probative and substantial competent evidence;

1           6. Arbitrary or capricious;

2           7. Procured by fraud; or

3           8. Missing findings of fact on issues essential to the  
4 decision.

5           This action shall be commenced by filing with the Clerk of the  
6 Supreme Court a certified copy of the judgment, decision or award of  
7 the Commission attached to the petition by the complaint which shall  
8 specify why the judgment, decision or award is erroneous or illegal.  
9 The proceedings shall be heard in a summary manner and shall have  
10 precedence over all other civil cases in the Supreme Court, except  
11 preferred Corporation Commission appeals. The Supreme Court shall  
12 require the appealing party to file within forty-five (45) days from  
13 the date of the filing of an appeal or a judgment appealed from, a  
14 transcript of the record of the proceedings before the Commission,  
15 or such later time as may be granted by the Supreme Court on  
16 application and for good cause shown. The action shall be subject  
17 to the law and practice applicable to other civil actions cognizable  
18 in the Supreme Court.

19           D. A fee of One Hundred Dollars (\$100.00) per appeal to the  
20 Supreme Court shall be paid to the Commission and deposited in the  
21 Workers' Compensation Fund as costs for preparing, assembling,  
22 indexing and transmitting the record for appellate review. This fee  
23 shall be paid by the party taking the appeal. If more than one  
24 party to the action files an appeal from the same judgment, decision

1 or award, the fee shall be paid by the party whose petition in error  
2 commences the principal appeal.

3 E. During the pendency of an appeal filed by an employer or the  
4 employer's insurance carrier pursuant to this section, payment for  
5 any prescription drugs prescribed by the treating physician shall be  
6 continued. If payment for prescription drugs is an issue on appeal,  
7 and the employer is held not to be liable for payment for the  
8 prescription drugs, the employee shall reimburse the employer or the  
9 employer's insurance carrier for the cost of prescriptions filled  
10 during the time of the appeals process.

11 SECTION 2. This act shall become effective November 1, 2015.

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13 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/09/2015 - DO  
14 PASS, As Amended.  
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