

House File 791 - Introduced

HOUSE FILE _____
BY COMMITTEE ON LABOR

(SUCCESSOR TO HSB 246)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the imposition of penalty benefits in workers'
2 compensation cases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1886HV 83
5 av/rj/8

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1 1 Section 1. Section 86.13, Code 2009, is amended to read as
1 2 follows:

1 3 86.13 COMPENSATION PAYMENTS.

1 4 1. If an employer or insurance carrier pays weekly
1 5 compensation benefits to an employee, the employer or
1 6 insurance carrier shall file with the workers' compensation
1 7 commissioner in the form and manner required by the workers'
1 8 compensation commissioner a notice of the commencement of the
1 9 payments. The payments establish conclusively that the
1 10 employer and insurance carrier have notice of the injury for
1 11 which benefits are claimed but the payments do not constitute
1 12 an admission of liability under this chapter or chapter 85,
1 13 85A, or 85B.

1 14 2. If an employer or insurance carrier fails to file the
1 15 notice required by this section, the failure stops the running
1 16 of the time periods in section 85.26 as of the date of the
1 17 first payment. If commenced, the payments shall be terminated
1 18 only when the employee has returned to work, or upon thirty
1 19 days' notice stating the reason for the termination and
1 20 advising the employee of the right to file a claim with the
1 21 workers' compensation commissioner.

1 22 3. This section does not prevent the parties from reaching
1 23 an agreement for settlement regarding compensation. However,
1 24 the agreement is valid only if signed by all parties and
1 25 approved by the workers' compensation commissioner.

1 26 4. a. ~~If a denial, a delay in commencement payment, or a~~
1 27 ~~termination of benefits occurs without reasonable or probable~~
~~1 28 cause or excuse known to the employer or insurance carrier at~~
~~1 29 the time of the denial, delay in payment, or termination of~~
1 30 benefits, the workers' compensation commissioner shall award
1 31 benefits in addition to those benefits payable under this
1 32 chapter, or chapter 85, 85A, or 85B, up to fifty percent of
1 33 the amount of benefits that were unreasonably denied, delayed,
1 34 or denied terminated without reasonable excuse.

1 35 b. The workers' compensation commissioner shall award
2 1 benefits under this subsection if the commissioner finds both
2 2 of the following facts:

2 3 (1) The employee has demonstrated a denial, delay in
2 4 payment, or termination of benefits.

2 5 (2) The employer has failed to prove a reasonable excuse
2 6 for the denial, delay in payment, or termination of benefits.

2 7 c. In order to be considered a reasonable excuse under
2 8 paragraph "b", an excuse shall satisfy all of the following
2 9 criteria:

2 10 (1) The excuse was preceded by a reasonable investigation
2 11 and evaluation by the employer or insurance carrier into
2 12 whether benefits were owed to the employee.

2 13 (2) The results of the reasonable investigation and
2 14 evaluation were the actual basis upon which the employer or
2 15 insurance carrier contemporaneously relied to deny, delay
2 16 payment of, or terminate benefits.

2 17 (3) The employer or insurance carrier contemporaneously
2 18 conveyed the basis for the denial, delay in payment, or

2 19 termination of benefits to the employee at the time of the
2 20 denial, delay, or termination of benefits.

2 21 EXPLANATION

2 22 This bill relates to the imposition of additional workers'
2 23 compensation benefits because benefits were unreasonably
2 24 denied, delayed in payment, or terminated.

2 25 Code section 86.13 is amended to provide that such
2 26 additional benefits, up to 50 percent of the benefits
2 27 wrongfully withheld, shall be awarded if a denial, delay in
2 28 payment, or termination of workers' compensation benefits
2 29 occurs without reasonable excuse that was known to the
2 30 employer or insurance carrier at the time the benefits were
2 31 denied, delayed in payment, or terminated.

2 32 The bill requires the workers' compensation commissioner to
2 33 award the additional benefits if the employee proves that a
2 34 denial, delay in payment, or termination of benefits has
2 35 occurred and the employer fails to prove a reasonable excuse
3 1 for the denial, delay in payment, or termination.

3 2 The bill provides that in order to be considered a
3 3 reasonable excuse, an excuse must be preceded by a reasonable
3 4 investigation and evaluation by the employer or insurance
3 5 carrier of whether benefits were owed to the employee; the
3 6 results of the reasonable investigation and evaluation must be
3 7 the actual basis upon which the employer or insurance carrier
3 8 contemporaneously relied in executing the denial, delay in
3 9 payment, or termination of benefits; and the employer or
3 10 insurance carrier must convey the basis for the denial, delay
3 11 in payment, or termination of benefits to the employee
3 12 contemporaneously with such denial, delay in payment, or
3 13 termination.

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