

Senate File 255 - Introduced

SENATE FILE 255

BY WARD

A BILL FOR

1 An Act relating to stays of decrees or judgments in workers'
2 compensation cases pending judicial review.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 86.26, Code 2011, is amended to read as
2 follows:

3 **86.26 Judicial review — stays.**

4 1. Judicial review of decisions or orders of the workers'
5 compensation commissioner may be sought in accordance
6 with chapter 17A. Notwithstanding chapter 17A, the Iowa
7 administrative procedure Act, petitions for judicial review
8 may be filed in the district court of the county in which the
9 hearing under section 86.17 was held, the workers' compensation
10 commissioner shall transmit to the reviewing court the original
11 or a certified copy of the entire record of the contested case
12 which is the subject of the petition within thirty days after
13 receiving written notice from the party filing the petition
14 that a petition for judicial review has been filed, and an
15 application for stay of agency action during the pendency of
16 judicial review shall not be filed in the division of workers'
17 compensation of the department of workforce development
18 but shall be filed with the district court. Such a review
19 proceeding shall be accorded priority over other matters
20 pending before the district court.

21 2. If the commissioner's order or decision that is the
22 subject of judicial review proceedings has been reduced to
23 a decree or judgment by the district court as provided in
24 section 86.42, upon application by any party seeking judicial
25 review, the district court shall enter a stay of execution
26 or enforcement of that decree or judgment enforcing the
27 commissioner's order or decision provided that the party
28 seeking the stay does all of the following:

29 a. Identifies for the district court those parts of the
30 commissioner's order or decision that are being contested on
31 judicial review.

32 b. Certifies to the district court that the party will
33 comply with the commissioner's order or decision with respect
34 to those parts of the commissioner's order or decision that
35 the party is not contesting on judicial review, including

1 payment of all accrued or ongoing benefits which are not
2 being contested on judicial review, and provision of any
3 alternate medical care or ongoing medical care ordered by the
4 commissioner that is not being contested on judicial review.

5 c. Posts a supersedeas bond with the district court in an
6 amount and in the manner required by law or rule of court for
7 appeals arising from civil money judgments except as provided
8 in section 625A.9. The district court shall have the authority
9 to review the amount and sufficiency of the bond.

10 3. a. If a party contests on judicial review an order or
11 decision by the commissioner directing alternate medical care
12 or ongoing medical care pursuant to section 85.27, the district
13 court shall enter a stay of execution or enforcement of its
14 decree or judgment pertaining to such order or decision only
15 after weighing all of the following:

16 (1) The likelihood that the party seeking the stay will
17 prevail upon judicial review.

18 (2) The urgency of the ordered alternate or ongoing medical
19 care.

20 (3) The likelihood and magnitude of harm to the employee
21 from a delay in receiving the ordered alternate or ongoing
22 medical care.

23 (4) The employee's ability to obtain the same or similar
24 alternate or ongoing medical care from another source.

25 b. The district court may order a hearing and take such
26 evidence as the district court deems appropriate in evaluating
27 an application for stay of enforcement or execution of a decree
28 or judgment pertaining to the commissioner's order or decision
29 for alternate or ongoing medical care.

30 c. A denial of an application for a stay of enforcement or
31 execution of a decree or judgment pertaining to an order or
32 decision for alternate or ongoing medical care shall not affect
33 the stay of any other contested portion of the commissioner's
34 order or decision during the pendency of the judicial review
35 proceedings.

1 d. Upon application by any party and a showing of a material
 2 change in circumstances regarding alternate or ongoing medical
 3 care, the district court may modify its prior ruling as to a
 4 stay of such alternate or ongoing medical care.

5 e. The party making the application for a stay or
 6 modification of a stay for enforcement or execution of the
 7 decree or judgment pertaining to the commissioner's order or
 8 decision for alternate or ongoing medical care shall bear the
 9 burden of establishing the need for the stay or modification
 10 of the stay.

11 4. Upon appeal from a final district court ruling on a
 12 petition for judicial review, the stay of the enforcement or
 13 execution of the decree or judgment shall remain in force until
 14 such time as all appeals have been resolved, provided that the
 15 party seeking the stay maintains an appropriate supersedeas
 16 bond.

17 5. Upon application by any party, the district court may
 18 modify the scope of the stay to encompass only those portions
 19 of the decree or judgment pertaining to the commissioner's
 20 order or decision that are being contested in an appeal from a
 21 final district court ruling on a petition for judicial review.

22 Sec. 2. Section 86.42, Code 2011, is amended to read as
 23 follows:

24 **86.42 Judgment by district court on award.**

25 1. Any party in interest may present a file-stamped copy
 26 of an order or decision of the commissioner, from which a
 27 timely petition for judicial review has not been filed or if
 28 judicial review has been filed, which has not had execution or
 29 enforcement stayed as provided in section ~~17A.19, subsection 5~~
 30 86.26, or an order or decision of a deputy commissioner from
 31 which a timely appeal has not been taken within the agency
 32 and which has become final by the passage of time as provided
 33 by rule and section 17A.15, or an agreement for settlement
 34 approved by the commissioner, and all papers in connection
 35 therewith, to the district court where judicial review of the

1 agency action may be commenced. The court shall render a
2 decree or judgment and cause the clerk to notify the parties.
3 2. The decree or judgment, in the absence of a petition
4 for judicial review or if judicial review has been commenced,
5 in the absence of a stay of execution or enforcement of the
6 decision or order of the workers' compensation commissioner, or
7 in the absence of an act of any party which prevents a decision
8 of a deputy workers' compensation commissioner from becoming
9 final, has the same effect and in all proceedings in relation
10 thereto is the same as though rendered in a suit duly heard and
11 determined by the court.

EXPLANATION

13 This bill relates to stays of execution or enforcement
14 of workers' compensation orders or decisions that have been
15 reduced to a decree or judgment by the district court pending
16 judicial review.

17 The bill requires a district court to grant an application
18 for a stay of execution or enforcement of an order or decision
19 of the workers' compensation commissioner that has been reduced
20 to a decree or judgment by the district court and is the
21 subject of judicial review proceedings if the applicant for
22 the stay identifies the parts of the commissioner's order or
23 decision that are being contested on judicial review; certifies
24 to the court that the party will comply with those parts of
25 the commissioner's order or decision that the party is not
26 contesting; and posts a supersedeas bond with the court in the
27 amount and in the manner required by law or court rules for
28 appeals arising from civil money judgments except as provided
29 in Code section 625A.9.

30 If a party is contesting on judicial review an order or
31 decision for alternate or ongoing medical care for an injured
32 employee, the district court shall enter a stay of enforcement
33 or execution of its decree or judgment pertaining to such
34 medical care only upon weighing the likelihood that the
35 party seeking the stay will prevail upon judicial review; the

1 urgency of the ordered alternate or ongoing medical care; the
2 likelihood and magnitude of harm to the employee from a delay
3 in receiving the ordered medical care; and the employee's
4 ability to obtain the same or similar medical care from another
5 source.

6 The district court may order a hearing to evaluate an
7 application for a stay of its decree or judgment pertaining to
8 an order or decision for alternate or ongoing medical care.

9 The denial of an application for such a stay does not affect
10 the stay of any other contested portion of the commissioner's
11 order or decision during the pendency of the judicial review
12 proceedings. Upon application by any party, a ruling as to a
13 stay of a decree or judgment pertaining to an order or decision
14 for alternate or ongoing medical care may be modified upon a
15 showing of a material change in circumstances regarding the
16 medical care by the party requesting the modification.

17 Upon appeal from a final district court ruling on a petition
18 for judicial review, a stay remains in force until all appeals
19 have been resolved as long as the appropriate supersedeas
20 bond is maintained by the party seeking the stay. The stay
21 can also be modified to encompass only those portions of the
22 commissioner's order or decision that are being contested in
23 an appeal from a final district court ruling on a petition for
24 judicial review.

25 Code section 86.42 is amended by changing an internal
26 reference to indicate that the applicable procedure to obtain
27 a stay of enforcement or execution of an order or decision of
28 the workers' compensation commissioner that has been reduced
29 to a decree or judgment is now contained in Code section 86.26
30 instead of pursuant to the general procedure for obtaining
31 a stay contained in Code section 17A.17(5) of the Iowa
32 administrative procedure Act.