

CHAPTER 1064**WORKERS' COMPENSATION MEDIATION — CONFIDENTIALITY***S.F. 2244*

AN ACT providing for the confidentiality of certain information provided in workers' compensation mediation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 22.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in chapter 86. Information in these confidential communications is subject to disclosure only as provided in section 86.44, notwithstanding any other contrary provision of this chapter.

Sec. 2. **NEW SECTION. 86.44 CONFIDENTIALITY.**

All verbal or written information relating to the subject matter of an agreement and transmitted between any party to a dispute and a mediator to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, during any stage of a mediation or a dispute resolution process conducted by a mediator as provided in this section, whether reflected in notes, memoranda, or other work products in the case files, is a confidential communication except as otherwise expressly provided in this chapter. Mediators involved in a mediation or a dispute resolution process shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

For purposes of this section, "mediator" means a chief deputy industrial commissioner or deputy industrial commissioner acting in the capacity to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, or an employee of the division of industrial services involved during any stage of a process to resolve a dispute.

Approved April 13, 1994

CHAPTER 1065**WORKERS' COMPENSATION — MISCELLANEOUS PROVISIONS***S.F. 2245*

AN ACT relating to workers' compensation by limiting debt collection of certain health care charges, by providing wage replacement for certain injured workers receiving treatment, by modifying the minimum weekly benefit amount for death, permanent partial disability, or a total disability, by providing for payment of temporary partial disability benefits in certain situations, and by providing an employer credit for the overpayment of certain benefits to employees.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 85.27, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. While a contested case proceeding for determination of liability for workers' compensation benefits is pending before the industrial commissioner relating to an injury alleged to have given rise to treatment, no debt collection, as defined by section 537.7102, shall be undertaken against an employee or the employee's dependents for the collection of charges for that treatment rendered an employee by any health service

provider. However, the health service provider may send one itemized written bill to the employee setting forth the amount of the charges in connection with the treatment after notification of the contested case proceeding.

Sec. 2. Section 85.27, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If, after the third day of incapacity to work following the date of sustaining a compensable injury which does not result in permanent partial disability, or if, at any time after sustaining a compensable injury which results in permanent partial disability, an employee, who is not receiving weekly benefits under section 85.33 or section 85.34, subsection 1, returns to work and is required to leave work for one full day or less to receive services pursuant to this section, the employee shall be paid an amount equivalent to the wages lost at the employee's regular rate of pay for the time the employee is required to leave work. The employer shall make the payments under this paragraph as wages to the employee after making such deductions from the amount as legally required or customarily made by the employer from wages. Payments made under this paragraph shall be required to be reimbursed pursuant to any insurance policy covering workers' compensation. Payments under this paragraph shall not be construed to be payment of weekly benefits.

Sec. 3. Section 85.31, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to ~~sixty-six and two-thirds~~ two hundred percent of the statewide average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 36, and in effect at the time of the injury. ~~However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the statewide average weekly wage as determined above.~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, ~~or to the spendable weekly earnings of the employee, whichever are less.~~ Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 4. Section 85.33, subsection 3, Code 1993, is amended to read as follows:

3. If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employee refuses to accept the suitable work with the same employer, the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal. If suitable work is not offered by the employer for whom the employee was working at the time of the injury and the employee who is temporarily partially disabled elects to perform work with a different employer, the employee shall be compensated with temporary partial benefits.

Sec. 5. Section 85.34, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 ~~of this section.~~ The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. The compensation shall be based upon the extent of the disability and upon the basis of eighty percent per week of the employee's average ~~weekly spendable weekly earnings~~, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to ~~sixty-one and one-third~~ eighty-four percent of the statewide average weekly wage paid employees as determined by the department of employment services

under section 96.19, subsection 36, and in effect at the time of the injury. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals ninety-two percent, one hundred twenty-two and two-thirds percent, one hundred fifty-three and one-third percent, and one hundred eighty-four percent, respectively, of the statewide average weekly wage as determined above. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution, the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. For all cases of permanent partial disability compensation shall be paid as follows:

Sec. 6. Section 85.34, subsection 3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average weekly spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds two hundred percent of the statewide average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 36, and in effect at the time of the injury. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the statewide average weekly wage as determined above. The minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. The weekly compensation is payable during the period of the employee's disability.

Sec. 7. Section 85.34, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. RECOVERY OF EMPLOYEE OVERPAYMENT. If an employee is paid any weekly benefits in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for any future weekly benefits due pursuant to subsection 2, for a subsequent injury to the same employee. An overpayment can be established only when the overpayment is recognized in a settlement agreement approved under section 86.13, pursuant to final agency action in a contested case which was commenced within three years from the date that weekly benefits were last paid for the claim for which the benefits were overpaid, or pursuant to final agency action in a contested case for a prior injury to the same employee. The credit shall remain available for eight years after the date the overpayment was established. If an overpayment is established pursuant to this subsection, the employee and employer may enter into a written settlement agreement providing for the repayment by the employee of the overpayment. The agreement is subject to the approval of the industrial commissioner. The employer shall not take any adverse action against the employee for failing to agree to such a written settlement agreement.

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