

2024 Regular Session

HOUSE BILL NO. 769

BY REPRESENTATIVE RISER

WORKERS COMPENSATION: Creates a civil liability for denial of medical expenses

1 AN ACT

2 To amend and reenact R.S. 23:1205, relative to workers' compensation; to create civil  
3 liability for the denial of compensability for healthcare benefits under certain  
4 circumstances; to make technical changes and corrections; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:1205 is hereby amended and reenacted to read as follows:

8 §1205. Claim for payments; privilege of employee; non-assignability; exemption  
9 from seizure; payment of denied medical expenses

10 A. Claims or payments due ~~under~~ in accordance with this Chapter shall have  
11 the same preference and priority for the whole thereof against the assets of the  
12 employer as is allowed by law for any unpaid wages of the laborer; and shall not be  
13 assignable, and shall be exempt from all claims of creditors and from levy or  
14 execution or attachment or garnishment, except ~~under~~ pursuant to a judgment for  
15 alimony in favor of a wife, or an ascendant or descendant.

16 B. ~~Any company which contracts for health care benefits for an employee~~  
17 ~~shall have a right of reimbursement against the entity responsible for the payment of~~  
18 ~~workers' compensation benefits for such employee if the company paid health care~~  
19 ~~benefits for which such entity is liable. The amount of reimbursement shall not~~  
20 ~~exceed the amount of the entity's liability for the workers' compensation benefit. In~~

1 ~~the event the company seeks recovery for such in conjunction with a claim against~~  
2 ~~any other party brought by the employee, the company may be charged with a~~  
3 ~~proportionate share of the reasonable and necessary costs, including attorney fees,~~  
4 ~~incurred by the employee in the advancement of his claim or suit.~~

5 ~~€~~(1) In the event that the workers' compensation payor has denied that the  
6 employee's injury is compensable ~~under~~ in accordance with this Chapter, then any  
7 health insurer which contracts to provide ~~health care~~ healthcare benefits for an  
8 employee shall be responsible for the payment of all medical benefits pursuant to the  
9 terms of the health insurer's policy. Any health insurer which contracts to provide  
10 ~~health care~~ healthcare benefits for an employee who violates the provisions of this  
11 Subsection shall be liable to the employee or ~~health care~~ healthcare provider for  
12 reasonable attorney fees and costs related to the dispute and to the employee for any  
13 health benefits payable.

14 (2) The payment of medical expenses shall be recoverable pursuant to and  
15 in accordance with ~~Subsection B~~ Subsection C of this Section. However, if it is  
16 determined that the ~~worker's~~ workers' compensation payor was responsible for  
17 payment of medical benefits that have been paid by the health insurer, the obligation  
18 of the ~~worker's~~ workers' compensation payor for ~~such~~ benefits shall be to reimburse  
19 the health insurer one hundred percent of the benefits it paid. If it is determined that  
20 the ~~worker's~~ workers' compensation payor was responsible for payment of benefits  
21 and its denial of responsibility is determined to be arbitrary and capricious, then the  
22 health insurer shall also be entitled to recover legal interest on any benefits it paid,  
23 calculated from the date ~~such~~ benefits were due.

24 (3) Any claim filed against the ~~worker's~~ workers' compensation carrier by  
25 the health insurer or health ~~providers~~ provider in accordance with this provision shall  
26 not be subject to timely filing requirements, nor does prescription run until such time  
27 as the workers' compensation claim reaches a resolution by final judgment or  
28 settlement.

1           (4) Any claim filed by a ~~health care~~ healthcare provider against a health  
2 insurer pursuant to this Section shall be filed no later than one hundred eighty days  
3 after the denial by the ~~worker's~~ workers' compensation payor.

4           C. Any company which contracts for healthcare benefits for an employee  
5 shall have a right of reimbursement against the entity responsible for the payment of  
6 workers' compensation benefits for the employee if the company paid healthcare  
7 benefits for which the entity is liable. The amount of reimbursement shall not  
8 exceed the amount of the entity's liability for the workers' compensation benefit. In  
9 the event the company seeks recovery in conjunction with a claim against any party  
10 brought by the employee, the company may be charged with a proportionate share  
11 of the reasonable and necessary costs, including attorney fees, incurred by the  
12 employee in the advancement of his claim or suit. The employer shall have a cause  
13 of action pursuant to this Chapter to recover healthcare benefits paid pursuant to  
14 Paragraph (B)(1) of this Section and, in the event of recovery, shall be entitled to a  
15 penalty in the amount of twenty-four percent of healthcare benefits recovered in  
16 addition to reasonable attorney's fees if it is determined that the workers'  
17 compensation payor's denial of compensability was not the result of reasonable  
18 controversion.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 769 Original

2024 Regular Session

Riser

**Abstract:** Creates civil liability for the denial of compensability for healthcare benefits in workers' compensation claims.

Present law provides that claims or payments due under present law shall have the same preference and priority for the whole against the assets of the employer as is allowed by law for any unpaid laborer's wages. Present law further provides such claims and payments shall not be assignable and exempts them from claims from a creditor, excluding a judgment for alimony for certain persons.

Proposed law retains present law but makes technical corrections.

Present law provides that, if a workers' compensation payor has denied compensation for an employee's injury, the health insurer shall be responsible for the payment of all medical

benefits as required in the health insurer's policy. Present law further provides that any health insurer, that provides healthcare benefits for an employee who violates the provisions of present law, shall be liable to the employee or healthcare provider for reasonable attorney's fees and costs related to the dispute and to the employee for any payable health benefits.

Proposed law retains present law but makes technical corrections.

Present law provides for the recovery of the payment of medical expenses in accordance to provisions of present law. Proposed law retains present law.

Present law provides that if there is a determination that the workers' compensation payor was responsible for payment of medical benefits that were paid by the health insurer, then the workers' compensation payor must fully reimburse the health insurer.

Proposed law retains present law but makes technical corrections.

Present law provides that any claim file against the workers' compensation carrier by the health insurer or health provider shall not be subject to timely filing requirements. Present law further provides that prescription on the claim does not run until such time that the workers' compensation claim reaches a resolution by final judgment or settlement.

Proposed law retains present law but makes technical corrections.

Present law requires any claim that is filed by a healthcare provider against a health insurer to be filed no later than 180 days after the workers' compensation payor denies payment of benefits.

Proposed law retains present law but makes technical corrections.

Present law allows any company, that contracts for healthcare benefits for an employee, to have a right of reimbursement against the entity responsible for the payment of workers' compensation benefits, if the company paid healthcare benefits that the entity was responsible for.

Proposed law retains present law.

Present law provides that the company, if the company is seeking recovery in conjunction with a claim against any party brought by the employee, may be charged with a proportionate share of the reasonable and necessary costs, including attorney's fees, the employee incurred.

Proposed law retains present law.

Proposed law provides, that if the workers' compensation payor's denial of compensation was not the result of reasonable controversion, that the employer shall have a cause of action to recover healthcare benefits paid and, in the event of recovery, be entitled to a penalty in the amount of 24% of healthcare benefits recovered in addition to reasonable attorney's fees.

(Amends R.S. 23:1205)