

2026 Regular Session

HOUSE BILL NO. 780

BY REPRESENTATIVE FIRMENT

WORKERS COMPENSATION: Provides relative to penalties and attorney fees for nonpayment, discontinuance of payment, or failure to consent for a medical treatment for workers' compensation claims, controversion of benefits, and preliminary determination hearings

1 AN ACT

2 To amend and reenact R.S. 23:1201(F)(introductory paragraph) and (2) and 1201.1(A), (B),

3 (D), (E), (G) through (I), (J)(2) through (4), and (K)(1)(introductory paragraph), (2)

4 through (5) and to enact R.S. 23:1201(F)(6), and to repeal R.S. 23:1201(I) and

5 1201.1(A)(4) and (5), relative to workers' compensation; to provide for the failure

6 to provide payment, discontinue payment, or consent for a medical treatment; to

7 provide exceptions for nonpayment, discontinuance of payment, or failure to give

8 consent; to provide for penalties and attorney fees; to provide for the controversion

9 of compensation and medical benefits; to require certain notice and delivery

10 requirements; to provide for preliminary determination hearings; and to provide for

11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 23:1201(F)(introductory paragraph) and (2) and 1201.1(A)(1), (2),

14 and (3), (B), (D), (E), (G) through (I), (J)(2) through (4), (K)(1)(introductory paragraph), (2)

15 through (5) are hereby amended and reenacted and R.S. 23:1201(F)(6) is hereby enacted to

16 read as follows:

17 §1201. Time and place of payment; failure to pay timely; failure to authorize;

18 penalties and attorney fees

19 * * *

1 F. Except as otherwise provided in this Chapter, failure to provide payment
 2 in accordance with this Section, discontinuance of payment due pursuant to this
 3 Chapter, or failure to consent to the employee's request to select a treating physician
 4 or change physicians when such consent is required by R.S. 23:1121 shall result in
 5 the assessment of a penalty in an amount up to the greater of twelve percent of any
 6 unpaid compensation or medical benefits, or fifty dollars per calendar day for each
 7 day in which any and all compensation or medical benefits remain unpaid or such
 8 consent is withheld, together with reasonable attorney fees for each disputed claim;
 9 however, the fifty dollars per calendar day penalty shall not exceed a maximum of
 10 two thousand dollars in the aggregate for any claim. A party claiming penalties and
 11 attorney fees pursuant to this Section bears the burden of proof by a preponderance
 12 of the evidence. The maximum amount of penalties which may be imposed at a
 13 hearing on the merits regardless of the number of penalties which might be imposed
 14 under this Section is eight thousand dollars. An award of penalties and attorney fees
 15 at any hearing on the merits shall be res judicata as to any and all claims for which
 16 penalties may be imposed under this Section which precedes the date of the hearing.
 17 Penalties shall be assessed in the following manner:

18 * * *

19 (2)(a) This Subsection ~~shall not apply~~ applies only if the claim is ~~reasonably~~
 20 ~~controverted or if such~~ nonpayment, discontinuance of payment, or failure to consent
 21 to the employee's request to select a treating physician or change physicians when
 22 such consent is required by R.S. 23:1121 is found to be arbitrary, capricious, or
 23 without probable cause. For purposes of this Subsection, arbitrary, capricious, or
 24 without probable cause means willful and unreasoning action without consideration
 25 and regard for facts and circumstances presented.

26 (b) This Subsection does not apply if the nonpayment, discontinuance of
 27 payment, or failure to consent to the employee's request to select a treating physician
 28 or change physicians when such consent is required by R.S. 23:1121 results from
 29 conditions over which the employer or insurer had no control.

30 * * *

1 demand within ~~seven~~ ten business days of receipt of the employee's demand, the
2 employer or payor shall not be subject to any claim for any penalties or attorney fees
3 arising from the disputed payment, modification, suspension, termination, or
4 controversion.

5 (2) If the employer or payor does not provide the benefit that the employee
6 claims is due, the employee may file a disputed claim for benefit provided it is filed
7 within the prescriptive period established under R.S. 23:1209. If the prescription
8 date of the claim occurs within the ~~seven-day~~ ten-day waiting period, the employee
9 will be allowed to file a disputed claim without waiting the ~~seven~~ ten business days
10 as provided in Paragraph (1) of this Subsection. However, the employer or payor
11 shall still be allowed ~~seven~~ ten business days to provide the benefit that the employee
12 claims is due, and if the employer does provide the benefit, the disputed claim will
13 be moot regarding the issues arising out of the payment, suspension, modification,
14 termination, or controversion of benefits. All other issues alleged in the disputed
15 claim will be unaffected by the payment.

16 H. The employer or the payor who wishes to have a preliminary
17 determination hearing shall request the hearing in his answer to the disputed claim
18 arising from the notice of initial payment or any subsequent modification,
19 suspension, termination, or notice of controversion. In cases where a disputed claim
20 is already pending when an issue arises from a subsequent notice of payment,
21 modification, suspension, termination, or controversion of benefits, such request
22 shall be made in an amended pleading filed within ~~fifteen~~ ten business days of the
23 expiration of the ~~seven-day~~ ten-day period set forth in Paragraph (G)(1) of this
24 Section.

25 I.(1) ~~An~~ Preliminary determinations as provided for in this Section are
26 favored under the law and an employer or payor who has not complied with the
27 requirements set forth in Subsection A or B of this Section, and who has provided
28 notice as required in Subsection D, through E of this Section or has not initially
29 accepted the claim as compensable, subject to further investigation and subsequent

- (2) Send the notice of the initial indemnity payment to the injured employee on the same day as the first payment of compensation is made by the payor after the payor has received notice of the claim from the employer.
- (3) Send a copy of the notice of the initial payment of indemnity to the office within 10 days from the date the original notice was sent to the injured employee or to his representative.
- (4) Send the "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" to the injured employee by certified mail, to the employee's address where he receives payments of compensation, on or before the effective date of a modification, suspension, termination, or controversion.
- (5) Send a copy of the "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" to the office on the same business day as sent to the employee or his representative.

Proposed law removes provisions of present law that reference sending a copy of the indemnity payment. Proposed law also adds certain delivery requirements that must be made within 10 business days.

Present law requires the office of workers' compensation administration (OWCA) to promulgate the "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" form.

Proposed law instead requires upon any modification, suspension, termination, or controversion of compensation or medical benefits for any reason, including but not limited to issues of medical causation, compensability of the claim, or issues arising out of provisions of present law, the employer or payor to do all of the following:

- (1) Prepare a "Notice of Payment, Modification, Suspension, Termination, or Controversion of Compensation or Medical Benefits" on a LWC-WC 1002 form or any other form promulgated by the assistant secretary.
- (2) Send the notice to the injured employee within three business days after the effective date of the modification, suspension, termination, or controversion.
- (3) Send a copy of the notice to the OWCA on the same date the original notice was sent to the employee.

Proposed law requires the employee to provide a mailing address and an email address upon the employer's or payor's request. Proposed law also provides that any notice required to be sent shall be sent and delivered in any of the following ways:

- (1) The address where the injured employee receives payment of indemnity benefits.
- (2) The employee's email address.
- (3) Hand delivered to the employee.

Present law provides notice requirements for when the injured employee is represented by an attorney. Proposed law adds additional delivery options and otherwise retains present law.

Present law provides that if there is a dispute between the parties and upon a rule to show cause held prior to the preliminary determination or any other hearing, the workers' compensation judge shall determine whether the employer is in compliance.

Proposed law repeals present law and instead requires an employee who objects to a request for a preliminary determination to file a motion to strike the request within 10 business days of receiving the required documentation.

Proposed law requires the motion to contain factual and legal bases for the objection. Proposed law also requires the workers' compensation judge to consider the motion by a rule to show cause prior to any preliminary determination hearing.

Proposed law states that failure to file the motion to strike within the prescribed time period shall be considered a waiver of any objection to the preliminary determination hearing.

Present law imposes a penalty plus reasonable attorney fees on an employer or insurer who discontinues payment of claim and if it is determined that such discontinuance is arbitrary, capricious, or without probable cause. Present law provides that such penalty shall not exceed \$8,000.

Proposed law repeals present law.

Present law provides that the provisions set forth in present law (R.S. 22:1892(C)), which address how payment of workers' compensation claims is dispensed, shall be applicable to claims arising under present law (R.S. 23:1020 et seq.).

Proposed law repeals present law.

(Amends R.S. 23:1201(F)(intro. para.) and (2) and 1201.1(A), (B), (D), (E), (G)-(I), (J)(2)-(4), and (K)(1)(intro. para.) and (2)-(5); Adds R.S. 23:1201(F)(6); Repeals R.S. 23:1201(I) and 1201.1(A)(4) and (5))