

2020 Regular Session

HOUSE BILL NO. 217

BY REPRESENTATIVE FRIEMAN

WORKERS COMPENSATION: Provides that neither the employer nor insurer is obligated to authorize initial evaluation

1 AN ACT

2 To amend and reenact R.S. 23:1121(B)(1), relative to workers' compensation; to provide for
3 medical examinations of injured employees; to provide for the compensability of a
4 claim or specific body parts or conditions; to prohibit the authorization or payment
5 of an initial evaluation under certain circumstances; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:1121(B)(1) is hereby amended and reenacted to read as follows:

9 §1121. Examination of injured employee

10 * * *

11 B.(1)(a) The employee shall have the right to select one treating physician
12 in any field or specialty. The employee shall have a right to an expedited summary
13 proceeding pursuant to R.S. 23:1201.1(K)(8), when denied his right to an initial
14 physician of choice. The workers' compensation judge shall set the hearing date for
15 the matter within three days of receiving the employee's motion for the expedited
16 hearing. The hearing shall be held not less than ten nor more than thirty days after
17 the employee or his attorney files the motion for an expedited hearing. The workers'
18 compensation judge shall provide notice of the hearing date to the employer and
19 insurer at the same time and in the same manner that notice of the hearing date is
20 provided to the employee or his attorney. For the purposes of this Section, an

1 employee shall not be required to submit the dispute on the choice of physician to
2 mediation nor go through a pretrial conference before obtaining a hearing. The
3 hearing shall be conducted as a rule to show cause. The workers' compensation
4 judge shall order the employer or payor to authorize the claimant's choice of
5 physician unless the employer or payor can show good cause for his refusal. After
6 his initial choice the employee shall obtain prior consent from the employer or his
7 workers' compensation carrier for a change of treating physician within that same
8 field or specialty. The employee, however, is not required to obtain approval for
9 change to a treating physician in another field or specialty.

10 (b)(i) When the compensability of the claim has been denied, neither the
11 employer nor insurer is obligated to authorize or pay for an initial evaluation with
12 the employee's choice of physician until the trial court decides the issue of
13 compensability and finds that the claim is compensable.

14 (ii) When the compensability of a specific body part or condition has been
15 denied, neither the employer nor insured is obligated to authorize or pay for an initial
16 evaluation by the employee's choice of physician for the denied body part or
17 condition until the trial court decides the issue of compensability of the denied body
18 part or condition and finds the denied body part or condition compensable.

19 * * *

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)]

HB 217 Original 2020 Regular Session Frieman

Abstract: Prohibits an employer or insurer from authorizing or paying for an initial evaluation in regards to the employee's choice of physician.

Present law provides that, with regard to workers' compensation, the employee has the right to select one treating physician in any field or specialty. Also, present law provides that the workers' compensation judge shall set the hearing date for the matter within the requisite time period, and that the judge shall provide notice of the hearing date to both the employer and insurer.

Present law provides that the workers' compensation judge shall order the employer or payor to authorize the claimant's choice of physician, unless the employer or payor can show good cause for his refusal.

Present law provides that after his initial choice, the employee must obtain prior consent from the employer or the workers' compensation carrier in order to change his treating physician within that same field or specialty. However, present law provides that the employee is not required to obtain approval in regard to a treating physician in another field or specialty.

Proposed law retains present law and further requires that when the compensability of the claim has been denied, neither the employer nor insurer is obligated to authorize or pay for an initial evaluation in regard to the employee's choice of physician, until the trial court considers and rules on the issue of compensability.

Proposed law further requires that when the compensability of a specific body part or condition has been denied, neither the employer nor insured is obligated to authorize or pay for an initial evaluation in regard to the employee's choice of physician for the denied body part or condition, until the trial court considers and rules on the issue of compensability.

(Amends R.S. 23:1121(B)(1))