

STATE OF NEW YORK

5692

2021-2022 Regular Sessions

IN ASSEMBLY

February 24, 2021

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to prohibiting cases from being closed without a hearing or written stipulation and requiring a stenographic record of all hearings held; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2-b of section 25 of the workers' compensation
2 law is REPEALED and subdivision 2-c is renumbered subdivision 2-b.

3 § 2. Paragraphs (b) and (c) of subdivision 3 of section 25 of the
4 workers' compensation law, as amended by chapter 61 of the laws of 1986,
5 are amended to read as follows:

6 (b) Nothing herein shall limit the right of the board in a particular
7 case to hold a hearing and make an award in accordance with other
8 provisions of this chapter. No case shall be closed and no decision
9 shall be issued without a hearing upon notice to all parties interested
10 and without giving to all such parties an opportunity to be heard.

11 (c) The board shall keep an accurate stenographic record of all hear-
12 ings held and provide the minutes, at no cost, to the injured worker and
13 their representative in the native language of the injured worker. All
14 decisions shall be issued to the injured worker in their native
15 language. Whenever a hearing must be continued or adjourned because the
16 carrier or employer has engaged in dilatory tactics or exhibited unjusti-
17 fied lack of preparedness, the board shall impose a penalty of twenty-
18 five dollars to be paid to the fund created by subdivision two of
19 section one hundred fifty-one of this chapter and shall in addition make
20 an award of seventy-five dollars payable to the injured worker or his or
21 her dependants. Dilatory tactics may include but shall not be limited
22 to: failing to subpoena medical witnesses or to secure an order to show
23 cause as directed by the referee, failing to bring proper files, failing

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 to appear, failing to produce witnesses or documents after they have
2 been requested by the referee or examiner or as directed by the hearing
3 notice, unnecessarily protracting the production of evidence, or engag-
4 ing in a pattern of delay which unduly delays resolution, except that no
5 penalty shall be imposed nor award made under this subdivision if the
6 carrier or employer produces evidence sufficient to excuse its conduct
7 to the satisfaction of the referee.

8 § 3. This act shall take effect immediately.