STATE OF NEW YORK

8396

IN SENATE

May 21, 2020

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to the treatment by a medical provider for the novel coronavirus, COVID-19

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

Section 1. This act shall be known and may be cited as the "COVID-19 injured workers' protection act."

§ 2. Section 13-a of the workers' compensation law is amended by adding a new subdivision 8 to read as follows:

(8) (a) It shall be presumed that treatment rendered by a medical provider for the novel coronavirus, COVID-19 was done so on an emergent basis so as not to require prior authorization pursuant to subdivision five of this section.

(b) Medical providers treating patients for the novel coronavirus, COVID-19 need not be authorized by the chair pursuant to subdivision one of this section.

§ 3. Section 21-a of the workers' compensation law, as added by chapter 635 of the laws of 1996, subdivisions 1, 2 and 3 as amended by chapter 6 of the laws of 2007, is amended to read as follows:

§ 21-a. Temporary payment of compensation. 1. Notwithstanding any other provision of this chapter to the contrary, in any instance in which an employer is unsure of the extent of its liability for a claim for compensation by an injured employee pursuant to this chapter, such employer may initiate compensation payments and payments for prescribed medicine and continue such payments for [~~one year~~] **sixty days**, without prejudice and without admitting liability, in accordance with a notice of temporary payment of compensation **at the temporary total disability rate**, on a form prescribed by the board.

2. The notice of temporary payment of compensation authorized by subdivision one of this section shall be delivered to the injured employee and the board. Such notice shall notify the injured employee that the temporary payment of compensation and prescribed medicine shall not be deemed to be an admission of liability by the employer for the

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

LBD16442-02-0

injury or injuries to the employee. The board, upon receipt of a notice of temporary payment of compensation, shall send a notice to the injured employee **in sixteen point type** stating that:

(a) the board has received a notice of temporary payment of compensation relating to such injured employee;

(b) the payment of temporary compensation and prescribed medicine and the injured employee's acceptance of such temporary compensation and prescribed medicine shall not be an admission of liability by the employer, nor prejudice the claim of the injured employee; **and**

(c) the payment of temporary compensation and prescribed medicine shall terminate on the elapse of: [~~one year~~] **sixty days**, or the employer's contesting of the injured employee's claim for compensation and prescribed medicine, or the board determination of the injured employee's claim, whichever is first[~~; and~~

~~(d) the injured employee may be required to enter into an agreement with the employer to ensure the continuation of payments of temporary compensation and prescribed medicine~~].

3. An employer may cease making temporary payments of compensation and prescribed medicine if such employer delivers within five days after the last payment, to the injured employee and the board, a notice of termination of temporary payments of compensation on a form prescribed by the board. Such notice shall inform the injured employee that the employer is ceasing temporary payment of compensation and prescribed medicine. Upon the cessation of temporary payments of compensation and prescribed medicine, [~~all~~] **the board shall immediately schedule a hearing to adjudicate the claim. All** parties to any action pursuant to this chapter shall retain all rights, defenses and obligations they would otherwise have pursuant to this chapter without regard for the temporary payment of compensation and prescribed medicine.

4. The failure of an employer to provide the notice of termination, pursuant to subdivision three of this section, within [~~one year~~] **sixty days** of the commencement of temporary payment of compensation shall be deemed to be an admission of liability by the employer and the notice of temporary payment of compensation shall be converted to a notice of compensation payable.

§ 4. This act shall take effect immediately.