

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:

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

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

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

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

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

15 § 21-a. Temporary payment of compensation. 1. Notwithstanding any
16 other provision of this chapter to the contrary, in any instance in
17 which an employer is unsure of the extent of its liability for a claim
18 for compensation by an injured employee pursuant to this chapter, such
19 employer may initiate compensation payments and payments for prescribed
20 medicine and continue such payments for [~~one-year~~] sixty days, without
21 prejudice and without admitting liability, in accordance with a notice
22 of temporary payment of compensation at the temporary total disability
23 rate, on a form prescribed by the board.

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

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

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

4 (a) the board has received a notice of temporary payment of compen-
5 sation relating to such injured employee;

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

10 (c) the payment of temporary compensation and prescribed medicine
11 shall terminate on the elapse of: [~~one-year~~] sixty days, or the employ-
12 er's contesting of the injured employee's claim for compensation and
13 prescribed medicine, or the board determination of the injured employ-
14 ee's claim, whichever is first[~~, and~~

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

18 3. An employer may cease making temporary payments of compensation and
19 prescribed medicine if such employer delivers within five days after the
20 last payment, to the injured employee and the board, a notice of termi-
21 nation of temporary payments of compensation on a form prescribed by the
22 board. Such notice shall inform the injured employee that the employer
23 is ceasing temporary payment of compensation and prescribed medicine.
24 Upon the cessation of temporary payments of compensation and prescribed
25 medicine, [~~all~~] the board shall immediately schedule a hearing to adju-
26 dicate the claim. All parties to any action pursuant to this chapter
27 shall retain all rights, defenses and obligations they would otherwise
28 have pursuant to this chapter without regard for the temporary payment
29 of compensation and prescribed medicine.

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

36 § 4. This act shall take effect immediately.