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:

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 Subdivision 2-b of section 25 of the workers' compensation law is REPEALED and subdivision 2-c is renumbered subdivision 2-b.

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

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

(c) The board shall keep an accurate **stenographic** record of all hearings held **and provide the minutes, at no cost, to the injured worker and their representative in the native language of the injured worker. All decisions shall be issued to the injured worker in their native language**. Whenever a hearing must be continued or adjourned because the carrier or employer has engaged in dilatory tactics or exhibited unjustified lack of preparedness, the board shall impose a penalty of twenty-five dollars to be paid to the fund created by subdivision two of section one hundred fifty-one of this chapter and shall in addition make an award of seventy-five dollars payable to the injured worker or his or her dependants. Dilatory tactics may include but shall not be limited to: failing to subpoena medical witnesses or to secure an order to show 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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to appear, failing to produce witnesses or documents after they have been requested by the referee or examiner or as directed by the hearing notice, unnecessarily protracting the production of evidence, or engaging in a pattern of delay which unduly delays resolution, except that no penalty shall be imposed nor award made under this subdivision if the carrier or employer produces evidence sufficient to excuse its conduct to the satisfaction of the referee.

§ 3. This act shall take effect immediately.