

# STATE OF NEW YORK

2127

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. JEAN-PIERRE, JACOBSON, STECK, PERRY, DICKENS, LAVINE, GUNTHER, DINOWITZ, GALEF, SIMON, MAGNARELLI, MONTESANO, COLTON, ENGLEBRIGHT, PRETLOW, FRONTUS -- read once and referred 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.

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

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1 2. The notice of temporary payment of compensation authorized by  
2 subdivision one of this section shall be delivered to the injured  
3 employee and the board. Such notice shall notify the injured employee  
4 that the temporary payment of compensation and prescribed medicine shall  
5 not be deemed to be an admission of liability by the employer for the  
6 injury or injuries to the employee. The board, upon receipt of a notice  
7 of temporary payment of compensation, shall send a notice to the injured  
8 employee in sixteen point type stating that:

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

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

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

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

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

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

41 § 4. This act shall take effect immediately.