

# STATE OF NEW YORK

8445

## IN SENATE

January 30, 2024

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 parties' rights to a hearing upon application to the workers' compensation board and requiring a record of all hearings held

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

1 Section 1. Subdivision 1 of section 20 of the workers' compensation  
2 law, as amended by chapter 635 of the laws of 1996, is amended to read  
3 as follows:

4 1. [~~At any time after the expiration of the first seven days of disa-~~  
5 ~~bility on the part of an injured employee, or at any time after the~~  
6 ~~employee's death, a claim for compensation may be presented to the~~  
7 ~~employer or to the chair. The~~] Within sixty days after a claim for  
8 compensation has been indexed, the board shall hold an initial hearing  
9 for each claim and shall have full power and authority to determine all  
10 questions in relation to the payment of claims presented to it for  
11 compensation under the provisions of this chapter. The chair or board  
12 shall thereafter make or cause to be made such investigation as it deems  
13 necessary, and upon application of either party or an attorney repres-  
14 enting either party, shall order a hearing before a referee to take  
15 place within forty-five calendar days of the application from either  
16 party, and within thirty days after a claim for compensation is submit-  
17 ted under this section, or such hearing closed, shall make or deny an  
18 award, determining such claim for compensation, and file the same in the  
19 office of the chair. No application for a hearing made by a party or an  
20 attorney pursuant to this section shall be subject to limitations,  
21 prerequisites, or penalties imposed by the board. Immediately after such  
22 filing the chair shall send to the parties a copy of the decision. Upon  
23 a hearing pursuant to this section either party may present evidence and  
24 be represented by counsel. The decision of the board shall be final as  
25 to all questions of fact, and, except as provided in section twenty-  
26 three of this article, as to all questions of law. Except as provided  
27 in section twenty-seven of this article, all awards of the board shall

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

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1 draw simple interest from thirty days after the making thereof at the  
2 rate provided in section five thousand four of the civil practice law  
3 and rules. Whenever a hearing or proceeding for the determination of a  
4 claim for compensation is begun before a referee, pursuant to the  
5 provisions of this chapter, such hearing or proceeding or any adjourned  
6 hearing thereon shall continue before the same referee until a final  
7 determination awarding or denying compensation, except in the absence,  
8 inability or disqualification to act of such referee, or for other good  
9 cause, in which event such hearing or proceeding may be continued before  
10 another referee by order of the chair or board.

11 § 2. Paragraph (c) of subdivision 3 of section 25 of the workers'  
12 compensation law, as amended by chapter 61 of the laws of 1986, is  
13 amended to read as follows:

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

32 § 3. This act shall take effect immediately.