

# STATE OF NEW YORK

8445--A

## 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Subdivisions 1, 2 and 3 of section 20 of the workers'  
2 compensation law are renumbered subdivisions 2, 3 and 4 and a new subdivi-  
3 sion 1 is added to read as follows:

4 1. The board shall index a claim for workers' compensation immediately  
5 upon the receipt of a medical report in addition to either a claim filed  
6 by the injured worker or an employer's report of injury or illness.

7 § 2. Subdivision 2 of section 20 of the workers' compensation law,  
8 as added by chapter 635 of the laws of 1996 and as renumbered by section  
9 one of this act, is amended to read as follows:

10 2. [~~At any time after the expiration of the first seven days of disa-~~  
11 ~~bility on the part of an injured employee, or at any time after the~~  
12 ~~employee's death, a claim for compensation may be presented to the~~  
13 ~~employer or to the chair. The~~] Within sixty days after a claim for  
14 compensation has been indexed, the board shall hold an initial hearing  
15 for each claim in which the injured worker asserts lost wages or lost  
16 time due to injury and shall have full power and authority to determine  
17 all questions in relation to the payment of claims presented to it for  
18 compensation under the provisions of this chapter. The chair or board  
19 shall thereafter make or cause to be made such investigation as it deems  
20 necessary, and upon application of either party or an attorney repres-  
21 enting either party, shall order a hearing before a referee to take  
22 place within forty-five calendar days of the application from either  
23 party, and within thirty days after a claim for compensation is submit-  
24 ted under this section, or such hearing closed, shall make or deny an  
25 award, determining such claim for compensation, and file the same in the

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

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1 office of the chair. No application for a hearing made by a party or an  
2 attorney pursuant to this section shall be subject to limitations,  
3 prerequisites, or penalties imposed by the board. Immediately after such  
4 filing the chair shall send to the parties a copy of the decision. Upon  
5 a hearing pursuant to this section either party may present evidence and  
6 be represented by counsel. The decision of the board shall be final as  
7 to all questions of fact, and, except as provided in section twenty-  
8 three of this article, as to all questions of law. Except as provided  
9 in section twenty-seven of this article, all awards of the board shall  
10 draw simple interest from thirty days after the making thereof at the  
11 rate provided in section five thousand four of the civil practice law  
12 and rules. Whenever a hearing or proceeding for the determination of a  
13 claim for compensation is begun before a referee, pursuant to the  
14 provisions of this chapter, such hearing or proceeding or any adjourned  
15 hearing thereon shall continue before the same referee until a final  
16 determination awarding or denying compensation, except in the absence,  
17 inability or disqualification to act of such referee, or for other good  
18 cause, in which event such hearing or proceeding may be continued before  
19 another referee by order of the chair or board.

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

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

41 § 4. This act shall take effect immediately.