

Senate Engrossed

~~industrial commission; workers' compensation; claim~~
(now: workers' compensation; industrial commission; claim)

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1403

AN ACT

AMENDING SECTION 23-1061, ARIZONA REVISED STATUTES; RELATING TO THE
INDUSTRIAL COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-1061, Arizona Revised Statutes, is amended to
3 read:

4 23-1061. Notice of accident; form of notice; claim for
5 compensation; reopening; payment of compensation;
6 notification of injury

7 A. Notwithstanding section 23-908, subsection E, no claim for
8 compensation shall be valid or enforceable unless the claim is filed with
9 the commission by the employee, or if resulting in death by the parties
10 entitled to compensation, or someone on their behalf, in writing within
11 one year after the injury occurred or the right thereto accrued. The time
12 for filing a compensation claim begins to run when the injury becomes
13 manifest or when the claimant knows or in the exercise of reasonable
14 diligence should know that the claimant has sustained a compensable
15 injury. Except as provided in subsection B OR N of this section, neither
16 the commission nor any court shall have jurisdiction to consider a claim
17 that is not timely filed under this subsection, except if the employee or
18 other party entitled to file the claim has delayed in doing so because of
19 justifiable reliance on a material representation by the commission,
20 employer or insurance carrier or if the employee or other party entitled
21 to file the claim is insane or legally incompetent or incapacitated at the
22 time the injury occurs or the right to compensation accrues or during the
23 one-year period thereafter. If the insanity or legal incompetence or
24 incapacity occurs after the one-year period has commenced, the running of
25 the remainder of the one-year period shall be suspended during the period
26 of insanity or legal incompetence or incapacity. If the employee or other
27 party is insane or legally incompetent or incapacitated when the injury
28 occurs or the right to compensation accrues, the one-year period commences
29 to run immediately on the termination of insanity or legal incompetence or
30 incapacity. The commission on receiving a claim shall give notice to the
31 **INSURANCE** carrier.

32 B. Failure of an employee or any other party entitled to
33 compensation to file a claim with the commission within one year or to
34 comply with section 23-908 shall not bar a claim if the insurance carrier
35 or employer has commenced payment of compensation benefits under section
36 23-1044, 23-1045 or 23-1046, except that the payments provided for by
37 section 23-1046, subsection A, paragraph 1 and section 23-1065, subsection
38 A shall not be considered compensation benefits for the purposes of this
39 section.

40 C. If the commission receives a notification of the injury, the
41 commission shall send a claim form to the employee.

42 D. The issue of failure to file a claim must be raised at the first
43 hearing on a claim for compensation in respect to the injury or death.

1 E. Within ten days after receiving notice of an accident, the
2 employer shall inform the employer's insurance carrier and the commission
3 on such forms as may be prescribed by the commission.

4 F. Each insurance carrier and self-insuring employer shall report
5 to the commission a notice of the first payment of compensation and shall
6 serve on the commission and the employee any denial of a claim, any change
7 in the amount of compensation and the termination ~~thereof~~ OF COMPENSATION,
8 except that claims for medical, surgical and hospital benefits that are
9 not denied shall be reported to the commission in the form and manner
10 determined by the commission. In all cases where compensation is payable,
11 the INSURANCE carrier or self-insuring employer shall promptly determine
12 the average monthly wage pursuant to section 23-1041. Within thirty days
13 ~~of~~ AFTER the payment of the first installment of compensation, the
14 INSURANCE carrier or self-insuring employer shall notify the employee and
15 commission of the average monthly wage of the claimant as calculated, and
16 the basis for such determination. The commission shall then make its own
17 independent determination of the average monthly wage pursuant to section
18 23-1041. The commission, within thirty days after receipt of such notice,
19 shall notify the employee, employer and INSURANCE carrier of such
20 determination. The amount determined by the commission shall be payable
21 retroactive to the first date of entitlement. The first payment of
22 compensation shall be accompanied by a notice on a form prescribed by the
23 commission stating the manner in which the amount of compensation was
24 determined.

25 G. Except as otherwise provided by law, the insurance carrier or
26 self-insuring employer shall process and pay compensation and provide
27 medical, surgical and hospital benefits, without the necessity for the
28 making of an award or determination by the commission.

29 H. On a claim that has been previously accepted, an employee may
30 reopen the claim to secure an increase or rearrangement of compensation or
31 additional benefits by filing with the commission a petition requesting
32 the reopening of the employee's claim on the basis of a new, additional or
33 previously undiscovered temporary or permanent condition, which petition
34 shall be accompanied by a statement from a physician setting forth the
35 physical condition of the employee relating to the claim. A claim shall
36 not be reopened if the initial claim for compensation was previously
37 denied by a notice of claim status or determination by the commission and
38 the notice or determination was allowed to become final and no exception
39 applies under section 23-947 excusing a late filing to request a
40 hearing. A claim shall not be reopened because of increased subjective
41 pain if the pain is not accompanied by a change in objective physical
42 findings. A claim shall not be reopened solely for additional diagnostic
43 or investigative medical tests, but expenses for any reasonable and
44 necessary diagnostic or investigative tests that are causally related to
45 the injury shall be paid by the employer or the employer's insurance

1 carrier. Expenses for reasonable and necessary medical and hospital care
2 and laboratory work shall be paid by the employer or the employer's
3 insurance carrier if the claim is reopened as provided by law and if these
4 expenses are incurred within fifteen days ~~after~~ BEFORE the date that the
5 petition to reopen is filed. The payment for such reasonable and
6 necessary medical, hospital and laboratory work expense shall be paid for
7 by the employer or the employer's insurance carrier if the claim is
8 reopened as provided by law and if such expenses are incurred within
9 fifteen days ~~after~~ BEFORE the filing of the petition to reopen. Surgical
10 benefits are not payable for any period ~~prior to~~ BEFORE the date of filing
11 a petition to reopen, except that surgical benefits are payable for a
12 period ~~prior to~~ BEFORE the date of filing the petition to reopen not to
13 exceed seven days if a bona fide medical emergency precludes the employee
14 from filing a petition to reopen ~~prior to~~ BEFORE the surgery. No monetary
15 compensation is payable for any period ~~prior to~~ BEFORE the date of filing
16 the petition to reopen.

17 I. On the filing of a petition to reopen a claim, the commission
18 shall in writing notify the employer's insurance carrier or the
19 self-insuring employer, which shall in writing notify the commission and
20 the employee within twenty-one days after the date of such notice of its
21 acceptance or denial of the petition. The reopened claim shall be
22 processed thereafter in like manner as a new claim.

23 J. The commission shall investigate and review any claim in which
24 it appears to the commission that the claimant has not been granted the
25 benefits to which such claimant is entitled. If the commission determines
26 that payment or denial of compensation is improper in any way, it shall
27 hold a hearing pursuant to section 23-941 within sixty days after
28 receiving notice of such impropriety. Any claim for temporary partial
29 disability benefits under this subsection must be filed with the
30 commission within two years after the date the claimed entitlement to
31 compensation accrued or within two years after the date on which an award
32 for benefits encompassing the entitlement period becomes final. A claim
33 for temporary partial disability compensation shall be deemed to accrue
34 when the employee knew or with the exercise of reasonable diligence should
35 have known that the INSURANCE carrier, self-insured employer or special
36 fund denied or improperly paid compensation. A claim for temporary
37 partial disability benefits shall not be deemed to have accrued any
38 earlier than September 26, 2008.

39 K. When there is a dispute as to which employer or insurance
40 carrier is liable for the payment of a compensable claim, the commission,
41 by order, may designate the employer or insurance carrier that shall pay
42 the claim. Payment shall begin within fourteen days after the employer or
43 insurance carrier has been ordered by the commission to commence payment.
44 When a final determination has been made as to which employer or insurance
45 carrier is actually liable, the commission shall direct any necessary

1 monetary adjustment or reimbursement among the parties or INSURANCE
2 carriers involved.

3 L. On application to the commission and for good cause shown, the
4 commission may direct that a document filed as a claim for compensation
5 benefits be designated as a petition to reopen, effective as of the
6 original date of filing. In like manner on application and good cause
7 shown, the commission may direct that a document filed as a petition to
8 reopen be designated as a claim for compensation benefits, effective as of
9 the original date of filing.

10 M. If the insurance carrier or self-insurer does not issue a notice
11 of claim status denying the claim within twenty-one days after the date
12 the INSURANCE carrier is notified by the commission of a claim or of a
13 petition to reopen, the INSURANCE carrier shall pay immediately
14 compensation as if the claim were accepted, from the date the INSURANCE
15 carrier is notified by the commission of a claim or petition to reopen
16 until the date on which the INSURANCE carrier issues a notice of claim
17 status denying such claim. Compensation includes medical, surgical and
18 hospital benefits. This section shall not apply to cases involving seven
19 days or less of time lost from work.

20 N. IF AN INSURANCE CARRIER OR SELF-INSURED EMPLOYER RECEIVES
21 WRITTEN NOTIFICATION OF AN INJURY FROM AN EMPLOYEE WHO WAS INJURED AND
22 INTENDS TO FILE A CLAIM FOR COMPENSATION, THE INSURANCE CARRIER OR
23 SELF-INSURED EMPLOYER MUST FORWARD THE WRITTEN NOTIFICATION OF THE INJURY
24 AND INTENDED CLAIM FOR COMPENSATION TO THE COMMISSION WITHIN SEVEN
25 BUSINESS DAYS AND INFORM THE EMPLOYEE OF THE EMPLOYEE'S REQUIREMENT TO
26 FILE A CLAIM WITH THE COMMISSION. THE ONE-YEAR PERIOD AS PRESCRIBED IN
27 SUBSECTION A OF THIS SECTION IS SUSPENDED FROM THE DATE THE INSURANCE
28 CARRIER OR SELF-INSURED EMPLOYER RECEIVED WRITTEN NOTIFICATION OF THE
29 INJURY AND INTENDED CLAIM FOR COMPENSATION UNTIL THE DATE THAT THE
30 INSURANCE CARRIER OR SELF-INSURED EMPLOYER FORWARDS THE WRITTEN
31 NOTIFICATION TO THE COMMISSION. WHEN THE COMMISSION RECEIVES SUCH
32 NOTIFICATION, THE COMMISSION MUST NOTIFY THE EMPLOYEE OF THE EMPLOYEE'S
33 RESPONSIBILITY TO FILE A CLAIM WITH THE COMMISSION PURSUANT TO THIS
34 SECTION.