

REFERENCE TITLE: workers' compensation; fraud investigations; adjudications

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1164

Introduced by
Senator Kaiser

AN ACT

AMENDING TITLE 23, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-934; AMENDING SECTION 23-1047, ARIZONA REVISED STATUTES;
RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 23, chapter 6, article 2, Arizona Revised
3 Statutes, is amended by adding section 23-934, to read:

4 23-934. Fraud; investigations; rules; adjudications

5 A. THE COMMISSION MAY ADDRESS FRAUDULENT ACTIVITIES, STATEMENTS OR
6 REPRESENTATIONS MADE IN CONNECTION WITH WORKERS' COMPENSATION CLAIMS. THE
7 COMMISSION SHALL INVESTIGATE ALLEGATIONS OF FRAUD EITHER ON RECEIVING A
8 COMPLAINT OR ON THE COMMISSION'S OWN MOTION.

9 B. THE COMMISSION SHALL ADOPT RULES TO ESTABLISH A PROCESS FOR
10 RECEIVING FRAUD COMPLAINTS AND CONDUCTING FRAUD INVESTIGATIONS PURSUANT TO
11 THIS SECTION. THE RULES:

12 1. SHALL ESTABLISH A PROCESS BY WHICH THE COMMISSION ROUTINELY
13 COMPARES CLAIMANT ANNUAL EARNINGS REPORTED PURSUANT TO SECTION 23-1047
14 WITH THE DEPARTMENT OF ECONOMIC SECURITY UNEMPLOYMENT INSURANCE
15 INFORMATION FOR THE PURPOSE OF IDENTIFYING WORKERS' COMPENSATION FRAUD.

16 2. SHALL ESTABLISH A PROCESS OF TIMELINESS FOR RECEIVING AND
17 PROCESSING FRAUD COMPLAINTS.

18 3. MAY PROVIDE FOR DUTIES AND AUTHORITIES OF FRAUD INVESTIGATORS,
19 INCLUDING ISSUING AND SERVING SUBPOENAS FOR WITNESSES AND DOCUMENTARY
20 EVIDENCE, TAKING DEPOSITIONS, ADMINISTERING OATHS AND EXAMINING WITNESSES
21 UNDER OATH RELEVANT TO THE FRAUD INVESTIGATION.

22 C. IF AN INVESTIGATION REVEALS CREDIBLE EVIDENCE OF FRAUDULENT
23 ACTIVITIES, STATEMENTS OR REPRESENTATIONS MADE IN CONNECTION WITH A
24 WORKERS' COMPENSATION, BENEFITS OR PAYMENTS CLAIM FOR THE PURPOSE OF
25 OBTAINING COMPENSATION, BENEFITS OR PAYMENTS, THE COMMISSION SHALL REFER
26 THE MATTER TO THE ADMINISTRATIVE LAW JUDGE DIVISION FOR A HEARING. THE
27 HEARING SHALL BE CONDUCTED AS EXPEDITIOUSLY AS REASONABLE BUT NOT LATER
28 THAN SIXTY DAYS AFTER THE MATTER WAS REFERRED.

29 D. IF THE ADMINISTRATIVE LAW JUDGE CONCLUDES BY A PREPONDERANCE OF
30 THE EVIDENCE THAT A PERSON KNOWINGLY ENGAGED IN FRAUDULENT ACTIVITIES,
31 STATEMENTS OR REPRESENTATIONS FOR THE PURPOSE OF OBTAINING COMPENSATION,
32 BENEFITS OR PAYMENTS, THE ADMINISTRATIVE LAW JUDGE SHALL GRANT RELIEF AT
33 ANY TIME EVEN IF THE PRIOR NOTICE OR AWARD GRANTING BENEFITS WAS FINAL
34 RELIEF SHALL INCLUDE FORFEITURE OF THE RIGHT TO ANY FUTURE TEMPORARY OR
35 PERMANENT DISABILITY COMPENSATION OR ANY OTHER BENEFITS FOR THE CLAIM ON
36 WHICH THE FRAUDULENT ACTIVITIES, STATEMENTS OR REPRESENTATIONS WERE MADE.

37 E. ANY HEARING AND DECISION PURSUANT TO THIS SECTION SHALL BE
38 CONDUCTED IN ACCORDANCE WITH SECTIONS 23-941, 23-942 AND 23-943. ANY
39 PERSON AGGRIEVED BY A DECISION PURSUANT TO THIS SECTION MAY REQUEST A
40 REVIEW OF THE DECISION PURSUANT TO SECTIONS 23-943 AND 23-951.

41 F. THIS SECTION DOES NOT LIMIT EITHER OF THE FOLLOWING:

42 1. THE AUTHORITY OF THE COMMISSION, THE DEPARTMENT OF INSURANCE AND
43 FINANCIAL INSTITUTIONS OR ANY OTHER ENTITY TO PURSUE ANY REMEDY PURSUANT
44 TO SECTION 23-1028.

1 2. THE RIGHT OF AN INSURANCE CARRIER, A SELF-INSURED EMPLOYER OR
2 THE SPECIAL FUND ESTABLISHED BY SECTION 23-1065 TO ISSUE A NOTICE
3 AFFECTING THE STATUS OF A WORKERS' COMPENSATION CLAIM AT ANY TIME IF A
4 PRIOR DETERMINATION OF COMPENSABILITY OR ENTITLEMENT TO BENEFITS WAS
5 PROCURED BY FRAUD.

6 Sec. 2. Section 23-1047, Arizona Revised Statutes, is amended to
7 read:

8 23-1047. Procedure for determining compensation for partial
9 disability and permanent total disability in cases
10 not enumerated: procedure for determining
11 nonscheduled dependency and duration of
12 compensation to partial dependents in death cases

13 A. In cases of permanent partial disability under section 23-1044,
14 subsection B, paragraph 22 and subsections C and F, when the physical
15 condition of the injured employee becomes stationary, or in the case of
16 permanent total disability not enumerated in section 23-1045, and under
17 section 23-1045, subsection D, or in death cases under section 23-1046,
18 subsection B, the employer or insurance carrier within thirty days shall
19 notify the commission and request that the claim be examined and further
20 compensation, if any, be determined. A copy of all medical reports
21 necessary to make such determination also shall be furnished to the
22 commission. The employer or insurance carrier may commence payment of a
23 permanent disability award without waiting for a determination under
24 subsection B of this section.

25 B. Within thirty days after the commission receives the medical
26 reports, the claims shall be examined and further compensation, including
27 a permanent disability award, if any, shall be determined under the
28 commission's supervision. If necessary, the commission may require
29 additional medical or other information with respect to the claim and may
30 postpone the determination for not more than sixty additional days. Any
31 determination under this subsection may include necessary adjustments in
32 any compensation paid or payable.

33 C. The commission shall serve a copy of the determination to all
34 interested parties. Any ~~such~~ INTERESTED party may request a hearing under
35 section 23-941 on the determination made under subsection B of this
36 section within ninety days after copies of the determination are served.

37 D. Any person receiving permanent compensation benefits shall
38 report annually on the anniversary date of the award to the self-insured
39 employer or insurance carrier AND TO THE COMMISSION all of the person's
40 earnings for the prior twelve-month period. If the person fails to make
41 such report, the self-insured employer or insurance carrier shall notify
42 the person that such report has not been received and that payment of
43 further benefits will be suspended unless such report of earnings is filed
44 within thirty days. After thirty days have elapsed from the date of such
45 notice, the self-insured employer or insurance carrier may issue a notice

1 to the person suspending payment of further benefits and no further
2 payments need be made until such report of earnings is filed.

3 E. Any person receiving permanent compensation benefits from the
4 special fund established by section 23-1065 shall report annually on the
5 anniversary date of the award to the commission all of the person's
6 earnings for the prior twelve-month period. If the person fails to make
7 such report, the commission shall notify the person that such report has
8 not been received and that payment of further benefits will be suspended
9 unless such report of earnings is filed within thirty days. After thirty
10 days have elapsed from the date of such notice, the commission may issue a
11 notice to the person suspending payment of further benefits and no further
12 payments need be made until such report of earnings is filed.