

ASSEMBLY BILL NO. 49—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 26, 2001

(ON BEHALF OF LEGISLATIVE COMMITTEE ON  
WORKERS' COMPENSATION (NRS 218.5375))

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning duties and professional conduct of hearing and appeals officers of department of administration. (BDR 53-767)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; transferring certain duties from the administrator of the division of industrial relations of the department of business and industry to the hearing and appeals officers of the department of administration; requiring that a code of professional conduct be created for appeals officers of the department of administration; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** NRS 616B.215 is hereby amended to read as follows:  
2     616B.215 1. ~~Except as otherwise provided in subsection 2:~~  
3     ~~—(a)~~ A principal contractor or an owner of property acting as a principal  
4     contractor aggrieved by a letter issued pursuant to NRS 616B.645 ~~;~~ ~~or~~  
5     ~~—(b) An employer aggrieved by a determination made pursuant to NRS~~  
6     ~~616C.585.]~~  
7     may appeal from the letter ~~[or determination]~~ by filing a notice of appeal  
8     with the administrator within 30 days after the date of the letter . ~~[or~~  
9     ~~determination.~~

10    ~~—2. An employer shall not seek to remove costs that have been charged~~  
11    ~~to his account by appealing to the administrator any issue that relates to a~~  
12    ~~claim for compensation if the issue was raised or could have been raised~~  
13    ~~before a hearing officer or an appeals officer pursuant to NRS 616C.315 or~~  
14    ~~616C.345.~~

1 ~~—3.]~~ 2. The decision of the administrator is the final and binding  
2 administrative determination of an appeal filed pursuant to this section, and  
3 the whole record consists of all evidence taken at the hearing before the  
4 administrator and any findings based thereon.

5 **Sec. 2.** NRS 616C.170 is hereby amended to read as follows:

6 616C.170 1. ~~[The administrator shall resolve any disputes between~~  
7 ~~insurers if an injured employee claims benefits against more than one~~  
8 ~~insurer.~~

9 ~~—2— The administrator shall adopt regulations concerning the resolution~~  
10 ~~of disputes between insurers regarding benefits to be paid to any injured~~  
11 ~~employee.~~

12 ~~—3— If the insurer or the employee is dissatisfied with the decision of the~~  
13 ~~administrator, the dissatisfied party may request a hearing before an~~  
14 ~~appeals officer.~~

15 ~~—4— Until the administrator has determined which insurer is responsible~~  
16 ~~for a claim.] A dispute between insurers regarding responsibility for~~  
17 ~~payment of compensation if an injured employee claims benefits against~~  
18 ~~more than one insurer must be appealed to the hearings division of the~~  
19 ~~department of administration in the manner provided by NRS 616C.315~~  
20 ~~to 616C.385, inclusive.~~

21 2. *Until a final resolution of the issue of responsibility for payment*  
22 *of the claim is obtained,* the current insurer of the employer shall pay  
23 benefits to the claimant pursuant to chapters 616A to 617, inclusive, of  
24 NRS. Payments made by an insurer pursuant to this subsection are not an  
25 admission of liability for the claim or any portion of the claim.

26 **Sec. 3.** NRS 616C.340 is hereby amended to read as follows:

27 616C.340 1. The governor shall appoint one or more appeals officers  
28 to conduct hearings in contested claims for compensation pursuant to NRS  
29 616C.360. Each appeals officer ~~[shall hold]~~ *holds* office for 2 years ~~[from]~~  
30 *after* the date of his appointment and until his successor is appointed and  
31 has qualified. Each appeals officer is entitled to receive an annual salary in  
32 an amount provided by law and is in the unclassified service of the state.

33 2. ~~[Each]~~ *An* appeals officer ~~[must]~~ :

34 (a) *Must* be an attorney who has been licensed to practice law before all  
35 the courts of this state for at least 2 years ~~[ ]~~ ;

36 (b) Except as otherwise provided in NRS 7.065, ~~[an appeals officer]~~  
37 shall not engage in the private practice of law ~~[ ]~~ ; and

38 (c) *Shall comply with the rules of conduct adopted by the director*  
39 *pursuant to section 5 of this act.*

40 3. If an appeals officer determines that he has a personal interest or a  
41 conflict of interest, directly or indirectly, in any case which is before him,  
42 he shall disqualify himself from hearing the case.

43 4. The governor may appoint one or more special appeals officers to  
44 conduct hearings in contested claims for compensation pursuant to NRS  
45 616C.360. The governor shall not appoint an attorney who represents  
46 persons in actions related to claims for compensation to serve as a special  
47 appeals officer.

48 5. A special appeals officer appointed pursuant to subsection 4 is  
49 vested with the same powers as a regular appeals officer. A special appeals

1 officer may hear any case in which a regular appeals officer has a conflict,  
2 or any case assigned to him by the senior appeals officer to assist with a  
3 backlog of cases. A special appeals officer is entitled to be paid at an  
4 hourly rate, as determined by the department of administration.

5 6. The decision of an appeals officer is the final and binding  
6 administrative determination of a claim for compensation under chapters  
7 616A to 616D, inclusive, or chapter 617 of NRS, and the whole record  
8 consists of all evidence taken at the hearing before the appeals officer and  
9 any findings of fact and conclusions of law based thereon.

10 **Sec. 4.** NRS 616C.585 is hereby amended to read as follows:

11 616C.585 1. Except as otherwise provided in subsection 2,  
12 vocational rehabilitation services ordered by an insurer, a hearing officer or  
13 an appeals officer must not include the following goods and services:

- 14 (a) A motor vehicle.
- 15 (b) Repairs to an injured employee's motor vehicle.
- 16 (c) Tools and equipment normally provided to the injured employee by  
17 his employer during the course of his employment.
- 18 (d) Care for the injured employee's children.

19 2. An injured employee is entitled to receive the goods and services set  
20 forth in subsection 1 only if his insurer determines that such goods and  
21 services are reasonably necessary.

22 3. Vocational rehabilitation services ordered by an insurer may include  
23 the formal education of the injured employee only if:

- 24 (a) The priorities set forth in NRS 616C.530 for returning an injured  
25 employee to work are followed;
- 26 (b) The education is recommended by a plan for a program of  
27 vocational rehabilitation developed pursuant to NRS 616C.555; and
- 28 (c) A written proposal concerning the probable economic benefits to the  
29 employee and the necessity of the education is submitted to the insurer.

30 **4. *An employer aggrieved by a determination made by his insurer***  
31 ***pursuant to this section may appeal that determination to the hearings***  
32 ***division of the department of administration in the manner provided by***  
33 ***NRS 616C.315 to 616C.385, inclusive.***

34 **Sec. 5.** Chapter 232 of NRS is hereby amended by adding thereto a  
35 new section to read as follows:

36 ***The director, in his capacity as the chief of the hearings division, shall***  
37 ***adopt regulations governing the professional conduct of appeals officers.***  
38 ***The regulations must include:***

39 ***1. A procedure for a person who believes that an appeals officer has***  
40 ***violated the standards for professional conduct to make a complaint to***  
41 ***the director or his designee;***

42 ***2. Rules of practice pursuant to which the director or his designee***  
43 ***will hear complaints made pursuant to subsection 1; and***

44 ***3. The penalties that may be imposed against an appeals officer if the***  
45 ***director or his designee determines, pursuant to the rules of practice***  
46 ***adopted pursuant to subsection 2, that an appeals officer has violated a***  
47 ***standard for professional conduct.***

- 1     **Sec. 6.**   NRS 232.212 is hereby amended to read as follows:  
2     232.212   As used in NRS 232.212 to 232.2195, inclusive, *and section 5*  
3     *of this act*, unless the context requires otherwise:  
4     1.   “Department” means the department of administration.  
5     2.   “Director” means the director of the department.  
6     **Sec. 7.**   This act becomes effective on July 1, 2001.

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