

Amendment No. 552

Assembly Amendment to Assembly Bill No. 458

(BDR 53-489)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ALA/WLK



Date: 4/23/2017

A.B. No. 458—Revises provisions governing industrial insurance. (BDR 53-489)



ASSEMBLY BILL NO. 458—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance. (BDR 53-489)

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; providing that certain phrases relating to a claim for compensation may be used interchangeably; authorizing an injured employee to obtain an independent medical examination under certain circumstances; setting forth the manner in which a vocational rehabilitation counselor is to be appointed; increasing the amount of medical benefits required to be paid during the first 12 months after a claim is opened; revising provisions relating to permanent partial disability; revising provisions concerning the payment in lump sum for a permanent partial disability; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill specifies that a physician or chiropractor may use interchangeably certain phrases that relate to a claim for compensation when determining the causation of an industrial injury or occupational disease.

Existing law authorizes a hearing officer or appeals officer to order an independent medical examination if such an examination is necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied. In such situations, an injured employee may choose any physician or chiropractor, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. (NRS 616C.330, 616C.360) **Section 3** of this bill sets forth that an injured employee is entitled to an independent medical examination for a claim for compensation that is open or when the closure of a claim is under dispute. **Section 3** further authorizes the injured employee to obtain an independent medical examination: (1) when a dispute arises from a determination issued by the insurer; (2) within 30 days after the injured employee receives a certain report generated by a medical examination; or (3) by leave of a hearing officer or appeals officer. **Section 3** additionally requires an injured employee to select a physician or chiropractor from the panel of physicians or chiropractors established by the Administrator of the Division of Industrial Relations of the Department of Business and Industry. **Section 3** further requires the insurer to: (1) pay for an independent medical examination; and (2) upon request, receive a copy of any report or other document that is generated as a result of the independent medical examination. **Section 3** additionally allows the injured employee to obtain ~~not more than~~ only one independent medical examination per calendar year.

Existing law provides that the primary obligation of a vocational rehabilitation counselor is to the injured employee. (NRS 616C.547) Existing law authorizes an insurer or injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee. (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to develop a plan for a program of vocational rehabilitation for each eligible injured employee. (NRS 616C.555) **Section 4** of this bill provides for a vocational rehabilitation counselor to be appointed by the insurer and injured employee when a written assessment is requested or when a plan for a program of vocational rehabilitation is required.

Existing law requires, where there is a previous disability, the percentage of disability for a subsequent injury to be determined by deducting from the entire disability of the person the percentage of previous disability as it existed at the time of the subsequent injury. (NRS 616C.490) The Division of Industrial Relations of the Department of Business and Industry previously implemented a regulation that required an apportionment to be made by subtracting the percentage of previous disability as it existed at the time of the previous disability from the percentage of present disability as it existed at the time of the present disability. (NAC 616C.490) The Nevada Supreme Court in *Pub. Agency Comp. Trust v. Blake*, 127 Nev. 863 (2011), found this regulation to be invalid since it was in conflict with the existing statute. **Section 8** of this bill incorporates the substance of the regulation at issue into existing law.

Existing law authorizes an insurer, after sending notice to the claimant, to close a claim if, during the first 12 months after a claim is opened, the medical benefits required to be paid for the claim are less than \$300. Existing law further requires an insurer to send to a claimant who receives less than \$300 in medical benefits within 6 months after the claim is opened a written notice that explains how the claim may be closed if, during the first 12 months after the claim is opened, the medical benefits required to be paid for the claim are less than \$300. (NRS 616C.235) Section 7.3 of this bill increases the amount of medical benefits required to be paid for the claim from \$300 to \$800.

Existing law sets forth that if an employee's claim is reopened, the employee is not entitled to vocational rehabilitation services or benefits for a temporary total disability if, before the claim was reopened, the employee retired for reasons unrelated to the injury for which the claim was originally made. (NRS 616C.390) Section 7.7 of this bill defines the term "retired" for the purposes of these existing provisions.

Existing law authorizes an award for a permanent partial disability to be paid in a lump sum. Existing law further provides how a lump sum amount is to be calculated and requires the tables used in this calculation to be reviewed annually by a consulting actuary. (NRS 616C.495) **Section 9** of this bill specifies the maximum amount of a lump sum that a person injured on or after July 1, 1995, and before January 1, 2016, on or after January 1, 2016, and before July 1, 2017, and on or after July 1, 2017, may elect to receive as his or her compensation. **Section 9** additionally requires the tables used to calculate the lump sum to be adjusted on July 1 of each year.

~~Sections 5-7 of this bill make conforming changes.~~

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *Certain phrases relating to a claim for compensation for an industrial injury or occupational disease and used by a physician or chiropractor when determining the causation of an industrial injury or occupational disease are deemed to be equivalent and may be used interchangeably. Those phrases are:*

1. *"Directly connect this injury or occupational disease as job incurred";*
and

2. *"A degree of reasonable medical probability that the condition in question was caused by the industrial injury."*

1 **Sec. 3. 1. An injured employee may obtain an independent medical**
2 **examination:**

3 (a) Except as otherwise provided in subsections 2 and 3, whenever a dispute
4 arises from a determination issued by the insurer regarding the approval of care,
5 the direction of a treatment plan or the scope of the claim;

6 (b) Within 30 days after an injured employee receives any report generated
7 pursuant to a medical examination requested by the insurer pursuant to NRS
8 616C.140; or

9 (c) At any time by leave of a hearing officer or appeals officer after the
10 denial of any therapy or treatment.

11 2. An injured employee is entitled to an independent medical examination
12 pursuant to paragraph (a) of subsection 1 only:

13 (a) For a claim for compensation that is open;

14 (b) When the closure of a claim for compensation is under dispute pursuant
15 to NRS 616C.235; or

16 (c) When a hearing or appeal is pending pursuant to NRS 616C.330 or
17 616C.360.

18 3. An injured employee is entitled to only one independent medical
19 examination per calendar year pursuant to paragraph (a) of subsection 1.

20 4. Except as otherwise provided in subsection 5, an independent medical
21 examination must not involve treatment and must be conducted by a physician or
22 chiropractor selected by the injured employee from the panel of physicians and
23 chiropractors established pursuant to subsection 1 of NRS 616C.090.

24 5. If the dispute concerns the rating of a permanent disability, an
25 independent medical examination may be conducted by a rating physician or
26 chiropractor. The injured employee must select the next rating physician or
27 chiropractor in rotation from the list of qualified physicians and chiropractors
28 maintained by the Administrator pursuant to subsection 2 of NRS 616C.490,
29 unless the insurer and the injured employee otherwise agree to a rating physician
30 or chiropractor.

31 6. The insurer shall ~~pay~~:

32 (a) Pay the costs of any independent medical examination conducted
33 pursuant to this section in accordance with NRS 616C.260 ~~if~~; and

34 (b) Upon request, receive a copy of any report or other document that is
35 generated as a result of the independent medical examination.

36 7. The provisions of this section do not apply to an independent medical
37 examination ordered by a hearing officer pursuant to subsection 3 of NRS
38 616C.330 or by an appeals officer pursuant to subsection 3 of NRS 616C.360.

39 **Sec. 4. Where a written assessment is requested pursuant to NRS 616C.550**
40 **or where a plan for a program of vocational rehabilitation is required pursuant to**
41 **NRS 616C.555, a vocational rehabilitation counselor must be appointed as**
42 **follows:**

43 1. The insurer and the injured employee or personal or legal representative
44 of the injured employee shall agree on the selection of a vocational rehabilitation
45 counselor;

46 2. If the insurer or injured employee or personal or legal representative of
47 the injured employee are unable to agree on the appointment of a vocational
48 rehabilitation counselor, the insurer shall submit a list of at least three vocational
49 rehabilitation counselors to the injured employee or personal or legal
50 representative of the injured employee;

51 3. The injured employee or personal or legal representative of the injured
52 employee shall select a vocational rehabilitation counselor from the list provided

1 *by the insurer pursuant to subsection 2 within ~~44~~ 7 days after receiving the list*
2 *provided by the insurer pursuant to subsection 2;*

3 *4. The vocational rehabilitation counselor that is selected by the injured*
4 *employee or personal or legal representative of the injured employee pursuant to*
5 *subsection 1 or 3 must be assigned to provide all vocational rehabilitation*
6 *services for the claim pursuant to this section and NRS 616C.530 to 616C.600,*
7 *inclusive; and*

8 *5. After a vocational rehabilitation counselor is selected and assigned*
9 *pursuant to this section, an injured employee or personal or legal representative*
10 *of the injured employee may only rescind the selection of the vocational*
11 *rehabilitation counselor with the consent of the insurer.*

12 **Sec. 5.** ~~NRS 616C.225 is hereby amended to read as follows:~~

13 ~~616C.225 1. Except as otherwise provided in this section, if an insurer~~
14 ~~determines that an employee has knowingly misrepresented or concealed a material~~
15 ~~fact to obtain any benefit or payment under the provisions of chapters 616A to~~
16 ~~616D, inclusive, of NRS, the insurer may deduct from any benefits or payments due~~
17 ~~to the employee, the amount obtained by the employee because of the~~
18 ~~misrepresentation or concealment of a material fact. The employee shall reimburse~~
19 ~~the insurer for all benefits or payments received because of the willful~~
20 ~~misrepresentation or concealment of a material fact.~~

21 ~~2. An employee who is aggrieved by a determination of an insurer made~~
22 ~~pursuant to subsection 1 may appeal that determination pursuant to NRS 616C.315~~
23 ~~to 616C.385, inclusive [], and section 3 of this act. If the final decision by an~~
24 ~~appeals officer is favorable to the employee, the Administrator shall order the~~
25 ~~insurer to pay \$2,000 to that employee, in addition to any benefits or payments the~~
26 ~~employee is entitled to receive, if the Administrator determines that the insurer had~~
27 ~~no reasonable basis for believing that the employee knowingly misrepresented or~~
28 ~~concealed a material fact to obtain any benefit or payment.~~

29 ~~3. If an employee elects to receive an award for a permanent partial disability~~
30 ~~in a lump sum pursuant to NRS 616C.495 and a criminal action is brought against~~
31 ~~the employee for an alleged violation of NRS 616D.300, the insurer shall, upon~~
32 ~~receiving notice of the action and until a judgment is entered in the action, pay~~
33 ~~reasonable portions of the lump sum award in monthly installments. If the~~
34 ~~employee is not convicted of the alleged violation, the insurer shall pay the~~
35 ~~employee the balance of the award in a lump sum. The provisions of subsection 2~~
36 ~~do not apply to require any additional payment at the conclusion of a criminal~~
37 ~~action.~~

38 ~~4. This section does not preclude an insurer from making an investigation~~
39 ~~pursuant to, or pursuing the remedies provided by, NRS 616D.300.] (Deleted by~~
40 ~~amendment.)~~

41 **Sec. 6.** ~~NRS 616C.320 is hereby amended to read as follows:~~

42 ~~616C.320 If an employee of a self insured employer, an employer who is a~~
43 ~~member of an association of self insured public or private employers or an~~
44 ~~employer insured by a private carrier is dissatisfied with a decision of his or her~~
45 ~~employer, the association or the private carrier, the employee may seek to resolve~~
46 ~~the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive [],~~
47 ~~and section 3 of this act.] (Deleted by amendment.)~~

48 **Sec. 7.** ~~NRS 616C.475 is hereby amended to read as follows:~~

49 ~~616C.475 1. Except as otherwise provided in this section, NRS 616C.175~~
50 ~~and 616C.300, every employee in the employ of an employer, within the provisions~~
51 ~~of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out~~
52 ~~of and in the course of employment, or his or her dependents, is entitled to receive~~

1 ~~for the period of temporary total disability, 66 2/3 percent of the average monthly~~
2 ~~wage.~~

3 ~~2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured~~
4 ~~employee or his or her dependents are not entitled to accrue or be paid any benefits~~
5 ~~for a temporary total disability during the time the injured employee is incarcerated.~~
6 ~~The injured employee or his or her dependents are entitled to receive such benefits~~
7 ~~when the injured employee is released from incarceration if the injured employee is~~
8 ~~certified as temporarily totally disabled by a physician or chiropractor.~~

9 ~~3. If a claim for the period of temporary total disability is allowed, the first~~
10 ~~payment pursuant to this section must be issued by the insurer within 14 working~~
11 ~~days after receipt of the initial certification of disability and regularly thereafter.~~

12 ~~4. Any increase in compensation and benefits effected by the amendment of~~
13 ~~subsection 1 is not retroactive.~~

14 ~~5. Payments for a temporary total disability must cease when:~~

15 ~~(a) A physician or chiropractor determines that the employee is physically~~
16 ~~capable of any gainful employment for which the employee is suited, after giving~~
17 ~~consideration to the employee's education, training and experience;~~

18 ~~(b) The employer offers the employee light duty employment or employment~~
19 ~~that is modified according to the limitations or restrictions imposed by a physician~~
20 ~~or chiropractor pursuant to subsection 7; or~~

21 ~~(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the~~
22 ~~employee is incarcerated.~~

23 ~~6. Each insurer may, with each check that it issues to an injured employee for~~
24 ~~a temporary total disability, include a form approved by the Division for the injured~~
25 ~~employee to request continued compensation for the temporary total disability.~~

26 ~~7. A certification of disability issued by a physician or chiropractor must:~~

27 ~~(a) Include the period of disability and a description of any physical limitations~~
28 ~~or restrictions imposed upon the work of the employee;~~

29 ~~(b) Specify whether the limitations or restrictions are permanent or temporary;~~
30 ~~and~~

31 ~~(c) Be signed by the treating physician or chiropractor authorized pursuant to~~
32 ~~NRS 616B.527 or appropriately chosen pursuant to subsection 3 or 4 of NRS~~
33 ~~616C.090.~~

34 ~~8. If the certification of disability specifies that the physical limitations or~~
35 ~~restrictions are temporary, the employer of the employee at the time of the~~
36 ~~employee's accident may offer temporary, light duty employment to the employee.~~
37 ~~If the employer makes such an offer, the employer shall confirm the offer in writing~~
38 ~~within 10 days after making the offer. The making, acceptance or rejection of an~~
39 ~~offer of temporary, light duty employment pursuant to this subsection does not~~
40 ~~affect the eligibility of the employee to receive vocational rehabilitation services,~~
41 ~~including compensation, and does not exempt the employer from complying with~~
42 ~~NRS 616C.545 to 616C.575, inclusive, and section 4 of this act and 616C.590 or~~
43 ~~the regulations adopted by the Division governing vocational rehabilitation~~
44 ~~services. Any offer of temporary, light duty employment made by the employer~~
45 ~~must specify a position that:~~

46 ~~(a) Is substantially similar to the employee's position at the time of his or her~~
47 ~~injury in relation to the location of the employment and the hours the employee is~~
48 ~~required to work;~~

49 ~~(b) Provides a gross wage that is:~~

50 ~~(1) If the position is in the same classification of employment, equal to the~~
51 ~~gross wage the employee was earning at the time of his or her injury; or~~

~~(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his or her injury; and~~

~~(c) Has the same employment benefits as the position of the employee at the time of his or her injury. (Deleted by amendment.)~~

Sec. 7.3. NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, the claimant has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than ~~[\$200]~~ \$800, the insurer may close the claim at any time after the insurer sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than ~~[\$200]~~ \$800 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

Sec. 7.7. NRS 616C.390 is hereby amended to read as follows:

616C.390 Except as otherwise provided in NRS 616C.392:

1. If an application to reopen a claim to increase or rearrange compensation is made in writing more than 1 year after the date on which the claim was closed, the insurer shall reopen the claim if:

(a) A change of circumstances warrants an increase or rearrangement of compensation during the life of the claimant;

(b) The primary cause of the change of circumstances is the injury for which the claim was originally made; and

(c) The application is accompanied by the certificate of a physician or a chiropractor showing a change of circumstances which would warrant an increase or rearrangement of compensation.

2. After a claim has been closed, the insurer, upon receiving an application and for good cause shown, may authorize the reopening of the claim for medical investigation only. The application must be accompanied by a written request for treatment from the physician or chiropractor treating the claimant, certifying that the treatment is indicated by a change in circumstances and is related to the industrial injury sustained by the claimant.

3. If a claimant applies for a claim to be reopened pursuant to subsection 1 or 2 and a final determination denying the reopening is issued, the claimant shall not reapply to reopen the claim until at least 1 year after the date on which the final determination is issued.

4. Except as otherwise provided in subsection 5, if an application to reopen a claim is made in writing within 1 year after the date on which the claim was closed, the insurer shall reopen the claim only if:

(a) The application is supported by medical evidence demonstrating an objective change in the medical condition of the claimant; and

(b) There is clear and convincing evidence that the primary cause of the change of circumstances is the injury for which the claim was originally made.

5. An application to reopen a claim must be made in writing within 1 year after the date on which the claim was closed if:

(a) The claimant did not meet the minimum duration of incapacity as set forth in NRS 616C.400 as a result of the injury; and

(b) The claimant did not receive benefits for a permanent partial disability.

➤ If an application to reopen a claim to increase or rearrange compensation is made pursuant to this subsection, the insurer shall reopen the claim if the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 are met.

6. If an employee's claim is reopened pursuant to this section, the employee is not entitled to vocational rehabilitation services or benefits for a temporary total disability if, before the claim was reopened, the employee:

(a) Retired; or

(b) Otherwise voluntarily removed himself or herself from the workforce,

➤ for reasons unrelated to the injury for which the claim was originally made.

7. One year after the date on which the claim was closed, an insurer may dispose of the file of a claim authorized to be reopened pursuant to subsection 5, unless an application to reopen the claim has been filed pursuant to that subsection.

8. An increase or rearrangement of compensation is not effective before an application for reopening a claim is made unless good cause is shown. The insurer

shall, upon good cause shown, allow the cost of emergency treatment the necessity for which has been certified by a physician or a chiropractor.

9. A claim that closes pursuant to subsection 2 of NRS 616C.235 and is not appealed or is unsuccessfully appealed pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive, may not be reopened pursuant to this section.

10. The provisions of this section apply to any claim for which an application to reopen the claim or to increase or rearrange compensation is made pursuant to this section, regardless of the date of the injury or accident to the claimant. If a claim is reopened pursuant to this section, the amount of any compensation or benefits provided must be determined in accordance with the provisions of NRS 616C.425.

11. As used in this section:

(a) "Governmental program" means any program or plan under which a person receives payments from a public form of retirement. Such payments from a public form of retirement include, without limitation:

(1) Social security received as a result of the Social Security Act, as defined in NRS 287.120;

(2) Payments from the Public Employees' Retirement System, as established by NRS 286.110;

(3) Payments from the Retirees' Fund, as defined in NRS 287.04064;

(4) A disability retirement allowance, as defined in NRS 1A.040 and 286.031;

(5) A retirement allowance, as defined in NRS 218C.080; and

(6) A service retirement allowance, as defined in NRS 1A.080 and 286.080.

(b) "Retired" means a person who, on the date he or she filed for reopening a claim pursuant to this section:

(1) Is not employed or earning wages; and

(2) Receives benefits or payments for retirement from a:

(I) Pension or retirement plan;

(II) Governmental program; or

(III) Plan authorized by 26 U.S.C. § 401(a), 401(k), 403(b), 457 or 3121.

(c) "Wages" means any remuneration paid by an employer to an employee for the personal services of the employee, including, without limitation:

(1) Commissions and bonuses; and

(2) Remuneration payable in any medium other than cash.

Sec. 8. NRS 616C.490 is hereby amended to read as follows:

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, "disability" and "impairment of the whole person" are equivalent terms.

2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical

1 Association's Guides to the Evaluation of Permanent Impairment as adopted and
2 supplemented by the Division pursuant to NRS 616C.110.

3 (b) Rating physicians and chiropractors must be selected in rotation from the
4 list of qualified physicians and chiropractors designated by the Administrator,
5 according to their area of specialization and the order in which their names appear
6 on the list unless the next physician or chiropractor is currently an employee of the
7 insurer making the selection, in which case the insurer must select the physician or
8 chiropractor who is next on the list and who is not currently an employee of the
9 insurer.

10 3. If an insurer contacts the treating physician or chiropractor to determine
11 whether an injured employee has suffered a permanent disability, the insurer shall
12 deliver to the treating physician or chiropractor that portion or a summary of that
13 portion of the American Medical Association's Guides to the Evaluation of
14 Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that
15 is relevant to the type of injury incurred by the employee.

16 4. At the request of the insurer, the injured employee shall, before an
17 evaluation by a rating physician or chiropractor is performed, notify the insurer of:

18 (a) Any previous evaluations performed to determine the extent of any of the
19 employee's disabilities; and

20 (b) Any previous injury, disease or condition sustained by the employee which
21 is relevant to the evaluation performed pursuant to this section.

22 ➤ The notice must be on a form approved by the Administrator and provided to the
23 injured employee by the insurer at the time of the insurer's request.

24 5. Unless the regulations adopted pursuant to NRS 616C.110 provide
25 otherwise, a rating evaluation must include an evaluation of the loss of motion,
26 sensation and strength of an injured employee if the injury is of a type that might
27 have caused such a loss. Except in the case of claims accepted pursuant to NRS
28 616C.180, no factors other than the degree of physical impairment of the whole
29 person may be considered in calculating the entitlement to compensation for a
30 permanent partial disability.

31 6. The rating physician or chiropractor shall provide the insurer with his or
32 her evaluation of the injured employee. After receiving the evaluation, the insurer
33 shall, within 14 days, provide the employee with a copy of the evaluation and notify
34 the employee:

35 (a) Of the compensation to which the employee is entitled pursuant to this
36 section; or

37 (b) That the employee is not entitled to benefits for permanent partial
38 disability.

39 7. Each 1 percent of impairment of the whole person must be compensated by
40 a monthly payment:

41 (a) Of 0.5 percent of the claimant's average monthly wage for injuries
42 sustained before July 1, 1981;

43 (b) Of 0.6 percent of the claimant's average monthly wage for injuries
44 sustained on or after July 1, 1981, and before June 18, 1993;

45 (c) Of 0.54 percent of the claimant's average monthly wage for injuries
46 sustained on or after June 18, 1993, and before January 1, 2000; and

47 (d) Of 0.6 percent of the claimant's average monthly wage for injuries
48 sustained on or after January 1, 2000.

49 ➤ Compensation must commence on the date of the injury or the day following the
50 termination of temporary disability compensation, if any, whichever is later, and
51 must continue on a monthly basis for 5 years or until the claimant is 70 years of
52 age, whichever is later.

8. Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

9. ~~Where~~ *Except as otherwise provided in subsection 10, if* there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

10. *If a rating evaluation was completed for a previous disability involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present disability, the percentage of disability for a subsequent injury must be determined by deducting the percentage of the previous disability from the percentage of the present disability, regardless of the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 used to determine the percentage of the previous disability. The compensation awarded for a permanent disability on a subsequent injury must be reduced only by the awarded or agreed upon percentage of disability actually received by the injured employee for the previous injury regardless of the percentage of the previous disability.*

11. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

~~12.~~ 12. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

~~13.~~ 13. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

Sec. 9. NRS 616C.495 is hereby amended to read as follows:

616C.495 1. Except as otherwise provided in NRS 616C.380, an award for a permanent partial disability may be paid in a lump sum under the following conditions:

(a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who incurs a disability that does not exceed 12 percent may elect to receive his or her compensation in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that does not exceed 30 percent may elect to receive his or her compensation in a lump sum.

(b) The spouse, or in the absence of a spouse, any dependent child of a deceased claimant injured on or after July 1, 1973, who is not entitled to compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to the present value of the deceased claimant's undisbursed award for a permanent partial disability.

(c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(d) Any claimant injured on or after July 1, 1995, *and before July 1, 2017,* ~~may elect to receive his or her compensation in a lump sum in accordance with regulations adopted by the Administrator and approved by the Governor. The Administrator shall adopt regulations for determining the eligibility of such a~~

~~claimant to receive all or any portion of his or her compensation in a lump sum. Such regulations may include the manner in which an award for a permanent partial disability may be paid to such a claimant in installments. Notwithstanding the provisions of NRS 233B.070, any regulation adopted pursuant to this paragraph does not become effective unless it is first approved by the Governor.~~ January 1, 2016, who incurs a disability that:

(1) Does not exceed 25 percent may elect to receive his or her compensation in a lump sum.

(2) Exceeds 25 percent may:

(I) Elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the claimant elects to receive compensation pursuant to this sub-subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 25 percent.

(II) To the extent that the insurer has offered to provide compensation in a lump sum up to the present value of an award for disability of 30 percent, elect to receive his or her compensation in a lump sum up to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this sub-subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(e) Any claimant injured on or after January 1, 2016, and before July 1, 2017, who incurs a disability that:

(1) Does not exceed 30 percent may elect to receive his or her compensation in a lump sum.

(2) Exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(f) Any claimant injured on or after July 1, 2017, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of up to 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

~~100~~ (g) If the permanent partial disability rating of a claimant seeking compensation pursuant to this section would, when combined with any previous permanent partial disability rating of the claimant that resulted in an award of benefits to the claimant, result in the claimant having a total permanent partial disability rating in excess of 100 percent, the claimant's disability rating upon which compensation is calculated must be reduced by such percentage as required to limit the total permanent partial disability rating of the claimant for all injuries to not more than 100 percent.

2. If the claimant elects to receive his or her payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of the claimant's benefits for compensation terminate. The claimant's acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting the claimant waives all of his or her rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his or her disability, except:

(a) The right of the claimant to:

(1) Reopen his or her claim in accordance with the provisions of NRS 616C.390; or

1 (2) Have his or her claim considered by his or her insurer pursuant to NRS
2 616C.392;

3 (b) Any counseling, training or other rehabilitative services provided by the
4 insurer; and

5 (c) The right of the claimant to receive a benefit penalty in accordance with
6 NRS 616D.120.

7 ☞ The claimant, when he or she demands payment in a lump sum, must be
8 provided with a written notice which prominently displays a statement describing
9 the effects of accepting payment in a lump sum of an entire permanent partial
10 disability award, any portion of such an award or any uncontested portion of such
11 an award, and that the claimant has 20 days after the mailing or personal delivery of
12 the notice within which to retract or reaffirm the demand, before payment may be
13 made and the claimant's election becomes final.

14 3. Any lump-sum payment which has been paid on a claim incurred on or
15 after July 1, 1973, must be supplemented if necessary to conform to the provisions
16 of this section.

17 4. Except as otherwise provided in this subsection, the total lump-sum
18 payment for disablement must not be less than one-half the product of the average
19 monthly wage multiplied by the percentage of disability. If the claimant received
20 compensation in installment payments for his or her permanent partial disability
21 before electing to receive payment for that disability in a lump sum, the lump-sum
22 payment must be calculated for the remaining payment of compensation.

23 5. The lump sum payable must be equal to the present value of the
24 compensation awarded, less any advance payment or lump sum previously paid.
25 The present value must be calculated using monthly payments in the amounts
26 prescribed in subsection 7 of NRS 616C.490 and actuarial annuity tables adopted
27 by the Division. The tables must be reviewed annually by a consulting actuary ~~+~~
28 *and must be adjusted accordingly on July 1 of each year by the Division using:*

29 *(a) The most recent unisex "Static Mortality Tables for Defined Benefit*
30 *Pension Plans" published by the Internal Revenue Service; and*

31 *(b) The average 30-Year Treasury Constant Maturity Rate for March of the*
32 *current year as reported by the Board of Governors of the Federal Reserve*
33 *System.*

34 6. If a claimant would receive more money by electing to receive
35 compensation in a lump sum than the claimant would if he or she receives
36 installment payments, the claimant may elect to receive the lump-sum payment.

37 **Sec. 10.** This act becomes effective on July 1, 2017.