

ASSEMBLY BILL NO. 441—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to industrial insurance.
(BDR 53-1002)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; revising certain requirements to make certain insurance records available for inspection; removing the requirement that certain entities maintain a telephone service to accept collect calls from injured employees; revising the circumstances under which the Administrator of the Division of Industrial Relations of the Department of Business and Industry is authorized to remove a physician or chiropractic physician from a list or panel of physicians and chiropractic physicians who may provide certain medical services relating to the Nevada Industrial Insurance Act; requiring the Administrator to publish annual and quarterly reports; authorizing certain physicians and chiropractic physicians to decline to perform certain evaluations under certain circumstances; authorizing certain injured employees to request certain additional examinations; revising requirements for calculating the value of certain payments pursuant to the Act for a permanent partial disability; revising provisions relating to an appeal of certain determinations of the Administrator; requiring certain insurance claims to be administered by certain persons; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law establishes the Nevada Industrial Insurance Act, which provides for the payment of compensation to employees who are injured or disabled as the result of an occupational injury. (Chapters 616A-616D of NRS)

Existing law requires certain insurers to maintain an office in this State that is operated by the insurer or its third-party administrator and to provide access to files relating to industrial insurance claims at that office. (NRS 616B.021, 616B.027) **Section 1** of this bill requires the insurer to make such files available for inspection and reproduction by electronic means or at an office operated by the insurer or its third-party administrator located in this State. **Section 1** also authorizes the insurer to keep physical records concerning a claim filed in this State at a location outside this State if those records are made available for inspection and reproduction in certain electronic forms or at offices located in this State.

Section 2 of this bill permits an office operated by an insurer or its third-party administrator to keep reproductions of certain files rather than the original copies. **Section 2** also removes the requirement that an insurer accept collect calls from injured employees.

Existing law requires an insurer to keep a list of physicians and chiropractic physicians from which an injured employee may choose to receive treatment and include in that list a certain number of physicians or chiropractic physicians from a panel established and maintained by the Administrator of the Division of Industrial Relations of the Department of Business and Industry. Existing law also sets forth procedures and limitations governing the removal of a physician or chiropractic physician from an insurer's list. (NRS 616C.087, 616C.090) **Section 4** of this bill expands the circumstances under which a physician or chiropractic physician may be involuntarily removed from an insurer's list and requires the Administrator to adopt regulations prescribing the format of the list which insurers must maintain. **Section 5** of this bill revises the reasons for which the Administrator may remove a physician or chiropractic physician from a panel.

Existing law provides that an employee who is injured by an accident arising out of and in the course of employment is entitled to receive compensation under the Act for a permanent partial disability which is rated during an evaluation by certain physicians or chiropractic physicians. (NRS 616C.490) **Section 7** of this bill revises the methodology by which those physicians or chiropractic physicians are selected to perform such an evaluation and authorizes such a physician or chiropractic physician to decline to perform an evaluation if the physician or chiropractic physician believes he or she is not qualified to rate the disability at issue. **Sections 3 and 7** of this bill require the Administrator to prepare annual and quarterly reports containing certain information about those physicians and chiropractic physicians and the frequency with which they perform such evaluations and certain other examinations.

Existing law authorizes an injured employee, subject to various requirements and restrictions, to obtain an independent medical examination concerning an injury that is the subject of a claim filed pursuant to the Act. (NRS 616C.145) **Section 6** of this bill provides that such an injured employee is entitled to request such an independent examination for a permanent partial disability to determine if the employee has a ratable impairment or to dispute the initial rating of the employee's injury.

Existing law provides that a claimant under the Act may elect to receive payment for a permanent partial disability in a lump sum under certain circumstances. (NRS 616C.495) **Section 8** of this bill requires an insurer to use the age of the claimant on the date on which the claimant demands payment in a lump sum to calculate the present value of the lump sum payable.

Existing law authorizes the Administrator to order an insurer or certain other persons to pay to a claimant a benefit penalty if the Administrator determines the



insurer or other person has refused to process a claim for compensation pursuant to the Act or committed certain other violations. (NRS 616D.120) Existing law authorizes a person to contest a decision of the Administrator to impose or refuse to impose a benefit penalty by filing a notice of appeal with an appeals officer. (NRS 616D.140) **Section 9** of this bill revises certain procedural requirements relating to such an appeal and authorizes a claimant on whose behalf a benefit penalty is imposed to bring a civil action to recover the amount of the benefit penalty.

Section 10 of this bill requires all claims brought pursuant to the Act or the Nevada Occupational Diseases Act to be administered by: (1) a salaried employee of an insurer located in this State; (2) a licensed adjuster located in or outside this State; or (3) a registered third-party administrator acting on behalf of an insurer located in or outside this State. **Section 10** also requires all files relating to a claim filed pursuant to the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act to be made available for inspection at certain locations in this State or by electronic means.

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

Section 1. NRS 616B.021 is hereby amended to read as follows:

616B.021 1. An insurer shall ~~{provide access to}~~ *make* the files of claims *available for inspection and reproduction:*

(a) At an office operated by the insurer or its third-party administrator located in ~~{its offices}~~ this State; or

(b) By electronic means.

2. The physical records in a file concerning a claim filed in this State may be kept at ~~{an office located}~~ *a location* outside this State if all records in the file are ~~{accessible}~~ *made available for inspection and reproduction* at ~~{offices}~~ *an office operated by the insurer or its third-party administrator that is* located in this State ~~{on}~~ *or by* computer in a microphotographic, electronic or other similar format that produces an accurate reproduction of the original. If a claim filed in this State is open, the records in the file must be reproduced and available for inspection during regular business hours within 24 hours after requested by the employee or the employee's designated agent, the employer or the employer's designated agent, or the Administrator or the Administrator's designated agent. If a claim filed in this State is closed, the records in the file must be reproduced and available for inspection during regular business hours within 14 days after requested by such persons.

3. Upon request, the insurer shall make copies or other reproductions of anything in the file and may charge a reasonable fee for this service. Copies or other reproductions of materials in the file which are requested by the Administrator or the Administrator's



designated agent, or the Nevada Attorney for Injured Workers or his or her designated agent must be provided free of charge.

4. The Administrator may adopt regulations concerning the:

(a) Maintenance of records in a file on claims that are open or closed; and

(b) Preservation, examination and use of records which have been stored on computer or in a microphotographic, electronic or similar format by an insurer.

5. This section does not require an insurer to allow inspection or reproduction of material regarding which a legal privilege against disclosure has been conferred.

Sec. 2. NRS 616B.027 is hereby amended to read as follows:

616B.027 1. Every insurer shall:

(a) Provide an office in this State operated by the insurer or its third-party administrator in which:

(1) A complete file *, or a reproduction of the complete file,* of each claim is accessible, in accordance with the provisions of NRS 616B.021;

(2) Persons authorized to act for the insurer and, if necessary, licensed pursuant to chapter 683A of NRS, may receive information related to a claim and provide the services to an employer and his or her employees required by chapters 616A to 617, inclusive, of NRS; and

(3) An employee or his or her employer, upon request, is provided with information related to a claim filed by the employee or a copy or other reproduction of the information from the file for that claim, in accordance with the provisions of NRS 616B.021.

(b) Provide statewide toll-free telephone service to the office maintained pursuant to paragraph (a) . ~~[or accept collect calls from injured employees.]~~

2. Each private carrier shall provide:

(a) Adequate services to its insured employers in controlling losses; and

(b) Adequate information on the prevention of industrial accidents and occupational diseases.

Sec. 3. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall, not later than 30 days after the end of each calendar quarter, publish and make publicly available on the Internet website of the Division a report containing:

(a) The name of each rating physician or chiropractic physician, listed in alphabetical order by last name, who conducted an examination or evaluation on an injured employee pursuant to NRS 616.100, 616C.145, 616C.330, 616C.360 or 616C.490 in the immediately preceding calendar quarter; and



(b) For each rating physician or chiropractic physician identified pursuant to paragraph (a), the number of examinations or evaluations that were conducted by the rating physician or chiropractic physician as result of:

(1) The selection of the rating physician or chiropractic physician in rotation from the list of qualified physicians and chiropractic physicians maintained by the Administrator pursuant to subsection 2 of NRS 616C.490; and

(2) An agreement by an insurer and an injured employee.

2. The Administrator shall retain an archive which is accessible by the public of each report published pursuant to subsection 1.

Sec. 4. NRS 616C.087 is hereby amended to read as follows:

616C.087 1. The Legislature hereby declares that:

(a) The choice of a treating physician or chiropractic physician is a substantive right and substantive benefit of an injured employee who has a claim under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act.

(b) The injured employees of this State have a substantive right to an adequate choice of physicians and chiropractic physicians to treat their industrial injuries and occupational diseases.

2. Except as otherwise provided in this subsection and subsections 3 and 4, an insurer's list of physicians and chiropractic physicians from which an injured employee may choose pursuant to NRS 616C.090 must include not less than 12 physicians or chiropractic physicians, as applicable, in each of the following disciplines and specializations, without limitation, from the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090:

- (a) Orthopedic surgery on spines;
- (b) Orthopedic surgery on shoulders;
- (c) Orthopedic surgery on elbows;
- (d) Orthopedic surgery on wrists;
- (e) Orthopedic surgery on hands;
- (f) Orthopedic surgery on hips;
- (g) Orthopedic surgery on knees;
- (h) Orthopedic surgery on ankles;
- (i) Orthopedic surgery on feet;
- (j) Neurosurgery;
- (k) Neurology;
- (l) Cardiology;
- (m) Pulmonology;
- (n) Psychiatry;
- (o) Pain management;
- (p) Occupational medicine;



- (q) Physiatriy or physical medicine;
- (r) General practice or family medicine; and
- (s) Chiropractic medicine.

➤ If the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090 contains fewer than 12 physicians or chiropractic physicians, as applicable, for a discipline or specialization specifically identified in this subsection, all of the physicians or chiropractic physicians, as applicable, on the panel for that discipline or specialization must be included on the insurer's list.

3. For any other discipline or specialization not specifically identified in subsection 2, the insurer's list must include not fewer than 8 physicians or chiropractic physicians, as applicable, unless the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090 contains fewer than 8 physicians or chiropractic physicians, as applicable, for that discipline or specialization, in which case all of the physicians or chiropractic physicians, as applicable, on the panel for that discipline or specialization must be included on the insurer's list.

4. For each county whose population is 100,000 or more, an insurer's list of physicians and chiropractic physicians must include for that county a number of physicians and chiropractic physicians, as applicable, that is not less than the number required pursuant to subsections 2 and 3 and that also maintain in that county:

- (a) An active practice; and
- (b) A physical office.

5. If an insurer fails to maintain a list of physicians and chiropractic physicians that complies with the requirements of subsections 2, 3 and 4, an injured employee may choose a physician or chiropractic physician from the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090.

6. Each insurer shall, not later than October 1 of each year, update the list of physicians and chiropractic physicians and file the list with the Administrator. The list must be certified by an adjuster who is licensed pursuant to chapter 684A of NRS.

7. Upon receipt of a list of physicians and chiropractic physicians that is filed pursuant to subsection 6, the Administrator shall:

- (a) Stamp the list as having been filed; and
- (b) Indicate on the list the date on which it was filed.

8. The Administrator shall:

(a) Provide a copy of an insurer's list of physicians and chiropractic physicians to any member of the public who requests a copy; or



(b) Post a copy of each insurer's list of physicians and chiropractic physicians on an Internet website maintained by the Administrator and accessible to the public for viewing, printing or downloading.

9. At any time, a physician or chiropractic physician may request in writing that he or she be removed from an insurer's list of physicians and chiropractic physicians. The insurer must comply with the request and omit the physician or chiropractic physician from the next list which the insurer files with the Administrator.

10. A physician or chiropractic physician may not be involuntarily removed from an insurer's list of physicians and chiropractic physicians except for good cause. As used in this subsection, "good cause" means that one or more of the following circumstances apply:

(a) The physician or chiropractic physician has died or is disabled.

(b) The license of the physician or chiropractic physician has been revoked or suspended.

(c) The physician or chiropractic physician has been convicted of:

(1) A felony; or

(2) A crime for a violation of a provision of chapter 616D of NRS.

(d) The physician or chiropractic physician has been removed from the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090 by the Administrator upon a finding that the physician or chiropractic physician ~~has~~:

(1) Has failed to comply with the standards for treatment of industrial injuries or occupational diseases as established by the Administrator ~~H~~; or

(2) Does not treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

11. Unless a physician or chiropractic physician, as applicable, is removed from an insurer's list of physicians and chiropractic physicians pursuant to subsection 10, an injured employee may continue to receive treatment from that physician or chiropractic physician even if:

(a) The employer of the injured employee changes insurers or administrators.

(b) The physician or chiropractic physician is no longer included in the applicable insurer's list of physicians and chiropractic physicians, provided that the physician or chiropractic physician agrees to continue to accept compensation for that treatment at the rates which:



(1) Were previously agreed upon when the physician or chiropractic physician was most recently included in the list; or

(2) Are newly negotiated but do not exceed the amounts provided under the fee schedule adopted by the Administrator.

12. The Administrator shall adopt regulations prescribing the form in which a list of physicians and chiropractic physicians created by an employer, insurer or third-party administrator pursuant to this section must be maintained. The Administrator shall require that any such list be formatted as a comma-separated values file.

Sec. 5. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish, maintain and update not less frequently than annually on or before July 1 of each year, a panel of physicians and chiropractic physicians who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. The Administrator shall maintain the following information relating to each physician and chiropractic physician on the panel:

(a) The name of the physician or chiropractic physician.

(b) The title or degree of the physician or chiropractic physician.

(c) The legal name of the practice of the physician or chiropractic physician and the name under which the practice does business.

(d) The street address of the location of every office of the physician or chiropractic physician.

(e) The telephone number of every office of the physician or chiropractic physician.

(f) Every discipline and specialization practiced by the physician or chiropractic physician.

(g) Every condition and part of the body which the physician or chiropractic physician will treat.

2. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractic physicians on the panel who are reasonably accessible to his or her employees.

3. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527 may choose a treating physician or chiropractic physician from the panel of physicians and chiropractic physicians. If the injured employee is not satisfied with the first physician or chiropractic physician he or she so chooses, the injured employee may make an alternative choice of physician or chiropractic physician from the panel if the



choice is made within 90 days after his or her injury. The insurer shall notify the first physician or chiropractic physician in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractic physician must be reimbursed only for the services the physician or chiropractic physician, as applicable, rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractic physician must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If the insurer takes no action on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractic physician must include the name of the new physician or chiropractic physician chosen by the injured employee. If the treating physician or chiropractic physician refers the injured employee to a specialist for treatment, the insurer shall provide to the injured employee a list that includes the name of each physician or chiropractic physician with that specialization who is on the panel. Not later than 14 days after receiving the list, the injured employee shall select a physician or chiropractic physician from the list.

4. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527 must choose a treating physician or chiropractic physician pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractic physician he or she so chooses, the injured employee may make an alternative choice of physician or chiropractic physician pursuant to the terms of the contract without the approval of the insurer if the choice is made within 90 days after his or her injury. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractic physician must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If the insurer takes no action on the request within 10 days, the request shall be deemed granted. If the injured employee, after choosing a treating physician or chiropractic physician, moves to a county which is not served by the organization for managed care or providers of health care named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractic physician, the injured employee must choose a treating



1 physician or chiropractic physician who has agreed to the terms of
2 that contract unless the insurer authorizes the injured employee to
3 choose another physician or chiropractic physician. If the treating
4 physician or chiropractic physician refers the injured employee to a
5 specialist for treatment, the insurer shall provide to the injured
6 employee a list that includes the name of each physician or
7 chiropractic physician with that specialization who is available
8 pursuant to the terms of the contract with the organization for
9 managed care or with providers of health care pursuant to NRS
10 616B.527, as appropriate. Not later than 14 days after receiving the
11 list, the injured employee shall select a physician or chiropractic
12 physician from the list. If the employee fails to select a physician
13 or chiropractic physician, the insurer may select a physician or
14 chiropractic physician with that specialization. If a physician or
15 chiropractic physician with that specialization is not available
16 pursuant to the terms of the contract, the organization for managed
17 care or the provider of health care may select a physician or
18 chiropractic physician with that specialization.

19 5. If the injured employee is not satisfied with the physician or
20 chiropractic physician selected by himself or herself or by the
21 insurer, the organization for managed care or the provider of health
22 care pursuant to subsection 4, the injured employee may make an
23 alternative choice of physician or chiropractic physician pursuant to
24 the terms of the contract. A change in the treating physician or
25 chiropractic physician may be made at any time but is subject to the
26 approval of the insurer or by order of a hearing officer or appeals
27 officer. A request for a change of physician or chiropractic
28 physician must be granted or denied within 10 days after a written
29 request for such a change is received from the injured employee. If
30 no action is taken on the request within 10 days, the request shall be
31 deemed granted. Any request for a change of physician or
32 chiropractic physician must include the name of the new physician
33 or chiropractic physician chosen by the injured employee. If the
34 insurer denies a request for a change in the treating physician or
35 chiropractic physician under this subsection, the insurer must
36 include in a written notice of denial to the injured employee the
37 specific reason for the denial of the request.

38 6. Except when emergency medical care is required and except
39 as otherwise provided in NRS 616C.055, the insurer is not
40 responsible for any charges for medical treatment or other accident
41 benefits furnished or ordered by any physician, chiropractic
42 physician or other person selected by the injured employee in
43 disregard of the provisions of this section or for any compensation
44 for any aggravation of the injured employee's injury attributable to



improper treatments by such physician, chiropractic physician or other person.

7. The Administrator may order necessary changes in a panel of physicians and chiropractic physicians and shall suspend or remove any physician or chiropractic physician from ~~the~~:

(a) A panel for good cause shown in accordance with NRS 616C.087 ~~to~~; or

(b) *Being included as a practitioner of a discipline or specialization in a list of physicians and chiropractic physicians if the Administrator determines that the physician or chiropractic physician does not treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS using that discipline or specialization.*

8. An injured employee may receive treatment by more than one physician or chiropractic physician:

(a) If the insurer provides written authorization for such treatment; or

(b) By order of a hearing officer or appeals officer.

9. The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 3, 4 and 5 to select an alternative treating physician or chiropractic physician and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 6. NRS 616C.145 is hereby amended to read as follows:

616C.145 1. An injured employee may obtain an independent medical examination:

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

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

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

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

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

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

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

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



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

5. ~~If the dispute concerns the rating of a permanent disability,~~
An injured employee is entitled to request an independent medical examination [may be conducted by a rating physician or chiropractic physician.] pursuant to paragraph (a) of subsection 1 for a permanent partial disability to determine if the injured employee has a ratable impairment or, if the injured employee is seeking to dispute an initial rating, to obtain a second rating. The injured employee must select the next rating physician or chiropractic physician in rotation from the list of qualified physicians and chiropractic physicians maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractic physician. *Nothing in this subsection shall be construed to prohibit an injured employee from obtaining a second determination for a permanent partial disability pursuant to NRS 616C.100.*

6. The insurer shall:

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

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

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

Sec. 7. 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. Except as otherwise provided in subsection 3:

(a) Within 30 days after receiving from a physician or chiropractic physician 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



1 or chiropractic physician selected pursuant to this subsection to
2 determine the extent of the employee's disability.

3 (b) Unless the insurer and the injured employee otherwise agree
4 to a rating physician or chiropractic physician:

5 (1) The insurer shall select the rating physician or
6 chiropractic physician from the list of qualified rating physicians
7 and chiropractic physicians designated by the Administrator, to
8 determine the percentage of disability in accordance with the
9 American Medical Association's Guides to the Evaluation of
10 Permanent Impairment as adopted and supplemented by the
11 Division pursuant to NRS 616C.110.

12 (2) Rating physicians and chiropractic physicians must be
13 selected in rotation from the list of qualified physicians and
14 chiropractic physicians designated by the Administrator ~~[-, according~~
15 ~~to their area of specialization and]~~ *in* the order in which their names
16 appear on the list unless the next physician or chiropractic physician
17 is currently an employee of the insurer making the selection, in
18 which case the insurer must select the physician or chiropractic
19 physician who is next on the list and who is not currently an
20 employee of the insurer.

21 *(3) A rating physician or chiropractic physician selected*
22 *pursuant to subparagraph (1) or (2) may decline the selection if he*
23 *or she believes he or she does not have the ability to rate the*
24 *disability at issue.*

25 3. Notwithstanding any other provision of law, an injured
26 employee or the legal representative of an injured employee may, at
27 any time, without limitation, request that the Administrator select a
28 rating physician or chiropractic physician from the list of qualified
29 physicians and chiropractic physicians designated by the
30 Administrator. The Administrator, upon receipt of the request, shall
31 immediately select for the injured employee the rating physician or
32 chiropractic physician who is next in rotation on the list, according
33 to the area of specialization.

34 4. If an insurer contacts a treating physician or chiropractic
35 physician to determine whether an injured employee has suffered a
36 permanent disability, the insurer shall deliver to the treating
37 physician or chiropractic physician that portion or a summary of that
38 portion of the American Medical Association's Guides to the
39 Evaluation of Permanent Impairment as adopted by the Division
40 pursuant to NRS 616C.110 that is relevant to the type of injury
41 incurred by the employee.

42 5. At the request of the insurer, the injured employee shall,
43 before an evaluation by a rating physician or chiropractic physician
44 is performed, notify the insurer of:



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

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

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

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

7. The rating physician or chiropractic physician shall provide the insurer with his or her evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:

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

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

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

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

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

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

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

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

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

10. If there is a previous disability, the percentage of disability for a subsequent injury must be determined pursuant to NRS 616C.099.



11. In the event of a dispute over an award of compensation for permanent partial disability, the insurer shall commence making installment payments to the injured employee for that portion of the award that is not in dispute:

(a) Not later than the date by which such payment is required pursuant to subsection 8 or 9, as applicable; and

(b) Without requiring the injured employee to make an election whether to receive his or her compensation in installment payments or in a lump sum.

12. 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.

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

14. 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.

15. The Administrator shall prepare and publish on the Internet website of the Division an annual report which contains:

(a) The name of each rating physician or chiropractic physician who was selected in the immediately preceding year to conduct an evaluation to determine the extent of an employee's disability pursuant to this section; and

(b) For each rating physician or chiropractic physician identified pursuant to paragraph (a):

(1) The number of times the rating physician or chiropractic physician was selected to conduct an evaluation to determine the extent of an employee's disability; and

(2) The number of evaluations that the rating physician or chiropractic physician completed.

Sec. 8. 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



1 entitled to a lump sum equal to the present value of the deceased
2 claimant's undisbursed award for a permanent partial disability.

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

10 (d) Any claimant injured on or after July 1, 1995, and before
11 January 1, 2016, who incurs a disability that:

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

14 (2) Exceeds 25 percent may:

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

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

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

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

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

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



(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. Except as otherwise provided in paragraph (d), 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

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

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

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

(d) The right of the claimant to conclude or resolve any contested matter which is pending at the time that the claimant executes his or her election to receive his or her payment for a permanent partial disability in a lump sum. The provisions of this paragraph do not apply to:

(1) The scope of the claim;

(2) The claimant's stable and ratable status; and

(3) The claimant's average monthly wage.

3. The claimant, when he or she demands payment in a lump sum pursuant to subsection 2, must be provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any uncontested portion of such an award, and that the claimant has 20 days after the mailing or personal delivery of the notice within which to retract or reaffirm the demand, before payment may be made and the claimant's election becomes final.



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

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

6. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection 8 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary and must be adjusted accordingly on July 1 of each year by the Division using:

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

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

7. The insurer shall use the age of the claimant on the date on which the claimant demands payment in a lump sum to calculate the present value of the lump sum payable.

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

Sec. 9. NRS 616D.140 is hereby amended to read as follows:

616D.140 1. If a person wishes to contest a decision of the Administrator to impose or refuse to impose a benefit penalty pursuant to NRS 616D.120, the person must file a notice of appeal with an appeals officer in accordance with this section. The notice of appeal must set forth the reasons the proposed benefit penalty should or should not be imposed.

2. A person who is aggrieved by:

(a) A written determination of the Administrator; or

(b) The failure of the Administrator to respond within 90 days to a written request mailed to the Administrator by the person who is aggrieved,



➡ may appeal from the determination or failure to respond by filing a request for a hearing before an appeals officer. The request must be filed within 30 days after the date on which the notice of the Administrator's determination was mailed by the Administrator or within ~~100~~ 120 days after the date on which the unanswered written request was mailed to the Administrator, as applicable. The failure of the Administrator to respond to a written request for a determination within 90 days after receipt of the request shall be deemed by the appeals officer to be a denial of the request. *After the expiration of the 90-day period after the receipt of the request, the Administrator shall have no further jurisdiction to issue a determination concerning the request.*

3. If a notice of appeal is not filed as required by this section, the imposition of or refusal to impose the benefit penalty shall be deemed a final order and is not subject to review by any court or agency.

4. A hearing held pursuant to this section must be conducted by the appeals officer as a hearing de novo. The appeals officer shall render a written decision on the appeal. Except as otherwise provided in this section, the provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this section.

5. A benefit penalty imposed pursuant to NRS 616D.120 must be paid to the claimant on whose behalf it is imposed. If such a payment is not made within the period required by NRS 616D.120, the benefit penalty may be recovered in a civil action brought by the Administrator ~~on behalf of~~ or the claimant in a court of competent jurisdiction in the county in which the claimant resides, in which the violation occurred or in which the person who is required to pay the benefit penalty has his or her principal place of business.

6. Any party aggrieved by a decision issued pursuant to this section by an appeals officer may appeal the decision directly to the district court.

Sec. 10. Chapter 684A of NRS is hereby amended by adding thereto a new section to read as follows:

1. All claims arising under chapters 616A to 616D, inclusive, or chapter 617 of NRS shall be administered by:

(a) A salaried employee of an insurer located in this State;

(b) An adjuster located in or outside this State, who holds a license pursuant to this chapter; or

(c) A third-party administrator who holds a certificate of registration issued by the Commissioner pursuant to NRS 683A.08524 acting on behalf of an insurer located in or outside this State.



1 **2. All files relating to a claim filed pursuant to chapters 616A**
2 **to 616D, inclusive, or chapter 617 of NRS must be made available**
3 **for inspection:**

4 **(a) At the office of an insurer or a third-party administrator**
5 **located in this State; or**

6 **(b) By electronic means.**

7 **Sec. 11.** 1. This section becomes effective upon passage and
8 approval.

9 2. Sections 1 to 10, inclusive, of this act become effective:

10 (a) Upon passage and approval for the purpose of adopting any
11 regulations and performing any other preparatory administrative
12 tasks that are necessary to carry out the provisions of this act; and

13 (b) On January 1, 2024, for all other purposes.

