

CHANGES TO LABOR AND SAFETY CODE - 2020

MILEAGE RATE CHANGES:

Effective March 1, 2020, the state mileage rate changed from \$0.38 to \$0.39 per mile.

Changes to liability of third person, subrogation, lien on award, and notice to employer:

Effective July 1, 2020, changes to the subrogation rights portion of the labor and safety code now states that an employer may, within ninety (90) days after receipt of notice of suit from the employee or the employee's dependents, join in the action upon the employer's motion so that all orders of court after hearing and judgment shall be made for the **employer's protection**.

Formerly, the Act stated the employer may join the action upon the **employee's motion for the employee's protection**, but the Act amended it to allow the employer join upon the employer's motion for the employer's protection.

Codes affected by change: § 22-3-2-13 and § 22-3-7-36.

Changes to temporary total disability:

Effective July 1, 2020, changes to the temporary total disability portion of the labor and safety code was amended to state: Not later than **fourteen (14)** days from the date of the first installment of compensation is due, the employer or the employer's insurance carrier shall **file a report of payment of compensation** with the Worker's Compensation Board electronically and tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the Board. The amendment also assured that **the presentation to the employee or to the employee's dependents of the check, draft, or electronic payment from the employer or the employer's insurance carrier for the proper amount, drawn upon a bank in which money is on deposit to pay the same on demand, is a sufficient tender of the compensation**.

The Act formerly allowed **fifteen (15)** days from the due date of the first installment of compensation to file with the Board and did not *specifically* state a formal report was required.

Additionally, effective July 1, 2020 under the termination of temporary total disability, employer's will now be required to **provide written notice to the injured worker on a form approved by the Board** when terminating temporary disability benefits under **each instance** that termination is allowed under the Act. Furthermore, in all instances for termination of temporary total disability benefits, **the employer must file an electronic notice of termination with the Board**.

Codes affected by the change: § 22-3-3-7 and § 22-3-7-16.

Changes to impairment compensation- specifically visual impairments:

Effective July 1, 2020, changes to the impairment-compensation schedule of the labor and safety code includes a new way to calculate visual impairments due to injuries occurring on and after July 1, 1991. The amendment states that **visual impairments shall be based on the Functional Vision Score (FVS) assessing the visual acuity and visual field to evaluate any reduction in ability to perform vision-related Activities of Daily Living (ADL). Unless such loss is otherwise specified in subdivision (5), visual impairments shall be paid as a whole person rating.**

Formerly, compensation for visual impairment was determined by the amount proportionate to the degree of a permanent reduction without correction or glasses. But, if there was a 100% loss without correction or glasses, then the compensation was calculated at 50% of the total loss plus and additional amount equal to the proportionate amount of the reduction with glasses, which could not exceed an additional fifty percent (50%).

Codes affected by the change: § 22-3-3-10 and § 22-3-7-16.

Changes to administration – specifically records keeping of standard work comp claims:

Effective July 1, 2020, changes to the records keeping of a worker's compensation claim allows the Board to destroy or otherwise dispose of all papers that have been on file for more than two (2) years, when there is no claim pending, or, when compensation has been awarded either by agreement or upon hearing, and more than **two years (2)** have elapsed since the termination of the compensation period as fixed by such Board.

Formerly, the Act stated the Board could destroy or dispose of files after more than **one (1)** year had elapsed since the termination of the compensation period fixed by the Board.

Code affected by the change: § 22-3-4-3.

Changes to administration – specifically records keeping of an occupational disease claim:

Effective July 1, 2020, to prevent a build up of unnecessary useless files, the Board may destroy papers which had been on file for more than two (2) years when there is no claim for compensation pending, or, when compensation had been awarded either by agreement or upon hearing, and more than two (2) years have elapsed since the termination of the compensation period fixed by the Board, but notices of election or rejection shall not be destroyed. Additionally, the Act now states all records of insurance coverage shall be maintained for **thirty-five (35) years**.

Formerly, the Act stated files could be destroyed after more than **one (1) year had** elapsed since termination of compensation and formally all records of insurance coverage were maintained for **forty-five (45) years**.

Code affected by the change: § 22-3-7-28.