

Introduced by

Representative Boucher

Senators Heitkamp, Potter

1 A BILL for an Act to amend and reenact section 65-05-08.1 of the North Dakota Century Code,
2 relating to the relation of eligibility for social security disability to the determination of workers'
3 compensation disability.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 65-05-08.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **65-05-08.1. Verification of disability.**

- 8 1. An injured employee's doctor shall certify the period of disability and the extent of
9 the injured worker's abilities and restrictions.
- 10 2. A doctor certifying disability shall include in the report filed with the organization:
11 a. The medical basis established by medical evidence supported by objective
12 medical findings for the certification of disability;
13 b. Whether the employee is totally disabled, or, if the employee is not totally
14 disabled, whether the employee is able to return to any employment, and a
15 statement of the employee's restrictions and physical limitations; and
16 c. A professional opinion as to the expected length of, and reason for, the
17 disability.
18 d. A doctor may not certify or verify past disability commencing more than sixty
19 days before the doctor's examination of the employee.
- 20 3. The report must be filed on a form furnished by the organization, or on any other
21 form acceptable to the organization.
- 22 4. The injured employee shall ensure that the required reports for any period of
23 disability are filed.

- 1 5. If an employee has been determined to be disabled for purposes of the
2 supplemental security income program under title XVI of the federal Social Security
3 Act [42 U.S.C. 1381 et seq.] or for purposes of social security disability, the
4 organization shall accept medical reports related to these determinations and shall
5 consider the determination as a relevant factor in determining disability under this
6 title.
- 7 6. Prior to the expiration of a period of disability certified by a doctor, if a report
8 certifying an additional period of disability has not been filed, or upon receipt of a
9 report or other evidence indicating an injured employee who is receiving disability
10 benefits has been or will be released to return to work, the organization shall send
11 a notice to that employee of the organization's intention to discontinue benefits,
12 including an explanation of the reason for discontinuing benefits, an explanation of
13 the employee's right to respond, and the procedure for filing the required report or
14 challenging the proposed action. A copy of the notice must be mailed to the
15 employee's doctor. Thereafter, if the required certification is not filed, the
16 organization shall discontinue disability benefits, effective twenty-one days after the
17 date the notice of intention to discontinue benefits is mailed or the date on which
18 the employee actually returned to work, whichever occurs first.