21.0072.02000

Sixty-seventh
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Legislative Management

(Workers' Compensation Review Committee)

A BILL for an Act to amend and reenact sections 65-01-16 and 65-04-32 of the North Dakota Century Code, relating to appealing a workforce safety and insurance decision; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-01-16 of the North Dakota Century Code is amended and reenacted as follows:

65-01-16. Decisions by organization - Disputed decisions.

The following procedures must be followed in claims for benefits, notwithstanding any provisions to the contrary in chapter 28-32:

1. The organization shall send a copy of each initial claim form filed with the organization to the claimant's employer, by regular mail, along with a form for the employer's response, if the employer's response has not been filed at the time the claim is filed. ~~Failure of the employer to file a response within fourteen days from the day the response form was mailed to the employer constitutes the employer's admission that the information in the claim form is correct.~~
2. The organization may conduct a hearing on any matter within its jurisdiction by informal internal review of the information of record.
3. The organization may issue a notice of decision for any decision made by informal internal review and shall serve the notice of decision on the parties by regular mail. A notice of decision must include a statement of the decision, a short summary of the reason for the decision, and notice of the right to reconsideration.
4. A party has ~~thirty~~forty-five days from the day the notice of decision was mailed by the organization in which to file a written request for reconsideration. The employer is not required to file the request through an attorney. The request must state the reason for

disagreement with the organization's decision and the desired outcome. The request may be accompanied by additional evidence not previously submitted to the organization. The organization shall reconsider the matter by informal internal review of the information of record. Absent a timely and sufficient request for reconsideration, the notice of decision is final and may not be reheard or appealed.

5. After receiving a request for reconsideration, the organization shall serve on the parties by regular mail a notice of decision reversing the previous decision or, in accordance with the North Dakota Rules of Civil Procedure, an administrative order that includes its findings, conclusions, and order. The organization may serve an administrative order on any decision made by informal internal review without first issuing a notice of decision and receiving a request for reconsideration. If the organization does not issue an order within sixty days of receiving a request for reconsideration, any interested party may request, and the organization shall promptly issue, an appealable determination.
6. An employee has ~~thirty~~forty-five days from the day the administrative order was mailed in which to file a request for assistance from the decision review office under section 65-02-27.
7. A party has ~~thirty~~forty-five days, from the date of service of an administrative order or from the day the decision review office mails its notice that the office's assistance is complete, in which to file a written request for rehearing. The request must specifically state each alleged error of fact and law to be reheard and the relief sought. Absent a timely and sufficient request for rehearing, the administrative order is final and may not be reheard or appealed.
8. Rehearings must be conducted as hearings under chapter 28-32 to the extent the provisions of that chapter do not conflict with this section.
9. A party may appeal a posthearing administrative order to district court in accordance with chapter 65-10. Chapter 65-10 does not preclude the organization from appealing to district court a final order issued by a hearing officer under this title.
10. Any notice of decision, administrative order, or posthearing administrative order is subject to review and reopening under section 65-05-04.

SECTION 2. AMENDMENT. Section 65-04-32 of the North Dakota Century Code is amended and reenacted as follows:

65-04-32. Decisions by organization - Disputed decisions.

Notwithstanding any provisions to the contrary in chapter 28-32, the following procedures apply when the organization issues a decision under this chapter or section 65-04-04.4:

1. The organization may issue a notice of decision based on an informal internal review of the record and shall serve notice of the decision on the parties by regular mail. The organization shall include with the decision a notice of the employer's right to reconsideration.
2. An employer has ~~thirty~~forty-five days from the day the notice of decision was mailed to file a written petition for reconsideration. The employer is not required to file the request through an attorney. The request must state the reason for disagreement with the organization's decision and the desired outcome. The request may be accompanied by additional evidence not previously submitted to the organization. The organization shall reconsider the matter by informal internal review of the information of record. Absent a timely and sufficient request for reconsideration, the notice of decision is final and may not be reheard or appealed.
3. After receiving a petition for reconsideration, unless settlement negotiations are ongoing, the organization shall serve on the parties by regular mail an administrative order including its findings of fact, conclusions of law, and order, in response to the petition for reconsideration. The organization may serve an administrative order on any decision made by informal internal review without first issuing a notice of decision and receiving a request for reconsideration. If the organization does not issue an order within sixty days of receiving a request for reconsideration, a party may request, and the organization shall promptly issue, an appealable determination.
4. A party has ~~thirty~~forty-five days from the date of service of an administrative order to file a written request for rehearing. The request must state specifically each alleged error of fact and law to be reheard and the relief sought. Absent a timely and sufficient request for rehearing, the administrative order is final and may not be reheard or appealed.

5. Rehearings must be conducted as hearings under chapter 28-32 to the extent that chapter does not conflict with this section.

6. An employer may appeal a posthearing administrative order to district court in accordance with chapter 65-10. Chapter 65-10 does not preclude the organization from appealing to district court a final order issued by a hearing officer under this title.

SECTION 3. APPLICATION. This Act applies to all claims, regardless of date of injury, which have a notice of decision issued after July 31, 2021.