

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 767

By: Sykes of the Senate

and

Echols of the House

7
8
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10 COMMITTEE SUBSTITUTE

11 [workers' compensation - administrative workers'
12 compensation system and Oklahoma Employee Injury
13 Benefit Act - immunity from certain liability -
14 temporary total disability - reporting requirements
15 - attorney fees - appellate and adjudicative
16 authority - effective date]

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19 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

20 SECTION 1. AMENDATORY Section 6, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2014, Section 6), is amended to read as
22 follows:

23 Section 6.
24

1 A. 1. a. Any person or entity who makes any material false
2 statement or representation, who willfully and
3 knowingly omits or conceals any material information,
4 or who employs any device, scheme, or artifice, or who
5 aids and abets any person for the purpose of:

6 (1) obtaining any benefit or payment,

7 (2) increasing any claim for benefit or payment, or

8 (3) obtaining workers' compensation coverage under
9 this act,

10 shall be guilty of a felony punishable pursuant to
11 Section 1663 of Title 21 of the Oklahoma Statutes.

12 b. A material false statement or representation includes,
13 but is not limited to, attempting to obtain treatment
14 or compensation for body parts that were not injured
15 in the course and scope of employment.

16 c. Fifty percent (50%) of any criminal fine imposed and
17 collected under this section shall be paid and
18 allocated in accordance with applicable law to the
19 Workers' Compensation Fund administered by the
20 Commission.

21 2. Any person or entity with whom any person identified in
22 division (1) of subparagraph a of paragraph 1 of this subsection has
23 conspired to achieve the proscribed ends shall, by reason of such
24 conspiracy, be guilty as a principal of a felony.

1 B. A copy of division (1) of subparagraph a of paragraph 1 of
2 subsection A of this section shall be included on all forms
3 prescribed by the Commission for the use of injured employees
4 claiming benefits and for the use of employers in responding to
5 employees' claims under this act.

6 C. Where the Commission or the Attorney General finds that a
7 violation of division (1) of subparagraph a of paragraph 1 of
8 subsection A of this section has been committed, or that any other
9 criminal violations in furtherance of this act were committed, the
10 chair of the Commission or the Attorney General shall refer the
11 matter for appropriate action to the prosecuting attorney having
12 criminal jurisdiction over the matter.

13 D. 1. a. There shall be established within the Office of the
14 Attorney General a Workers' Compensation Fraud
15 Investigation Unit, funded by the Commission. The
16 Attorney General shall appoint a Director of the
17 Workers' Compensation Fraud Investigation Unit, who
18 may also serve as the director of any other designated
19 insurance fraud investigation division within the
20 Attorney General's office.

21 b. (1) The Unit shall investigate workers' compensation
22 fraud, any additional criminal violations that
23 may be related to workers' compensation fraud,
24 and any other insurance fraud matters as may be

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1 assigned at the discretion of the Attorney
2 General.

3 (2) The Attorney General shall designate the
4 personnel assigned to the Unit, who, on meeting
5 the qualifications established by the Oklahoma
6 Council on Law Enforcement Education and
7 Training, shall have the powers of specialized
8 law enforcement officers of the State of Oklahoma
9 for the purpose of conducting investigations
10 under this subparagraph. Personnel hired as
11 specialized law enforcement officers shall have a
12 minimum of three (3) years of certified law
13 enforcement experience or its equivalent in
14 national or military law enforcement experience
15 as approved by the Oklahoma Council on Law
16 Enforcement Education and Training.

17 2. The Attorney General and his or her deputies and assistants
18 and the Director of the Workers' Compensation Fraud Investigation
19 Unit and his or her deputies and assistants shall be vested with the
20 power of enforcing the requirements of this section.

21 3. It shall be the duty of the Unit to assist the Attorney
22 General in the performance of his or her duties. The Unit shall
23 determine the identity of employees in this state who have violated
24 division (1) of subparagraph a of paragraph 1 of subsection A of

1 this section and report the violation to the Office of the Attorney
2 General and the Commission. The Attorney General shall report the
3 violation to the prosecuting attorney having jurisdiction over the
4 matter.

5 4. a. In the course of any investigation being conducted by
6 the Unit, the Attorney General and his or her deputies
7 and assistants and the Director and his or her
8 deputies and assistants shall have the power of
9 subpoena and may:

- 10 (1) subpoena witnesses,
- 11 (2) administer oaths or affirmations and examine any
12 individual under oath, and
- 13 (3) require and compel the production of records,
14 books, papers, contracts, and other documents.

15 b. The issuance of subpoenas for witnesses shall be
16 served in the same manner as if issued by a district
17 court.

- 18 c. (1) Upon application by the commissioner or the
19 Director of the Unit, the district court located
20 in the county where a subpoena was served may
21 issue an order compelling an individual to comply
22 with the subpoena to testify.
- 23 (2) Any failure to obey the order of the court may be
24 punished as contempt.

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1 d. If any person has refused in connection with an
2 investigation by the Director to be examined under
3 oath concerning his or her affairs, then the Director
4 is authorized to conduct and enforce by all
5 appropriate and available means any examination under
6 oath in any state or territory of the United States in
7 which any officer, director, or manager may then
8 presently be to the full extent permitted by the laws
9 of the state or territory.

10 e. In addition to the punishments described in paragraph
11 1 of subsection A of this section, any person
12 providing false testimony under oath or affirmation in
13 this state as to any matter material to any
14 investigation or hearing conducted under this
15 subparagraph, or any workers' compensation hearing,
16 shall upon conviction be guilty of perjury.

17 5. Fees and mileage of the officers serving the subpoenas and
18 of the witnesses in answer to subpoenas shall be as provided by law.

19 6. a. Every carrier or employer who has reason to suspect
20 that a violation of division (1) of subparagraph a of
21 paragraph 1 of subsection A of this section has
22 occurred shall be required to report all pertinent
23 matters to the unit.

1 b. No carrier or employer who makes a report for a
2 suspected violation of division (1) of subparagraph a
3 of paragraph 1 of subsection A of this section by an
4 employee shall be liable to the employee unless the
5 carrier or employer knowingly and intentionally
6 included false information in the report.

7 c. (1) Any carrier or employer who willfully and
8 knowingly fails to report a violation under
9 division (1) of subparagraph a of paragraph 1 of
10 subsection A of this section shall be guilty of a
11 misdemeanor and on conviction shall be punished
12 by a fine not to exceed One Thousand Dollars
13 (\$1,000.00).

14 (2) Fifty percent (50%) of any criminal fine imposed
15 and collected under this subparagraph shall be
16 paid and allocated in accordance with applicable
17 law to the fund administered by the Commission.

18 d. Any employee may report suspected violations of
19 division (1) of subparagraph a of paragraph 1 of
20 subsection A of this section. No employee who makes a
21 report shall be liable to the employee whose suspected
22 violations have been reported.

23 E. 1. For the purpose of imposing criminal sanctions or a fine
24 for violation of the duties of this act, the prosecuting attorney

1 shall have the right and discretion to proceed against any person or
2 organization responsible for such violations, both corporate and
3 individual liability being intended by this act.

4 2. The prosecuting attorney of the district to whom a suspected
5 violation of subsection A of this section, or any other criminal
6 violations that may be related thereto, have been referred shall,
7 for the purpose of assisting him or her in such prosecutions, have
8 the authority to appoint as special deputy prosecuting attorneys
9 licensed attorneys-at-law in the employment of the Unit or any other
10 designated insurance fraud investigation division within the
11 Attorney General's office. Such special deputy prosecuting
12 attorneys shall, for the purpose of the prosecutions to which they
13 are assigned, be responsible to and report to the prosecuting
14 attorney.

15 F. Notwithstanding any other provision of law, investigatory
16 files as maintained by the Attorney General's office and by the Unit
17 shall be deemed confidential and privileged. The files may be made
18 open to the public once the investigation is closed by the Director
19 of the Workers' Compensation Fraud Investigation Unit with the
20 consent of the Attorney General.

21 G. The Attorney General, with the cooperation and assistance of
22 the Commission, is authorized to establish rules as may be necessary
23 to carry out the provisions of this section.

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1 H. Nothing in this section shall be deemed to create a civil
2 cause of action.

3 I. The Commission shall include a statement on all forms for
4 notices and instructions to employees, employers, carriers and
5 third-party administrators that any person who commits workers'
6 compensation fraud, upon conviction, shall be guilty of a felony
7 punishable by imprisonment, a fine or both.

8 J. If an injured employee is charged with workers' compensation
9 fraud, any pending workers' compensation proceeding, including
10 benefits, shall be stayed after the preliminary hearing is concluded
11 and the claimant is bound over and shall remain stayed until the
12 final disposition of the criminal case. All notice requirements
13 shall continue during the stay.

14 K. If the Attorney General's office is in compliance with the
15 discovery provisions of Section 258 of Title 22 of the Oklahoma
16 Statutes, medical records created for the purpose of treatment and
17 medical opinions obtained during the investigation shall be
18 admissible at the preliminary hearing without the appearance of the
19 medical professional creating such records or opinions. However,
20 when material evidence dispositive to the issues of whether there
21 was probable cause the crime was committed and whether the defendant
22 committed the crime was not included in a report or opinion admitted
23 at preliminary hearing, but might be presented at a pretrial hearing
24 by a medical professional who created such report or opinion, the

1 judge may, upon the motion of either party, order the appearance of
2 the medical professional creating such report or opinion. Questions
3 of fact regarding the conduct of the defendant that conflict with
4 the findings of the medical professional evaluating the defendant
5 shall not constitute material evidence. In the event of such
6 motion, notice shall be given to the Attorney General's Workers
7 Compensation Fraud and Investigation and Prosecution Unit. A
8 hearing shall be held and, if the motion is granted, the evidence
9 shall not be presented fewer than five (5) days later.

10 L. Any person or entity who, in good faith and exercising due
11 care, reports suspected workers' compensation fraud or insurance
12 fraud, or who allows access to medical records or other information
13 pertaining to suspected workers' compensation or insurance fraud by
14 persons authorized to investigate a report concerning the workers'
15 compensation and insurance fraud, shall have immunity from any civil
16 or criminal liability for such report or access. Any such person or
17 entity shall have the same immunity with respect to participation in
18 any judicial proceeding resulting from such reports. For purposes
19 of any civil or criminal proceeding there shall be a presumption of
20 good faith of any person making a report, providing medical records
21 or providing information pertaining to a workers' compensation or
22 insurance fraud investigation by the Attorney General, and
23 participating in a judicial proceeding resulting from a subpoena or
24 a report.

1 SECTION 2. AMENDATORY Section 40, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2014, Section 40), is amended to read as
3 follows:

4 Section 40. A. 1. Any employer who fails to secure
5 compensation required under this act, upon conviction, shall be
6 guilty of a misdemeanor and subject to a fine of up to Ten Thousand
7 Dollars (\$10,000.00) to be deposited in the Workers' Compensation
8 Fund.

9 2. This subsection shall not affect any other liability of the
10 employer under this act.

11 B. 1. Whenever the Commission has reason to believe that any
12 employer required to secure the payment of compensation under this
13 act has failed to do so, the Commission shall serve on the employer
14 a proposed judgment declaring the employer to be in violation of
15 this act and containing the amount, if any, of the civil penalty to
16 be assessed against the employer under paragraph 5 of this
17 subsection.

18 2. a. An employer may contest a proposed judgment of the
19 Commission issued under paragraph 1 of this subsection
20 by filing with the Commission, within twenty (20) days
21 of receipt of the proposed judgment, a written request
22 for a hearing.

23 b. The request for a hearing does not need to be in any
24 particular form but shall specify the grounds on which

1 the person contests the proposed judgment, the
2 proposed assessment, or both.

3 c. If a written request for hearing is not filed with the
4 Commission within the time specified in subparagraph a
5 of this paragraph, the proposed judgment, the proposed
6 penalty, or both, shall be a final judgment of the
7 Commission and shall not be subject to further review
8 by any court, except if the employer shows good cause
9 why it did not timely contest the judgment or penalty.

10 d. A proposed judgment by the Commission under this
11 section shall be prima facie correct, and the burden
12 is on the employer to prove that the proposed judgment
13 is incorrect.

14 3. a. If the employer alleges that a carrier has contracted
15 to provide its workers' compensation insurance coverage
16 for the period in question, the employer shall include
17 the allegation in its request for hearing and shall
18 name the carrier.

19 b. The Commission shall promptly notify the carrier of
20 the employer's allegation and of the date of hearing.

21 c. The carrier shall promptly, and no later than five (5)
22 days before the hearing, respond in writing to the
23 employer's allegation by providing evidence of
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1 coverage for the period in question or by
2 affirmatively denying the employer's allegation.

3 4. Hearings under this section shall be procedurally conducted
4 as provided in Sections 69 through 78 of this ~~act~~ title. In lieu of
5 a hearing, the Commission may utilize informal disposition in any
6 individual proceeding under this section by consent agreement.

7 5. The Commission may assess a fine against an employer who
8 fails to secure the payment of compensation in an amount up to One
9 Thousand Dollars (\$1,000.00) per day of violation payable to the
10 Workers' Compensation Fund.

11 6. If an employer fails to secure the payment of compensation
12 or pay any civil penalty assessed against the employer after a
13 judgment issued under this section has become final by operation of
14 law or on appeal, the Commission may petition the Oklahoma County
15 District Court or the district court of the county where the
16 employer's principal place of business is located for an order
17 enjoining the employer from engaging in further employment until
18 such time as the employer secures the payment of compensation or
19 makes full payment of all civil penalties.

20 SECTION 3. AMENDATORY Section 45, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2014, Section 45), is amended to read as
22 follows:

23 Section 45. A. Temporary Total Disability.
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1 1. If the injured employee is temporarily unable to perform his
2 or her job or any alternative work offered by the employer, he or
3 she shall be entitled to receive compensation equal to seventy
4 percent (70%) of the injured employee's average weekly wage, but not
5 to exceed seventy percent (70%) of the state average weekly wage,
6 for one hundred four (104) weeks. Provided, there shall be no
7 payment for the first three (3) days of the initial period of
8 temporary total disability. If an administrative law judge finds
9 that a consequential injury has occurred and that additional time is
10 needed to reach maximum medical improvement, temporary total
11 disability may continue for a period of not more than an additional
12 fifty-two (52) weeks. Such finding shall be based upon a showing of
13 medical necessity by clear and convincing evidence.

14 2. When the injured employee is released from active medical
15 treatment by the treating physician for all body parts found by the
16 Commission to be injured, or in the event that the employee, ~~without~~
17 ~~a valid excuse,~~ misses ~~three consecutive medical treatment~~ two or
18 more appointments as prescribed under Section 57 of this title,
19 fails to comply with medical orders of the treating physician, or
20 otherwise abandons medical care, the employer shall be entitled to
21 terminate temporary total disability by notifying the employee, or
22 if represented, his or her counsel. If, however, an objection to
23 the termination is filed by the employee within ten (10) days of
24 termination, the Commission shall set the matter within twenty (20)

1 days for a determination if temporary total disability compensation
2 shall be reinstated. The temporary total disability shall remain
3 terminated unless the employee proves the existence of a valid
4 excuse for his or her failure to comply with medical orders of the
5 treating physician or his or her abandonment of medical care. The
6 administrative law judge may appoint an independent medical examiner
7 to determine if further medical treatment is reasonable and
8 necessary. The independent medical examiner shall not provide
9 treatment to the injured worker, unless agreed upon by the parties.

10 B. Temporary Partial Disability.

11 1. If the injured employee is temporarily unable to perform his
12 or her job, but may perform alternative work offered by the
13 employer, he or she shall be entitled to receive compensation equal
14 to ~~the greater of~~ seventy percent (70%) of the difference between
15 the injured employee's average weekly wage before the injury and his
16 or her weekly wage for performing alternative work after the injury,
17 but only if his or her weekly wage for performing the alternative
18 work is less than the temporary total disability rate. The injured
19 employee's actual earnings plus temporary total disability shall not
20 exceed the temporary total disability rate.

21 2. Compensation under this subsection may not exceed fifty-two
22 (52) weeks.

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1 3. If the employee refuses to perform the alternative work
2 offered by the employee, he or she shall not be entitled to benefits
3 under subsection A of this section or under this section.

4 C. Permanent Partial Disability.

5 1. A permanent partial disability award or combination of
6 awards granted an injured worker may not exceed a permanent partial
7 disability rating of one hundred percent (100%) to any body part or
8 to the body as a whole. The determination of permanent partial
9 disability shall be the responsibility of the Commission through its
10 administrative law judges. Any claim by an employee for
11 compensation for permanent partial disability must be supported by
12 competent medical testimony of a medical doctor, osteopathic
13 physician, or chiropractor, and shall be supported by objective
14 medical findings, as defined in this act. The opinion of the
15 physician shall include employee's percentage of permanent partial
16 disability and whether or not the disability is job-related and
17 caused by the accidental injury or occupational disease. A
18 physician's opinion of the nature and extent of permanent partial
19 disability to parts of the body other than scheduled members must be
20 based solely on criteria established by the current edition of the
21 American Medical Association's "Guides to the Evaluation of
22 Permanent Impairment". A copy of any written evaluation shall be
23 sent to both parties within seven (7) days of issuance. Medical
24 opinions addressing compensability and permanent disability must be

1 stated within a reasonable degree of medical certainty. Any party
2 may submit the report of an evaluating physician.

3 2. Permanent partial disability shall not be allowed to a part
4 of the body for which no medical treatment has been received. A
5 determination of permanent partial disability made by the Commission
6 or administrative law judge which is not supported by objective
7 medical findings provided by a treating physician who is a medical
8 doctor or doctor of osteopathy or a qualified independent medical
9 examiner shall be considered an abuse of discretion.

10 3. The examining physician shall not deviate from the Guides
11 except as may be specifically provided for in the Guides.

12 4. In cases of permanent partial disability, the compensation
13 shall be seventy percent (70%) of the employee's average weekly
14 wage, not to exceed Three Hundred Twenty-three Dollars (\$323.00) per
15 week, for a term not to exceed a total of three hundred fifty (350)
16 weeks for the body as a whole.

17 5. Except pursuant to settlement agreements entered into by the
18 employer and employee, payment of a permanent partial disability
19 award shall be deferred and held in reserve by the employer or
20 insurance company if the employee has reached maximum medical
21 improvement and has been released to return to work by his or her
22 treating physician, and then returns to his pre-injury or equivalent
23 job for a term of weeks determined by dividing the total dollar
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1 value of the award by seventy percent (70%) of the employee's
2 average weekly wage.

3 a. The amount of the permanent partial disability award
4 shall be reduced by seventy percent (70%) of the
5 employee's average weekly wage for each week he works
6 in his pre-injury or equivalent job.

7 b. If, for any reason other than misconduct as defined in
8 Section 2 of this ~~act~~ title, the employer terminates
9 the employee or the position offered is not the pre-
10 injury or equivalent job, the remaining permanent
11 partial disability award shall be paid in a lump sum.
12 If the employee is discharged for misconduct, the
13 employer shall have the burden to prove that the
14 employee engaged in misconduct.

15 c. If the employee refuses an offer to return to his pre-
16 injury or equivalent job, the permanent partial
17 disability award shall continue to be deferred and
18 shall be reduced by seventy percent (70%) of the
19 employee's average weekly wage for each week he
20 refuses to return to his pre-injury or equivalent job.

21 d. Attorney fees for permanent partial disability awards,
22 as approved by the Commission, shall be calculated
23 based upon the total permanent partial disability
24 award and paid in full at the time of the deferral.

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1 e. Assessments pursuant to Sections 31, 98, 112 and 165
2 of this act shall be calculated based upon the amount
3 of the permanent partial disability award and shall be
4 paid at the time of the deferral.

5 6. Previous Disability: The fact that an employee has suffered
6 previous disability or received compensation therefor shall not
7 preclude the employee from compensation for a later accidental
8 personal injury or occupational disease. In the event there exists
9 a previous permanent partial disability, including a previous non-
10 work-related injury or condition which produced permanent partial
11 disability and the same is aggravated or accelerated by an
12 accidental personal injury or occupational disease, compensation for
13 permanent partial disability shall be only for such amount as was
14 caused by such accidental personal injury or occupational disease
15 and no additional compensation shall be allowed for the preexisting
16 disability or impairment. Any such reduction shall not apply to
17 temporary total disability, nor shall it apply to compensation for
18 medical treatment.

19 a. If workers' compensation benefits have previously been
20 awarded through settlement or judicial or
21 administrative determination in Oklahoma, the
22 percentage basis of the prior settlement or award
23 shall conclusively establish the amount of permanent
24 partial disability determined to be preexisting. If

1 workers' compensation benefits have not previously
2 been awarded through settlement or judicial or
3 administrative determination in Oklahoma, the amount
4 of preexisting permanent partial disability shall be
5 established by competent evidence.

6 b. In all cases, the applicable reduction shall be
7 calculated as follows:

8 (1) if the preexisting impairment is the result of
9 injury sustained while working for the employer
10 against whom workers' compensation benefits are
11 currently being sought, any award of compensation
12 shall be reduced by the current dollar value
13 attributable under the Administrative Workers'
14 Compensation Act to the percentage of permanent
15 partial disability determined to be preexisting.
16 The current dollar value shall be calculated by
17 multiplying the percentage of preexisting
18 permanent partial disability by the compensation
19 rate in effect on the date of the accident or
20 injury against which the reduction will be
21 applied, and

22 (2) in all other cases, the employer against whom
23 benefits are currently being sought shall be
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1 entitled to a credit for the percentage of
2 preexisting permanent partial disability.

3 7. No payments on any permanent partial disability order shall
4 begin until payments on any preexisting permanent partial disability
5 orders have been completed.

6 8. The whole body shall represent a maximum of three hundred
7 fifty (350) weeks.

8 9. The permanent partial disability rate of compensation for
9 amputation or permanent total loss of use of a scheduled member
10 specified in Section 46 of this ~~act~~ title shall be seventy percent
11 (70%) of the employee's average weekly wage, not to exceed Three
12 Hundred Twenty-three Dollars (\$323.00), multiplied by the number of
13 weeks set forth for the member in Section 46 of this ~~act~~ title,
14 regardless of whether the injured employee is able to return to his
15 or her pre-injury or equivalent job.

16 10. An injured employee who is eligible for permanent partial
17 disability under this subsection shall be entitled to receive
18 vocational rehabilitation services provided by a technology center
19 or public secondary school offering vocational-technical education
20 courses, or a member institution of The Oklahoma State System of
21 Higher Education, which shall include retraining and job placement
22 to restore the employee to gainful employment. Vocational
23 rehabilitation services or training shall not extend for a period of
24 more than fifty-two (52) weeks.

1 D. Permanent Total Disability.

2 1. In case of total disability adjudged to be permanent,
3 seventy percent (70%) of the employee's average weekly wages, but
4 not in excess of the state's average weekly wage, shall be paid to
5 the employee during the continuance of the disability until such
6 time as the employee reaches the age of maximum Social Security
7 retirement benefits or for a period of fifteen (15) years, whichever
8 is longer. In the event the claimant dies of causes unrelated to
9 the injury or illness, benefits shall cease on the date of death.
10 Provided, however, any person entitled to revive the action shall
11 receive a one-time lump-sum payment equal to twenty-six (26) weeks
12 of weekly benefits for permanent total disability awarded the
13 claimant. If more than one person is entitled to revive the claim,
14 the lump-sum payment shall be evenly divided between or among such
15 persons. In the event the Commission awards both permanent partial
16 disability and permanent total disability benefits, the permanent
17 total disability award shall not be due until the permanent partial
18 disability award is paid in full. If otherwise qualified according
19 to the provisions of this act, permanent total disability benefits
20 may be awarded to an employee who has exhausted the maximum period
21 of temporary total disability even though the employee has not
22 reached maximum medical improvement.

23 2. The Commission shall annually review the status of any
24 employee receiving benefits for permanent total disability against

1 the last employer. The Commission shall require the employee to
2 annually file an affidavit under penalty of perjury stating that he
3 or she is not and has not been gainfully employed and is not capable
4 of gainful employment. Failure to file such affidavit shall result
5 in suspension of benefits; provided, however, reinstatement of
6 benefits may occur after proper hearing before the Commission.

7 E. 1. The Workers' Compensation Commission shall hire or
8 contract for a Vocational Rehabilitation Director to oversee the
9 vocational rehabilitation program of the Commission.

10 2. The Vocational Rehabilitation Director shall help injured
11 workers return to the work force. If the injured employee is unable
12 to return to his or her pre-injury or equivalent position due to
13 permanent restrictions as determined by the treating physician, upon
14 the request of either party, the Vocational Rehabilitation Director
15 shall determine if it is appropriate for a claimant to receive
16 vocational rehabilitation training or services, and will oversee
17 such training. If appropriate, the Vocational Rehabilitation
18 Director shall issue administrative orders, including, but not
19 limited to, an order for a vocational rehabilitation evaluation for
20 any injured employee unable to work for at least ninety (90) days.
21 In addition, the Vocational Rehabilitation Director may assign
22 injured workers to vocational rehabilitation counselors for
23 coordination of recommended services. The cost of the services

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1 shall be paid by the employer. All administrative orders are
2 subject to appeal to the full Commission.

3 3. There shall be a presumption in favor of ordering vocational
4 rehabilitation services or training for an eligible injured employee
5 under the following circumstances:

- 6 a. if the employee's occupation is truck driver or
7 laborer and the medical condition is traumatic brain
8 injury, stroke or uncontrolled vertigo,
- 9 b. if the employee's occupation is truck driver or
10 laborer performing high-risk tasks and the medical
11 condition is seizures,
- 12 c. if the employee's occupation is manual laborer and the
13 medical condition is bilateral wrist fusions,
- 14 d. if the employee's occupation is assembly-line worker
15 and the medical condition is radial head fracture with
16 surgical excision,
- 17 e. if the employee's occupation is heavy laborer and the
18 medical condition is myocardial infarction with
19 congestive heart failure,
- 20 f. if the employee's occupation is heavy manual laborer
21 and the medical condition is multilevel neck or back
22 fusions greater than two levels,

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- 1 g. if the employee's occupation is laborer performing
2 overhead work and the medical condition is massive
3 rotator cuff tears, with or without surgery,
- 4 h. if the employee's occupation is heavy laborer and the
5 medical condition is recurrent inguinal hernia
6 following unsuccessful surgical repair,
- 7 i. if the employee's occupation is heavy manual laborer
8 and the medical condition is total knee replacement or
9 total hip replacement,
- 10 j. if the employee's occupation is roofer and the medical
11 condition is calcaneal fracture, medically or
12 surgically treated,
- 13 k. if the employee's occupation is laborer of any kind
14 and the medical condition is total shoulder
15 replacement,
- 16 l. if the employee's occupation is laborer and the
17 medical condition is amputation of a hand, arm, leg,
18 or foot,
- 19 m. if the employee's occupation is laborer and the
20 medical condition is tibial plateau fracture, pilon
21 fracture,
- 22 n. if the employee's occupation is laborer and the
23 medical condition is ankle fusion or knee fusion,
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- 1 o. if the employee's occupation is driver or heavy
2 equipment operator and the medical condition is
3 unilateral industrial blindness, or
4 p. if the employee's occupation is laborer and the
5 medical condition is 3-, 4-, or 5-level positive
6 discogram of the cervical spine or lumbar spine,
7 medically treated.

8 4. Upon the request of either party, or by order of an
9 administrative law judge, the Vocational Rehabilitation Director
10 shall assist the Workers' Compensation Commission in determining if
11 it is appropriate for a claimant to receive vocational
12 rehabilitation training or services. If appropriate, the
13 administrative law judge shall refer the employee to a qualified
14 expert for evaluation of the practicability of, need for and kind of
15 rehabilitation services or training necessary and appropriate in
16 order to restore the employee to gainful employment. The cost of
17 the evaluation shall be paid by the employer. Following the
18 evaluation, if the employee refuses the services or training ordered
19 by the administrative law judge, or fails to complete in good faith
20 the vocational rehabilitation training ordered by the administrative
21 law judge, then the cost of the evaluation and services or training
22 rendered may, in the discretion of the administrative law judge, be
23 deducted from any award of benefits to the employee which remains
24 unpaid by the employer. Upon receipt of such report, and after

1 affording all parties an opportunity to be heard, the administrative
2 law judge shall order that any rehabilitation services or training,
3 recommended in the report, or such other rehabilitation services or
4 training as the administrative law judge may deem necessary,
5 provided the employee elects to receive such services, shall be
6 provided at the expense of the employer. Except as otherwise
7 provided in this subsection, refusal to accept rehabilitation
8 services by the employee shall in no way diminish any benefits
9 allowable to an employee.

10 5. The administrative law judge may order vocational
11 rehabilitation before the injured employee reaches maximum medical
12 improvement, if the treating physician believes that it is likely
13 that the employee's injury will prevent the employee from returning
14 to his or her former employment. In granting early benefits for
15 vocational rehabilitation, the Commission shall consider temporary
16 restrictions and the likelihood that such rehabilitation will return
17 the employee to gainful employment earlier than if such benefits are
18 granted after the permanent partial disability hearing in the claim.

19 6. Vocational rehabilitation services or training shall not
20 extend for a period of more than fifty-two (52) weeks. A request
21 for vocational rehabilitation services or training shall be filed
22 with the Commission by an interested party not later than sixty (60)
23 days from the date of receiving permanent restrictions that prevent
24

1 the injured employee from returning to his or her pre-injury or
2 equivalent position.

3 7. If rehabilitation requires residence at or near the facility
4 or institution which is away from the employee's customary
5 residence, reasonable cost of the employee's board, lodging, travel,
6 tuition, books and necessary equipment in training shall be paid for
7 by the insurer in addition to weekly compensation benefits to which
8 the employee is otherwise entitled under the Administrative Workers'
9 Compensation Act.

10 8. During the period when an employee is actively and in good
11 faith being evaluated or participating in a retraining or job
12 placement program for purposes of evaluating permanent total
13 disability status, the employee shall be entitled to receive
14 benefits at the same rate as the employee's temporary total
15 disability benefits for an additional fifty-two (52) weeks. All
16 tuition related to vocational rehabilitation services shall be paid
17 by the employer or the employer's insurer on a periodic basis
18 directly to the facility providing the vocational rehabilitation
19 services or training to the employee. The employer or employer's
20 insurer may deduct the amount paid for tuition from compensation
21 awarded to the employee.

22 F. Disfigurement.

23 1. If an injured employee incurs serious and permanent
24 disfigurement to any part of the body, the Commission may award

1 compensation to the injured employee in an amount not to exceed
2 Fifty Thousand Dollars (\$50,000.00).

3 2. No award for disfigurement shall be entered until twelve
4 (12) months after the injury.

5 3. An injured employee shall not be entitled to compensation
6 under this subsection if he or she receives an award for permanent
7 partial disability to the same part of the body.

8 G. Benefits for a single-event injury shall be determined by
9 the law in effect at the time of injury. Benefits for a cumulative
10 trauma injury or occupational disease or illness shall be determined
11 by the law in effect at the time the employee knew or reasonably
12 should have known that the injury, occupational disease or illness
13 was related to work activity. Benefits for death shall be
14 determined by the law in effect at the time of death.

15 SECTION 4. AMENDATORY Section 63, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2014, Section 63), is amended to read as
17 follows:

18 Section 63. A. Within ten (10) days after the date of receipt
19 of notice or of knowledge of injury that results in absence from
20 work for more than three (3) days or death, the employer shall send
21 to the Commission a report setting forth:

- 22 1. The name, address, and business of the employer;
- 23 2. The name, address, and occupation of the employee;
- 24 3. The cause and nature of the injury or death;

1 4. The year, month, day, approximately when, and the particular
2 locality where, the injury or death occurred; and

3 5. Such other information as the Commission may require.

4 B. Additional reports with respect to the injury and of the
5 condition of the employee shall be sent by the employer to the
6 Commission at such time and in such manner as the Commission may
7 prescribe. However, an employer may refuse to provide any
8 information that it deems privileged or confidential.

9 C. Any report provided for in subsection A or B of this section
10 shall not be evidence of any fact stated in the report in any
11 proceeding with respect to the injury or death on account of which
12 the report is made.

13 D. The mailing of any report in a stamped envelope, properly
14 addressed, within the time prescribed in subsection A or B of this
15 section, shall be in compliance with this section. In addition, the
16 Commission shall establish a means of electronic delivery of any
17 report or other information required by this section.

18 E. 1. Any employer who after notice refuses to send any report
19 required by this section shall be subject to a civil penalty in an
20 amount of Five Hundred Dollars (\$500.00) for each refusal.

21 2. Whenever the employer has failed or refused to comply as
22 provided in this section, the Commission may serve on the employer a
23 proposed judgment declaring the employer to be in violation of this
24

1 act and containing the amount, if any, of the civil penalty to be
2 assessed against the employer under this section.

3 F. An employer may contest a proposed judgment of the
4 Commission issued under subsection E of this section by filing with
5 the Commission, within twenty (20) days of receipt of the proposed
6 judgment, a written request for a hearing. If a written request for
7 hearing is not filed with the Commission within this time, the
8 proposed judgment, proposed penalty, or both, shall be a final
9 judgment of the Commission. The request for a hearing does not need
10 to be in any particular form but shall specify the grounds on which
11 the person contests the proposed judgment, the proposed assessment,
12 or both. A proposed judgment by the Commission under this section
13 shall be prima facie correct, and the burden is on the employer to
14 prove that the proposed judgment is incorrect.

15 G. Hearings conducted under this section shall proceed as
16 provided in Sections 69 through 78 of this ~~act~~ title.

17 H. If an employer fails to pay any civil penalty assessed
18 against the employer after a judgment issued under this section has
19 become final by operation of law, the Commission may petition the
20 district court of the county where the employer's principal place of
21 business is located for an order enjoining the employer from
22 engaging in further employment or conduct of business until such
23 time as the employer makes all required reports and pays all civil
24 penalties.

1 SECTION 5. AMENDATORY Section 65, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2014, Section 65), is amended to read as
3 follows:

4 Section 65. A. If an employee suffers from an occupational
5 disease as defined in this section and is disabled or dies as a
6 result of the disease, the employee, or, in case of death, his or
7 her dependents, shall be entitled to compensation as if the
8 disability or death were caused by injury arising out of work
9 activities within the scope of employment, except as otherwise
10 provided in this section.

11 B. No compensation shall be payable for an occupational disease
12 if the employee, at the time of entering into the employment of the
13 employer by whom the compensation would otherwise be payable,
14 falsely represented himself or herself in writing as not having
15 previously been disabled, laid off, or compensated in damages or
16 otherwise, because of the disease.

17 C. 1. If an occupational disease is aggravated by any other
18 disease or infirmity, not itself compensable, or if disability or
19 death from any other cause, not itself compensable, is aggravated,
20 prolonged, accelerated, or in any way contributed to by an
21 occupational disease, the compensation payable shall be reduced and
22 limited to the proportion only of the compensation that would be
23 payable if the occupational disease were the major cause of the
24

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 disability or death as the occupational disease, as a causative
2 factor, bears to all the causes of the disability or death.

3 2. The reduction in compensation is to be effected by reducing
4 the number of weekly or monthly payments or the amounts of the
5 payments, as under the circumstances of the particular case may be
6 for the best interest of the claimant.

7 D. 1. "Occupational disease", as used in this act, unless the
8 context otherwise requires, means any disease that results in
9 disability or death and arises out of and in the course of the
10 occupation or employment of the employee or naturally follows or
11 unavoidably results from an injury as that term is defined in this
12 act. A causal connection between the occupation or employment and
13 the occupational disease shall be established by a preponderance of
14 the evidence.

15 2. No compensation shall be payable for any contagious or
16 infectious disease unless contracted in the course and scope of
17 employment ~~in or immediately connected with a hospital or sanatorium~~
18 ~~in which persons suffering from that disease are cared for or~~
19 ~~treated.~~

20 3. No compensation shall be payable for any ordinary disease of
21 life to which the general public is exposed.

22 E. 1. When compensation is payable for an occupational
23 disease, the employer in whose employment the employee was last
24 injuriously exposed to the hazards of the disease and the carrier,

1 if any, on the risk when the employee was last injuriously exposed
2 under the employer shall be liable.

3 2. The amount of the compensation shall be based on the average
4 weekly wage of the employee when last injuriously exposed under the
5 employer, and the notice of injury and claim for compensation shall
6 be given and made to that employer.

7 F. 1. An employer shall not be liable for any compensation for
8 an occupational disease unless:

9 a. the disease is due to the nature of an employment in
10 which the hazards of the disease actually exist and
11 ~~are characteristic thereof and peculiar to the trade,~~
12 ~~occupation, process, or employment~~ and is actually
13 incurred in the course and scope of his or her
14 employment. This includes any disease due to or
15 attributable to exposure to or contact with any
16 radioactive material by an employee in the course and
17 scope of his or her employment,

18 b. disablement or death results within three (3) years in
19 case of silicosis or asbestosis, or one (1) year in
20 case of any other occupational disease, except a
21 diseased condition caused by exposure to X-rays,
22 radioactive substances, or ionizing radiation, after
23 the last injurious exposure to the disease in the
24 employment, or

1 c. in case of death, death follows continuous disability
2 from the disease, commencing within the period, for
3 which compensation has been paid or awarded or timely
4 claim made as provided in subparagraph b of this
5 paragraph and results within seven (7) years after the
6 last exposure.

7 2. However, in case of a diseased condition caused by exposure
8 to X-rays, radioactive substances, or ionizing radiation only, the
9 limitations expressed do not apply.

10 SECTION 6. AMENDATORY Section 82, Chapter 208, O.S.L.
11 2013 (85A O.S. Supp. 2014, Section 82), is amended to read as
12 follows:

13 Section 82.

14 A. 1. a. Fees for legal services rendered in a claim shall not
15 be valid unless approved by the Commission.

16 b. An attorney representing an injured employee may only
17 recover attorney fees up to ten percent (10%) of any
18 temporary total disability or temporary partial
19 disability compensation and twenty percent (20%) of
20 any permanent partial disability, permanent total
21 disability, or death compensation awarded to an
22 injured employee by the Commission from a controverted
23 claim. If the employer makes a written offer to
24 settle permanent partial disability, permanent total

1 disability, or death compensation and that offer is
2 rejected, the employee's attorney may not recover
3 attorney fees in excess of thirty percent (30%) of the
4 difference between the amount of any award and the
5 settlement offer.

6 (1) Attorney fees may not be collected for recovery
7 on noncontroverted claims.

8 (2) Attorney fees shall not be awarded on medical
9 benefits or services.

10 (3) The fee for legal services rendered by an
11 attorney representing an employee in connection
12 with a change of physician requested by the
13 injured employee, controverted by the employer,
14 and awarded by the Commission, shall be Two
15 Hundred Dollars (\$200.00).

16 (4) Attorney fees may include not more than ten
17 percent (10%) of the value, or reasonable
18 estimate thereof, of vocational rehabilitation
19 services.

20 c. A "controverted claim" means that there has been a
21 contested hearing before the Commission over whether
22 there has been a compensable injury or whether the
23 employee is entitled to temporary total disability,
24 temporary partial disability, permanent partial

1 disability, permanent total disability, or death
2 compensation. A request for a change in physician
3 shall not trigger a controverted claim for purposes of
4 recovering any attorney fees except the fees under
5 division 3 of subparagraph b of this paragraph. A
6 controverted claim shall not exist if the employee or
7 his or her representative has withheld pertinent
8 information in his or her possession related to the
9 claim from the employer or has violated the provisions
10 of Section 6 of this ~~act~~ title.

11 2. Any person who or entity that brings a controverted claim
12 against the State Treasurer, as a custodian of the Multiple Injury
13 Trust Fund, shall provide notice of the claim to the Commission.
14 Thereafter, the Commission shall direct fees for legal services be
15 paid from the Fund, in addition to any compensation award. The fees
16 shall be authorized only on the difference between the amount of
17 compensation controverted and the amount awarded from the Fund.

18 3. In any case where attorney fees are allowed by the
19 Commission, the limitations expressed in subparagraph b of paragraph
20 1 of this subsection shall apply.

21 4. Medical providers may voluntarily contract with the attorney
22 for the employee to recover disputed charges, and the provider may
23 charge a reasonable fee for the cost of collection.

1 B. An attorney representing an employee under this act may not
2 recover fees for services except as expressly provided in this
3 section.

4 SECTION 7. AMENDATORY Section 109, Chapter 208, O.S.L.
5 2013 (85A O.S. Supp. 2014, Section 202), is amended to read as
6 follows:

7 Section 202. A. Any employer may voluntarily elect to be
8 exempt from the Administrative Workers' Compensation Act and become
9 a qualified employer if the employer:

10 1. Is in compliance with the notice requirements in subsections
11 B and H of this section; and

12 2. Has established a written benefit plan as described in
13 Section ~~110~~ 203 of this ~~act~~ title.

14 B. An employer that has elected to become a qualified employer
15 by satisfying the requirements of this section shall notify the
16 Insurance Commissioner in writing of the election and the date that
17 the election is to become effective, which may not be sooner than
18 the date that the qualified employer satisfies the employee notice
19 requirements in this section. Such qualified employer shall pay to
20 the Commissioner an annual nonrefundable fee of ~~One Thousand Five~~
21 ~~Hundred Dollars (\$1,500.00)~~ One Thousand Dollars (\$1,000.00) on the
22 date of filing written notice and every year thereafter.

23 C. The Commissioner shall collect and maintain the information
24 required under this section and shall monitor compliance with the

1 requirements of this section. The Commissioner may also require an
2 employer to confirm its qualified-employer status. Subject to
3 subsection D of this section, the Commissioner shall adopt rules
4 designating the methods and procedures for confirming whether an
5 employer is a qualified employer, notifying an employer of any
6 qualifying deficiencies, and the consequences thereof. The
7 Commissioner shall record the date and time each notice of
8 qualified-employer status is received and the effective date of
9 qualified-employer election. The Commissioner shall maintain a list
10 on its official website accessible by the public of all qualified
11 employers and the date and time such exemption became effective.

12 D. Except as otherwise expressly provided in this act, neither
13 the Workers' Compensation Commission, the courts of this state, or
14 any state administrative agencies shall promulgate rules or any
15 procedures related to design, documentation, implementation,
16 administration or funding of a qualified employer's benefit plan.

17 E. The Commissioner may designate an information collection
18 agent, implement an electronic reporting and public information
19 access program, and adopt rules as necessary to implement the
20 information collection requirements of this section.

21 F. The Commissioner may prescribe rules and forms to be used
22 for the qualified-employer notification and shall require the
23 qualified employer to provide its name, address, contact person and
24 phone number, federal tax identification number, number of persons

1 employed in this state as of a specified date, claim administration
2 contact information, and a listing of all covered business locations
3 in the state. The Commissioner shall notify the Commissioner of
4 Labor of all qualified-employer notifications. The Department of
5 Labor shall provide such notifications to other governmental
6 agencies as it deems necessary.

7 G. The Commissioner may contract with the Oklahoma Employment
8 Security Commission, the State Treasurer or the Department of Labor
9 for assistance in collecting the notification required under this
10 section or otherwise fulfilling the Commissioner's responsibilities
11 under this act. Such agencies shall cooperate with the Commissioner
12 in enforcing the provisions of this section.

13 H. A qualified employer shall notify each of its employees in
14 the manner provided in this section that it is a qualified employer,
15 that it does not carry workers' compensation insurance coverage and
16 that such coverage has terminated or been cancelled.

17 I. The qualified employer shall provide written notification to
18 employees as required by this section at the time the employee is
19 hired or at the time of designation as a qualified employer. The
20 qualified employer shall post the employee notification required by
21 this section at conspicuous locations at the qualified employer's
22 places of business as necessary to provide reasonable notice to all
23 employees. The Commissioner may adopt rules relating to the form,
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1 content, and method of delivery of the employee notification
2 required by this section.

3 SECTION 8. AMENDATORY Section 118, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2014, Section 211), is amended to read as
5 follows:

6 Section 211. A. If an employer denies a claimant's claim for
7 benefits under this act, the employer shall notify him or her in
8 writing of the decision or the need for additional information
9 within fifteen (15) days after receipt of the claim. Unless
10 otherwise provided by law, the adverse benefit determination letter
11 shall contain an explanation of why the claim was denied, including
12 the plan provisions that were the basis for the denial, and a
13 detailed description of how to appeal the determination. Additional
14 claim procedures consistent with this section may be specified in
15 the benefit plan.

16 B. The benefit plan shall provide the following minimum appeal
17 rights:

18 1. The claimant may appeal in writing an initial adverse
19 benefit determination to an appeals committee within one hundred
20 eighty (180) days following his or her receipt of the adverse
21 benefit determination. The appeal shall be heard by a committee
22 consisting of at least three people that were not involved in the
23 original adverse benefit determination. The appeals committee shall
24

1 not give any deference to the claimant's initial adverse benefit
2 determination in its review;

3 2. The committee may request any additional information it
4 deems necessary to make a decision, including having the claimant
5 submit to a medical exam;

6 3. The committee shall notify the claimant in writing of its
7 decision, including an explanation of the decision and his or her
8 right to judicial review;

9 4. Subject to the need for a reasonable extension of time due
10 to matters beyond the control of the benefit plan, the committee
11 shall review the determination and issue a decision no later than
12 forty-five (45) days from the date the notice of contest is
13 received. No legal action may be brought by or with respect to a
14 claimant to recover benefits under the benefit plan before the
15 foregoing claim procedures have been exhausted;

16 5. If any part of an adverse benefit determination is upheld by
17 the committee, the claimant may then file a petition for review with
18 the Commission sitting en banc within one (1) year after the date
19 the claimant receives notice that the adverse benefit determination,
20 or part thereof, was upheld. The Commission en banc shall act as
21 the court of competent jurisdiction under 29 U.S.C.A. Section
22 1132(e)(1), and shall possess adjudicative authority to render
23 decisions in individual proceedings by claimants to recover benefits
24 due to the claimant under the terms of the claimant's plan, to

1 enforce the claimant's rights under the terms of the plan, or to
2 clarify the claimant's rights to future benefits under the terms of
3 the plan;

4 6. The Commission ~~shall rely on the record established by the~~
5 ~~internal appeal process and use an objective standard of review that~~
6 ~~is not arbitrary or capricious~~ sitting en banc may reverse or modify
7 the decision only if it determines the decision was against the
8 clear weight of the evidence or contrary to law. The Commission, as
9 a body, shall act as the court of competent jurisdiction under 29
10 U.S.C.A. Section 1132(e)(1), and shall possess adjudicative
11 authority to render decisions in individual proceedings by a
12 claimant to recover benefits due to the claimant under the terms of
13 the claimant's plan, to enforce the claimant's rights under the
14 terms of the plan, or to clarify the claimant's rights to future
15 benefits under the terms of the plan. Any award by the
16 administrative law judge or Commission en banc shall be limited to
17 benefits payable under the terms of the benefit plan and, to the
18 extent provided herein, attorney fees and costs; and

19 7. If the claimant appeals to the Commission and any part of
20 the adverse benefit determination is upheld, he or she may appeal to
21 the Oklahoma Supreme Court by filing with the Clerk of the Supreme
22 Court a certified copy of the decision of the Commission attached to
23 a petition which shall specify why the decision is contrary to law
24 within twenty (20) days of the decision being issued. The Supreme

1 Court may modify, reverse, remand for rehearing, or set aside the
2 decision only if the decision was contrary to law.

3 The Supreme Court shall require the claimant to file within
4 forty-five (45) days from the date of the filing of an appeal a
5 transcript of the record of the proceedings before the Commission,
6 or such later time as may be granted by the Supreme Court on
7 application and for good cause shown. The action shall be subject
8 to the law and practice applicable to comparable civil actions
9 cognizable in the Supreme Court.

10 C. If any of the provisions in paragraphs 5 through 7 of
11 subsection B of this section are determined to be unconstitutional
12 or otherwise unenforceable by the final nonappealable ruling of a
13 court of competent jurisdiction, then the following minimal appeal
14 procedures will go into effect:

15 1. The appeal shall be heard by a committee consisting of at
16 least three people that were not involved in the original adverse
17 benefit determination. The appeals committee shall not give any
18 deference to the claimant's initial adverse benefit determination in
19 its review;

20 2. The committee may request any additional information it
21 deems necessary to make a decision, including having the claimant
22 submit to a medical exam;

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1 3. The committee shall notify the claimant in writing of its
2 decision, including an explanation of the decision and his or her
3 right to judicial review;

4 4. The committee shall review the determination and issue a
5 decision no later than forty-five (45) days from the date the notice
6 of contest is received;

7 5. If any part of an adverse benefit determination is upheld by
8 the committee, the claimant may then file a petition for review in a
9 proper state district court; and

10 6. The district court shall rely on the record established by
11 the internal appeal process and use a deferential standard of
12 review.

13 D. The provisions of this section shall apply to the extent not
14 inconsistent with or preempted by any other applicable law or rule.

15 E. All intentional tort or other employers' liability claims
16 may proceed through the appropriate state courts of Oklahoma,
17 mediation, arbitration, or any other form of alternative dispute
18 resolution or settlement process available by law.

19 SECTION 9. This act shall become effective November 1, 2015.

20

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE,
22 dated 04/02/2015 - DO PASS, As Amended.

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