

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0920.01 Yelana Love x2295

HOUSE BILL 22-1347

HOUSE SPONSORSHIP

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SENATE
3rd Reading Unamended
April 29, 2022

101

**CONCERNING WORKERS' COMPENSATION, AND, IN CONNECTION
THEREWITH, INCREASING FUNERAL BENEFITS, ALLOWING FOR
ADVANCE MILEAGE EXPENSE PAYMENTS, ADDRESSING THE
PAYMENT OF SCHEDULED RATINGS, AND REQUIRING REPORTING
OF CERTAIN ACTIVE MEDICAL TREATMENTS.**

SENATE
Amended 2nd Reading
April 28, 2022

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

HOUSE
3rd Reading Unamended
April 18, 2022

The bill amends the "Workers' Compensation Act of Colorado" by:

- Creating a process for a claimant to receive advance

HOUSE
2nd Reading Unamended
April 14, 2022

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- payment for mileage expenses for travel that is reasonably necessary and related to obtaining compensable treatment, supplies, or services;
 - Specifying how to determine the benefit amount for medical impairment when the amount payable using the schedule of injuries would exceed the amount payable for nonscheduled injuries;
 - Increasing the benefit payable for funeral and burial expenses; and
 - Requiring reporting of active medical treatments necessary to cure and relieve an injury lasting for a period of more than 180 calendar days after the date of the injury.
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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-42-101, **amend** (7)
3 as follows:

4 **8-42-101. Employer must furnish medical aid - approval of**
5 **plan - fee schedule - contracting for treatment - no recovery from**
6 **employee - medical treatment guidelines - accreditation of physicians**
7 **and other medical providers - mileage reimbursement - rules -**
8 **definition - repeal.** (7) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (7)(b)
9 AND (7)(c) OF THIS SECTION, a claimant must submit a request for mileage
10 expense reimbursement for travel reasonably necessary and related to
11 obtaining compensable treatment, supplies, or services specified in
12 subsection (1)(a) of this section to the employer or, if insured, to the
13 employer's insurer no later than one hundred twenty days after the date
14 the expense is incurred, unless good cause for a later submission is
15 shown. Good cause includes a failure by the employer or employer's
16 insurer to provide the notice in the brochure required by section 8-43-203
17 (3)(c)(IV). Within thirty days after the date the claimant submits the
18 request for mileage expense reimbursement, the employer or employer's
19 insurer shall pay the mileage expenses or, if denying the request, provide

1 written notice to the claimant stating the reason the request was denied.

2 (b) WITHIN SEVEN DAYS AFTER THE DATE OF RECEIPT OF A
3 CLAIMANT'S WRITTEN REQUEST FOR ADVANCE MILEAGE EXPENSES FOR
4 TRAVEL THAT IS REASONABLY NECESSARY AND RELATED TO OBTAINING
5 COMPENSABLE TREATMENT, SUPPLIES, OR SERVICES SPECIFIED IN
6 SUBSECTION (1)(a) OF THIS SECTION AND REQUIRES ROUND-TRIP TRAVEL
7 GREATER THAN ONE HUNDRED MILES, THE EMPLOYER OR THE EMPLOYER'S
8 INSURER SHALL PAY THE ADVANCE MILEAGE EXPENSES OR, IF DENYING
9 THE REQUEST, PROVIDE WRITTEN NOTICE TO THE CLAIMANT STATING THE
10 REASON THE REQUEST WAS DENIED.

11 (c) IF ADVANCE MILEAGE EXPENSE PAYMENT IS MADE PURSUANT
12 TO THIS SUBSECTION (7), AND THE SPECIFIC TRAVEL FOR WHICH PAYMENT
13 WAS PROVIDED DOES NOT OCCUR, THE EMPLOYER OR, IF INSURED, THE
14 EMPLOYER'S INSURER IS ENTITLED TO A CREDIT IN THE AMOUNT OF THE
15 PAYMENT TO BE APPLIED AGAINST LIABILITY FOR ANY FUTURE MILEAGE
16 EXPENSE REIMBURSEMENTS.

17 **SECTION 2.** In Colorado Revised Statutes, 8-42-107, **amend**
18 (1)(b), (8)(a), and (8)(c.5); and **add** (7)(b)(IV) as follows:

19 **8-42-107. Permanent partial disability benefits - schedule -**
20 **medical impairment benefits - how determined.** (1) **Benefits**
21 **available.** (b) When an injury results in permanent medical impairment
22 and the employee has an injury or injuries not LISTED on the schedule
23 specified in subsection (2) of this section, the employee ~~shall be~~ IS limited
24 to medical impairment benefits as specified in subsection (8) of this
25 section, EXCEPT AS PROVIDED IN SUBSECTION (7)(b)(IV) OF THIS SECTION.

26 (7) (b) (IV) WHEN AN EMPLOYEE SUSTAINS AN INJURY ON THE
27 SCHEDULE OF INJURIES LISTED IN SUBSECTION (2) OF THIS SECTION THAT

1 MAY ALSO BE COMPENSATED AS SPECIFIED IN SUBSECTION (8) OF THIS
2 SECTION, IF THE AMOUNT OF COMPENSATION FOR MEDICAL IMPAIRMENT
3 WHEN USING THE SCHEDULE OF INJURIES IN SUBSECTION (2) OF THIS
4 SECTION WOULD BE GREATER THAN THE NONSCHEDULED IMPAIRMENT
5 BENEFITS IN SUBSECTION (8) OF THIS SECTION, THEN THE EMPLOYEE IS
6 ENTITLED TO THE COMPENSATION SPECIFIED IN SUBSECTION (2) OF THIS
7 SECTION.

8 **(8) Medical impairment benefits - determination of MMI for**
9 **scheduled and nonscheduled injuries.** (a) When an injury results in
10 permanent medical impairment not set forth in the schedule in subsection
11 (2) of this section, the employee ~~shall be~~ is limited to medical impairment
12 benefits calculated as provided in this subsection (8), EXCEPT AS
13 PROVIDED IN SUBSECTION (7)(b)(IV) OF THIS SECTION. The procedures for
14 determination of maximum medical improvement set forth in ~~paragraph~~
15 ~~(b) of this subsection (8) shall be~~ SUBSECTION (8)(b) OF THIS SECTION ARE
16 available in cases of injuries set forth in the schedule in subsection (2) of
17 this section and also in cases of injuries that are not set forth in said
18 schedule.

19 (c.5) When an injury results in the total loss or total loss of use of
20 an arm at the shoulder, a forearm at the elbow, a hand at the wrist, a leg
21 at the hip or so near thereto as to preclude the use of an artificial limb, the
22 loss of a leg at or above the knee where the stump remains sufficient to
23 permit the use of an artificial limb, a foot at the ankle, an eye, or a
24 combination of any such losses, the benefits for such loss shall be
25 determined pursuant to this subsection (8), EXCEPT AS PROVIDED IN
26 SUBSECTION (7)(b)(IV) OF THIS SECTION.

27 **SECTION 3.** In Colorado Revised Statutes, **amend** 8-42-123 as

1 follows:

2 **8-42-123. Funeral and burial expenses.** (1) When, as a
3 proximate result of an injury, death occurs to an injured employee, there
4 shall be paid in one lump sum within thirty days after death a sum not to
5 exceed ~~seven thousand~~ TWELVE THOUSAND FIVE HUNDRED dollars for
6 ~~reasonable~~ funeral and burial expenses. Said sum may be paid to the
7 ~~undertaker, cemetery, PERSON PROVIDING FUNERAL OR BURIAL SERVICES~~
8 or any other person who has paid the funeral and burial costs. ~~if the~~
9 ~~director so orders.~~ If the employee leaves no dependents, compensation
10 ~~shall be~~ IS limited to said sum and the compensation ~~if any, which has~~
11 ~~THAT MAY HAVE accrued to date of death and OR BEEN PAID TO THE~~
12 ~~DECEASED EMPLOYEE DURING THE DECEASED EMPLOYEE'S LIFETIME FOR~~
13 ~~DISABILITY; the medical, surgical, and hospital expenses provided in~~
14 ~~articles 40 to 47 of this title~~ TITLE 8; AND ANY AMOUNT OR PAYMENT DUE
15 ~~UNDER SECTION 8-46-101. IF THE deceased employee leaves dependents,~~
16 ~~said sum shall be paid in addition to all other sums of compensation~~
17 ~~provided for in this article~~ ARTICLE 42.

18 (2) ON JULY 1, 2023, AND EACH JULY 1 THEREAFTER, THE
19 DIRECTOR SHALL ADJUST THE MAXIMUM AMOUNT PAYABLE FOR FUNERAL
20 AND BURIAL EXPENSES PROVIDED IN SUBSECTION (1) OF THIS SECTION BY
21 THE PERCENTAGE OF THE ADJUSTMENT MADE BY THE DIRECTOR TO THE
22 STATE AVERAGE WEEKLY WAGE PURSUANT TO SECTION 8-47-106.

23 **SECTION 4.** In Colorado Revised Statutes, 8-43-101, **amend** (1)
24 as follows:

25 **8-43-101. Record of injuries - occupational disease - reported**
26 **to division - rules - definition.** (1) (a) Every employer shall keep a
27 record of: All EMPLOYEE injuries that result in fatality, ~~to, or~~ permanent

1 physical impairment, ~~of, or~~ lost time from work ~~for the injured employee~~
2 in excess of three shifts or calendar days, OR ACTIVE MEDICAL
3 TREATMENT FOR A PERIOD OF MORE THAN ONE HUNDRED EIGHTY
4 CALENDAR DAYS AFTER THE DATE THE INJURY WAS FIRST REPORTED TO
5 THE EMPLOYER; and the contraction by an employee of an occupational
6 disease that has been listed by the director by rule. Within ten days after
7 notice or knowledge that an employee has contracted such an
8 occupational disease; ~~or the occurrence of a permanently physically~~
9 ~~impairing injury or~~ OF AN INJURY THAT RESULTS IN PERMANENT PHYSICAL
10 IMPAIRMENT, OF A lost-time injury, ~~to an employee~~; OR OF AN INJURY
11 THAT RESULTS IN ACTIVE MEDICAL TREATMENT FOR A PERIOD OF MORE
12 THAN ONE HUNDRED EIGHTY CALENDAR DAYS AFTER THE DATE THE
13 INJURY WAS FIRST REPORTED TO THE EMPLOYER, or immediately in the
14 case of a fatality, the employer shall, upon forms prescribed by the
15 division for that purpose, report TO THE DIVISION said occupational
16 disease, permanently physically impairing injury, lost-time injury, INJURY
17 REQUIRING ACTIVE MEDICAL TREATMENT FOR A PERIOD OF MORE THAN
18 ONE HUNDRED EIGHTY CALENDAR DAYS AFTER THE DATE THE INJURY WAS
19 FIRST REPORTED TO THE EMPLOYER, or fatality. ~~to the division~~. The report
20 ~~shall~~ MUST contain ~~such~~ THE information ~~as shall be~~ required by the
21 director.

22 (b) AS USED IN THIS SUBSECTION (1), "ACTIVE MEDICAL
23 TREATMENT":

24 (I) MEANS TREATMENT THAT IS DETERMINED BY AN AUTHORIZED
25 TREATING PHYSICIAN TO BE REASONABLY NECESSARY TO CURE AND
26 RELIEVE THE INJURY AND THAT REQUIRES ONGOING SUPERVISION BY AN
27 AUTHORIZED TREATING PHYSICIAN AS DOCUMENTED BY WRITTEN MEDICAL

1 REPORT;

2 (II) DOES NOT INCLUDE TREATMENT THAT IS NOT REASONABLY
3 EXPECTED TO IMPROVE THE CONDITION OR ANY TREATMENT THAT DOES
4 NOT REQUIRE THE SUPERVISION OF A LICENSED PHYSICIAN, INCLUDING
5 GYM OR POOL MEMBERSHIPS OR HOME EXERCISE PROGRAMS; AND

6 (III) TERMINATES WHEN THERE HAS BEEN AN ABANDONMENT OF
7 CARE OR DISCHARGE FROM CARE FOR NONCOMPLIANCE PRIOR TO
8 EXPIRATION OF THE ONE-HUNDRED-EIGHTY-DAY PERIOD SET FORTH IN
9 SUBSECTION (1)(a) OF THIS SECTION.

10 SECTION 5. In Colorado Revised Statutes, 8-44-206, amend
11 (3)(a), (4)(a), and (5); and repeal (2) as follows:

12 8-44-206. Guaranty fund - immediate payment fund.

13 (2) Creation of special funds board - duties. (a) For the purposes of
14 carrying out this section, there is hereby created a special funds board
15 which shall exercise its powers and perform its duties and functions as
16 specified in this subsection (2) under the department of labor and
17 employment as if the same were transferred to the department by a type
18 2 transfer as such transfer is defined in the "Administrative Organization
19 Act of 1968", article 1 of title 24, C.R.S. Said board shall be composed
20 of five members: Four members who are managers or employees of
21 self-insured employers in good standing, two of whom shall demonstrate
22 knowledge of risk management and finance, and the executive director.

23 (b) With the exception of the executive director, the board
24 members shall be appointed by the governor and approved by the senate.
25 The terms of the members of the board first appointed shall be four years,
26 three years, two years, and one year, respectively. Thereafter, the term for
27 each appointed board member shall be four years. Members of the board

1 may be reappointed and the executive director shall serve continuously.

2 (c) The members of the board shall receive no compensation but
3 shall be reimbursed for actual and necessary traveling and subsistence
4 expenses incurred in the performance of their duties as members of the
5 board.

6 (d) (I) The board shall determine the assessments to be made
7 pursuant to subsections (3) and (4) of this section and shall determine the
8 qualifications and requirements for any claims administrators hired to
9 adjust the claims of a self-insurer who fails to meet his obligations with
10 respect to benefits awarded pursuant to articles 40 to 47 of this title.

11 (II) The board shall also participate, in an advisory capacity only,
12 in matters concerning the granting or termination of self-insurance
13 permits and the setting of security requirements.

14 **(3) Immediate payment fund - assessments - creation of fund.**
15 (a) The board DIRECTOR shall impose an assessment upon each employer
16 self-insured under section 8-44-201. Assessments under this subsection
17 (3) shall be based upon a ratio equal to the self-insured employer's paid
18 workers' compensation medical and indemnity losses for the most recent
19 self-insurance permit year divided by the aggregate sum of paid medical
20 and indemnity losses by all self-insured employers for that year. Such
21 losses shall be determined on July 1, 1990, for the most recently
22 completed permit year, and on the first day of July for each year thereafter
23 until the minimum fund balance has been reached. Contributions to the
24 fund shall not be assets of the self-insured employer.

25 **(4) Guaranty fund - assessments - creation of fund. (a) When**
26 the board DIRECTOR determines that existing security held by an employer
27 self-insured under section 8-44-201 is insufficient to meet its existing

1 liability for workers' compensation benefits, the board DIRECTOR shall
2 impose an assessment on each self-insured employer. The assessment
3 shall be based on a ratio which equals each self-insured employer's paid
4 workers' compensation medical and indemnity losses for the most recent
5 self-insurance permit year divided by the aggregate sum of paid medical
6 and indemnity losses by all self-insured employers for that year. If
7 necessary, the executive director may direct the board DIRECTOR to make
8 an annual assessment thereafter until such time as the present value of the
9 guaranty fund, created in paragraph (b) of this subsection (4) SUBSECTION
10 (4)(b) OF THIS SECTION, equals the total liability for workers'
11 compensation benefits which are in excess of the security held by the
12 defaulting self-insured employers.

13 (5) The department shall select any claims administrators required
14 under this section based on the qualifications and requirements
15 established by the board DIRECTOR. For the purpose of contracting for
16 such services, the department shall not be subject to articles 101 to 114
17 of title 24, C.R.S.

18 **SECTION 6. Act subject to petition - effective date -**
19 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
20 the expiration of the ninety-day period after final adjournment of the
21 general assembly; except that, if a referendum petition is filed pursuant
22 to section 1 (3) of article V of the state constitution against this act or an
23 item, section, or part of this act within such period, then the act, item,
24 section, or part will not take effect unless approved by the people at the
25 general election to be held in November 2022 and, in such case, will take
26 effect on the date of the official declaration of the vote thereon by the
27 governor.

