SENATE BILL 155

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

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AN ACT

RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS OF THE WORKERS' COMPENSATION ACT TO CLARIFY WHEN A WORKER IS ENTITLED TO CERTAIN BENEFITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 52-1-25.1 NMSA 1978 (being Laws 1990 (2nd S.S.), Chapter 2, Section 10, as amended) is amended to read:

"52-1-25.1. TEMPORARY TOTAL DISABILITY--RETURN TO WORK.--

A. As used in the Workers' Compensation Act, "temporary total disability" means the inability of a worker, by reason of accidental injury arising out of and in the course of the worker's employment, to perform the duties of that employment prior to the date of the worker's maximum medical improvement.

.204640.3
B. If, prior to the date of maximum medical improvement, an injured worker's health care provider releases the worker to return to work, the worker is not entitled to temporary total disability benefits if:

(1) the employer offers work at the worker's pre-injury wage; or

(2) the worker accepts employment with another employer at the worker's pre-injury wage.

C. If, prior to the date of maximum medical improvement, an injured worker's health care provider releases the worker to return to work and the employer offers work at less than the worker's pre-injury wage, the worker is disabled and shall receive temporary total disability compensation benefits equal to two-thirds of the difference between the worker's pre-injury wage and the worker's post-injury wage.

D. If the worker returns to work pursuant to the provisions of Subsection B of this section, the employer shall continue to provide reasonable and necessary medical care pursuant to Section 52-1-49 NMSA 1978.

E. If the worker is responsible for the separation from employment and that separation is unrelated to the on-the-job injury, the worker shall not receive temporary total disability."

SECTION 2. Section 52-1-26 NMSA 1978 (being Laws 1987, Chapter 235, Section 12, as amended) is amended to read:
"52-1-26. PERMANENT PARTIAL DISABILITY.--

A. As a guide to the interpretation and application of this section, the policy and intent of this legislature is declared to be that every person who suffers a compensable injury with resulting permanent partial disability should be provided with the opportunity to return to gainful employment as soon as possible with minimal dependence on compensation awards.

B. As used in the Workers' Compensation Act, "partial disability" means a condition whereby a worker, by reason of injury arising out of and in the course of employment, suffers a permanent impairment.

C. Permanent partial disability shall be determined by calculating the worker's impairment as modified by the worker's age, education and physical capacity, pursuant to Sections 52-1-26.1 through 52-1-26.4 NMSA 1978; provided that, regardless of the actual calculation of impairment as modified by the worker's age, education and physical capacity, the percentage of disability awarded shall not exceed ninety-nine percent.

D. If, on or after the date of maximum medical improvement, an injured worker returns to work at a wage equal to or greater than the worker's pre-injury wage, the worker's permanent partial disability rating shall be equal to the worker's impairment and shall not be subject to the...
modifications calculated pursuant to Sections 52-1-26.1 through 52-1-26.4 NMSA 1978.

E. In considering a claim for permanent partial disability, a workers' compensation judge shall not receive or consider the testimony of a vocational rehabilitation provider offered for the purpose of determining the existence or extent of disability.

F. If the worker is responsible for the separation from employment and that separation is unrelated to the on-the-job injury, the permanent partial disability rating shall be equal to the impairment rating."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.