CHAPTER 162
SENATE BILL 1403

AN ACT
AMENDING SECTION 23-1061, ARIZONA REVISED STATUTES; RELATING TO THE INDUSTRIAL COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 23-1061, Arizona Revised Statutes, is amended to read:

23-1061. Notice of accident; form of notice; claim for compensation; reopening; payment of compensation; notification of injury

A. Notwithstanding section 23-908, subsection E, no claim for compensation shall be valid or enforceable unless the claim is filed with the commission by the employee, or if resulting in death by the parties entitled to compensation, or someone on their behalf, in writing within one year after the injury occurred or the right thereto accrued. The time for filing a compensation claim begins to run when the injury becomes manifest or when the claimant knows or in the exercise of reasonable diligence should know that the claimant has sustained a compensable injury. Except as provided in subsection B OR N of this section, neither the commission nor any court shall have jurisdiction to consider a claim that is not timely filed under this subsection, except if the employee or other party entitled to file the claim has delayed in doing so because of justifiable reliance on a material representation by the commission, employer or insurance carrier or if the employee or other party entitled to file the claim is insane or legally incompetent or incapacitated at the time the injury occurs or the right to compensation accrues or during the one-year period thereafter. If the insanity or legal incompetence or incapacity occurs after the one-year period has commenced, the running of the remainder of the one-year period shall be suspended during the period of insanity or legal incompetence or incapacity. If the employee or other party is insane or legally incompetent or incapacitated when the injury occurs or the right to compensation accrues, the one-year period commences to run immediately on the termination of insanity or legal incompetence or incapacity. The commission on receiving a claim shall give notice to the INSURANCE carrier.

B. Failure of an employee or any other party entitled to compensation to file a claim with the commission within one year or to comply with section 23-908 shall not bar a claim if the insurance carrier or employer has commenced payment of compensation benefits under section 23-1044, 23-1045 or 23-1046, except that the payments provided for by section 23-1046, subsection A, paragraph 1 and section 23-1065, subsection A shall not be considered compensation benefits for the purposes of this section.

C. If the commission receives a notification of the injury, the commission shall send a claim form to the employee.

D. The issue of failure to file a claim must be raised at the first hearing on a claim for compensation in respect to the injury or death.
E. Within ten days after receiving notice of an accident, the employer shall inform the employer's insurance carrier and the commission on such forms as may be prescribed by the commission.

F. Each insurance carrier and self-insuring employer shall report to the commission a notice of the first payment of compensation and shall serve on the commission and the employee any denial of a claim, any change in the amount of compensation and the termination thereof of compensation, except that claims for medical, surgical and hospital benefits that are not denied shall be reported to the commission in the form and manner determined by the commission. In all cases where compensation is payable, the INSURANCE carrier or self-insuring employer shall promptly determine the average monthly wage pursuant to section 23-1041. Within thirty days of after the payment of the first installment of compensation, the INSURANCE carrier or self-insuring employer shall notify the employee and commission of the average monthly wage of the claimant as calculated, and the basis for such determination. The commission shall then make its own independent determination of the average monthly wage pursuant to section 23-1041. The commission, within thirty days after receipt of such notice, shall notify the employee, employer and INSURANCE carrier of such determination. The amount determined by the commission shall be payable retroactive to the first date of entitlement. The first payment of compensation shall be accompanied by a notice on a form prescribed by the commission stating the manner in which the amount of compensation was determined.

G. Except as otherwise provided by law, the insurance carrier or self-insuring employer shall process and pay compensation and provide medical, surgical and hospital benefits, without the necessity for the making of an award or determination by the commission.

H. On a claim that has been previously accepted, an employee may reopen the claim to secure an increase or rearrangement of compensation or additional benefits by filing with the commission a petition requesting the reopening of the employee's claim on the basis of a new, additional or previously undiscovered temporary or permanent condition, which petition shall be accompanied by a statement from a physician setting forth the physical condition of the employee relating to the claim. A claim shall not be reopened if the initial claim for compensation was previously denied by a notice of claim status or determination by the commission and the notice or determination was allowed to become final and no exception applies under section 23-947 excusing a late filing to request a hearing. A claim shall not be reopened because of increased subjective pain if the pain is not accompanied by a change in objective physical findings. A claim shall not be reopened solely for additional diagnostic or investigative medical tests, but expenses for any reasonable and necessary diagnostic or investigative tests that are causally related to the injury shall be paid by the employer or the employer's insurance.
carrier. Expenses for reasonable and necessary medical and hospital care
and laboratory work shall be paid by the employer or the employer's
insurance carrier if the claim is reopened as provided by law and if these
expenses are incurred within fifteen days after the date that the
petition to reopen is filed. The payment for such reasonable and
necessary medical, hospital and laboratory work expense shall be paid for
by the employer or the employer's insurance carrier if the claim is
reopened as provided by law and if such expenses are incurred within
fifteen days after the filing of the petition to reopen. Surgical
benefits are not payable for any period prior to the date of filing
a petition to reopen, except that surgical benefits are payable for a
period prior to the date of filing the petition to reopen not to exceed seven days if a bona fide medical emergency precludes the employee
from filing a petition to reopen prior to the surgery. No monetary
compensation is payable for any period prior to the date of filing
the petition to reopen.

I. On the filing of a petition to reopen a claim, the commission
shall in writing notify the employer's insurance carrier or the
self-insuring employer, which shall in writing notify the commission and
the employee within twenty-one days after the date of such notice of its
acceptance or denial of the petition. The reopened claim shall be
processed thereafter in like manner as a new claim.

J. The commission shall investigate and review any claim in which
it appears to the commission that the claimant has not been granted the
benefits to which such claimant is entitled. If the commission determines
that payment or denial of compensation is improper in any way, it shall
hold a hearing pursuant to section 23-941 within sixty days after
receiving notice of such impropriety. Any claim for temporary partial
disability benefits under this subsection must be filed with the
commission within two years after the date the claimed entitlement to
compensation accrued or within two years after the date on which an award
for benefits encompassing the entitlement period becomes final. A claim for temporary partial disability compensation shall be deemed to accrue
when the employee knew or with the exercise of reasonable diligence should
have known that the insurance carrier, self-insured employer or special
fund denied or improperly paid compensation. A claim for temporary
partial disability benefits shall not be deemed to have accrued any
earlier than September 26, 2008.

K. When there is a dispute as to which employer or insurance
carrier is liable for the payment of a compensable claim, the commission,
by order, may designate the employer or insurance carrier that shall pay
the claim. Payment shall begin within fourteen days after the employer or
insurance carrier has been ordered by the commission to commence payment.
When a final determination has been made as to which employer or insurance
carrier is actually liable, the commission shall direct any necessary
monetary adjustment or reimbursement among the parties or INSURANCE carriers involved.

L. On application to the commission and for good cause shown, the commission may direct that a document filed as a claim for compensation benefits be designated as a petition to reopen, effective as of the original date of filing. In like manner on application and good cause shown, the commission may direct that a document filed as a petition to reopen be designated as a claim for compensation benefits, effective as of the original date of filing.

M. If the insurance carrier or self-insurer does not issue a notice of claim status denying the claim within twenty-one days after the date the INSURANCE carrier is notified by the commission of a claim or petition to reopen, the INSURANCE carrier shall pay immediately compensation as if the claim were accepted, from the date the INSURANCE carrier is notified by the commission of a claim or petition to reopen until the date on which the INSURANCE carrier issues a notice of claim status denying such claim. Compensation includes medical, surgical and hospital benefits. This section shall not apply to cases involving seven days or less of time lost from work.


APPROVED BY THE GOVERNOR APRIL 19, 2022.