

STATEMENT OF PURPOSE

RS20543C3

This bill makes a change to section 72-701, Idaho Code, related to the workers' compensation law. The change is made in light of a recent Industrial Commission decision which otherwise will lead to unfair and unintended loss of benefits by injured workers. The code section requires that a notice of accident be given to the employer within 60 days, and a claim for compensation be made within one year of the accident. An exception is made under the section when compensation has been voluntarily made. In that case, the current law waives the requirement to file a claim. No specific mention is made about notice, and it has been assumed that such was the case, because if compensation was voluntarily paid notice was not an issue or was waived. The recent decision by the Industrial Commission in *Federko v. Sun Valley Company*, (IC 2008-017353), held that the voluntary payment exception to section 72-701 does not apply to a notice of accident, because only "claim" is mentioned in the section, not "notice." In *Federko*, benefits had been paid, even though the notice was given after the 60 days. Later, additional benefits were claimed but denied on two grounds: first, that notice had been given late; and second, because the claimant failed to prove that injuries complained of were related to the accident. The denial of the claim could have been justified by the lack of causal relationship between the accident and the injury, however, the decision regarding notice, one of first impression, places many valid claims in jeopardy. Without this change, claims where the causation is clear, and the employer has decided to pay an otherwise legitimate claim despite a late notice could result in 1) arbitrary denial of benefits at some future time based on late notice even though timely notice was essentially waived earlier by payment, and 2) a claim for reimbursement of benefits in an otherwise legitimate claim if the employer or insurance company later decides that they want to invoke a defense of late notice, even though they have paid on the claim and claimant has relied upon those payments. This change does not change any other defenses, such as a decision to defend based upon new evidence that the injury in fact was not related to the accident. This change simply makes the voluntary payment exception consistent for both "notice" and "claim" requirements. The amendment also clarifies existing law and practice that the filing of an application for hearing (a complaint) counts as a claim for benefits if a claim has not previously been filed. The one year claim requirement still applies where no benefits are paid, and the complaint is filed as a claim.

FISCAL NOTE

There should be no impact to the general fund.

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