

AN ACT

ENTITLED, An Act to establish a workers compensation small claims procedure.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

The department shall establish a small claims procedure for medical expense claims not exceeding eight thousand dollars. The procedure may only be used for a medical expense claim incurred after the department has held a hearing and has adjudicated the underlying injury as compensable or after the department has approved an agreement as to compensation or a memorandum of payment for permanent partial disability.

Section 2. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

The department shall, by rules promulgated pursuant to chapter 1-26, provide for the manner in which the disputed claims shall be presented and the forms required from the claimant and from employers.

Section 3. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Any claimant pursuant to this Act shall initiate a claim by completing a form provided by the department.

Section 4. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

The department shall send notice to the party claimed against by registered or certified mail, return receipt.

Section 5. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Any party claimed against may assert any setoff or counterclaim that is within the jurisdiction of the department.

Section 6. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

The department shall conduct the hearings in accordance with chapter 1-26. The department shall

expedite any hearing to the extent possible.

Section 7. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Any medical record, correspondence, medical bill, and expert report and correspondence is admissible as evidence. Nothing in this Act precludes an employer or insurer from obtaining an examination pursuant to § 62-7-1.

Section 8. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Upon the request of any party claimed against, the claimant shall provide an executed medical release in a form prescribed by the department, sufficiently in advance of the hearing to allow the party claimed against to obtain such medical records as it deems appropriate. Any party shall disclose to the other party any medical record that is within the party's possession and is relevant to the claim in dispute.

Section 9. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Within fifteen days after receiving the decision by the department, any party may appeal the decision to the secretary of labor. The secretary of labor may on the secretary's own motion affirm, modify, or set aside any decision on the basis of the evidence previously submitted in the case or the secretary may direct the taking of additional evidence. The secretary shall promptly notify the interested parties of the secretary's findings and decision. Any decision of the secretary is the final decision of the department. Any final decision of the department may be appealed as provided in chapter 1-26.

Section 10. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Any claimant in any proceeding before the department may be represented by counsel or other duly authorized agent, but no such counsel or agent may either charge or receive for such services more than an amount approved by the department. An employer or insurer, including a corporate

employer or insurer, may be represented before the department by counsel, an employee, or a corporate officer.

Section 11. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as follows:

Any finding of fact, conclusion of law, decision, or final order made in a small claims proceeding may not be used as evidence in any separate or subsequent action or proceeding between anyone in any tribunal, agency, or court of this state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1165

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1165
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State