

Sec. 5. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall first notify the employee at least seven days prior to providing a notice of discontinuance of benefits under either section 642 or 646 of this title to the Commissioner. The notice to the employee shall advise of the possibility that the employer may file a notice of discontinuance with the Department, and include any independent medical examination report, the claimant's right to object to the discontinuance, and the phone number and website address for the Department both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The ~~notice~~ notices to the employee and the Commissioner of an intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer ~~not already filed, shall be filed with the notice~~ shall be provided to the injured worker. With the notice of discontinuance, the employer shall file only evidence specific to the discontinuance, including evidence that does not support the discontinuance, with the Commissioner. The liability for the payments shall continue for seven days after the notice is received by the Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of an additional seven days. The objection to the discontinuance shall be

specific as to the reasons and include supporting evidence. A copy of the objection shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 5a. 21 V.S.A. § 602 is amended to read:

§ 602. PROCESS AND PROCEDURE

* * *

(c) Any communication from an employer or an insurer to a claimant that is not otherwise required to be provided on a form proscribed by the Commissioner, must include a statement advising the claimant to immediately contact the Vermont

Department of Labor's Worker Compensation Division to determine a right to object or appeal, as provided by law, and to seek information from the Department on the process and procedures.

Sec. 10. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL
EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to examination, at reasonable times and ~~places~~ within a two-hour driving radius of the residence of the injured employee, by a duly licensed physician or surgeon designated and paid by the employer. The Commissioner may in his or her discretion permit an examination outside the two-hour driving radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the

provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.

Sec. 12. 21 V.S.A. § 663b is added to read:

§ 663b. FRAUD

(a) Any claims of fraud submitted to the Department shall require action by the Commissioner to determine if further investigation is warranted. The Commissioner shall order the insurer to investigate specific allegations of claimant fraud and submit a written report to the Department. Once the insurer's report is received, the Commissioner shall afford the claimant an opportunity to respond in person or in writing within 30 days. The Commissioner may order additional information to be provided to the Department from the insurer or the claimant. The Department shall issue a determination on the fraud allegation, including penalties and any reimbursement as provided under § 708 of this title. The party may appeal the decision of the Commissioner as provided under 3 V.S.A. chapter 25.

(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation fraudulently received in addition to other administrative penalties ordered by the Department. These payments shall not be charged to the employer for purposes of calculating its experience rating.

Sec. 13. FRAUD STUDY AND REPORT

The Department shall initiate a study of the best practices to detect and deter workers'

compensation fraud by employees, employers, and other persons involved with the workers' compensation system. The study shall include investigation procedures, penalties, and recapture of fraudulently obtained payments in a timely and cost-effective manner. On or before January 15, 2015, the Department shall report their findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.