| 1 | H.163 |
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| 2 | Introduced by Representatives Priestley of Bradford, Carris-Duncan of |
| 3 | Whitingham, Duke of Burlington, Marcotte of Coventry, Olson |
| 4 | of Starksboro, and White of Bethel |
| 5 | Referred to Committee on |
| 6 | Date: |
| 7 | Subject: Labor; workers' compensation; definitions; translation services; |
| 8 | preauthorization; penalties |
| 9 | Statement of purpose of bill as introduced: This bill proposes to include health |
| 10 | insurance benefits in the definition of wages for workers' compensation |
| 11 | claims; to require carriers to pay for translation services; to allow claimants to |
| 12 | request medical case management services; and to increase penalties for late |
| 13 | payments of workers' compensation benefits. |
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| 14 | An act relating to workers' compensation |
| 15 | It is hereby enacted by the General Assembly of the State of Vermont: |
| 16 | Sec. 1. 21 V.S.A § 601 is amended to read: |
| 17 | § 601. DEFINITIONS |
| 18 | As used in this chapter: |
| 19 | * * * |

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| 1 | (13) "Wages" includes bonuses and the market value of <u>health</u> |
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| 2 | insurance, board, lodging, fuel, and other advantages that can be estimated in |
| 3 | money and that the employee receives from the employer as a part of the |
| 4 | employee's remuneration, but does not include any sum paid by the employer |
| 5 | to the employee to cover any special expenses entailed on the employee by the |
| 6 | nature of the employment. |
| 7 | * * * |
| 8 | (31) "Medical case management" means the planning and coordination |
| 9 | of health care services appropriate to achieve the goal of medical |
| 10 | rehabilitation. |
| 11 | (A) Medical case management may include medical case assessment |
| 12 | including a personal interview with the injured employee; assistance in |
| 13 | developing, implementing, and coordinating a medical care plan with health |
| 14 | care providers in consultation with the injured employee and the employees' |
| 15 | family; and an evaluation of treatment results. The goal of medical case |
| 16 | management is to provide the injured employee with reasonable treatment |
| 17 | options to ensure that the injured employee can make an informed choice. |
| 18 | (B) Medical Case Managers shall not provide medical care or adjust |
| 19 | <u>claims.</u> |
| 20 | (C) An injured employee shall be entitled to medical case |
| | |

management services if reasonably supported. Reasonable support includes a

| 1 | recommendation made by a health care provider or evidence demonstrating the |
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| 2 | injured employee's medical recovery would benefit from the services, or both. |
| 3 | Sec. 2 21 V.S.A. § 602 is amended to read: |
| 4 | § 602. PROCESS AND PROCEDURE |
| 5 | * * * |
| 6 | (d) When an injured employee does not speak English fluently, the |
| 7 | employer shall pay for translation services to ensure the injured employee fully |
| 8 | understands the employee's rights and can effectively participate in the |
| 9 | employee's medical recovery and the workers' compensation claims process. |
| 10 | Sec. 3. 21 V.S.A. 640b is amended to read: |
| 11 | § 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF |
| 12 | PROPOSED BENEFITS OR SERVICES ARE NECESSARY |
| 13 | (a) As used in this section, |
| 14 | (1) "benefits" means medical treatment and surgical, medical, and |
| 15 | nursing services and supplies, including prescription drugs and durable |
| 16 | medical equipment; and |
| 17 | (2) "services" means medical case management services. |
| 18 | * * * |
| 19 | (e) Within 14 days after receiving a request for preauthorization of |
| 20 | proposed medical case management services, the insurer shall do one of the |
| 21 | following, in writing: |

| 1 | (1) Authorize the services and notify the injured employee, the |
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| 2 | Department, and the treating provider recommending the services, if |
| 3 | applicable. |
| 4 | (2) Deny the services because the entire claim is disputed, and the |
| 5 | Commissioner has not issued an interim order to pay benefits. The insurer |
| 6 | shall notify the injured employee, the Department, and the treating provider |
| 7 | recommending the services, if applicable, of the decision to deny benefits. |
| 8 | (3) Deny the request if there is not reasonable support for the requested |
| 9 | services. The insurer shall notify the injured employee, the Department, and |
| 10 | the treating provider recommending the services, if applicable, of the decision |
| 11 | to deny benefits. |
| 12 | (4) Notify the injured employee, the Department, and the treating |
| 13 | provider recommending the services, if applicable, that the insurer has |
| 14 | scheduled an examination of the injured employee pursuant to section 655 of |
| 15 | this title or ordered a medical record review pursuant to section 655a of this |
| 16 | title. Based on the examination or review, the insurer shall notify the injured |
| 17 | employee and the Department of the decision within 45 days after a request for |
| 18 | preauthorization. The Commissioner may, in the Commissioner's sole |
| 19 | discretion, grant a 10-day extension to the insurer to authorize or deny the |
| 20 | services, and such an extension shall not be subject to appeal. |

| 1 | (f) If the insurer fails to authorize or deny the services pursuant to |
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| 2 | subsection (e) of this section within 14 days after receiving a request, the |
| 3 | injured employee or the injured employee's treating provider, if applicable, |
| 4 | may request that the Department issue an order authorizing services. After |
| 5 | receipt of the request, the Department shall issue an interim order within five |
| 6 | days after notice to the insurer, and five days in which to respond, absent |
| 7 | evidence that the entire claim is disputed. Upon request of a party, the |
| 8 | Commissioner shall notify the parties that the services have been authorized by |
| 9 | operation of law. |
| 10 | (g) If the insurer denies the preauthorization of the services pursuant to |
| 11 | subdivision (e)(2), (3), or (4) of this section, the Commissioner may, on the |
| 12 | Commissioner's own initiative or upon a request by the injured worker, issue |
| 13 | an order authorizing the services if the Commissioner finds that the evidence |
| 14 | shows that the services are reasonably supported. |
| 15 | Sec. 4. 21 V.S.A. § 650 is amended to read: |
| 16 | § 650. PAYMENT; AVERAGE WAGE; COMPUTATION |
| 17 | * * * |
| 18 | (f)(1)(A) When benefits have been awarded or are not in dispute as |
| 19 | provided in subsection (e) of this section, the employer shall establish a |
| 20 | weekday on which payment shall be mailed or deposited and notify the |

| 1 | claimant and the Department of that day. The employer shall ensure that each |
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| 2 | weekly payment is mailed or deposited on or before the day established. |
| 3 | (B) Payment shall be made by direct deposit to a claimant who elects |
| 4 | that payment method. The employer shall notify the claimant of the claimant's |
| 5 | right to payment by direct deposit. |
| 6 | (2) If the benefit payment is not mailed or deposited on the day |
| 7 | established, or if the payment is not mailed or deposited within five business |
| 8 | days of the end of the pay period the payment covers, the employer shall pay to |
| 9 | the claimant a late fee equal to the greater of \$10.00 or; |
| 10 | (A) five percent of the benefit amount, whichever is greater, for each |
| 11 | weekly the first payment that is made after the established day; |
| 12 | (B) 10 percent of the benefit amount for the second payment that is |
| 13 | made after the established day; |
| 14 | (C) 15 percent of the benefit amount for the third payment that is |
| 15 | made after the established day; |
| 16 | (D) 20 percent of the benefit amount for the fourth payment that is |
| 17 | made after the established day; and |
| 18 | (E) 25 percent of the benefit amount for the fifth and any subsequent |
| 19 | payments that are made after the established day. |
| 20 | (3) As used in this subsection, "paid" means the payment is mailed to |
| 21 | the claimant's mailing address or, in the case of direct deposit, transferred into |

- the designated account. In the event of a dispute, proof of payment shall be
- 2 established by affidavit.
- 3 Sec. 5. EFFECTIVE DATE
- 4 This act shall take effect on July 1, 2025.