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S.125

An act relating to workers' compensation and collective bargaining rights

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Workers' Compensation * * *

Sec. 1. 21 V.S.A § 601 is amended to read:

§ 601. DEFINITIONS

As used in this chapter:

* * *

(31) "Medical case management" means the planning and coordination of health care services appropriate to achieve the goal of medical rehabilitation.

(A) Medical case management may include medical case assessment, including a personal interview with the injured employee; assistance in developing, implementing, and coordinating a medical care plan with health care providers in consultation with the injured employee and the employees' family; and an evaluation of treatment results. The goal of medical case management is to provide the injured employee with reasonable treatment options to ensure that the injured employee can make an informed choice.

(B) Medical case managers shall not provide medical care or adjust claims.

1 (e) Within 14 days after receiving a request for preauthorization of
2 proposed medical case management services, the insurer shall do one of the
3 following, in writing:

4 (1) Authorize the services and notify the injured employee, the
5 Department, and the treating provider recommending the services, if
6 applicable.

7 (2) Deny the services because the entire claim is disputed, and the
8 Commissioner has not issued an interim order to pay benefits. The insurer
9 shall notify the injured employee, the Department, and the treating provider
10 recommending the services, if applicable, of the decision to deny benefits.

11 (3) Deny the request if there is not reasonable support for the requested
12 services. The insurer shall notify the injured employee, the Department, and
13 the treating provider recommending the services, if applicable, of the decision
14 to deny benefits.

15 (4) Notify the injured employee, the Department, and the treating
16 provider recommending the services, if applicable, that the insurer has
17 scheduled an examination of the injured employee pursuant to section 655 of
18 this title or ordered a medical record review pursuant to section 655a of this
19 title. Based on the examination or review, the insurer shall notify the injured
20 employee and the Department of the decision within 45 days after a request for
21 preauthorization. The Commissioner may, in the Commissioner's sole

1 discretion, grant a 10-day extension to the insurer to authorize or deny the
2 services, and such an extension shall not be subject to appeal.

3 (f) If the insurer fails to authorize or deny the services pursuant to
4 subsection (e) of this section within 14 days after receiving a request, the
5 injured employee or the injured employee's treating provider, if applicable,
6 may request that the Department issue an order authorizing services. After
7 receipt of the request, the Department shall issue an interim order within five
8 days after notice to the insurer, and five days in which to respond, absent
9 evidence that the entire claim is disputed. Upon request of a party, the
10 Commissioner shall notify the parties that the services have been authorized by
11 operation of law.

12 (g) If the insurer denies the preauthorization of the services pursuant to
13 subdivision (e)(2), (3), or (4) of this section, the Commissioner may, on the
14 Commissioner's own initiative or upon a request by the injured worker, issue
15 an order authorizing the services if the Commissioner finds that the evidence
16 shows that the services are reasonably supported.

17 Sec. 4. 21 V.S.A. § 650 is amended to read:

18 § 650. PAYMENT; AVERAGE WAGE; COMPUTATION

19 * * *

20 (f)(1)(A) When benefits have been awarded or are not in dispute as
21 provided in subsection (e) of this section, the employer shall establish a

1 weekday on which payment shall be mailed or deposited and notify the
2 claimant and the Department of that day. The employer shall ensure that each
3 weekly payment is mailed or deposited on or before the day established.

4 (B) Payment shall be made by direct deposit to a claimant who elects
5 that payment method. The employer shall notify the claimant of the claimant's
6 right to payment by direct deposit.

7 (2) If the benefit payment is not mailed or deposited on the day
8 established, or if the payment is not mailed or deposited within five business
9 days following the end of the pay period the payment covers, the employer
10 shall pay to the claimant a late fee equal to the greater of \$10.00 or:

11 (A) five percent of the benefit amount, ~~whichever is greater,~~ for each
12 ~~weekly~~ the first payment that is made after the established day;

13 (B) 10 percent of the benefit amount for the second payment that is
14 made after the established day; and

15 (C) 15 percent of the benefit amount for the third and any subsequent
16 payments that are made after the established day.

17 (3) As used in this subsection, "paid" means the payment is mailed to
18 the claimant's mailing address or, in the case of direct deposit, transferred into
19 the designated account. In the event of a dispute, proof of payment shall be
20 established by affidavit.

1 (I) an attorney for the Supreme Court, for the Court Administrator, or
2 for any board or commission created by the Supreme Court;

3 (J) an employee paid by the State who is appointed part-time as
4 county clerk pursuant to 4 V.S.A. § 651 or 691;

5 (K) an employee who, after hearing by the Board upon petition of
6 any individual, the employer, or a collective bargaining unit, is determined to
7 be in a position that is sufficiently inconsistent with the spirit and intent of this
8 chapter to warrant exclusion.

9 * * *

10 Sec. 5a. 3 V.S.A. § 941 is amended to read:

11 § 941. UNIT DETERMINATION, CERTIFICATION, AND

12 REPRESENTATION

13 * * *

14 (c)(1) A petition may be filed with the Board, in accordance with
15 procedures prescribed by the Board by an employee or group of employees, or
16 any individual or employee organization purporting to act on their behalf,
17 alleging by filing a petition or petitions bearing signatures of not less than 30
18 percent of the employees that they wish to form a bargaining unit and be
19 represented for collective bargaining, ~~or that the individual or employee~~
20 ~~organization currently certified as the bargaining agent is no longer supported~~
21 ~~by at least 51 percent of the employees in the bargaining unit,~~ or that they are

1 now included in an approved bargaining unit and wish to form a separate
2 bargaining unit under Board criteria for purposes of collective bargaining. The
3 employee, group of employees, individual, or employee organization that files
4 the petition, shall, at the same time that the petition is filed with the Board,
5 provide a copy of the petition to the employer and, if appropriate, the current
6 bargaining agent.

7 (2) A petition may be filed with the Board, in accordance with
8 procedures prescribed by the Board, by an employee or group of employees, or
9 any individual or employee organization purporting to act on their behalf,
10 alleging by filing a petition or petitions bearing signatures of not less than 50
11 percent plus one of the employees that the individual or employee organization
12 currently certified as the bargaining agent is no longer supported by a majority
13 of the employees in the bargaining unit. The employee, group of employees,
14 individual, or employee organization that files the petition shall, at the same
15 time that the petition is filed with the Board, provide a copy of the petition to
16 the employer and, if appropriate, the current bargaining agent.

17 (A)(i) An employer shall, not more than seven business days after
18 receiving a copy of the petition, file any objections to the appropriateness of
19 the proposed bargaining unit and raise any other unit determination issues with
20 the Board and provide a copy of the filing to the employee, group of
21 employees, individual, or employee organization that filed the petition.

1 * * *

2 (d) The Board, a Board member, or a person or persons designated by the
3 Board shall investigate the petition and do one of the following:

4 (1) Determine that the petition has made a sufficient showing of interest
5 pursuant to ~~subdivision~~ subdivisions (c)(1) and (2) of this section.

6 * * *

7 * * * State Construction Projects * * *

8 Sec. 5b. 29 V.S.A. § 161 is amended to read:

9 § 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

10 * * *

11 (d) Subsections (a) through (c) and subsection (g) of this section shall not
12 apply to maintenance or construction projects carried out by the Agency of
13 Transportation and by the Department of Forests, Parks and Recreation.

14 * * *

15 (g) Employers and subcontractors contracting with the State of Vermont
16 pursuant to this section shall keep a true and accurate record of all employees
17 working on the project.

18 (1) For each employee, the record shall include:

19 (A) the name of the employee;

20 (B) the address of the employee;

21 (C) the hours worked by the employee;

