

HOUSE BILL 1254

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9lr1333

By: **Delegates Manno and Schuler**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Jurisdiction Pending Appeal**

3 FOR the purpose of altering the circumstances under which the Workers'
4 Compensation Commission retains jurisdiction of requests for temporary total
5 disability benefits pending an appeal; altering the circumstances under which
6 the Commission is authorized to pass a supplemental order requiring an
7 employer to provide temporary total benefits; establishing certain penalties for
8 failure to pay a certain award; and generally relating to the jurisdiction of the
9 Workers' Compensation Commission.

10 BY repealing and reenacting, without amendments,
11 Article - Labor and Employment
12 Section 9-610.1 and 9-728
13 Annotated Code of Maryland
14 (2008 Replacement Volume)

15 BY repealing and reenacting, with amendments,
16 Article - Labor and Employment
17 Section 9-742
18 Annotated Code of Maryland
19 (2008 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Labor and Employment**

23 9-610.1.

24 The Workers' Compensation Commission may order an offset or credit against
25 an award for permanent partial disability benefits for:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) any vocational rehabilitation benefits previously provided to a
2 covered employee; or

3 (2) any temporary total disability benefits previously paid to a covered
4 employee.

5 9-728.

6 (a) If the Commission finds that an employer or its insurer has failed,
7 without good cause, to begin paying an award within 15 days after the later of the date
8 that the award is issued or the date that payment of the award is due, the Commission
9 shall assess against the employer or its insurer a fine not exceeding 20% of the amount
10 of the payment.

11 (b) If the Commission finds that an employer or its insurer has failed,
12 without good cause, to begin paying an award within 30 days after the later of the date
13 that the award is issued or the date that payment of the award is due, the Commission
14 shall assess against the employer or its insurer a fine not exceeding 40% of the amount
15 of the payment.

16 (c) The Commission shall order the employer or insurer to pay a fine
17 assessed under this section to the covered employee.

18 9-742.

19 (a) The Commission retains jurisdiction pending an appeal to consider:

20 (1) a request for additional medical treatment and attention; [and]

21 (2) a request for temporary total disability benefits[, provided that the
22 covered employee's temporary total disability benefits were] **THAT WERE** granted in
23 the order on appeal, and were terminated by the insurer or self-insurer pending
24 adjudication or resolution of the appeal; **AND**

25 **(3) A REQUEST FOR TEMPORARY TOTAL DISABILITY BENEFITS**
26 **FOR A DISABILITY ARISING FROM ADDITIONAL MEDICAL TREATMENT AND**
27 **ATTENTION PROVIDED IN ACCORDANCE WITH SUBSECTION (B)(1) OF THIS**
28 **SECTION.**

29 (b) (1) If the Commission finds that a covered employee needs additional
30 medical attention pending an appeal, the Commission may pass a supplemental order
31 requiring the employer to provide additional medical treatment and attention.

32 (2) [If the Commission finds that a covered employee's temporary total
33 disability benefits were terminated pending adjudication or resolution of the appeal,
34 and that the employee was temporarily totally disabled at the time of termination,

1 the] **THE** Commission may pass a supplemental order requiring the employer to
2 provide the employee with temporary total disability benefits **IF THE COMMISSION**
3 **FINDS THAT:**

4 (I) A COVERED EMPLOYEE'S TEMPORARY TOTAL
5 DISABILITY BENEFITS WERE TERMINATED PENDING ADJUDICATION OR
6 RESOLUTION OF THE APPEAL AND THE EMPLOYEE WAS TEMPORARILY TOTALLY
7 DISABLED AT THE TIME OF TERMINATION; OR

8 (II) A COVERED EMPLOYEE IS TEMPORARILY TOTALLY
9 DISABLED RESULTING FROM ADDITIONAL MEDICAL TREATMENT AND
10 ATTENTION PROVIDED IN ACCORDANCE WITH SUBSECTION (B)(1) OF THIS
11 SECTION.

12 (3) If the Commission's decision to reinstate temporary total disability
13 benefits is reversed or modified on appeal, the insurer or self-insurer shall be entitled,
14 **IN ACCORDANCE WITH § 9-610.1 OF THIS TITLE**, to an offset or credit for
15 overpayment of the temporary total disability benefits granted in the supplemental
16 order.

17 (C) **IF THE COMMISSION FINDS THAT AN EMPLOYER OR INSURER HAS**
18 **FAILED, WITHOUT GOOD CAUSE, TO PAY AN AWARD REQUIRED BY A**
19 **SUPPLEMENTAL ORDER UNDER THIS SECTION, THE COMMISSION SHALL ASSESS**
20 **THE PENALTIES ESTABLISHED UNDER § 9-728 OF THIS SUBTITLE.**

21 [(c)] (D) A supplemental order passed by the Commission under this section
22 is subject to review on the pending appeal.

23 [(d)] (E) When an appeal that is pending relates solely to a penalty imposed
24 by the Commission, the Commission retains jurisdiction over all matters in the case
25 other than imposition of the penalty.

26 [(e)] (F) This section may not be construed to prevent the Commission from
27 ordering an offset or credit against an award for temporary total or permanent partial
28 disability benefits for any temporary total disability benefits previously paid to a
29 covered employee, as authorized under any other provision of this title.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2009.