

Chapter 582

(Senate Bill 784)

AN ACT concerning

Workers' Compensation – Hernia Claims

FOR the purpose of altering the time period within which a covered employee must report to the employer a hernia caused by an accidental personal injury or by a strain arising out of and in the course of employment for the purpose of filing a claim for compensation; authorizing a covered employee to file a claim for compensation for a hernia caused by an accidental personal injury within a certain time period under certain circumstances; making conforming changes; providing for the application of this Act; and generally relating to workers' compensation and hernia claims.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–504 and 9–709(a) and (b)
Annotated Code of Maryland
(2016 Replacement Volume and 2019 Supplement)

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

Article – Labor and Employment

9–504.

(A) Except as otherwise provided, an employer shall provide compensation in accordance with this title to a covered employee for a hernia caused by an accidental personal injury or by a strain arising out of and in the course of employment if:

(1) the covered employee provides definite proof that satisfies the Commission that:

(i) the hernia did not exist before the accidental personal injury or strain occurred; or

(ii) as a result of the accidental personal injury or strain, a preexisting hernia has become so aggravated, incarcerated, or strangulated that an immediate operation is needed; and

(2) notwithstanding any other provision of this title about notice, the accidental personal injury or strain was reported to the employer within [30] **45** days after its occurrence.

(B) IF A COVERED EMPLOYEE FAILS TO FILE A CLAIM FOR COMPENSATION FOR A HERNIA CAUSED BY AN ACCIDENTAL PERSONAL INJURY WITHIN THE TIME PERIOD REQUIRED UNDER § 9-709(A) OF THIS TITLE, THE COVERED EMPLOYEE MAY FILE THE CLAIM WITHIN 2 YEARS AFTER THE DATE THE ACCIDENTAL PERSONAL INJURY OCCURRED UNLESS THE EMPLOYER OR ITS INSURER HAS BEEN PREJUDICED BY THE FAILURE.

9-709.

(a) (1) Except as provided in subsection (c) of this section AND § 9-504 OF THIS TITLE, if a covered employee suffers an accidental personal injury, the covered employee, within 60 days after the date of the accidental personal injury, shall file with the Commission:

(i) a claim application form; and

(ii) if the covered employee was attended by a physician chosen by the covered employee, the report of the physician.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the claimant's employer, and the insurer of the claimant's employer, or an agent of the claimant's attorney, the claimant's employer, or the insurer of the claimant's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form; and

2. the description of how the accidental personal injury occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history, findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(b) (1) Unless excused by the Commission under paragraph (2) of this

subsection **AND EXCEPT AS PROVIDED IN § 9-504 OF THIS TITLE**, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(2) The Commission may excuse a failure to file a claim in accordance with subsection (a) of this section if the Commission finds:

(i) that the employer or its insurer has not been prejudiced by the failure to file the claim; or

(ii) another sufficient reason.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, if a covered employee fails to file a claim within 2 years after the date of the accidental personal injury, the claim is completely barred.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claim arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.