

workers' compensation; service; electronic transmission

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 333
SENATE BILL 1651

AN ACT

AMENDING SECTIONS 23-901, 23-941, 23-942, 23-943, 23-1047 AND 23-1061,
ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-901, Arizona Revised Statutes, is amended to
3 read:

4 23-901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Award" means the finding or decision of an administrative law
7 judge or the commission as to the amount of compensation or benefit due an
8 injured employee or the dependents of a deceased employee.

9 2. "Client" means an individual, association, company, firm,
10 partnership, corporation or any other legally recognized entity that is
11 subject to this chapter and that enters into a professional employer
12 agreement with a professional employer organization.

13 3. "Co-employee" means every person employed by an injured
14 employee's employer.

15 4. "Commission" means the industrial commission of Arizona.

16 5. "Compensation" means the compensation and benefits provided by
17 this chapter.

18 6. "Employee", "workman", "worker" and "operative" means:

19 (a) Every person in the service of this state or a county, city,
20 town, municipal corporation or school district, including regular members
21 of lawfully constituted police and fire departments of cities and towns,
22 whether by election, appointment or contract of hire.

23 (b) Every person in the service of any employer subject to this
24 chapter, including aliens and minors legally or illegally allowed to work
25 for hire, but not including a person whose employment is both:

26 (i) Casual.

27 (ii) Not in the usual course of the trade, business or occupation
28 of the employer.

29 (c) Lessees of mining property and the lessees' employees and
30 contractors engaged in the performance of work that is a part of the
31 business conducted by the lessor and over which the lessor retains
32 supervision or control are within the meaning of this paragraph employees
33 of the lessor, and are deemed to be drawing wages as are usually paid
34 employees for similar work. The lessor may deduct from the proceeds of
35 ores mined by the lessees the premium required by this chapter to be paid
36 for such employees.

37 (d) Regular members of volunteer fire departments organized
38 pursuant to title 48, chapter 5, article 1, regular firefighters of any
39 volunteer fire department, including private fire protection service
40 organizations, organized pursuant to title 10, chapters 24 through 40,
41 volunteer firefighters serving as members of a fire department of any
42 incorporated city or town or an unincorporated area without pay or without
43 full pay and on a part-time basis, and voluntary policemen and volunteer
44 firefighters serving in any incorporated city, town or unincorporated area
45 without pay or without full pay and on a part-time basis, are deemed to be

1 employees, but for the purposes of this chapter, the basis for computing
2 wages for premium payments and compensation benefits for regular members
3 of volunteer fire departments organized pursuant to title 48, chapter 5,
4 article 1, or organized pursuant to title 10, chapters 24 through 40,
5 regular members of any private fire protection service organization,
6 volunteer firefighters and volunteer policemen of these departments or
7 organizations shall be the salary equal to the beginning salary of the
8 same rank or grade in the full-time service with the city, town, volunteer
9 fire department or private fire protection service organization, provided
10 if there is no full-time equivalent then the salary equivalent shall be as
11 determined by resolution of the governing body of the city, town or
12 volunteer fire department or corporation.

13 (e) Members of the department of public safety reserve, organized
14 pursuant to section 41-1715, are deemed to be employees. For the purposes
15 of this chapter, the basis for computing wages for premium payments and
16 compensation benefits for a member of the department of public safety
17 reserve who is a peace officer shall be the salary received by officers of
18 the department of public safety for the officers' first month of regular
19 duty as an officer. For members of the department of public safety
20 reserve who are not peace officers, the basis for computing premiums and
21 compensation benefits is \$400 a month.

22 (f) Any person placed in on-the-job evaluation or in on-the-job
23 training under the department of economic security's temporary assistance
24 for needy families program or vocational rehabilitation program shall be
25 deemed to be an employee of the department for the purpose of coverage
26 under the state workers' compensation laws only. The basis for computing
27 premium payments and compensation benefits shall be \$200 per month. Any
28 person receiving vocational rehabilitation services under the department
29 of economic security's vocational rehabilitation program whose major
30 evaluation or training activity is academic, whether as an enrolled
31 attending student or by correspondence, or who is confined to a hospital
32 or penal institution, shall not be deemed to be an employee of the
33 department for any purpose.

34 (g) Regular members of a volunteer sheriff's reserve, which may be
35 established by resolution of the county board of supervisors, to assist
36 the sheriff in the performance of the sheriff's official duties. A roster
37 of the current members shall monthly be certified to the clerk of the
38 board of supervisors by the sheriff and shall not exceed the maximum
39 number authorized by the board of supervisors. Certified members of an
40 authorized volunteer sheriff's reserve shall be deemed to be employees of
41 the county for the purpose of coverage under the Arizona workers'
42 compensation laws and occupational disease disability laws and shall be
43 entitled to receive the benefits of these laws for any compensable
44 injuries or disabling conditions that arise out of and occur in the course
45 of the performance of duties authorized and directed by the sheriff.

1 Compensation benefits and premium payments shall be based on the salary
2 received by a regular full-time deputy sheriff of the county involved for
3 the first month of regular patrol duty as an officer for each certified
4 member of a volunteer sheriff's reserve. This subdivision does not
5 provide compensation coverage for any member of a sheriff's posse who is
6 not a certified member of an authorized volunteer sheriff's reserve except
7 as a participant in a search and rescue mission or a search and rescue
8 training mission.

9 (h) A working member of a partnership may be deemed to be an
10 employee entitled to the benefits provided by this chapter on written
11 acceptance, by endorsement, at the discretion of the insurance carrier for
12 the partnership of an application for coverage by the working partner.
13 The basis for computing premium payments and compensation benefits for the
14 working partner shall be an assumed average monthly wage of not less than
15 \$600 ~~NOT~~ OR more than the maximum wage provided in section 23-1041 and is
16 subject to the discretionary approval of the insurance carrier. Any
17 compensation for permanent partial or permanent total disability payable
18 to the partner is computed on the lesser of the assumed monthly wage
19 agreed to by the insurance carrier on the acceptance of the application
20 for coverage or the actual average monthly wage received by the partner at
21 the time of injury.

22 (i) The sole proprietor of a business subject to this chapter may
23 be deemed to be an employee entitled to the benefits provided by this
24 chapter on written acceptance, by endorsement, at the discretion of the
25 insurance carrier of an application for coverage by the sole proprietor.
26 The basis for computing premium payments and compensation benefits for the
27 sole proprietor is an assumed average monthly wage of not less than \$600
28 ~~NOT~~ OR more than the maximum wage provided by section 23-1041 and is
29 subject to the discretionary approval of the insurance carrier. Any
30 compensation for permanent partial or permanent total disability payable
31 to the sole proprietor shall be computed on the lesser of the assumed
32 monthly wage agreed to by the insurance carrier on the acceptance of the
33 application for coverage or the actual average monthly wage received by
34 the sole proprietor at the time of injury.

35 (j) A member of the Arizona national guard, Arizona state guard or
36 unorganized militia shall be deemed a state employee and entitled to
37 coverage under the Arizona workers' compensation law at all times while
38 the member is receiving the payment of the member's military salary from
39 this state under competent military orders or on order of the governor.
40 Compensation benefits shall be based on the monthly military pay rate to
41 which the member is entitled at the time of injury, but not less than a
42 salary of \$400 per month, ~~NOT~~ OR more than the maximum provided by the
43 workers' compensation law. Arizona compensation benefits shall not inure
44 to a member compensable under federal law.

1 (k) Certified ambulance drivers and attendants who serve without
2 pay or without full pay on a part-time basis are deemed to be employees
3 and entitled to the benefits provided by this chapter and the basis for
4 computing wages for premium payments and compensation benefits for
5 certified ambulance personnel shall be \$400 per month.

6 (l) Volunteer workers of a licensed health care institution may be
7 deemed to be employees and entitled to the benefits provided by this
8 chapter on written acceptance by the insurance carrier of an application
9 by the health care institution for coverage of such volunteers. The basis
10 for computing wages for premium payments and compensation benefits for
11 volunteers shall be \$400 per month.

12 (m) Personnel who participate in a search or rescue operation or a
13 search or rescue training operation that carries a mission identifier
14 assigned by the division of emergency management as provided in section
15 35-192.01 and who serve without compensation as volunteer state employees.
16 The basis for computation of wages for premium purposes and compensation
17 benefits is the total volunteer man-hours recorded by the division of
18 emergency management in a given quarter multiplied by the amount
19 determined by the appropriate risk management formula.

20 (n) Personnel who participate in emergency management training,
21 exercises or drills that are duly enrolled or registered with the division
22 of emergency management or any political subdivision as provided in
23 section 26-314, subsection C and who serve without compensation as
24 volunteer state employees. The basis for computation of wages for premium
25 purposes and compensation benefits is the total volunteer man-hours
26 recorded by the division of emergency management or political subdivision
27 during a given training session, exercise or drill multiplied by the
28 amount determined by the appropriate risk management formula.

29 (o) Regular members of the Arizona game and fish department
30 reserve, organized pursuant to section 17-214. The basis for computing
31 wages for premium payments and compensation benefits for a member of the
32 reserve is the salary received by game rangers and wildlife managers of
33 the Arizona game and fish department for the game rangers' and wildlife
34 managers' first month of regular duty.

35 (p) Every person employed pursuant to a professional employer
36 agreement.

37 (q) A working member of a limited liability company who owns less
38 than fifty percent of the membership interest in the limited liability
39 company.

40 (r) A working member of a limited liability company who owns fifty
41 percent or more of the membership interest in the limited liability
42 company may be deemed to be an employee entitled to the benefits provided
43 by this chapter on the written acceptance, by endorsement, of an
44 application for coverage by the working member at the discretion of the
45 insurance carrier for the limited liability company. The basis for

1 computing wages for premium payments and compensation benefits for the
2 working member is an assumed average monthly wage of \$600 or more but not
3 more than the maximum wage provided in section 23-1041 and is subject to
4 the discretionary approval of the insurance carrier. Any compensation for
5 permanent partial or permanent total disability payable to the working
6 member is computed on the lesser of the assumed monthly wage agreed to by
7 the insurance carrier on the acceptance of the application for coverage or
8 the actual average monthly wage received by the working member at the time
9 of injury.

10 (s) A working shareholder of a corporation who owns less than fifty
11 percent of the beneficial interest in the corporation.

12 (t) A working shareholder of a corporation who owns fifty percent
13 or more of the beneficial interest in the corporation may be deemed to be
14 an employee entitled to the benefits provided by this chapter on the
15 written acceptance, by endorsement, of an application for coverage by the
16 working shareholder at the discretion of the insurance carrier for the
17 corporation. The basis for computing wages for premium payments and
18 compensation benefits for the working shareholder is an assumed average
19 monthly wage of \$600 or more but not more than the maximum wage provided
20 in section 23-1041 and is subject to the discretionary approval of the
21 insurance carrier. Any compensation for permanent partial or permanent
22 total disability payable to the working shareholder is computed on the
23 lesser of the assumed monthly wage agreed to by the insurance carrier on
24 the acceptance of the application for coverage or the actual average
25 monthly wage received by the working shareholder at the time of injury.

26 7. "General order" means an order applied generally throughout this
27 state to all persons under jurisdiction of the commission.

28 8. "Heart-related or perivascular injury, illness or death" means
29 myocardial infarction, coronary thrombosis or any other similar sudden,
30 violent or acute process involving the heart or perivascular system, or
31 any death resulting therefrom, and any weakness, disease or other
32 condition of the heart or perivascular system, or any death resulting
33 therefrom.

34 9. "Insurance carrier" means every insurance carrier duly
35 authorized by the director of the department of insurance and financial
36 institutions to write workers' compensation or occupational disease
37 compensation insurance in this state.

38 10. "Interested party" means the employer, the employee, or if the
39 employee is deceased, the employee's estate, the surviving spouse or
40 dependents, the commission, the insurance carrier or their representative.

41 11. "Mental injury, illness or condition" means any mental,
42 emotional, psychotic or neurotic injury, illness or condition.

1 12. "Order" means and includes any rule, direction, requirement,
2 standard, determination or decision other than an award or a directive by
3 the commission or an administrative law judge relative to any entitlement
4 to compensation benefits, or to the amount of compensation benefits, and
5 any procedural ruling relative to the processing or adjudicating of a
6 compensation matter.

7 13. "Personal injury by accident arising out of and in the course
8 of employment" means any of the following:

9 (a) Personal injury by accident arising out of and in the course of
10 employment.

11 (b) An injury caused by the wilful act of a third person directed
12 against an employee because of the employee's employment, but does not
13 include a disease unless resulting from the injury.

14 (c) An occupational disease that is due to causes and conditions
15 characteristic of and peculiar to a particular trade, occupation, process
16 or employment, and not the ordinary diseases to which the general public
17 is exposed, and subject to section 23-901.01 or, for heart-related,
18 perivascular or pulmonary cases, section 23-1105.

19 14. "Professional employer agreement" means a written contract
20 between a client and a professional employer organization:

21 (a) In which the professional employer organization expressly
22 agrees to co-employ all or a majority of the employees providing services
23 for the client. In determining whether the professional employer
24 organization employs all or a majority of the employees of a client, any
25 person employed pursuant to the terms of the professional employer
26 agreement after the initial placement of client employees on the payroll
27 of the professional employer organization shall be included.

28 (b) That is intended to be ongoing rather than temporary in nature.

29 (c) In which employer responsibilities for worksite employees,
30 including hiring, firing and disciplining, are expressly allocated between
31 the professional employer organization and the client in the agreement.

32 15. "Professional employer organization" means any person engaged
33 in the business of providing professional employer services. Professional
34 employer organization does not include a temporary help firm or an
35 employment agency.

36 16. "Professional employer services" means the service of entering
37 into co-employment relationships under this chapter to which all or a
38 majority of the employees providing services to a client or to a division
39 or work unit of a client are covered employees.

40 17. "SERVE" OR "SERVICE" MEANS EITHER:

41 (a) MAILING TO THE LAST KNOWN ADDRESS OF THE RECEIVING PARTY.

42 (b) TRANSMITTING BY OTHER MEANS, INCLUDING ELECTRONIC TRANSMISSION,
43 WITH THE WRITTEN CONSENT OF THE RECEIVING PARTY.

44 ~~17.~~ 18. "Special order" means an order other than a general order.

1 ~~18.~~ 19. "Weakness, disease or other condition of the heart or
2 perivascular system" means arteriosclerotic heart disease, cerebral
3 vascular disease, peripheral vascular disease, cardiovascular disease,
4 angina pectoris, congestive heart trouble, coronary insufficiency,
5 ischemia and all other similar weaknesses, diseases and conditions, and
6 also previous episodes or instances of myocardial infarction, coronary
7 thrombosis or any similar sudden, violent or acute process involving the
8 heart or perivascular system.

9 ~~19.~~ 20. "Workers' compensation" means workmen's compensation as
10 used in article XVIII, section 8, Constitution of Arizona.

11 Sec. 2. Section 23-941, Arizona Revised Statutes, is amended to
12 read:

13 23-941. Hearing rights and procedure

14 A. Subject to section 23-947, any interested party may file a
15 request for a hearing concerning a claim.

16 B. A request for a hearing shall be made in writing, be signed by
17 or on behalf of the interested party and include the interested party's
18 address, state that a hearing is desired and be filed with the commission.

19 C. The commission shall refer the request for the hearing to the
20 administrative law judge division for determination as expeditiously as
21 possible. The presiding administrative law judge may dismiss a request
22 for A hearing if it appears to the presiding administrative law judge's
23 satisfaction that the disputed issue or issues have been resolved by the
24 parties. Any interested party who objects to such A dismissal may request
25 a review pursuant to section 23-943.

26 D. At least twenty days' prior notice of the time and place of the
27 hearing shall be ~~given to all parties in interest by mail at their last~~
28 ~~known address~~ **SERVED ON ALL PARTIES IN INTEREST**. In the case of a hearing
29 concerning suspension of benefits, pursuant to section 23-1026, 23-1027 or
30 23-1071, only ten days' prior notice is required. Hearings shall be held
31 in the county where the workman resided at the time of the injury or
32 another place selected by the administrative law judge.

33 E. A record of all proceedings at the hearing shall be made but
34 need not be transcribed unless a party applies to the court of appeals for
35 a writ of certiorari pursuant to section 23-951. The record of the
36 proceedings, if not transcribed, shall be kept for at least two years but
37 may be destroyed after that time if a transcription is not requested.

38 F. Except as otherwise provided in this section and rules of
39 procedure established by the commission, the administrative law judge is
40 not bound by common law or statutory rules of evidence or by technical or
41 formal rules of procedure and may conduct the hearing in any manner that
42 will achieve substantial justice.

43 G. Any party shall be entitled to issuance and service of subpoenas
44 under section 23-921. Any party or the party's representative may serve
45 such subpoenas.

1 H. Any interested party or the interested party's authorized agent
2 shall be entitled to inspect any claims file of the commission, ~~provided~~
3 ~~that~~ IF such authorization is filed in writing with the commission.

4 I. Any interested party is entitled to one change of administrative
5 law judge as a matter of right. To exercise the right to a change of
6 administrative law judge, the interested party shall file a notice of
7 change of administrative law judge. The notice of change of
8 administrative law judge shall:

9 1. Be signed by the interested party or the interested party's
10 authorized agent.

11 2. State the name of the administrative law judge to be changed.

12 3. Certify that the interested party or the interested party's
13 authorized agent has timely filed the notice of change of administrative
14 law judge. A notice of change of administrative law judge as a matter of
15 right is timely if filed not more than thirty days after the date of the
16 notice of hearing or not more than thirty days after a new administrative
17 law judge is assigned to the claim if another interested party or the
18 interested party's authorized agent has filed a notice of change of
19 administrative law judge as a matter of right.

20 4. Certify that the interested party or the interested party's
21 authorized agent has not previously been granted a change of
22 administrative law judge as a matter of right for the claim.

23 J. Any interested party to a hearing before the commission or the
24 interested party's authorized agent may file an affidavit for change of
25 administrative law judge for cause against a presiding administrative law
26 judge that sets forth any of the grounds as provided in subsection K of
27 this section. The chief administrative law judge shall immediately
28 transfer the matter to another administrative law judge. An affidavit for
29 change of administrative law judge for cause shall be filed within the
30 time frames provided in subsection I of this section.

31 K. Grounds that may be alleged as provided in subsection J of this
32 section for change of administrative law judge for cause are:

33 1. That the administrative law judge has been engaged as counsel in
34 the hearing before appointment as administrative law judge.

35 2. That the administrative law judge is otherwise interested in the
36 hearing.

37 3. That the administrative law judge is of kin or otherwise related
38 to a party to the hearing.

39 4. That the administrative law judge is a material witness in the
40 hearing.

41 5. That the party filing the affidavit has cause to believe and
42 does believe that on account of the bias, prejudice or interest of the
43 administrative law judge the ~~administrative law judge~~ PARTY cannot obtain
44 a fair and impartial hearing.

1 L. For the purposes of subsections I and J of this section, the
2 employer and the employer's insurance carrier are considered a single
3 party unless the employer's and the employer's insurance company's
4 interests are in conflict.

5 M. After final disposition of the proceedings in which they are
6 used, exhibits marked for identification or introduced as evidence at
7 hearings or proceedings that cannot be readily copied, photocopied,
8 mechanically reproduced or otherwise preserved as a document for inclusion
9 in the record of the proceedings may be disposed of in the following
10 manner:

11 1. By written notice, the attorneys of record, or if none, the
12 parties, shall be notified that the counsel or the party introducing the
13 exhibit may claim it at the ~~industrial~~ commission within sixty days.

14 2. ~~After~~ Sixty days ~~following~~ AFTER notification, any exhibit
15 remaining in the custody of the ~~industrial~~ commission shall be disposed of
16 as state surplus property pursuant to the direction of the department of
17 administration. A written description of the exhibit shall be included in
18 the record to preserve the exhibit's identity.

19 Sec. 3. Section 23-942, Arizona Revised Statutes, is amended to
20 read:

21 23-942. Awards of administrative law judge; contents;
22 disposition and effect

23 A. ~~upon~~ ON the conclusion of any hearing, or prior thereto with
24 concurrence of the parties, the administrative law judge ~~shall~~ promptly,
25 and not later than thirty days after the matter is submitted for decision,
26 SHALL determine the matter and make an award in accordance with ~~his~~ THE
27 ADMINISTRATIVE LAW JUDGE'S determination.

28 B. In the event of the demise, resignation, retirement, termination
29 of employment, or other incapacitation of the presiding administrative law judge
30 or ~~his~~ THE CHIEF ADMINISTRATIVE LAW JUDGE'S appointee.

31 C. The award shall become a part of the commission file. A copy of
32 the award shall be ~~sent forthwith by mail to~~ SERVED ON all parties in
33 interest.

34 D. The award is final when entered unless within thirty days after
35 the date on which a copy of the award is ~~mailed~~ SERVED to the parties, one
36 of the parties files a request for review under section 23-943. The award
37 shall contain a statement explaining the rights of the parties under
38 section 23-943.

39 Sec. 4. Section 23-943, Arizona Revised Statutes, is amended to
40 read:

41 23-943. Decision on review

42 A. The request for review of an administrative law judge award need
43 only state that the party requests a review of the award. The request may
44 be accompanied by a memorandum of points and authorities, in which event
45

1 any other interested party shall have fifteen days ~~from~~ AFTER the date of
2 filing in which to respond. Failure to respond will not be deemed an
3 admission against interest.

4 B. The request for review shall be filed with the administrative
5 law judge division and copies of the request shall be ~~mailed to~~ SERVED ON
6 all other parties to the proceeding.

7 C. ~~When~~ IF review has been requested, the record of such oral
8 proceedings at the hearings before the administrative law judge for
9 purposes of the review shall be transcribed at the expense of the
10 commission.

11 D. Notice of the review shall be ~~given to the parties by mail~~
12 SERVED ON THE PARTIES.

13 E. The review shall be made by the presiding administrative law
14 judge and shall be based ~~upon~~ ON the record and the memoranda submitted
15 under the provisions of subsection A of this section.

16 F. The presiding administrative law judge may affirm, reverse,
17 rescind, modify or supplement the award and make such disposition of the
18 case as is determined to be appropriate. A decision ~~upon~~ ON review shall
19 be made within sixty days after the review has been requested, with
20 preference being given to those cases not receiving compensation.

21 G. The decision ~~upon~~ ON review shall become a part of the
22 commission file and a copy thereof ~~sent by mail to~~ SHALL BE SERVED ON the
23 parties.

24 H. The decision ~~upon~~ ON review shall be final unless within thirty
25 days after the date of ~~mailing of copies~~ SERVICE of such decision to the
26 parties, one of the parties applies to the court of appeals for a writ of
27 certiorari pursuant to section 23-951. The decision shall contain a
28 statement explaining the rights of the parties under this section and
29 section 23-951.

30 Sec. 5. Section 23-1047, Arizona Revised Statutes, is amended to
31 read:

32 23-1047. Procedure for determining compensation for partial
33 disability and permanent total disability in cases
34 not enumerated; procedure for determining
35 nonscheduled dependency and duration of
36 compensation to partial dependents in death cases

37 A. In cases of permanent partial disability under section 23-1044,
38 subsection B, paragraph 22 and subsections C and F, when the physical
39 condition of the injured employee becomes stationary, or in the case of
40 permanent total disability not enumerated in section 23-1045, and under
41 section 23-1045, subsection D, or in death cases under section 23-1046,
42 subsection B, the employer or insurance carrier within thirty days shall
43 notify the commission and request that the claim be examined and further
44 compensation, if any, be determined. A copy of all medical reports
45 necessary to make such determination also shall be furnished to the

1 commission. The employer or insurance carrier may commence payment of a
2 permanent disability award without waiting for a determination under
3 subsection B of this section.

4 B. Within thirty days after the commission receives the medical
5 reports, the claims shall be examined and further compensation, including
6 a permanent disability award, if any, SHALL BE determined under the
7 commission's supervision. If necessary, the commission may require
8 additional medical or other information with respect to the claim and may
9 postpone the determination for not more than sixty additional days. Any
10 determination under this subsection may include necessary adjustments in
11 any compensation paid or payable.

12 C. The commission shall ~~mail~~ SERVE a copy of the determination to
13 all interested parties. Any such party may request a hearing under
14 section 23-941 on the determination made under subsection B of this
15 section within ninety days after copies of the determination are ~~mailed~~
16 SERVED.

17 D. Any person receiving permanent compensation benefits shall
18 report annually on the anniversary date of the award to the self-insured
19 employer or insurance carrier all of the person's earnings for the prior
20 twelve-month period. ~~In the event~~ IF the person fails to make such
21 report, the self-insured employer or insurance carrier shall notify the
22 person that such report has not been received and that payment of further
23 benefits will be suspended unless such report of earnings is filed within
24 thirty days. After thirty days have elapsed from the date of such notice,
25 the self-insured employer or insurance carrier may issue a notice to the
26 person suspending payment of further benefits and no further payments need
27 be made until such report of earnings is filed.

28 E. Any person receiving permanent compensation benefits from the
29 special fund established by section 23-1065 shall report annually on the
30 anniversary date of the award to the ~~industrial~~ commission all of the
31 person's earnings for the prior twelve-month period. ~~In the event~~ IF the
32 person fails to make such report, the ~~industrial~~ commission shall notify
33 the person that such report has not been received and that payment of
34 further benefits will be suspended unless such report of earnings is filed
35 within thirty days. After thirty days have elapsed from the date of such
36 notice, the ~~industrial~~ commission may issue a notice to the person
37 suspending payment of further benefits and no further payments need be
38 made until such report of earnings is filed.

39 Sec. 6. Section 23-1061, Arizona Revised Statutes, is amended to
40 read:

41 23-1061. Notice of accident; form of notice; claim for
42 compensation; reopening; payment of compensation

43 A. Notwithstanding section 23-908, subsection E, no claim for
44 compensation shall be valid or enforceable unless the claim is filed with
45 the commission by the employee, or if resulting in death by the parties

1 entitled to compensation, or someone on their behalf, in writing within
2 one year after the injury occurred or the right thereto accrued. The time
3 for filing a compensation claim begins to run when the injury becomes
4 manifest or when the claimant knows or in the exercise of reasonable
5 diligence should know that the claimant has sustained a compensable
6 injury. Except as provided in subsection B of this section, neither the
7 commission nor any court shall have jurisdiction to consider a claim ~~which~~
8 THAT is not timely filed under this subsection, except if the employee or
9 other party entitled to file the claim has delayed in doing so because of
10 justifiable reliance on a material representation by the commission,
11 employer or insurance carrier or if the employee or other party entitled
12 to file the claim is insane or legally incompetent or incapacitated at the
13 time the injury occurs or the right to compensation accrues or during the
14 one-year period thereafter. If the insanity or legal incompetence or
15 incapacity occurs after the one-year period has commenced, the running of
16 the remainder of the one-year period shall be suspended during the period
17 of insanity or legal incompetence or incapacity. If the employee or other
18 party is insane or legally incompetent or incapacitated when the injury
19 occurs or the right to compensation accrues, the one-year period commences
20 to run immediately ~~upon~~ ON the termination of insanity or legal
21 incompetence or incapacity. The commission ~~upon~~ ON receiving a claim
22 shall give notice to the carrier.

23 B. Failure of an employee or any other party entitled to
24 compensation to file a claim with the commission within one year or to
25 comply with section 23-908 shall not bar a claim if the insurance carrier
26 or employer has commenced payment of compensation benefits under section
27 23-1044, 23-1045 or 23-1046, except that the payments provided for by
28 section 23-1046, subsection A, paragraph 1 and section 23-1065, subsection
29 A shall not be considered compensation benefits for the purposes of this
30 section.

31 C. If the commission receives a notification of the injury, the
32 commission shall send a claim form to the employee.

33 D. The issue of failure to file a claim must be raised at the first
34 hearing on a claim for compensation in respect to the injury or death.

35 E. Within ten days after receiving notice of an accident, the
36 employer shall inform ~~his~~ THE EMPLOYER'S insurance carrier and the
37 commission on such forms as may be prescribed by the commission.

38 F. Each insurance carrier and self-insuring employer shall report
39 to the commission a notice of the first payment of compensation and shall
40 ~~promptly report to~~ SERVE ON the commission and ~~to~~ the employee ~~by mail at~~
41 ~~his last known address~~ any denial of a claim, any change in the amount of
42 compensation and the termination thereof, except that claims for medical,
43 surgical and hospital benefits ~~which~~ THAT are not denied shall be reported
44 to the commission in the form and manner determined by the commission. In
45 all cases where compensation is payable, the carrier or self-insuring

1 employer shall promptly determine the average monthly wage pursuant to
2 section 23-1041. Within thirty days of the payment of the first
3 installment of compensation, the carrier or self-insuring employer shall
4 notify the employee and commission of the average monthly wage of the
5 claimant as calculated, and the basis for such determination. The
6 commission shall then make its own independent determination of the
7 average monthly wage pursuant to section 23-1041. The commission, ~~shall~~
8 within thirty days after receipt of such notice, **SHALL** notify the
9 employee, employer and carrier of such determination. The amount
10 determined by the commission shall be payable retroactive to the first
11 date of entitlement. The first payment of compensation shall be
12 accompanied by a notice on a form prescribed by the commission stating the
13 manner in which the amount of compensation was determined.

14 G. Except as otherwise provided by law, the insurance carrier or
15 self-insuring employer shall process and pay compensation and provide
16 medical, surgical and hospital benefits, without the necessity for the
17 making of an award or determination by the commission.

18 H. On a claim that has been previously accepted, an employee may
19 reopen the claim to secure an increase or rearrangement of compensation or
20 additional benefits by filing with the commission a petition requesting
21 the reopening of the employee's claim ~~upon~~ **ON** the basis of a new,
22 additional or previously undiscovered temporary or permanent condition,
23 which petition shall be accompanied by a statement from a physician
24 setting forth the physical condition of the employee relating to the
25 claim. A claim shall not be reopened if the initial claim for
26 compensation was previously denied by a notice of claim status or
27 determination by the commission and the notice or determination was
28 allowed to become final and no exception applies under section 23-947
29 excusing a late filing to request a hearing. A claim shall not be
30 reopened because of increased subjective pain if the pain is not
31 accompanied by a change in objective physical findings. A claim shall not
32 be reopened solely for additional diagnostic or investigative medical
33 tests, but expenses for any reasonable and necessary diagnostic or
34 investigative tests that are causally related to the injury shall be paid
35 by the employer or the employer's insurance carrier. Expenses for
36 reasonable and necessary medical and hospital care and laboratory work
37 shall be paid by the employer or the employer's insurance carrier if the
38 claim is reopened as provided by law and if these expenses are incurred
39 within fifteen days ~~of~~ **AFTER** the date that the petition to reopen is
40 filed. The payment for such reasonable and necessary medical, hospital
41 and laboratory work expense shall be paid for by the employer or the
42 employer's insurance carrier if the claim is reopened as provided by law
43 and if such expenses are incurred within fifteen days ~~of~~ **AFTER** the filing
44 of the petition to reopen. Surgical benefits are not payable for any
45 period prior to the date of filing a petition to reopen, except that

1 surgical benefits are payable for a period prior to the date of filing the
2 petition to reopen not to exceed seven days if a bona fide medical
3 emergency precludes the employee from filing a petition to reopen prior to
4 the surgery. No monetary compensation is payable for any period prior to
5 the date of filing the petition to reopen.

6 I. ~~upon~~ ON the filing of a petition to reopen a claim, the
7 commission shall in writing notify the employer's insurance carrier or the
8 self-insuring employer, which shall in writing notify the commission and
9 the employee within twenty-one days after the date of such notice of its
10 acceptance or denial of the petition. The reopened claim shall be
11 processed thereafter in like manner as a new claim.

12 J. The commission shall investigate and review any claim in which
13 it appears to the commission that the claimant has not been granted the
14 benefits to which such claimant is entitled. If the commission determines
15 that payment or denial of compensation is improper in any way, it shall
16 hold a hearing pursuant to section 23-941 within sixty days after
17 receiving notice of such impropriety. Any claim for temporary partial
18 disability benefits under this subsection must be filed with the
19 commission within two years after the date the claimed entitlement to
20 compensation accrued or within two years after the date on which an award
21 for benefits encompassing the entitlement period becomes final. A claim
22 for temporary partial disability compensation shall be deemed to accrue
23 when the employee knew or with the exercise of reasonable diligence should
24 have known that the carrier, self-insured employer or special fund denied
25 or improperly paid compensation. A claim for temporary partial disability
26 benefits shall not be deemed to have accrued any earlier than ~~the~~
27 ~~effective date of this amendment to this subsection~~ SEPTEMBER 26, 2008.

28 K. When there is a dispute as to which employer, ~~or~~ or insurance
29 carrier, ~~is~~ is liable for the payment of a compensable claim, the
30 commission, by order, may designate the employer or insurance carrier
31 ~~which~~ THAT shall pay the claim. Payment shall begin within fourteen days
32 after the employer or insurance carrier has been ordered by the commission
33 to commence payment. When a final determination has been made as to which
34 employer or insurance carrier is actually liable, the commission shall
35 direct any necessary monetary adjustment or reimbursement among the
36 parties or carriers involved.

37 L. ~~upon~~ ON application to the commission, ~~and~~ and for good cause
38 shown, the commission may direct that a document filed as a claim for
39 compensation benefits be designated as a petition to reopen, effective as
40 of the original date of filing. In like manner ~~upon~~ ON application and
41 good cause shown, the commission may direct that a document filed as a
42 petition to reopen be designated AS a claim for compensation benefits,
43 effective as of the original date of filing.

1 M. If the insurance carrier or self-insurer does not issue a notice
2 of claim status denying the claim within twenty-one days ~~from~~ AFTER the
3 date the carrier is notified by the commission of a claim or of a petition
4 to reopen, the carrier shall pay immediately compensation as if the claim
5 were accepted, from the date the carrier is notified by the commission of
6 a claim or petition to reopen until the date ~~upon~~ ON which the carrier
7 issues a notice of claim status denying such claim. Compensation includes
8 medical, surgical and hospital benefits. This section shall not apply to
9 cases involving seven days or less of time lost from work.

APPROVED BY THE GOVERNOR MAY 5, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 5, 2021.