

HB 4138 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 02/14/22

Action: Without recommendation as to passage and be referred to Rules.

Vote: 10-0-1-0

Yeas: 10 - Bonham, Boshart Davis, Bynum, Cate, Evans, George, Grayber, Holvey, Salinas, Witt

Exc: 1 - Smith Warner

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 2/9, 2/14

WHAT THE MEASURE DOES:

Amends provisions of workers' compensation laws related to payment of temporary disability benefits. Requires insurer or self-insured employer to provide written notice to worker that temporary disability benefits will end. Requires written notice to be mailed within five business days of receipt of information and to state reason for ending temporary disability benefits. Replaces 14-day retroactive authorization with 60-day retroactive authorization from written notice that temporary disability benefits will end. Clarifies that no statement from attending medical provider may establish medically stationary status more than 60 days before the worker is notified that the worker has become medically stationary. Limits recovery of overpayments, offsets, or credits for wage loss to no more than 50 percent of the worker's total award. Removes requirement that hearing for failure to process or an allegation that claim was processed incorrectly be requested within two years of alleged action or inaction.

ISSUES DISCUSSED:

- Current time loss procedures and impact of retroactive determination of medically stationary status
- Recommendation of support from the Management-Labor Advisory Committee with conceptual amendments
- Need for additional time to finalize consensus amendments

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Workers' compensation law requires most employers to provide their workers with workers' compensation insurance coverage. The law provides an exclusive remedy for job-related injuries and occupational diseases.

Temporary disability or time loss is a wage replacement benefit designed to compensate a worker who has missed work and lost wages due to a work injury. Time loss rates are calculated as 66.6 percent of a worker's average earnings with a minimum and maximum weekly benefit. A worker who is able to return to work, but is earning less because of the injury, is eligible for time loss benefits reduced based on the wages paid by the employer. Time loss must be authorized by the worker's attending medical service provider and generally continues until the worker is determined to be "medically stationary," meaning the worker's condition cannot reasonably be expected to improve with either further treatment or the passage of time. Current law allows an attending medical provider to retroactively authorize time loss benefits up to 14 days.

House Bill 4138 makes several changes to the administration of time loss benefits. First, the measure requires an insurer or self-insured employer to provide written notice to the worker before suspending time loss payments and requires the notice to include the reason for ending time loss. Second, the measure allows an attending

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health care provider to retroactively authorize time loss up to 60 days prior to the notice that payments will cease. Third, the measure does not allow medically stationary status to be established more than 60 days before the worker or worker's attorney is notified that the worker has become stationary. Finally, the measure limits recovery of overpayments for time loss to no more than 50 percent of the worker's total reward.