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H.B. 447
134th General Assembly

Bill Analysis

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Version: As Reported by House Insurance

Primary Sponsor: Rep. Lampton

Paul Luzzi, Attorney

SUMMARY

- Prohibits a work from home employee from receiving workers' compensation unless specific circumstances apply.
- Allows, rather than requires as under current law, the Bureau of Workers' Compensation (BWC) to schedule a recipient of temporary total disability (TTD) compensation for a medical examination after 200 weeks to evaluate whether the disability is permanent.
- Allows, rather than requires as under current law, a self-insuring employer to request that BWC schedule such an examination when the self-insuring employer's employee has received 200 weeks of TTD.
- Eliminates a requirement that an application for a lump sum payment under the Workers' Compensation Law be notarized.

DETAILED ANALYSIS

Workers' compensation and work from home employees

The bill prohibits an employee who performs the employee's duties in a work area that is located within the employee's home and that is separate and distinct from the location of the employer (a work from home employee) from receiving compensation or benefits under the Workers' Compensation Law,¹ unless all of the following apply:

- The employee's injury or disability arises out of the employee's employment.

¹ R.C. Chapters 4121, 4123, 4127, and 4131.

- The employee's injury or disability was caused by a special hazard of the employee's employment activity.
- The employee's injury or disability is sustained in the course of an activity undertaken by the employee for the exclusive benefit of the employer.²

Currently, the law does not distinguish between an injury sustained by an onsite employee and an injury sustained by a work from home employee. An employee, or the employee's dependents, may receive compensation or benefits for injury or death sustained or occupational disease contracted in the course of and arising out of employment wherever the injury or death occurred or occupational disease was contracted.³ Generally speaking, the test for whether an injury was sustained in the course of and arising out of employment is whether a "causal connection" exists between the injury and the employment. The causal connection can arise from the employee's activities, the employment conditions, or the employment environment. Whether sufficient causal connection exists depends on the totality of the facts and circumstances of each case, including, but not limited to, the following:

- The proximity of the scene of the accident to the place of employment;
- The degree of control the employer had over the scene of the accident;
- The benefit the employer received from the injured employee's presence at the scene of the accident.⁴

One Ohio court has held that a switchboard operator who lived in the building that housed the switchboard was eligible for compensation and benefits under the law after sustaining an injury during work hours. According to the court, the employee sustained the injury while engaged in an activity not expressly covered by the employment contract. However, based on the totality of the circumstances, the court found that the activity was incidental to the contract's execution and the injury was compensable.⁵

200-week medical exams

Under the bill, the Bureau of Workers' Compensation (BWC) may schedule a recipient of temporary total disability (TTD) compensation for a medical examination after 200 weeks to evaluate whether the disability has become permanent. Current law requires the BWC medical section to schedule the examination.

Additionally, the bill allows a self-insuring employer (an employer that has been approved by the Administrator of Workers' Compensation to pay compensation and benefits directly to an employee) to request that BWC schedule the examination described above when

² R.C. 4123.01.

³ R.C. 4123.54(A), not in the bill.

⁴ *Fisher v. Mayfeild*, 49 Ohio St.3d 275, 276-277 (1990).

⁵ *See Bremner v. Industrial Com.*, 63 Ohio App. 387, 396 (11th Dist. 1938).

the self-insuring employer has paid an employee 200 weeks of TTD compensation. Currently a self-insuring employer must request the examination.⁶

Under continuing law, when an employee receives TTD compensation for 90 consecutive days, the Administrator must refer the employee for a medical examination to determine the employee's continued entitlement to TTD, the employee's rehabilitation potential, and the appropriateness of the medical treatment rendered. Additionally, the Administrator may require any employee claiming a right to compensation to submit to periodic medical examinations at a location that is reasonably convenient for the employee.⁷

Lump sum payments

Continuing law allows the Administrator to disburse compensation or benefits in one or more lump sum payments when doing so is advisable to provide financial relief to (or further the rehabilitation of) an injured or disabled employee. The bill eliminates the requirement that an application for a lump sum payment be notarized.⁸

HISTORY

Action	Date
Introduced	10-06-21
Reported, H. Insurance	02-09-22

H0447-RH-134/ar

⁶ R.C. 4123.56.

⁷ R.C. 4123.53, not in the bill.

⁸ R.C. 4123.64.