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H.B. 447
134th General Assembly

Final Analysis

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Primary Sponsor: Rep. Lampton

Effective date: September 23, 2022

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UPDATED VERSION*

SUMMARY

- Makes a work from home employee ineligible to receive workers' compensation unless specific circumstances apply.
- Allows, rather than requires as under former 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 former 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 act makes 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) ineligible to receive compensation or benefits under the Workers' Compensation Law¹ unless all of the following apply:

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

* This version updates the effective date.

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

Previously, eligibility criteria for receiving the compensation or benefits was the same for employees who work from home and those who do not. In short, an employee, or the employee's dependents, could 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 was sustained or occupational disease contracted. The act continues to apply this criterion to nonwork from home employees.³

Continuing law requires, for an injury to be compensable under the Workers' Compensation Law, the injury to be sustained in the course of, and arise out of, the employee's employment (regardless of whether the employee works from home). Generally speaking, the test for whether an injury was sustained in the course of and arose 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

200-week medical exams

The act allows, rather than requires as under former 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 has become permanent.

Similarly, the act allows, rather than requires as under former law, a self-insuring employer that has paid an employee 200 weeks of TTD compensation to request that the BWC schedule the examination described above. A self-insuring employer is an employer that has been approved by the Administrator of Workers' Compensation to pay compensation and benefits directly to an employee.⁵

² R.C. 4123.01.

³ R.C. 4123.54(A), not in the act.

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

⁵ R.C. 4123.56.

These medical examinations are in addition to others required 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.⁶

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 act eliminates the requirement that an application for a lump sum payment be notarized.⁷

HISTORY

Action	Date
Introduced	10-06-21
Reported, H. Insurance	02-09-22
Passed House (97-0)	02-16-22
Reported, S. Insurance	05-27-22
Passed Senate (32-0)	06-01-22

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⁶ R.C. 4123.53, not in the act.

⁷ R.C. 4123.64.