

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
10.9.09

BILL 14

LLS NO. 10-0213.01 Jerry Barry

INTERIM COMMITTEE BILL

Interim Committee to Study Issues Related to Pinnacol Assurance

SHORT TITLE: "Workers' Comp Claims Process Brochure"

A BILL FOR AN ACT

101 **CONCERNING A BROCHURE TO DESCRIBE THE PROCESS FOR WORKERS'**
102 **COMPENSATION CLAIMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee to Study Issues Related to Pinnacol Assurance. The bill requires the employer or the employer's insurance carrier to provide a brochure to a workers' compensation claimant, in a form approved by the director of the division of workers' compensation, that describes the entities the claimant may contact for information, the claimant's rights related to his or her medical treatment and rights to receive benefit payments, and the claims process.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 8-43-203, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **8-43-203. Notice concerning liability - notice to claimants -**
5 **notice of rights and claims process - rules.** (3) IN ADDITION TO ANY
6 OTHER NOTICE REQUIRED BY THIS SECTION, AT THE TIME THAT THE
7 EMPLOYER OR, IF INSURED, THE EMPLOYER'S INSURANCE CARRIER
8 PROVIDES THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE
9 EMPLOYER OR INSURANCE CARRIER SHALL PROVIDE TO THE CLAIMANT A
10 BROCHURE, IN A FORM APPROVED BY THE DIRECTOR, DESCRIBING THE
11 CLAIMS PROCESS AND INFORMING THE CLAIMANT OF HIS OR HER RIGHTS.
12 THE BROCHURE SHALL, AT A MINIMUM, CONTAIN THE FOLLOWING
13 INFORMATION:

14 (a) WHO THE CLAIMANT MAY CONTACT WITH QUESTIONS
15 CONCERNING THE CLAIM, THE CLAIM'S PROCESS, AND ASSISTANCE WITH
16 THE CLAIM, INCLUDING:

- 17 (I) THE INSURANCE CARRIER OR EMPLOYER;
18 (II) THE DIVISION AND THE WEB SITE FOR THE DIVISION;
19 (III) THE OFFICE OF ADMINISTRATIVE COURTS AND THE WEB SITE
20 FOR THE OFFICE; AND
21 (IV) AN ATTORNEY HIRED AT THE EXPENSE OF THE CLAIMANT.

22 (b) THE CLAIMANT'S RIGHT TO RECEIVE MEDICAL CARE FOR WORK
23 RELATED INJURIES OR OCCUPATIONAL DISEASES PAID FOR BY THE
24 EMPLOYER OR THE EMPLOYER'S INSURANCE CARRIER INCLUDING:

- 25 (I) THE CLAIMANT'S RIGHT TO CHOOSE FROM A LIST OF AT LEAST
26 TWO DIFFERENT DOCTORS;

1 (II) THE CLAIMANT'S RIGHT TO CHANGE DOCTORS ONE TIME WITHIN
2 NINETY DAYS AFTER THE INJURY AND TO REQUEST A CHANGE OF DOCTOR
3 AT OTHER TIMES UNDER CERTAIN OTHER CIRCUMSTANCES;

4 (III) THE CLAIMANT'S DOCTOR'S RIGHT TO REFER THE CLAIMANT
5 TO OTHER MEDICAL PROVIDERS AND SPECIALISTS TO PROVIDE THE
6 REASONABLE AND NECESSARY MEDICAL CARE THAT THE CLAIMANT'S
7 WORK-RELATED INJURIES OR ILLNESS REQUIRE;

8 (IV) THE CLAIMANT'S RIGHT TO SPECIFY WHO MAY BE PRESENT
9 DURING A CLAIMANT'S MEDICAL APPOINTMENT AND WHO MAY HAVE
10 ACCESS TO THE CLAIMANT'S MEDICAL RECORDS, INCLUDING THE RIGHT TO
11 REFUSE TO HAVE A NURSE CASE MANAGER EMPLOYED ON THE CLAIMANT'S
12 CLAIM;

13 (V) THE CLAIMANT'S RIGHT TO SEE AND HAVE COPIES OF ALL OF
14 THE CLAIMANT'S MEDICAL RECORDS RELATED TO THE MEDICAL CARE THE
15 CLAIMANT RECEIVED FOR HIS OR HER WORK-RELATED INJURY OR ILLNESS;

16 (VI) THE CLAIMANT'S RIGHT TO SEEK MEDICAL CARE AND MEDICAL
17 OPINIONS ABOUT THE CLAIMANT'S WORK-RELATED INJURY AT THE
18 CLAIMANT'S OWN EXPENSE; AND

19 (VII) THE CLAIMANT'S RIGHT TO A MEDICAL EXAMINATION BY A
20 DOCTOR SELECTED BY THE DIVISION AT THE CLAIMANT'S EXPENSE, OR, IF
21 AN ADMINISTRATIVE LAW JUDGE FINDS THAT THE CLAIMANT CANNOT PAY
22 FOR ONE, AT THE INITIAL EXPENSE OF THE CLAIMANT'S EMPLOYER OR THE
23 EMPLOYER'S INSURANCE COMPANY;

24 (VIII) THE CLAIMANT'S RIGHT TO A PERMANENT IMPAIRMENT
25 EVALUATION AFTER THE CLAIMANT'S TREATING DOCTORS DETERMINE
26 THAT THE CLAIMANT HAS REACHED MAXIMUM MEDICAL IMPROVEMENT;
27 AND

1 (IX) THE CLAIMANT'S RIGHT TO CONTINUED NECESSARY MEDICAL
2 CARE AFTER MAXIMUM MEDICAL IMPROVEMENT AT THE EXPENSE OF THE
3 EMPLOYER OR THE EMPLOYER'S INSURANCE CARRIER.

4 (c) A DESCRIPTION OF THE CLAIMANT'S RIGHT TO RECEIVE BENEFIT
5 PAYMENTS, INCLUDING THE CLAIMANT'S RIGHT TO RECEIVE:

6 (I) WAGE REPLACEMENT PAYMENTS IN THE FORM OF TEMPORARY
7 TOTAL DISABILITY PAYMENTS OR TEMPORARY PARTIAL DISABILITY
8 PAYMENTS;

9 (II) PERMANENT IMPAIRMENT BENEFITS IF THE CLAIMANT IS LEFT
10 WITH A PERMANENT IMPAIRMENT AS A RESULT OF A WORK-RELATED
11 INJURY OR DISEASE;

12 (III) DISFIGUREMENT PAYMENTS FOR PERMANENT SCARRING OR
13 DISFIGUREMENT CAUSED BY THE CLAIMANT'S WORK-RELATED INJURY OR
14 SURGERY REQUIRED BECAUSE OF THE CLAIMANT'S WORK-RELATED INJURY;
15 AND

16 (IV) MILEAGE EXPENSES FOR TRAVEL TO AND FROM
17 WORK-RELATED MEDICAL CARE AND TO AND FROM PHARMACIES TO
18 OBTAIN MEDICAL PRESCRIPTIONS FOR WORK-RELATED MEDICAL CARE.

19 (d) A DESCRIPTION OF HOW THE CLAIMS PROCESS WORKS,
20 INCLUDING:

21 (I) THE CLAIMANT'S RIGHT TO FILE A CLAIM FOR WORKERS'
22 COMPENSATION WITH THE DIVISION WITHIN TWO YEARS AFTER THE DATE
23 OF THE CLAIMANT'S INJURY OR OCCUPATIONAL DISEASE;

24 (II) THE CLAIMANT'S RIGHT TO RECEIVE A GENERAL ADMISSION OF
25 LIABILITY OR NOTICE OF CONTEST ONCE THE CLAIM HAS BEEN PROPERLY
26 REPORTED TO THE DIVISION;

27 (III) THE CLAIMANT'S RIGHT TO VERIFY THAT THE CLAIMANT'S

1 AVERAGE WEEKLY WAGE PAYMENTS FOR TEMPORARY TOTAL DISABILITY
2 HAVE BEEN PROPERLY CALCULATED BY THE CLAIMANT'S EMPLOYER OR
3 THE EMPLOYER'S INSURANCE CARRIER;

4 (IV) THE CLAIMANT'S RIGHT TO PREHEARINGS AND HEARINGS ON
5 DISPUTED ISSUES;

6 (V) THE CLAIMANT'S RIGHT TO PRESENT EVIDENCE, TESTIFY,
7 INTRODUCE MEDICAL AND OTHER RECORDS, PRESENT WITNESSES, AND
8 MAKE ARGUMENTS AT ANY HEARING;

9 (VI) THE CLAIMANT'S RIGHT TO OBJECT TO AND REQUEST A
10 HEARING ON ANY FINAL ADMISSION OF LIABILITY WITHIN THIRTY DAYS
11 AFTER THE MAILING OF THE ADMISSION IN ORDER TO RETAIN CERTAIN
12 RIGHTS;

13 (VII) THE CLAIMANT'S RIGHT TO CHALLENGE A FINDING OF AN
14 IMPAIRMENT RATING OR MAXIMUM MEDICAL IMPROVEMENT IN A FINAL
15 ADMISSION OF LIABILITY WITHIN THIRTY DAYS AFTER THE MAILING OF THE
16 ADMISSION IN ORDER TO RETAIN CERTAIN RIGHTS;

17 (VIII) THE CLAIMANT'S RIGHT TO PURSUE PENALTIES FOR
18 VIOLATIONS OF THE LAW INCLUDING LATE PAYMENT OF BENEFITS OR
19 IMPROPER REFUSAL TO PAY BENEFITS; AND

20 (IX) THE CLAIMANT'S RIGHT, SUBJECT TO CERTAIN REQUIREMENTS,
21 TO REOPEN A CLAIM WITHIN SIX YEARS AFTER THE DATE OF THE INJURY OR
22 ILLNESS OR WITHIN TWO YEARS AFTER THE DATE OF THE LAST RECEIPT OF
23 MEDICAL OR WAGE BENEFITS.

24 <{Does the committee prefer a safety clause or a 90-day delayed
25 effective date section?}>