

1 AN ACT relating to workers' compensation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 342.020 is amended to read as follows:

4 (1) In addition to all other compensation provided in this chapter, the employer shall
5 pay for the cure and relief from the effects of an injury or occupational disease the
6 medical, surgical, and hospital treatment, including nursing, medical, and surgical
7 supplies and appliances, as may reasonably be required at the time of the injury and
8 thereafter ~~during disability,~~ **for the length of time set forth in this section,** or as
9 may be required for the cure and treatment of an occupational disease.

10 **(2) In claims resulting in an award of permanent total disability or resulting from an**
11 **injury described in subsection (10) of this section,** the employer's obligation to pay
12 the benefits specified in this section shall continue for so long as the employee is
13 disabled regardless of the duration of the employee's income benefits.

14 **(3) In all permanent partial disability claims not involving an injury described in**
15 **subsection (10) of this section, the employer's obligation to pay the benefits**
16 **specified in this section shall continue for seven hundred eighty (780) weeks from**
17 **the date of injury or date of last exposure.**

18 **(4) Except in claims described in subsection (2) of this section, the employer's**
19 **obligation to pay the benefits specified in this section shall terminate as of the**
20 **date the employee reaches the age of seventy (70) or four (4) years after the**
21 **employee's date of injury or date of last exposure, whichever last occurs.**

22 **(5)** In the absence of designation of a managed health care system by the employer, the
23 employee may select medical providers to treat his injury or occupational disease.
24 Even if the employer has designated a managed health care system, the injured
25 employee may elect to continue treating with a physician who provided emergency
26 medical care or treatment to the employee. The employer, insurer, or payment
27 obligor acting on behalf of the employer, shall make all payments for services

1 rendered to an employee directly to the provider of the services within thirty (30)
2 days of receipt of a statement for services. The commissioner shall promulgate
3 administrative regulations establishing conditions under which the thirty (30) day
4 period for payment may be tolled. The provider of medical services shall submit the
5 statement for services within forty-five (45) days of the day treatment is initiated
6 and every forty-five (45) days thereafter, if appropriate, as long as medical services
7 are rendered. Except as provided in subsection ~~(8)~~~~(4)~~ of this section, in no event
8 shall a medical fee exceed the limitations of an adopted medical fee schedule or
9 other limitations contained in KRS 342.035, whichever is lower. The commissioner
10 may promulgate administrative regulations establishing the form and content of a
11 statement for services and procedures by which disputes relative to the necessity,
12 effectiveness, frequency, and cost of services may be resolved.

13 ~~(6)~~~~(2)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the
14 contrary, medical services and treatment provided under this chapter shall not be
15 subject to copayments or deductibles.

16 ~~(7)~~~~(3)~~ Employers may provide medical services through a managed health care
17 system. The managed health care system shall file with the Department of Workers'
18 Claims a plan for the rendition of health care services for work-related injuries and
19 occupational diseases to be approved by the commissioner pursuant to
20 administrative regulations promulgated by the commissioner.

21 ~~(8)~~~~(4)~~ All managed health care systems rendering medical services under this chapter
22 shall include the following features in plans for workers' compensation medical
23 care:

- 24 (a) Copayments or deductibles shall not be required for medical services rendered
25 in connection with a work-related injury or occupational disease;
- 26 (b) The employee shall be allowed choice of provider within the plan;
- 27 (c) The managed health care system shall provide an informal procedure for the

- 1 expeditious resolution of disputes concerning rendition of medical services;
- 2 (d) The employee shall be allowed to obtain a second opinion, at the employer's
- 3 expense, from an outside physician if a managed health care system physician
- 4 recommends surgery;
- 5 (e) The employee may obtain medical services from providers outside the
- 6 managed health care system, at the employer's expense, when treatment is
- 7 unavailable through the managed health care system;
- 8 (f) The managed health care system shall establish procedures for utilization
- 9 review of medical services to assure that a course of treatment is reasonably
- 10 necessary; diagnostic procedures are not unnecessarily duplicated; the
- 11 frequency, scope, and duration of treatment is appropriate; pharmaceuticals
- 12 are not unnecessarily prescribed; and that ongoing and proposed treatment is
- 13 not experimental, cost ineffective, or harmful to the employee; and
- 14 (g) Statements for services shall be audited regularly to assure that charges are not
- 15 duplicated and do not exceed those authorized in the applicable fee schedules.
- 16 (h) A schedule of fees for all medical services to be provided under this chapter
- 17 which shall not be subject to the limitations on medical fees contained in this
- 18 chapter.
- 19 (i) Restrictions on provider selection imposed by a managed health care system
- 20 authorized by this chapter shall not apply to emergency medical care.
- 21 ~~(9)~~~~(5)~~ Except for emergency medical care, medical services rendered pursuant to this
- 22 chapter shall be under the supervision of a single treating physician or physicians'
- 23 group having the authority to make referrals, as reasonably necessary, to appropriate
- 24 facilities and specialists. The employee may change his designated physician one (1)
- 25 time and thereafter shall show reasonable cause in order to change physicians.
- 26 ~~(10)~~~~(6)~~ When a compensable injury or occupational disease results in the amputation
- 27 of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of

1 teeth, the employer shall pay for, in addition to the other medical, surgical, and
2 hospital treatment enumerated in subsection (1) and this subsection, a modern
3 artificial member and, where required, proper braces as may reasonably be required
4 at the time of the injury and thereafter during disability.

5 ~~(11)~~⁽⁷⁾ Upon motion of the employer, with sufficient notice to the employee for a
6 response to be filed, if it is shown to the satisfaction of the administrative law judge
7 by affidavits or testimony that, because of the physician selected by the employee to
8 treat the injury or disease, or because of the hospital selected by the employee in
9 which treatment is being rendered, that the employee is not receiving proper
10 medical treatment and the recovery is being substantially affected or delayed; or that
11 the funds for medical expenses are being spent without reasonable benefit to the
12 employee; or that because of the physician selected by the employee or because of
13 the type of medical treatment being received by the employee that the employer will
14 substantially be prejudiced in any compensation proceedings resulting from the
15 employee's injury or disease; then the administrative law judge may allow the
16 employer to select a physician to treat the employee and the hospital or hospitals in
17 which the employee is treated for the injury or disease. No action shall be brought
18 against any employer subject to this chapter by any person to recover damages for
19 malpractice or improper treatment received by any employee from any physician,
20 hospital, or attendant thereof.

21 ~~(12)~~⁽⁸⁾ An employee who reports an injury alleged to be work-related or files an
22 application for adjustment of a claim shall execute a waiver and consent of any
23 physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect
24 to any condition or complaint reasonably related to the condition for which the
25 employee claims compensation. Notwithstanding any other provision in the
26 Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist,
27 hospital, or health care provider shall, within a reasonable time after written request

1 by the employee, employer, workers' compensation insurer, special fund, uninsured
2 employers' fund, or the administrative law judge, provide the requesting party with
3 any information or written material reasonably related to any injury or disease for
4 which the employee claims compensation.

5 ~~(13)~~⁽⁹⁾ When a provider of medical services or treatment, required by this chapter,
6 makes referrals for medical services or treatment by this chapter, to a provider or
7 entity in which the provider making the referral has an investment interest, the
8 referring provider shall disclose that investment interest to the employee, the
9 commissioner, and the employer's insurer or the party responsible for paying for the
10 medical services or treatment, within thirty (30) days from the date the referral was
11 made.

12 (14) (a) Except as provided in paragraph (b) of this subsection, the employer,
13 insurer, or payment obligor shall not be liable for urine drug screenings of
14 patients in excess of:

15 1. One (1) per year for a patient considered to be low risk;

16 2. Two (2) per year for a patient considered to be moderate risk; and

17 3. Four (4) per year for patients considered to be high risk;

18 based upon the screening performed by the medical provider and other
19 pertinent factors.

20 (b) The employer, insurer, or payment obligor may be liable for urine drug
21 screening at each office visit for patients that have exhibited aberrant
22 behavior documented by multiple lost prescriptions, multiple requests for
23 early refills of prescriptions, multiple providers prescribing or dispensing
24 opioids as evidenced by the electronic monitoring system established in KRS
25 218A.020 or a similar system, unauthorized dosage escalation, or apparent
26 intoxication.

27 (c) The commissioner shall promulgate administrative regulations related to

1 urine drug screenings as part of the practice parameters or treatment
2 guidelines required under Section 2 of this Act.

3 ➔Section 2. KRS 342.035 is amended to read as follows:

- 4 (1) Periodically, the commissioner shall promulgate administrative regulations to adopt
5 a schedule of fees for the purpose of ensuring that all fees, charges, and
6 reimbursements under KRS 342.020 and this section shall be fair, current, and
7 reasonable and shall be limited to such charges as are fair, current, and reasonable
8 for similar treatment of injured persons in the same community for like services,
9 where treatment is paid for by general health insurers. In determining what fees are
10 reasonable, the commissioner may also consider the increased security of payment
11 afforded by this chapter. On or before November 1, 1994, and on July 1 every two
12 (2) years thereafter, the schedule of fees contained in administrative regulations
13 promulgated pursuant to this section shall be reviewed and updated, if appropriate.
14 Within ten (10) days of April 4, 1994, the commissioner shall execute a contract
15 with an appropriately qualified consultant pursuant to which each of the following
16 elements within the workers' compensation system are evaluated; the methods of
17 health care delivery; quality assurance and utilization mechanisms; type, frequency,
18 and intensity of services; risk management programs; and the schedule of fees
19 contained in administrative regulation. The consultant shall present
20 recommendations based on its review to the commissioner not later than sixty (60)
21 days following execution of the contract. The commissioner shall consider these
22 recommendations and, not later than thirty (30) days after their receipt, promulgate
23 a regulation which shall be effective on an emergency basis, to effect a twenty-five
24 percent (25%) reduction in the total medical costs within the program.
- 25 (2) No provider of medical services or treatment required by this chapter, its agent,
26 servant, employee, assignee, employer, or independent contractor acting on behalf
27 of any medical provider, shall knowingly collect, attempt to collect, coerce, or

1 attempt to coerce, directly or indirectly, the payment of any charge, for services
2 covered by a workers' compensation insurance plan for the treatment of a work-
3 related injury or occupational disease, in excess of that provided by a schedule of
4 fees, or cause the credit of any employee to be impaired by reason of the employee's
5 failure or refusal to pay the excess charge. In addition to the penalty imposed in
6 KRS 342.990 for violations of this subsection, any individual who sustains damages
7 by any act in violation of the provisions of this subsection shall have a civil cause of
8 action in Circuit Court to enjoin further violations and to recover the actual
9 damages sustained by the individual, together with the costs of the lawsuit,
10 including a reasonable attorney's fee.

11 (3) Where these requirements are furnished by a public hospital or other institution,
12 payment thereof shall be made to the proper authorities conducting it. No
13 compensation shall be payable for the death or disability of an employee if his or
14 her death is caused, or if and insofar as his disability is aggravated, caused, or
15 continued, by an unreasonable failure to submit to or follow any competent surgical
16 treatment or medical aid or advice.

17 (4) The commissioner shall, by December 1, 1994, promulgate administrative
18 regulations to adopt a schedule of fees for the purpose of regulating charges by
19 medical providers and other health care professionals for testimony presented and
20 medical reports furnished in the litigation of a claim by an injured employee against
21 the employer. The workers' compensation medical fee schedule for physicians, 803
22 KAR 25:089, having an effective date of February 9, 1995, shall remain in effect
23 until July 1, 1996, or until the effective date of any amendments promulgated by the
24 commissioner, whichever occurs first, it being determined that this administrative
25 regulation is within the statutory grant of authority, meets legislative intent, and is
26 not in conflict with the provisions of this chapter. The medical fee schedule and
27 amendments shall be fair, current, and reasonable and otherwise comply with this

1 section.

2 (5) (a) To ensure compliance with subsections (1) and (4) of this section, the
3 commissioner shall promulgate administrative regulations by December 31,
4 1994, which require each insurance carrier, self-insured group, and self-
5 insured employer to certify to the commissioner the program or plan it has
6 adopted to ensure compliance.

7 (b) In addition, the commissioner shall periodically have an independent audit
8 conducted by a qualified independent person, firm, company, or other entity
9 hired by the commissioner, in accordance with the personal service contract
10 provisions contained in KRS 45A.690 to 45A.725, to ensure that the
11 requirements of subsection (1) of this section are being met. The independent
12 person, firm, company, or other entity selected by the commissioner to
13 conduct the audit shall protect the confidentiality of any information it
14 receives during the audit, shall divulge information received during the audit
15 only to the commissioner, and shall use the information for no other purpose
16 than the audit required by this paragraph.

17 (c) The commissioner shall promulgate administrative regulations governing
18 medical provider utilization review activities conducted by an insurance
19 carrier, self-insured group, or self-insured employer pursuant to this chapter.

20 *Utilization review required under administrative regulations may be waived*
21 *if the insurance carrier, self-insured group, or self-insured employer agrees*
22 *that the recommended medical treatment is medically necessary and*
23 *appropriate or if the injured employee elects not to proceed with the*
24 *recommended medical treatment.*

25 (d) Periodically, or upon request, the commissioner shall report to the Interim
26 Joint Committee on Labor and Industry of the Legislative Research
27 Commission or to the corresponding standing committees of the General

1 Assembly, as appropriate, the degree of compliance or lack of compliance
2 with the provisions of this section and make recommendations thereon.

3 (e) The cost of implementing and carrying out the requirements of this subsection
4 shall be paid from funds collected pursuant to KRS 342.122.

5 (6) The commissioner may promulgate administrative regulations incorporating
6 managed care or other concepts intended to reduce costs or to speed the delivery or
7 payment of medical services to employees receiving medical and related benefits
8 under this chapter.

9 (7) For purposes of this chapter, any medical provider shall charge only its customary
10 fee for photocopying requested documents. However, in no event shall a
11 photocopying fee of a medical provider or photocopying service exceed fifty cents
12 (\$0.50) per page. In addition, there shall be no charge for reviewing any records of a
13 medical provider, during regular business hours, by any party who is authorized to
14 review the records and who requests a review pursuant to this chapter.

15 (8) (a) The commissioner shall develop or adopt practice parameters or **treatment**
16 guidelines for clinical practice for use by medical providers under this chapter,
17 **including but not limited to chronic pain management treatment and opioid**
18 **use, and promulgate administrative regulations in order to implement the**
19 **developed or adopted practice parameters or treatment guidelines on or**
20 **before December 31, 2018.** The commissioner may adopt any parameters for
21 clinical practice as developed and updated by the federal Agency for Health
22 Care Policy Research, or the commissioner may adopt other parameters for
23 clinical practice which are developed by qualified bodies, as determined by
24 the commissioner, with periodic updating based on data collected during the
25 application of the parameters.

26 (b) **The commissioner shall develop or adopt a pharmaceutical formulary for**
27 **medications prescribed for the cure of and relief from the effects of a work**

1 *injury or occupational disease and promulgate administrative regulations to*
 2 *implement the developed or adopted pharmaceutical formulary on or before*
 3 *December 31, 2018.*

4 (c) Any provider of medical services under this chapter who has followed the
 5 practice parameters or *treatment* guidelines *or formularies* developed or
 6 adopted *and implemented* pursuant to this subsection shall be presumed to
 7 have met the appropriate legal standard of care in medical malpractice cases
 8 regardless of any unanticipated complication that may thereafter develop or be
 9 discovered.

10 (9) (a) Notwithstanding any other provision of law to the contrary, the medical fee
 11 schedule adopted under subsection (4) of this section shall require all worker's
 12 compensation insurance carriers, worker's compensation self-insured groups,
 13 and worker's compensation self-insured employers to provide coverage and
 14 payment for surgical first assisting services to registered nurse first assistants
 15 as defined in KRS 216B.015.

16 (b) The provisions of this subsection apply only if reimbursement for an assisting
 17 physician would be covered and a registered nurse first assistant who
 18 performed the services is used as a substitute for the assisting physician. The
 19 reimbursement shall be made directly to the registered nurse first assistant if
 20 the claim is submitted by a registered nurse first assistant who is not an
 21 employee of the hospital or the surgeon performing the services.

22 ➔Section 3. KRS 342.040 is amended to read as follows:

23 (1) Except as provided in KRS 342.020, no income benefits shall be payable for the
 24 first seven (7) days of disability unless disability continues for a period of more than
 25 two (2) weeks, in which case income benefits shall be allowed from the first day of
 26 disability. All income benefits shall be payable on the regular payday of the
 27 employer, commencing with the first regular payday after seven (7) days after the

1 injury or disability resulting from an occupational disease.~~;~~ **Interest shall not**
 2 **accrue after the filing of an application for resolution of a claim unless there is a**
 3 **delay in payment of benefits caused by the employer, insurance carrier, or**
 4 **payment obligor. If an administrative law judge determines that there was a delay**
 5 **caused by the employer, carrier, or payment obligor**~~[with]~~ interest at the rate of
 6 ~~six~~~~[twelve]~~ percent **(6%)**~~[(12%)]~~ per annum **shall be paid to the injured worker.**
 7 ~~[on each installment from the time it is due until paid, except that]~~If the
 8 administrative law judge determines that a denial, delay, or termination in the
 9 payment of income benefits was without reasonable foundation, the rate of interest
 10 shall be ~~twelve~~~~[eighteen]~~ percent **(12%)**~~[(18%)]~~ per annum. In no event shall
 11 income benefits be instituted later than the fifteenth day after the employer has
 12 knowledge of the disability or death. Income benefits shall be due and payable not
 13 less often than semimonthly. If the employer's insurance carrier or other party
 14 responsible for the payment of workers' compensation benefits should terminate or
 15 fail to make payments when due, that party shall notify the commissioner of the
 16 termination or failure to make payments and the commissioner shall, in writing,
 17 advise the employee or known dependent of right to prosecute a claim under this
 18 chapter.

19 (2) If overdue temporary total disability income benefits are recovered in a proceeding
 20 brought under this chapter by an attorney for an employee, or paid by the employer
 21 after receipt of notice of the attorney's representation, a reasonable attorney's fee for
 22 these services may be awarded. The award of attorney's fees shall be paid by the
 23 employer if the administrative law judge determines that the denial or delay was
 24 without reasonable foundation. No part of the fee for representing the employee in
 25 connection with the recovery of overdue temporary total disability benefits withheld
 26 without reasonable foundation shall be charged against or deducted from benefits
 27 otherwise due the employee.

1 (3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable
2 on the regular payday of the employer, commencing with the second regular payday
3 after the award of the retraining incentive benefit by the administrative law judge
4 becomes final. Retraining incentive benefits shall be due and payable not less often
5 than semimonthly.

6 (4) Upon written request of the employee, all payments of compensation shall be
7 mailed to the employee at his or her last known address.

8 ➔Section 4. KRS 342.125 is amended to read as follows:

9 (1) Upon motion by any party or upon an administrative law judge's own motion, an
10 administrative law judge may reopen and review any award or order on any of the
11 following grounds:

12 (a) Fraud;

13 (b) Newly-discovered evidence which could not have been discovered with the
14 exercise of due diligence;

15 (c) Mistake; and

16 (d) Change of disability as shown by objective medical evidence of worsening or
17 improvement of impairment due to a condition caused by the injury since the
18 date of the award or order.

19 (2) No claim which has been previously dismissed or denied on the merits shall be
20 reopened except upon the grounds set forth in this section.

21 (3) Except for reopening solely for determination of the compensability of medical
22 expenses, fraud, or conforming the award as set forth in KRS 342.730(1)(c)2., or for
23 reducing a permanent total disability award when an employee returns to work, or
24 seeking temporary total disability benefits during the period of an award, no claim
25 shall be reopened more than four (4) years following the date of the original award
26 or original order granting or denying benefits, and no party may file a motion to
27 reopen within one (1) year of any previous motion to reopen by the same party.

1 Orders granting or denying benefits that are entered subsequent to an original
2 final award or order granting or denying benefits shall not be considered to be an
3 original order granting or denying benefits under this subsection and shall not
4 extend the time to reopen a claim beyond four (4) years following the date of the
5 original award or original order.

6 (4) Reopening and review under this section shall be had upon notice to the parties and
7 in the same manner as provided for an initial proceeding under this chapter. Upon
8 reopening, the administrative law judge may end, diminish, or increase
9 compensation previously awarded, within the maximum and minimum provided in
10 this chapter, or change or revoke a previous order. The administrative law judge
11 shall immediately send all parties a copy of the subsequent order or award.
12 Reopening shall not affect the previous order or award as to any sums already paid
13 thereunder, and any change in the amount of compensation shall be ordered only
14 from the date of filing the motion to reopen. No employer shall suspend benefits
15 during pendency of any reopening procedures except upon order of the
16 administrative law judge.

17 (5) (a) Upon the application of the affected employee, and a showing of progression
18 of his previously-diagnosed occupational pneumoconiosis resulting from
19 exposure to coal dust and development of respiratory impairment due to that
20 pneumoconiosis and two (2) additional years of employment in the
21 Commonwealth wherein the employee was continuously exposed to the
22 hazards of the disease, the administrative law judge may review an award or
23 order for benefits attributable to coal-related pneumoconiosis under KRS
24 342.732. An application for review under this subsection shall be made within
25 one (1) year of the date the employee knew or reasonably should have known
26 that a progression of his disease and development or progression of respiratory
27 impairment have occurred. Review under this subsection shall include a

1 review of all evidence admitted in all prior proceedings.

2 (b) Benefits awarded as a result of a review under this subsection shall be reduced
3 by the amount of retraining incentive benefits or income benefits previously
4 awarded under KRS 342.732. The amount to be deducted shall be subtracted
5 from the total amount awarded, and the remaining amount shall be divided by
6 the number of weeks, for which the award was made, to arrive at the weekly
7 benefit amount which shall be apportioned in accordance with the provisions
8 of KRS 342.316.

9 (6) In a reopening or review proceeding where there has been additional permanent
10 partial disability awarded, the increase shall not extend the original period, unless
11 the combined prior disability and increased disability exceeds fifty percent (50%),
12 but less than one hundred percent (100%), in which event the awarded period shall
13 not exceed five hundred twenty (520) weeks, from commencement date of the
14 original disability previously awarded. The law in effect on the date of the original
15 injury controls the rights of the parties.

16 (7) Where an agreement has become an award by approval of the administrative law
17 judge, and a reopening and review of that award is initiated, no statement contained
18 in the agreement, whether as to jurisdiction, liability of the employer, nature and
19 extent of disability, or as to any other matter, shall be considered by the
20 administrative law judge as an admission against the interests of any party. The
21 parties may raise any issue upon reopening and review of this type of award which
22 could have been considered upon an original application for benefits.

23 (8) The time limitation prescribed in this section shall apply to all claims irrespective of
24 when they were incurred, or when the award was entered, or the settlement
25 approved. However, claims decided prior to December 12, 1996, may be reopened
26 within four (4) years of the award or order or within four (4) years of December 12,
27 1996, whichever is later, provided that the exceptions to reopening established in

1 subsections (1) and (3) of this section shall apply to these claims as well.

2 ➔Section 5. KRS 342.185 is amended to read as follows:

3 (1) Except as provided in subsections~~[subsection]~~ (2) and (3) of this section, no
4 proceeding under this chapter for compensation for an injury or death shall be
5 maintained unless a notice of the accident shall have been given to the employer as
6 soon as practicable after the happening thereof and unless an application for
7 adjustment of claim for compensation with respect to the injury shall have been
8 made with the department within two (2) years after the date of the accident, or in
9 case of death, within two (2) years after the death, whether or not a claim has been
10 made by the employee himself or herself for compensation. The notice and the
11 claim may be given or made by any person claiming to be entitled to compensation
12 or by someone in his or her behalf. If payments of income benefits have been made,
13 the filing of an application for adjustment of claim with the department within the
14 period shall not be required, but shall become requisite within two (2) years
15 following the suspension of payments or within two (2) years of the date of the
16 accident, whichever is later.

17 (2) The right to compensation under this chapter resulting from work-related exposure
18 to the human immunodeficiency virus shall be barred unless notice of the injurious
19 exposure is given in accordance with subsection (1) of this section and unless an
20 application for adjustment of claim for compensation shall have been made with the
21 commissioner within five (5) years after the injurious exposure to the virus.

22 (3) The right to compensation under this chapter resulting from work-related
23 exposure to cumulative trauma injury shall be barred unless notice of the
24 cumulative trauma injury is given in accordance with subsection (1) of this
25 section and unless an application for adjustment of claim for compensation shall
26 have been made with the commissioner within five (5) years after the last
27 injurious exposure to the cumulative trauma.

1 ➔Section 6. KRS 342.320 is amended to read as follows:

- 2 (1) All fees of attorneys and physicians, and all charges of hospitals under this chapter,
3 shall be subject to the approval of an administrative law judge pursuant to the
4 statutes and administrative regulations.
- 5 (2) In an original claim, attorney's fees for services under this chapter on behalf of an
6 employee shall be subject to the following maximum limits:
- 7 (a) **For attorney-client employment contracts entered into and signed after July**
8 **14, 2000, but before the effective date of this Act,** twenty percent (20%) of
9 the first twenty-five thousand dollars (\$25,000) of the award, fifteen percent
10 (15%) of the next ten thousand dollars (\$10,000), and five percent (5%) of the
11 remainder of the award, not to exceed a maximum fee of twelve thousand
12 dollars (\$12,000). This fee shall be paid by the employee from the proceeds of
13 the award or settlement; and
- 14 (b) **For attorney-client employment contracts entered into and signed on or**
15 **after the effective date of this Act, twenty percent (20%) of the first twenty-**
16 **five thousand dollars (\$25,000) of the award, fifteen percent (15%) of the**
17 **next ten thousand dollars (\$10,000), and five percent (5%) of the remainder**
18 **of the award, not to exceed a maximum fee of eighteen thousand dollars**
19 **(\$18,000). This fee shall be paid by the employee from the proceeds of the**
20 **award or settlement**~~[Attorney-client employment contracts entered into and~~
21 ~~signed after July 14, 2000, shall be subject to the conditions of paragraph (a)~~
22 ~~of this subsection].~~
- 23 (3) In approving an allowance of attorney's fees, the administrative law judge shall
24 consider the extent, complexity, and quality of services rendered, and in the case of
25 death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's
26 fee may be denied or reduced upon proof of solicitation by the attorney. However,
27 this provision shall not be construed to preclude advertising in conformity with

1 standards prescribed by the Kentucky Supreme Court.

2 (4) No attorney's fee in any case involving benefits under this chapter shall be paid until
3 the fee is approved by the administrative law judge, and any contract for the
4 payment of attorney's fees otherwise than as provided in this section shall be void.
5 The motion for approval of an attorney's fee shall be submitted within thirty (30)
6 days following finality of the claim. Except when the attorney's fee is to be paid by
7 the employer or carrier, the attorney's fee shall be paid in one (1) of the following
8 ways:

9 (a) The employee may pay the attorney's fee out of his or her personal funds or
10 from the proceeds of a lump-sum settlement; or

11 (b) The administrative law judge, upon request of the employee, may order the
12 payment of the attorney's fee in a lump sum directly to the attorney of record
13 and deduct the attorney's fee from the weekly benefits payable to the employee
14 in equal installments over the duration of the award or until the attorney's fee
15 has been paid, commuting sufficient sums to pay the fee.

16 (5) At the commencement of the attorney-client relationship, the attorney shall explain
17 to the employee the methods by which this section provides for the payment of the
18 attorney's fee, and the employee shall select the method in which the attorney's fee
19 is to be paid. His or her selection and statement that he or she fully understands the
20 method to be used shall be submitted by his or her attorney, on a notarized form
21 signed by the employee, at the time the motion for approval of the attorney's fee is
22 submitted. The commissioner shall develop the format and content of the form to be
23 used pursuant to this section. The form to be used shall list on its face all options
24 permitted in this section for the payment of an attorney's fees and contain an
25 explanation in nontechnical language of each method.

26 (6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the
27 legislative intent to encourage settlement and prompt administrative handling of

1 those claims and thereby reduce expenses to claimants for compensation under the
2 provisions of KRS 342.316, and the administrative law judge shall give due regard
3 to this legislative intent in the handling of uncontested claims and the allowance of
4 attorney's fees therein.

5 (7) In a claim that has been reopened pursuant to the provisions of this chapter, an
6 attorney's fee may be awarded by the administrative law judge subject to the limits
7 set forth in subsection (2) of this section. In awarding the attorney's fee, the
8 administrative law judge shall consider the factors set forth in subsection (3) of this
9 section. If no additional amount is recovered upon reopening, no attorney's fee shall
10 be awarded. No attorney's fee shall be allowed or approved exceeding the amounts
11 provided in subsection (2)(a) of this section applicable to any additional amount
12 recovered.

13 (8) Attorney's fees for representing employers in proceedings under this chapter
14 pursuant to contract with the employer shall be subject to approval of the
15 administrative law judge in the same manner as prescribed for attorney
16 representation of employees. Employer attorney's fees are subject to the limitation
17 of eighteen~~twelve~~ thousand dollars (\$18,000)~~(\$12,000)~~ maximum fees except
18 that fees for representing employers shall not be dependent upon the result
19 achieved. Employer attorney's fees may be paid on a periodic basis while a claim is
20 adjudicated and the payments need not be approved until the claims resolution
21 process is completed. Fees for legal services in presenting a claim for
22 reimbursement from the Kentucky coal workers' pneumoconiosis fund shall not
23 exceed one thousand dollars (\$1,000). All such approved fees shall be paid by the
24 employer and in no event shall exceed the amount the employer agreed by contract
25 to pay.

26 ➔Section 7. KRS 342.700 is amended to read as follows:

27 (1) Whenever an injury for which compensation is payable under this chapter has been

1 sustained under circumstances creating in some other person than the employer a
2 legal liability to pay damages, the injured employee may either claim compensation
3 or proceed at law by civil action against the other person to recover damages, or
4 proceed both against the employer for compensation and the other person to recover
5 damages, but he shall not collect from both. If the injured employee elects to
6 proceed at law by civil action against the other person to recover damages, he shall
7 give due and timely notice to the employer and the special fund of the filing of the
8 action. If compensation is awarded or paid under this chapter, the employer, his
9 insurance carrier, the special fund, the Kentucky coal workers' pneumoconiosis
10 fund, and the uninsured employer's fund, or any of them, having paid the
11 compensation or having become liable therefor, may recover in his or its own name
12 or that of the injured employee from the other person in whom legal liability for
13 damages exists, not to exceed the indemnity and medical expenses paid and
14 payable to or on behalf of the injured employee, less a pro-rata share of the
15 employee's legal fees and expense. The notice of civil action shall conform in all
16 respects to the requirements of KRS 411.188(2).

- 17 (2) A principal contractor, intermediate, or subcontractor shall be liable for
18 compensation to any employee injured while in the employ of any one (1) of his
19 intermediate or subcontractors and engaged upon the subject matter of the contract,
20 to the same extent as the immediate employer. Any principal, intermediate, or
21 subcontractor who pays the compensation may recover the amount paid from any
22 subordinate contractor through whom he has been rendered liable under this section.
23 Every claim to compensation under this subsection shall in the first instance be
24 presented to and instituted against the immediate employer, but the proceedings
25 shall not constitute a waiver of the employee's rights to recover compensation under
26 this chapter from the principal or intermediate contractor nor shall the claim be
27 barred by limitations, if the claim is filed against the principal or intermediate

1 contractor within one (1) year after a final unappealed order has been rendered by an
2 administrative law judge determining that immediate employer has insufficient
3 security to pay the full and maximum benefits that could be determined to be due
4 him under this chapter. The collection of full compensation from one employer
5 shall bar recovery by the employee against any other. But he shall not collect from
6 all a total compensation in excess of the amount for which his immediate employer
7 is liable. This subsection shall apply only in cases where the injury occurred on, in,
8 or about the premises on which the principal contractor has undertaken to execute
9 work or which are under his control otherwise or management.

10 (3) It shall be considered to be contrary to public policy and unlawful for any owner or
11 employer to require another employer to waive its remedies granted by this section
12 as a condition of receiving a contract or purchase order. Furthermore, in selecting
13 between two (2) or more contractors or suppliers, consideration may not be given by
14 an owner or employer to whether one (1) contractor or supplier voluntarily waives
15 its remedies under this section or offers to accept lesser compensation than another
16 contractor or supplier for that waiver of remedies.

17 ➔Section 8. KRS 342.730 is amended to read as follows:

18 (1) Except as provided in KRS 342.732, income benefits for disability shall be paid to
19 the employee as follows:

20 (a) For temporary or permanent total disability, sixty-six and two-thirds percent
21 (66-2/3%) of the employee's average weekly wage but not more than one
22 hundred *ten* percent (110%)[~~(100%)~~] of the state average weekly wage and
23 not less than twenty percent (20%) of the state average weekly wage as
24 determined in KRS 342.740 during that disability. Nonwork-related
25 impairment and conditions compensable under KRS 342.732 and hearing loss
26 covered in KRS 342.7305 shall not be considered in determining whether the
27 employee is totally disabled for purposes of this subsection.

1 (b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of
 2 the employee's average weekly wage but not more than eighty-two and one-
 3 half~~seventy-five~~ percent (82.5%)~~(75%)~~ of the state average weekly wage
 4 as determined by KRS 342.740, multiplied by the permanent impairment
 5 rating caused by the injury or occupational disease as determined by the
 6 "Guides to the Evaluation of Permanent Impairment," times the factor set
 7 forth in the table that follows:

8 AMA Impairment	Factor
9 0 to 5%	0.65
10 6 to 10%	0.85
11 11 to 15%	1.00
12 16 to 20%	1.00
13 21 to 25%	1.15
14 26 to 30%	1.35
15 31 to 35%	1.50
16 36% and above	1.70

17 Any temporary total disability period within the maximum period for
 18 permanent, partial disability benefits shall extend the maximum period but
 19 shall not make payable a weekly benefit exceeding that determined in
 20 subsection (1)(a) of this section. Notwithstanding any section of this chapter
 21 to the contrary, there shall be no minimum weekly income benefit for
 22 permanent partial disability and medical benefits shall be paid for the duration
 23 of the disability.

24 (c) 1. If, due to an injury, an employee does not retain the physical capacity to
 25 return to the type of work that the employee performed at the time of
 26 injury, the benefit for permanent partial disability shall be multiplied by
 27 three (3) times the amount otherwise determined under paragraph (b) of

- 1 this subsection, but this provision shall not be construed so as to extend
2 the duration of payments; or
- 3 2. If an employee returns to work at a weekly wage equal to or greater than
4 the average weekly wage at the time of injury, the weekly benefit for
5 permanent partial disability shall be determined under paragraph (b) of
6 this subsection for each week during which that employment is
7 sustained. During any period of cessation of that employment, temporary
8 or permanent, for any reason, with or without cause, payment of weekly
9 benefits for permanent partial disability during the period of cessation
10 shall be two (2) times the amount otherwise payable under paragraph (b)
11 of this subsection. This provision shall not be construed so as to extend
12 the duration of payments.
- 13 3. Recognizing that limited education and advancing age impact an
14 employee's post-injury earning capacity, an education and age factor,
15 when applicable, shall be added to the income benefit multiplier set
16 forth in paragraph (c)1. of this subsection. If at the time of injury, the
17 employee had less than eight (8) years of formal education, the
18 multiplier shall be increased by four-tenths (0.4); if the employee had
19 less than twelve (12) years of education or a high school General
20 Educational Development diploma, the multiplier shall be increased by
21 two-tenths (0.2); if the employee was age sixty (60) or older, the
22 multiplier shall be increased by six-tenths (0.6); if the employee was age
23 fifty-five (55) or older, the multiplier shall be increased by four-tenths
24 (0.4); or if the employee was age fifty (50) or older, the multiplier shall
25 be increased by two-tenths (0.2).
- 26 4. Notwithstanding the provisions of KRS 342.125, a claim may be
27 reopened at any time during the period of permanent partial disability in

1 order to conform the award payments with the requirements of
2 subparagraph 2. of this paragraph.

3 (d) For permanent partial disability, if an employee has a permanent disability
4 rating of fifty percent (50%) or less as a result of a work-related injury, the
5 compensable permanent partial disability period shall be four hundred twenty-
6 five (425) weeks, and if the permanent disability rating is greater than fifty
7 percent (50%), the compensable permanent partial disability period shall be
8 five hundred twenty (520) weeks from the date the impairment or disability
9 exceeding fifty percent (50%) arises. Benefits payable for permanent partial
10 disability shall not exceed ninety-nine percent (99%) of sixty-six and two-
11 thirds percent (66-2/3%) of the employee's average weekly wage as
12 determined under KRS 342.740 and shall not exceed *eighty-two and one-*
13 *half*~~seventy-five~~ percent *(82.5%)*~~[(75%)]~~ of the state average weekly wage,
14 except for benefits payable pursuant to paragraph (c)1. of this subsection,
15 which shall not exceed one hundred *ten* percent *(110%)*~~[(100%)]~~ of the state
16 average weekly wage, nor shall benefits for permanent partial disability be
17 payable for a period exceeding five hundred twenty (520) weeks,
18 notwithstanding that multiplication of impairment times the factor set forth in
19 paragraph (b) of this subsection would yield a greater percentage of disability.

20 (e) For permanent partial disability, impairment for nonwork-related disabilities,
21 conditions previously compensated under this chapter, conditions covered by
22 KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be
23 considered in determining the extent of disability or duration of benefits under
24 this chapter.

25 (2) The period of any income benefits payable under this section on account of any
26 injury shall be reduced by the period of income benefits paid or payable under this
27 chapter on account of a prior injury if income benefits in both cases are for

1 disability of the same member or function, or different parts of the same member or
2 function, and the income benefits payable on account of the subsequent disability in
3 whole or in part would duplicate the income benefits payable on account of the pre-
4 existing disability.

5 (3) Subject to the limitations contained in subsection (4) of this section, when an
6 employee, who has sustained disability compensable under this chapter, and who
7 has filed, or could have timely filed, a valid claim in his or her lifetime, dies from
8 causes other than the injury before the expiration of the compensable period
9 specified, portions of the income benefits specified and unpaid at the individual's
10 death, whether or not accrued or due at his or her death, shall be paid, under an
11 award made before or after the death, for the period specified in this section, to and
12 for the benefit of the persons within the classes at the time of death and in the
13 proportions and upon the conditions specified in this section and in the order
14 named:

15 (a) To the widow or widower, if there is no child under the age of eighteen (18) or
16 incapable of self-support, benefits at fifty percent (50%) of the rate specified
17 in the award; or

18 (b) If there are both a widow or widower and such a child or children, to the
19 widow or widower, forty-five percent (45%) of the benefits specified in the
20 award, or forty percent (40%) of those benefits if such a child or children are
21 not living with the widow or widower; and, in addition thereto, fifteen percent
22 (15%) of the benefits specified in the award to each child. Where there are
23 more than two (2) such children, the indemnity benefits payable on account of
24 two (2) children shall be divided among all the children, share and share alike;
25 or

26 (c) If there is no widow or widower but such a child or children, then to the child
27 or children, fifty percent (50%) of the benefits specified in the award to one

- 1 (1) child, and fifteen percent (15%) of those benefits to a second child, to be
2 shared equally. If there are more than two (2) such children, the indemnity
3 benefits payable on account of two (2) children shall be divided equally
4 among all the children; or
- 5 (d) If there is no survivor in the above classes, then the parent or parents wholly
6 or partly actually dependent for support upon the decedent, or to other wholly
7 or partly actually dependent relatives listed in paragraph (g) of subsection (1)
8 of KRS 342.750, or to both, in proportions that the commissioner provides by
9 administrative regulation.
- 10 (e) To the widow or widower upon remarriage, up to two (2) years, benefits as
11 specified in the award and proportioned under paragraphs (a) or (b) of this
12 subsection, if the proportioned benefits remain unpaid, to be paid in a lump
13 sum.
- 14 (4) All income benefits payable pursuant to this chapter shall terminate as of the date
15 upon which the employee qualifies for normal old-age Social Security retirement
16 benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f,
17 or two (2) years after the employee's injury or last exposure, whichever last occurs.
18 In like manner all income benefits payable pursuant to this chapter to spouses and
19 dependents shall terminate when such spouses and dependents qualify for benefits
20 under the United States Social Security Act by reason of the fact that the worker
21 upon whose earnings entitlement is based would have qualified for normal old-age
22 Social Security retirement benefits.
- 23 (5) All income benefits pursuant to this chapter otherwise payable for temporary total
24 and permanent total disability shall be offset by unemployment insurance benefits
25 paid for unemployment during the period of temporary total or permanent total
26 disability.
- 27 (6) All income benefits otherwise payable pursuant to this chapter shall be offset by

1 payments made under an exclusively employer-funded disability or sickness and
2 accident plan which extends income benefits for the same disability covered by this
3 chapter, except where the employer-funded plan contains an internal offset
4 provision for workers' compensation benefits which is inconsistent with this
5 provision.

6 (7) *Income benefits otherwise payable pursuant to this chapter for temporary total*
7 *disability during the period the employee has returned to a light duty or other*
8 *alternative job position shall be offset by an amount equal to the net amount of*
9 *wages paid to the employee by his or her employer during the period of light-duty*
10 *work or work in an alternative job position.*

11 (8) If an employee receiving a permanent total disability award returns to work, that
12 employee shall notify the employer, payment obligor, insurance carrier, or special
13 fund as applicable.

14 ➔Section 9. KRS 342.990 is amended to read as follows:

15 (1) The commissioner shall initiate enforcement of civil and criminal penalties imposed
16 in this section.

17 (2) When the commissioner receives information that he or she deems sufficient to
18 determine that a violation of this chapter has occurred, he or she shall seek civil
19 penalties pursuant to subsections (3) to (7) of this section, criminal penalties
20 pursuant to subsections (8) and (9) of this section, or both.

21 (3) The commissioner shall initiate enforcement of a civil penalty by simultaneously
22 citing the appropriate party for the offense and stating the civil penalty to be paid.

23 (4) If, within fifteen (15) working days from the receipt of the citation, a cited party
24 fails to notify the commissioner that he or she intends to contest the citation, then
25 the citation shall be deemed final.

26 (5) If a cited party notifies the commissioner that he or she intends to challenge a
27 citation issued under this section, the commissioner shall cause the matter to be

1 heard as soon as practicable by an administrative law judge and in accordance with
2 the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney
3 representing the commissioner to prove the offense stated in the citation by a
4 preponderance of the evidence. The parties shall stipulate to uncontested facts and
5 issues prior to the hearing before the administrative law judge. The administrative
6 law judge shall issue a ruling within sixty (60) days following the hearing.

7 (6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit
8 Court in conformity with KRS 13B.140.

9 (7) The following civil penalties shall be applicable for violations of particular
10 provisions of this chapter:

11 (a) Any employer, insurer, or payment obligor subject to this chapter who fails to
12 make a report required by KRS 342.038 within fifteen (15) days from the date
13 it was due, shall be fined not less than one hundred dollars (\$100) nor more
14 than one thousand dollars (\$1,000) for each offense;

15 (b) Any employer, insurer, or payment obligor acting on behalf of an employer
16 who fails to make timely payment of a statement for services under KRS
17 342.020~~(5)(1)~~ without having reasonable grounds to delay payment may be
18 fined not less than one hundred dollars (\$100) nor more than one thousand
19 dollars (\$1,000) for each offense;

20 (c) Any person who violates KRS 342.020~~(13)(9)~~, 342.035(2), 342.040,
21 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one
22 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each
23 offense. With respect to employers who fail to maintain workers'
24 compensation insurance coverage on their employees, each employee of the
25 employer and each day of violation shall constitute a separate offense. With
26 respect to KRS 342.040, any employer's insurance carrier or other party
27 responsible for the payment of workers' compensation benefits shall be fined

1 for failure to notify the commissioner of a failure to make payments when due
2 if a report indicating the reason payment of income benefits did not
3 commence within twenty-one (21) days of the date the employer was notified
4 of an alleged work-related injury or disease is not filed with the commissioner
5 within twenty-one (21) days of the date the employer received notice, and if
6 the employee has not returned to work within that period of time. The date of
7 notice indicated in the report filed with the department pursuant to KRS
8 342.038(1), shall raise a rebuttable presumption of the date on which the
9 employer received notice;

10 (d) Any person who violates any of the provisions of KRS 342.165(2), 342.335,
11 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two
12 hundred dollars (\$200) nor more than two thousand dollars (\$2,000) for each
13 offense. With respect to KRS 342.395, each required notice of rejection form
14 executed by an employee or potential employee of an employer shall
15 constitute a separate offense;

16 (e) Any person who fails to comply with the data reporting provisions of
17 administrative regulations promulgated by the commissioner pursuant to KRS
18 342.039, or with utilization review and medical bill audit administrative
19 regulations promulgated pursuant to KRS 342.035(5), shall be fined not less
20 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
21 for each violation;

22 (f) Except as provided in paragraph (g) of this subsection, a person who violates
23 any of the provisions of KRS 342.335(1) or (2) where the claim,
24 compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less
25 than or equal to three hundred dollars (\$300) shall be fined per occurrence not
26 more than one thousand dollars (\$1,000) per individual nor five thousand
27 dollars (\$5,000) per corporation, or twice the amount of gain received as a

- 1 result of the violation, whichever is greater;
- 2 (g) Any person who violates any of the provisions of KRS 342.335(1) or (2)
- 3 where the claim, compensation, benefit, or money referred to in KRS
- 4 342.335(1) or (2) exceeds three hundred dollars (\$300) shall be fined per
- 5 occurrence not more than five thousand dollars (\$5,000) per individual nor ten
- 6 thousand dollars (\$10,000) per corporation, or twice the amount of gain
- 7 received as a result of the violation, whichever is greater;
- 8 (h) Any person who violates the employee leasing provision of this chapter shall
- 9 be fined not less than five hundred dollars (\$500) nor more than five thousand
- 10 dollars (\$5,000) for each violation;
- 11 (i) Any violation of the provisions of this chapter relating to self-insureds shall
- 12 constitute grounds for decertification of such self-insured, a fine of not less
- 13 than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000)
- 14 per occurrence, or both; and
- 15 (j) Actions to collect the civil penalties imposed under this subsection shall be
- 16 instituted in the Franklin District Court and the Franklin Circuit Court.
- 17 (8) The commissioner shall initiate enforcement of a criminal penalty by causing a
- 18 complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to
- 19 act on the violation within twenty (20) days following the filing of the complaint,
- 20 the commissioner shall certify the inaction by the local prosecutor to the Attorney
- 21 General who shall initiate proceedings to prosecute the violation. The provisions of
- 22 KRS 15.715 shall not apply to this section.
- 23 (9) The following criminal penalties shall be applicable for violations of particular
- 24 provisions of this chapter:
- 25 (a) Any person who violates KRS 342.020(~~13~~), 342.035(2), 342.040,
- 26 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than
- 27 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or

1 imprisoned for not less than thirty (30) days nor more than one hundred eighty
2 (180) days, or both;

3 (b) Any person who violates any of the provisions of KRS 342.165(2), 342.335,
4 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than
5 two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), or
6 imprisoned for not less than thirty (30) days nor more than one hundred and
7 eighty (180) days, or both;

8 (c) Any corporation, partnership, sole proprietorship, or other form of business
9 entity and any officer, general partner, agent, or representative of the
10 foregoing who knowingly utilizes or participates in any employee leasing
11 arrangement or mechanism as defined in KRS 342.615 for the purpose of
12 depriving one (1) or more insurers of premium otherwise properly payable or
13 for the purpose of depriving the Commonwealth of any tax or assessment due
14 and owing and based upon said premium shall upon conviction thereof be
15 subject to a fine of not less than five hundred dollars (\$500) nor more than
16 five thousand dollars (\$5,000), or imprisonment for not more than one
17 hundred eighty (180) days, or both, for each offense; and

18 (d) Notwithstanding any other provisions of this chapter to the contrary, when any
19 employer, insurance carrier, or individual self-insured fails to comply with
20 this chapter for which a penalty is provided in subparagraphs (7), (8), and (9)
21 above, such person, if the person is an owner in the case of a sole
22 proprietorship, a partner in the case of a partnership, a principal in the case of
23 a limited liability company, or a corporate officer in the case of a corporation,
24 who knowingly authorized, ordered, or carried out the violation, failure, or
25 refusal shall be personally and individually liable, both jointly and severally,
26 for the penalties imposed in the above cited subparagraphs. Neither the
27 dissolution nor withdrawal of the corporation, partnership, or other entity from

1 the state, nor the cessation of holding status as a proprietor, partner, principal,
2 or officer shall discharge the foregoing liability of any person.

3 (10) Fines paid pursuant to KRS 342.267 and subsections (7) and (9) of this section shall
4 be paid into the self-insurance fund established in KRS 342.920.

5 (11) In addition to the penalties provided in this section, the commissioner and any
6 administrative law judge or court of jurisdiction may order restitution of a benefit
7 secured through conduct proscribed by this chapter.

8 ➔Section 10. (1) Sections 1, 3, and 7 of this Act shall apply to any claim arising
9 from an injury or occupational disease or last exposure to the hazards of an occupational
10 disease or cumulative trauma occurring on or after the effective date of this Act.

11 (2) Sections 2, 4, 5 and subsection (7) of Section 8 of this Act are remedial and shall
12 apply to all claims irrespective of the date of injury or last exposure.