

2010 -- S 2956

LC02573

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION --  
BENEFITS -- PROCEDURE

Introduced By: Senators Miller, and Algieri

Date Introduced: June 01, 2010

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-35-46 and 28-35-51 of the General Laws in Chapter 28-35  
2 entitled "Workers' Compensation - Procedure" are hereby amended to read as follows:  
3 ~~28-35-46. Notice of intent to discontinue, suspend, or reduce payments -- Filing --~~  
4 ~~Form~~ **Notice of Intent to deny medical services – Discontinuance, suspension, or reduction**  
5 **of payments – Filing – Form.** – (a) Before an employer may deny payment for ongoing medical  
6 services as set forth in section 28-33-5 which have previously been accepted or paid by the  
7 employer, or before an employer may discontinue, suspend, or reduce compensation payments  
8 whether they are being received under an agreement, memorandum of agreement, award, order,  
9 finding, or decree, or when suitable alternative employment has been offered to the employee  
10 pursuant to section 28-33-18.2, the employer shall notify the court and the employee of his or her  
11 intention to deny medical services; or to discontinue, suspend, or reduce payments and the reason  
12 for doing so by filing with the judge an affidavit setting forth the factual basis for filing the  
13 petition to review along with a copy of the medical reports upon which the employer seeks to  
14 justify the denial of medical services, or the discontinuance, suspension, or reduction in  
15 payments. A copy of the affidavit and medical report shall be forwarded to the employee. The  
16 notice of intention to deny medical service or to discontinue, suspend, or reduce payments must  
17 be given fifteen (15) days prior to the proposed date of the denial, discontinuance, suspension, or  
18 reduction; provided, that where an employee has returned to work at an average weekly wage

1 equal to or in excess of that which he or she was earning at the time of his or her injury, not  
2 including overtime, the notice of intention to discontinue, suspend, or reduce the payments  
3 provided for in this section may be given five (5) days prior to the proposed date of  
4 discontinuance. Notices shall be in substantially the following form:

5 Notice to Workers' Compensation Court and Employee  
6 of  
7 Intention to [Deny Medical Service or to](#) Discontinue, Suspend, or Reduce Payment

8 You are hereby notified that the undersigned employer intends on the..... day  
9 of..... 20....., to [deny medical service or to](#) discontinue, suspend, or reduce the payments  
10 of compensation to the above-named employee for the following reasons, to wit:

11 (1) Employee has returned to work at an average weekly wage equal to or in excess of  
12 that which he or she was earning at the time of his or her injury, not including overtime.

13 (2) Employee has returned to work and is earning wages in the sum of..... dollars  
14 weekly.

15 (3) Employee has been discharged by his or her treating physician on the..... day  
16 of..... 20.....

17 [\(4\) The medical service is unrelated to the work related injury.](#)  
18 [\(b\) The fact that an employee has regularly received a particular ongoing medical service,](#)  
19 [as referred to in section 28-33-5, for a period of three \(3\) years post injury, shall be considered to](#)  
20 [be a rebuttable presumption that said medical service is related to the workplace injury and is](#)  
21 [reasonable and necessary pursuant to the provisions of chapter 28-33.](#)

22 **28-35-51. Review of discontinuance, suspension, or reduction -- Disputed cases. --**  
23 Upon receipt of notice of intention [to deny medical services, or](#) to discontinue, suspend, or reduce  
24 compensation payments, the court shall notify the employee that he or she has a right to dispute  
25 the claim of the employer or insurance carrier and assign the matter for a mandatory pre-trial  
26 conference on the date set forth in the notice pursuant to section 28-35-20.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION --  
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1           This act would require employers to give employees 15 days notice prior to denying  
2 payment for ongoing medical services. It would also create a rebuttable presumption that  
3 particular medical services regularly provided for three (3) years post injury are work related and  
4 valid under the workers' compensation act.

5           This act would take effect upon passage.

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