

1 S.20

2 Introduced by Senators Campbell and Illuzzi

3 Referred to Committee on

4 Date:

5 Subject: Labor; workers' compensation; termination of temporary total  
6 benefits; form 27; burden of proof

7 Statement of purpose: This bill proposes to increase the time between receipt  
8 of a form 27 and the discontinuance of temporary disability benefits and to  
9 clarify the burden of proof that the employer or insurance carrier must meet in  
10 order to terminate temporary benefits.

11 An act relating to termination of workers' compensation temporary  
12 disability benefits

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 643a is amended to read:

15 § 643a. DISCONTINUANCE OF BENEFITS

16 Unless an injured worker has successfully returned to work, an employer  
17 shall notify both the commissioner and the employee prior to terminating  
18 benefits under either section 642 or 646 of this title. The notice of intention to  
19 discontinue payments shall be filed on forms prescribed by the commissioner  
20 and shall include the date of the proposed discontinuance and the reasons for it.

1     The employer shall notify the claimant of the proposed discontinuance at least  
2     five days before notifying the commissioner. The liability for the payments  
3     shall continue for ~~seven~~ ten days after the notice is received by the  
4     commissioner ~~and the employee. Those payments shall be made without~~  
5     ~~prejudice to the employer and may be deducted from any amounts due~~  
6     ~~pursuant to section 648 of this title if the commissioner determines that the~~  
7     ~~discontinuance is warranted or if otherwise ordered by the commissioner.~~  
8     Every notice shall be reviewed by the commissioner to determine the  
9     sufficiency of the basis for the proposed discontinuance. If, upon review, the  
10    commissioner ~~finds that the evidence does not reasonably support the proposed~~  
11    ~~discontinuance~~ determines that the basis for the discontinuance is not  
12    supported by a preponderance of the evidence or if, at any time prior to a  
13    hearing, the commissioner receives evidence from the claimant that supports  
14    continuing the benefits despite the evidence offered by the employer, the  
15    commissioner shall order that payments continue until a hearing is held and a  
16    decision is rendered. If the commissioner's decision, after a hearing, is that the  
17    employee was not entitled to any or all benefits paid between the  
18    discontinuance and the final decision, upon request of the employer, the  
19    commissioner may order that the employee repay all benefits to which the  
20    employee was not entitled. The employer may enforce ~~such~~ a repayment order  
21    in any court of law having jurisdiction of the amount involved.