

HOUSE BILL NO. 1330

Introduced by

Representatives Keiser, Berg, Carlson, Wald

1 A BILL for an Act to amend and reenact sections 65-01-16 and 65-05-04 of the North Dakota
2 Century Code, relating to workers compensation bureau decisions, disputed decisions, and
3 continuing jurisdiction; to repeal section 7 of chapter 532 of the 1997 Session Laws, relating to
4 the effective date of chapter 532 of the 1997 Session Laws and to provide an effective date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 65-01-16 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **65-01-16. Decisions by bureau - Disputed decisions.** The following procedures
9 must be followed in claims for benefits, notwithstanding any provisions to the contrary in
10 chapter 28-32:

- 11 1. The bureau shall send a copy of each initial claim form filed with the bureau to the
12 claimant's employer, by regular mail, along with a form for the employer's
13 response, if the employer's response has not been filed at the time the claim is
14 filed. Failure of the employer to file a response within fourteen days from the day
15 the response form was mailed to the employer constitutes the employer's
16 admission that the information in the claim form is correct.
- 17 2. The bureau may conduct a hearing on any matter within its jurisdiction by informal
18 internal review of the information of record.
- 19 3. The bureau may issue a notice of decision for any decision made by informal
20 internal review and shall ~~serve~~ send the notice of decision ~~on~~ to the parties by
21 regular mail. A notice of decision must include a statement of the decision, a short
22 summary of the reason for the decision, and notice of the right to reconsideration.
- 23 4. A party has thirty days from the day the notice of decision was mailed by the
24 bureau in which to file a written request for reconsideration. The request must

- 1 state the alleged errors in the decision and the relief sought. The request may be
2 accompanied by additional evidence not previously submitted to the bureau. The
3 bureau shall reconsider the matter by informal internal review of the information of
4 record. Absent a timely and sufficient request for reconsideration, the notice of
5 decision is final and may not be reheard or appealed.
- 6 5. Within sixty days after receiving a request for reconsideration, the bureau shall
7 serve on the parties by regular mail a notice of decision reversing the previous
8 decision or, in accordance with the North Dakota Rules of Civil Procedure, an
9 administrative order that includes its findings, conclusions, and order. The bureau
10 may serve an administrative order on any decision made by informal internal
11 review without first issuing a notice of decision and receiving a request for
12 reconsideration.
- 13 6. A party has thirty days from the date of service of an administrative order in which
14 to file a request for assistance from the workers' adviser program under section
15 65-02-27.
- 16 7. A party has thirty days, from the date of service of an administrative order or from
17 the day the workers' adviser program mails its notice that the program's assistance
18 is complete, in which to file a written request for rehearing. The request must
19 specifically state ~~each the alleged error of fact and law to be reheard~~ errors in the
20 decision and the relief sought. Absent a timely and sufficient request for rehearing,
21 the administrative order is final and may not be reheard or appealed.
- 22 8. Rehearings must be conducted as hearings under chapter 28-32 to the extent the
23 provisions of that chapter do not conflict with this section. The bureau may arrange
24 for the designation of hearing officers to conduct rehearings and issue
25 recommended findings, conclusions, and orders. In reviewing recommended
26 findings, conclusions, and orders, the bureau may consult with its legal counsel
27 representing it in the proceeding.
- 28 9. ~~Within sixty~~ Absent good cause, within thirty days after receiving the recommended
29 findings, conclusions, and order, the bureau shall serve on the parties, in
30 accordance with the North Dakota Rules of Civil Procedure, its findings,
31 conclusions, and posthearing administrative order.

1 10. A party may appeal a posthearing administrative order to district court in
2 accordance with chapter 65-10 but may not request reconsideration of the order by
3 the bureau.

4 11. Any notice of decision, administrative order, or posthearing administrative order is
5 subject to review and reopening under section 65-05-04.

6 12. This section applies to all orders and decisions on all claims regardless of the date
7 of injury or the date the claim was filed.

8 **SECTION 2. AMENDMENT.** Section 65-05-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **65-05-04. Bureau has continuing jurisdiction over claims properly filed.** If the
11 original claim for compensation has been made within the time specified in section 65-05-01,
12 the bureau ~~at any time, is not prevented by the doctrines of res judicata or collateral estoppel~~
13 ~~from reviewing the claim and, on its own motion or on application, may review the award,~~ and in
14 accordance with the facts found on such review, may end, diminish, modify, or increase the
15 compensation previously awarded, or, if compensation has been refused or discontinued, may
16 award compensation, except that the bureau may not reopen an issue that was noticed for,
17 heard in, and decided as a result of a prior hearing except on the basis of new information or
18 information not previously considered. There is no appeal from a bureau decision not to reopen
19 a ~~claim~~ previous decision after the bureau's ~~order on the claim~~ previous decision has become
20 final.

21 **SECTION 3. REPEAL.** Section 7 of chapter 532 of the 1997 Session Laws of North
22 Dakota is repealed.

23 **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act applies to all claims regardless
24 of the date of the injury.