

Introduced by

1 A BILL for an Act to amend and reenact section 65-01-16 of the North Dakota Century Code,
2 relating to continuation of workers' compensation benefits during appeal; and to provide for
3 application.

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

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

7 **65-01-16. Decisions by organization - Disputed decisions.** The following
8 procedures must be followed in claims for benefits, notwithstanding any provisions to the
9 contrary in chapter 28-32:

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

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

- 1 Dakota Rules of Civil Procedure, its findings, conclusions, and posthearing
2 administrative order.
- 3 10. A party may appeal a posthearing administrative order to district court in
4 accordance with chapter 65-10.
- 5 11. Any notice of decision, administrative order, or posthearing administrative order is
6 subject to review and reopening under section 65-05-04.
- 7 12. This section is effective for all orders and decisions on all claims regardless of the
8 date of injury or the date the claim was filed.
- 9 13. If an employee requests reconsideration or rehearing of a decision terminating or
10 decreasing the employee's wage loss benefits, the employee may elect to continue
11 to receive the predecision amount of wage loss benefits until the organization
12 serves on the parties its findings, conclusions, and posthearing administrative
13 order or the decision becomes final, whichever occurs first. If an employee elects
14 to continue to receive wage loss benefits under this subsection, the employee may
15 be liable for overpayments of benefits and subject to recoupment.

16 **SECTION 2. APPLICATION.** This Act applies to all orders issued on or after the
17 effective date of this Act.