
ASSEMBLY BILL NO. 168—ASSEMBLYMEN GIUNCHIGLIANI,
ANDERSON, PARKS, GOLDWATER, GIBBONS, ARBERRY,
ATKINSON, BUCKLEY, CLABORN, COLLINS, CONKLIN,
HORNE, LESLIE, MANENDO AND WILLIAMS

FEBRUARY 20, 2003

JOINT SPONSOR: SENATOR CARLTON

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance.
(BDR 53-255)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; requiring an insurer who provides industrial insurance in certain counties to ensure the availability of certain services for injured employees within those counties; revising the requirements for reimbursement for certain providers of health care; authorizing an injured employee to choose any physician or chiropractor under certain circumstances; revising the requirements for determining the percentage of disability for certain injuries and occupational diseases; authorizing a person who is aggrieved by a written determination of the Administrator or the failure of the Administrator to respond to a written request to appeal the determination or failure to respond to an appeals officer under certain circumstances; revising the requirements related to light-duty employment; increasing the compensation payable to an injured workman if his employer or an agent of his employer removes certain safeguards or protections under certain circumstances; and providing other matters properly relating thereto.



* A B 1 6 8 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 616A.070 is hereby amended to read as
2 follows:

3 616A.070 “Benefit penalty” means an additional amount of
4 money that is payable to a claimant if the Administrator has
5 determined that a violation of any of the provisions of paragraphs
6 (a) to ~~[(d)]~~ (e), inclusive, of subsection 1 of NRS 616D.120 has
7 occurred.

8 **Sec. 2.** Chapter 616B of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 1. *Each insurer who provides industrial insurance in a*
11 *county whose population is 10,000 or more shall ensure that the*
12 *services of at least one general practitioner, one orthopedist, one*
13 *neurologist, one internist and one chiropractor are available for*
14 *injured employees for each group of 10,000 natural persons*
15 *residing within that county.*

16 2. *If a dispute arises pursuant to this section, the insurer*
17 *shall, as soon as practicable after the dispute arises, issue a*
18 *written determination concerning the dispute. Any person who is*
19 *aggrieved by a written determination issued pursuant to this*
20 *subsection may appeal the determination in accordance with the*
21 *provisions of NRS 616C.315 to 616C.385, inclusive.*

22 **Sec. 3.** NRS 616B.527 is hereby amended to read as follows:

23 616B.527 1. A self-insured employer, an association of self-
24 insured public or private employers or a private carrier may:

25 (a) Enter into a contract or contracts with one or more
26 organizations for managed care to provide comprehensive medical
27 and health care services to employees for injuries and diseases that
28 are compensable pursuant to chapters 616A to 617, inclusive, of
29 NRS.

30 (b) Enter into a contract or contracts with providers of health
31 care, including, without limitation, physicians who provide primary
32 care, specialists, pharmacies, physical therapists, radiologists,
33 nurses, diagnostic facilities, laboratories, hospitals and facilities that
34 provide treatment to outpatients, to provide medical and health care
35 services to employees for injuries and diseases that are compensable
36 pursuant to chapters 616A to 617, inclusive, of NRS.

37 (c) ~~Require~~ *Except as otherwise provided in section 4 of this*
38 *act, require* employees to obtain medical and health care services
39 for their industrial injuries from those organizations and persons
40 with whom the self-insured employer, association or private carrier
41 has contracted pursuant to paragraphs (a) and (b), or as the self-



1 insured employer, association or private carrier otherwise
2 prescribes.

3 (d) Except as otherwise provided in subsection 3 of NRS
4 616C.090 ~~§~~ *and section 4 of this act*, require employees to obtain
5 the approval of the self-insured employer, association or private
6 carrier before obtaining medical and health care services for their
7 industrial injuries from a provider of health care who has not been
8 previously approved by the self-insured employer, association or
9 private carrier.

10 2. An organization for managed care with whom a self-insured
11 employer, association of self-insured public or private employers or
12 a private carrier has contracted pursuant to this section shall comply
13 with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

14 3. *Any payment received by an organization for managed
15 care or a provider of health care for providing services to an
16 injured employee pursuant to a contract entered into pursuant to
17 this section must not be less than 10 percent below the amount, if
18 any, established for the service by the Administrator pursuant to
19 NRS 616C.260.*

20 **Sec. 4.** Chapter 616C of NRS is hereby amended by adding
21 thereto a new section to read as follows:

22 1. *An injured employee may choose any physician or
23 chiropractor in this state as his treating physician or chiropractor
24 for his injury. If the insurer of the employer of the injured
25 employee has not entered into a contract with an organization for
26 managed care or with a provider of health care services pursuant
27 to NRS 616B.527, the insurer shall reimburse the physician or
28 chiropractor for any services provided by him to the injured
29 employee in the same manner as a physician or chiropractor who
30 is a member of the panel of physicians and chiropractors
31 established pursuant to NRS 616C.090. If the insurer has entered
32 into such a contract, the insurer shall, if the physician or
33 chiropractor accepts the terms of the contract, reimburse the
34 physician or chiropractor for any services provided by him to the
35 injured employee in same manner as a physician or chiropractor
36 pursuant to the contract.*

37 2. *If the injured employee is not satisfied with the first
38 physician or chiropractor he chooses pursuant to subsection 1, the
39 injured employee may make an alternative choice of physician or
40 chiropractor pursuant to that subsection.*

41 3. *Any payment received by a physician or chiropractor for
42 providing services to an injured employee pursuant to this section
43 must not be less than 10 percent below the amount established for
44 the service by the Administrator pursuant to NRS 616C.260.*



1 *4. The Administrator shall design a form for notifying an*
2 *injured employee of his right to select an alternative treating*
3 *physician or chiropractor pursuant to this section and make the*
4 *form available to each insurer for distribution pursuant to*
5 *subsection 2 of NRS 616C.050.*

6 *5. If a dispute arises pursuant to this section, the insurer*
7 *shall, as soon as practicable after the dispute arises, issue a*
8 *written determination concerning the dispute. Any person who is*
9 *aggrieved by a written determination issued pursuant to this*
10 *subsection may appeal the determination in accordance with the*
11 *provisions of NRS 616C.315 to 616C.385, inclusive.*

12 **Sec. 5.** NRS 616C.050 is hereby amended to read as follows:

13 616C.050 1. An insurer shall provide to each claimant:

14 (a) Upon written request, one copy of any medical information
15 concerning his injury or illness.

16 (b) A statement which contains information concerning the
17 claimant's right to:

18 (1) Receive the information and forms necessary to file a
19 claim;

20 (2) Select a treating physician or chiropractor and an
21 alternative treating physician or chiropractor in accordance with the
22 provisions of NRS 616C.090 ~~;~~ *and section 4 of this act;*

23 (3) Request the appointment of the Nevada Attorney for
24 Injured Workers to represent him before the appeals officer;

25 (4) File a complaint with the Administrator;

26 (5) When applicable, receive compensation for:

27 (I) Permanent total disability;

28 (II) Temporary total disability;

29 (III) Permanent partial disability;

30 (IV) Temporary partial disability; or

31 (V) All medical costs related to his injury or disease;

32 (6) Receive services for rehabilitation if his injury prevents
33 him from returning to gainful employment;

34 (7) Review by a hearing officer of any determination or
35 rejection of a claim by the insurer within the time specified by
36 statute; and

37 (8) Judicial review of any final decision within the time
38 specified by statute.

39 2. The insurer's statement must include a copy of the ~~form~~

40 *forms* designed by the Administrator pursuant to subsection 7 of
41 NRS 616C.090 ~~that notifies injured employees of their~~ *and*

42 *subsection 4 of section 4 of this act for notifying each employee of*
43 *his* right to select an alternative treating physician or chiropractor.
44 The Administrator shall adopt regulations ~~for~~ *setting forth* the



1 manner of compliance by an insurer with the ~~other~~ *remaining*
2 provisions of subsection 1.

3 **Sec. 6.** NRS 616C.090 is hereby amended to read as follows:

4 616C.090 1. The Administrator shall establish a panel of
5 physicians and chiropractors who have demonstrated special
6 competence and interest in industrial health to treat injured
7 employees under chapters 616A to 616D, inclusive, or chapter 617
8 of NRS. Every employer whose insurer has not entered into a
9 contract with an organization for managed care or with providers of
10 health care services pursuant to NRS 616B.527 shall maintain a list
11 of those physicians and chiropractors on the panel who are
12 reasonably accessible to his employees.

13 2. ~~Am~~ *Except as otherwise provided in section 4 of this act,*
14 *an* injured employee whose employer's insurer has not entered into
15 a contract with an organization for managed care or with providers
16 of health care services pursuant to NRS 616B.527 may choose his
17 treating physician or chiropractor from the panel of physicians and
18 chiropractors. If the injured employee is not satisfied with the first
19 physician or chiropractor he so chooses, he may make an alternative
20 choice of physician or chiropractor from the panel if the choice is
21 made within 90 days after his injury. The insurer shall notify the
22 first physician or chiropractor in writing. The notice must be
23 postmarked within 3 working days after the insurer receives
24 knowledge of the change. The first physician or chiropractor must
25 be reimbursed only for the services he rendered to the injured
26 employee up to and including the date of notification. Except as
27 otherwise provided in this subsection, any further change is subject
28 to the approval of the insurer, which must be granted or denied
29 within 10 days after a written request for such a change is received
30 from the injured employee. If no action is taken on the request
31 within 10 days, the request shall be deemed granted. Any request for
32 a change of physician or chiropractor must include the name of the
33 new physician or chiropractor chosen by the injured employee. If
34 the treating physician or chiropractor refers the injured employee to
35 a specialist for treatment, the treating physician or chiropractor shall
36 provide to the injured employee a list that includes the name of each
37 physician or chiropractor with that specialization who is on the
38 panel. After receiving the list, the injured employee shall, at the time
39 the referral is made, select a physician or chiropractor from the list.

40 3. ~~Am~~ *Except as otherwise provided in section 4 of this act,*
41 *an* injured employee whose employer's insurer has entered into a
42 contract with an organization for managed care or with providers of
43 health care services pursuant to NRS 616B.527 must choose his
44 treating physician or chiropractor pursuant to the terms of that
45 contract. If the injured employee is not satisfied with the first



1 physician or chiropractor he so chooses, he may make an alternative
2 choice of physician or chiropractor pursuant to the terms of the
3 contract if the choice is made within 90 days after his injury. If the
4 injured employee, after choosing his treating physician or
5 chiropractor, moves to a county which is not served by the
6 organization for managed care or providers of health care services
7 named in the contract and the insurer determines that it is
8 impractical for the injured employee to continue treatment with the
9 physician or chiropractor, the injured employee must choose a
10 treating physician or chiropractor who has agreed to the terms of
11 that contract unless the insurer authorizes the injured employee to
12 choose another physician or chiropractor. If the treating physician or
13 chiropractor refers the injured employee to a specialist for treatment,
14 the treating physician or chiropractor shall provide to the injured
15 employee a list that includes the name of each physician or
16 chiropractor with that specialization who is available pursuant to the
17 terms of the contract with the organization for managed care or with
18 providers of health care services pursuant to NRS 616B.527, as
19 appropriate. After receiving the list, the injured employee shall,
20 at the time the referral is made, select a physician or chiropractor
21 from the list. If the employee fails to select a physician or
22 chiropractor, the insurer may select a physician or chiropractor with
23 that specialization. If a physician or chiropractor with that
24 specialization is not available pursuant to the terms of the contract,
25 the organization for managed care or the provider of health care
26 services may select a physician or chiropractor with that
27 specialization.

28 4. Except when emergency medical care is required and except
29 as otherwise provided in NRS 616C.055 ~~§~~ *and section 4 of this*
30 *act*, the insurer is not responsible for any charges for medical
31 treatment or other accident benefits furnished or ordered by any
32 physician, chiropractor or other person selected by the injured
33 employee in disregard of the provisions of this section or for any
34 compensation for any aggravation of the injured employee's injury
35 attributable to improper treatments by such physician, chiropractor
36 or other person.

37 5. The Administrator may order necessary changes in a panel
38 of physicians and chiropractors and shall suspend or remove any
39 physician or chiropractor from a panel for good cause shown.

40 6. An injured employee may receive treatment by more than
41 one physician or chiropractor if the insurer provides written
42 authorization for such treatment.

43 7. The Administrator shall design a form ~~that notifies injured~~
44 ~~employees of their~~ *for notifying an injured employee of his* right
45 pursuant to subsections 2 and 3 to select an alternative treating



1 physician or chiropractor and make the form available to insurers
2 for distribution pursuant to subsection 2 of NRS 616C.050.

3 **Sec. 7.** NRS 616C.110 is hereby amended to read as follows:
4 616C.110 1. For the purposes of NRS 616B.557, 616C.490
5 and 617.459, the Division ~~[shall]~~ :

6 (a) *Shall* adopt regulations incorporating *by reference* the *most*
7 *recently published edition of the* American Medical Association's
8 *Guides to the Evaluation of Permanent Impairment* ~~[by reference~~
9 ~~and may]~~ *not later than 1 year after the publication of that edition;*
10 *and*

11 (b) *May* amend those regulations from time to time as it deems
12 necessary. ~~[In adopting the *Guides to the Evaluation of Permanent*~~
13 ~~*Impairment*, the Division shall consider the edition most recently~~
14 ~~*published by the American Medical Association.*]~~

15 2. If the *Guides to the Evaluation of Permanent Impairment*
16 adopted by the Division contain more than one method of
17 determining the rating of an impairment, the Administrator shall
18 designate by regulation the method which must be used to rate an
19 impairment pursuant to NRS 616C.490.

20 **Sec. 8.** NRS 616C.265 is hereby amended to read as follows:

21 616C.265 1. Except as otherwise provided in NRS 616C.280,
22 every employer operating under chapters 616A to 616D, inclusive,
23 of NRS, alone or together with other employers, may make
24 arrangements to provide accident benefits as defined in those
25 chapters for injured employees.

26 2. Employers electing to make such arrangements shall notify
27 the Administrator of the election and render a detailed statement of
28 the arrangements made, which arrangements do not become
29 effective until approved by the Administrator.

30 3. Every employer who maintains a hospital of any kind for his
31 employees, or who contracts for the hospital care of injured
32 employees, shall, on or before January 30 of each year, make a
33 written report to the Administrator for the preceding year, which
34 must contain a statement showing:

35 (a) The total amount of hospital fees collected, showing
36 separately the amount contributed by the employees and the amount
37 contributed by the employers;

38 (b) An itemized account of the expenditures, investments or
39 other disposition of such fees; and

40 (c) What balance, if any, remains.

41 4. Every employer who provides accident benefits pursuant to
42 this section:

43 (a) Shall, in accordance with regulations adopted by the
44 Administrator, make a written report to the Division of his actual
45 and expected annual expenditures for claims and such other



1 information as the Division deems necessary to calculate an
2 estimated or final annual assessment and shall, to the extent that the
3 regulations refer to the responsibility of insurers to make such
4 reports, be deemed to be an insurer.

5 (b) Shall pay the assessments collected pursuant to NRS
6 232.680 and 616A.430.

7 5. The reports required by the provisions of subsections 3 and 4
8 must be verified:

9 (a) If the employer is a natural person, by the employer;

10 (b) If the employer is a partnership, by one of the partners;

11 (c) If the employer is a corporation, by the secretary, president,
12 general manager or other executive officer of the corporation; or

13 (d) If the employer has contracted with a physician or
14 chiropractor for the hospital care of injured employees, by the
15 physician or chiropractor.

16 6. No employee is required to accept the services of a
17 physician or chiropractor provided by his employer, but may seek
18 professional medical services of his choice as provided in NRS
19 616C.090 ~~and~~ *and section 4 of this act*. Expenses arising from such
20 medical services must be paid by the employer who has elected to
21 provide benefits, pursuant to the provisions of this section, for his
22 injured employees.

23 7. Every employer who fails to notify the Administrator of
24 such election and arrangements, or who fails to render the financial
25 reports required, is liable for accident benefits as provided by
26 NRS 616C.255.

27 **Sec. 9.** NRS 616C.340 is hereby amended to read as follows:

28 616C.340 1. The Governor shall appoint one or more appeals
29 officers to conduct hearings ~~in contested claims for compensation~~
30 ~~pursuant to NRS 616C.360.~~ *and appeals as required pursuant to*
31 *chapters 616A to 617, inclusive, of NRS.* Each appeals officer shall
32 hold office for 2 years ~~from~~ *after* the date of his appointment and
33 until his successor is appointed and has qualified. Each appeals
34 officer is entitled to receive an annual salary in an amount provided
35 by law and is in the unclassified service of the State.

36 2. Each appeals officer must be an attorney who has been
37 licensed to practice law before all the courts of this state for at least
38 2 years. Except as otherwise provided in NRS 7.065, an appeals
39 officer shall not engage in the private practice of law.

40 3. If an appeals officer determines that he has a personal
41 interest or a conflict of interest, directly or indirectly, in any case
42 which is before him, he shall disqualify himself from hearing the
43 case.

44 4. The Governor may appoint one or more special appeals
45 officers to conduct hearings ~~in contested claims for compensation~~



1 ~~pursuant to NRS 616C.360.]~~ *and appeals as required pursuant to*
2 *chapters 616A to 617, inclusive, of NRS.* The Governor shall not
3 appoint an attorney who represents persons in actions related to
4 claims for compensation to serve as a special appeals officer.

5 5. A special appeals officer appointed pursuant to subsection 4
6 is vested with the same powers as a regular appeals officer. A
7 special appeals officer may hear any case in which a regular appeals
8 officer has a conflict, or any case assigned to him by the Senior
9 Appeals Officer to assist with a backlog of cases. A special appeals
10 officer is entitled to be paid at an hourly rate, as determined by the
11 Department of Administration.

12 6. The decision of an appeals officer is the final and binding
13 administrative determination of a claim for compensation under
14 chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the
15 whole record consists of all evidence taken at the hearing before the
16 appeals officer and any findings of fact and conclusions of law
17 based thereon.

18 **Sec. 10.** NRS 616C.345 is hereby amended to read as follows:

19 616C.345 1. Any party aggrieved by a decision of the
20 hearing officer relating to a claim for compensation may appeal
21 from the decision by filing a notice of appeal with an appeals officer
22 within 30 days after the date of the decision.

23 2. If a dispute is required to be submitted to a procedure for
24 resolving complaints pursuant to NRS 616C.305 and:

25 (a) A final determination was rendered pursuant to that
26 procedure; or

27 (b) The dispute was not resolved pursuant to that procedure
28 within 14 days after it was submitted,

29 any party to the dispute may file a notice of appeal within 70 days
30 after the date on which the final determination was mailed to the
31 employee, or his dependent, or the unanswered request for
32 resolution was submitted. Failure to render a written determination
33 within 30 days after receipt of such a request shall be deemed by the
34 appeals officer to be a denial of the request.

35 3. Except as otherwise provided in NRS 616C.380, the filing of
36 a notice of appeal does not automatically stay the enforcement of the
37 decision of a hearing officer or a determination rendered pursuant to
38 NRS 616C.305. The appeals officer may order a stay, when
39 appropriate, upon the application of a party. If such an application is
40 submitted, the decision is automatically stayed until a determination
41 is made concerning the application. A determination on the
42 application must be made within 30 days after the filing of
43 the application. If a stay is not granted by the officer after reviewing
44 the application, the decision must be complied with within 10 days
45 after the date of the refusal to grant a stay.



1 4. Except as otherwise provided in this subsection, ~~the appeals~~
2 ~~officer shall,~~ within 10 days after receiving a notice of appeal
3 pursuant to this section or *NRS 616D.140, or within 10 days after*
4 *receiving a notice of* a contested claim pursuant to subsection 5 of
5 NRS 616C.315, *the appeals officer shall* schedule a hearing on the
6 merits of the appeal or contested claim for a date and time within 90
7 days after his receipt of the notice and give notice by mail or by
8 personal service to all parties to the matter and their attorneys or
9 agents at least 30 days before the date and time scheduled. A request
10 to schedule the hearing for a date and time which is:

11 (a) Within 60 days after the receipt of the notice of appeal or
12 contested claim; or

13 (b) More than 90 days after the receipt of the notice or
14 claim,

15 may be submitted to the appeals officer only if all parties to the
16 appeal or contested claim agree to the request.

17 5. An appeal or contested claim may be continued upon written
18 stipulation of all parties, or upon good cause shown.

19 6. Failure to file a notice of appeal within the period specified
20 in subsection 1 or 2 may be excused if the party aggrieved shows by
21 a preponderance of the evidence that he did not receive the notice of
22 the determination and the forms necessary to appeal the
23 determination. The claimant, employer or insurer shall notify the
24 hearing officer of a change of address.

25 **Sec. 11.** NRS 616C.475 is hereby amended to read as follows:

26 616C.475 1. Except as otherwise provided in this section,
27 NRS 616C.175 and 616C.390, every employee in the employ of an
28 employer, within the provisions of chapters 616A to 616D,
29 inclusive, of NRS, who is injured by accident arising out of and in
30 the course of employment, or his dependents, is entitled to receive
31 for the period of temporary total disability, 66 2/3 percent of the
32 average monthly wage.

33 2. Except as otherwise provided in NRS 616B.028 and
34 616B.029, an injured employee or his dependents are not entitled to
35 accrue or be paid any benefits for a temporary total disability during
36 the time the injured employee is incarcerated. The injured employee
37 or his dependents are entitled to receive such benefits when the
38 injured employee is released from incarceration if he is certified as
39 temporarily totally disabled by a physician or chiropractor.

40 3. If a claim for the period of temporary total disability is
41 allowed, the first payment pursuant to this section must be issued by
42 the insurer within 14 working days after receipt of the initial
43 certification of disability and regularly thereafter.

44 4. Any increase in compensation and benefits effected by the
45 amendment of subsection 1 is not retroactive.



1 5. Payments for a temporary total disability must cease when:
2 (a) A physician or chiropractor determines that the employee is
3 physically capable of any gainful employment for which the
4 employee is suited, after giving consideration to the employee's
5 education, training and experience;

6 (b) The employer offers the employee light-duty employment or
7 employment that is modified according to the limitations or
8 restrictions imposed by a physician or chiropractor pursuant to
9 subsection 7; or

10 (c) Except as otherwise provided in NRS 616B.028 and
11 616B.029, the employee is incarcerated.

12 6. Each insurer may, with each check that it issues to an injured
13 employee for a temporary total disability, include a form approved
14 by the Division for the injured employee to request continued
15 compensation for the temporary total disability.

16 7. A certification of disability issued by a physician or
17 chiropractor must:

18 (a) Include the period of disability and a description of any
19 physical limitations or restrictions imposed upon the work of the
20 employee;

21 (b) Specify whether the limitations or restrictions are permanent
22 or temporary; and

23 (c) Be signed by the treating physician or chiropractor
24 authorized pursuant to NRS 616B.527 or appropriately chosen
25 pursuant to subsection 3 of NRS 616C.090 ~~{}~~ *or section 4 of this*
26 *act.*

27 8. If the certification of disability specifies that the physical
28 limitations or restrictions are temporary, the employer of the
29 employee at the time of his accident ~~{is not required to comply}~~ *may*
30 *offer temporary, light-duty employment to the employee. If the*
31 *employer makes such an offer, the employee may accept or reject*
32 *the offer within 3 days after he receives it. The making,*
33 *acceptance or rejection of an offer of temporary, light-duty*
34 *employment pursuant to this subsection does not exempt the*
35 *employer from complying* with NRS 616C.545 to 616C.575,
36 inclusive, and 616C.590 or the regulations adopted by the Division
37 governing vocational rehabilitation services. ~~{if the employer offers~~
38 ~~the employee temporary, light-duty employment.}~~ Any offer of
39 temporary, light-duty employment made by the employer must *be in*
40 *writing and mailed to or served upon the employee and must*
41 specify a position that:

42 (a) Is substantially similar to the employee's position at the time
43 of his injury in relation to the location of the employment and the
44 hours he is required to work; ~~{and}~~

45 (b) Provides a gross wage that is:



1 (1) If the position is in the same classification of
2 employment, equal to the gross wage the employee was earning at
3 the time of his injury; or

4 (2) If the position is not in the same classification of
5 employment, substantially similar to the gross wage the employee
6 was earning at the time of his injury ~~§~~; and

7 *(c) Has the same seniority and benefits as the position of the*
8 *employee at the time of his injury.*

9 **Sec. 12.** NRS 616C.495 is hereby amended to read as follows:

10 616C.495 1. Except as otherwise provided in NRS 616C.380,
11 an award for a permanent partial disability may be paid in a lump
12 sum under the following conditions:

13 (a) A claimant injured on or after July 1, 1973, and before
14 July 1, 1981, who incurs a disability that does not exceed 12 percent
15 may elect to receive his compensation in a lump sum. A claimant
16 injured on or after July 1, 1981, and before July 1, 1995, who incurs
17 a disability that does not exceed 25 percent may elect to receive his
18 compensation in a lump sum.

19 (b) The spouse, or in the absence of a spouse, any dependent
20 child of a deceased claimant injured on or after July 1, 1973, who is
21 not entitled to compensation in accordance with NRS 616C.505, is
22 entitled to a lump sum equal to the present value of the deceased
23 claimant's undisbursed award for a permanent partial disability.

24 (c) Any claimant injured on or after July 1, 1981, and before
25 July 1, 1995, who incurs a disability that exceeds 25 percent may
26 elect to receive his compensation in a lump sum equal to the present
27 value of an award for a disability of 25 percent. If the claimant
28 elects to receive compensation pursuant to this paragraph, the
29 insurer shall pay in installments to the claimant that portion of the
30 claimant's disability in excess of 25 percent.

31 (d) Any claimant injured on or after July 1, 1995, may elect to
32 receive his compensation in a lump sum in accordance with
33 regulations adopted by the Administrator and approved by the
34 Governor. The Administrator shall adopt regulations for
35 determining the eligibility of such a claimant to receive all or any
36 portion of his compensation in a lump sum. Such regulations may
37 include the manner in which an award for a permanent partial
38 disability may be paid to such a claimant in installments.
39 Notwithstanding the provisions of NRS 233B.070, any regulation
40 adopted pursuant to this paragraph does not become effective unless
41 it is first approved by the Governor.

42 2. If the claimant elects to receive his payment for a permanent
43 partial disability in a lump sum pursuant to subsection 1, all of his
44 benefits for compensation terminate. His acceptance of that payment
45 constitutes a final settlement of all factual and legal issues in the



1 case. By so accepting , he waives all of his rights regarding the
2 claim, including the right to appeal from the closure of the case or
3 the percentage of his disability, except:

4 (a) His right to reopen his claim according to the provisions of
5 NRS 616C.390; and

6 (b) Any counseling, training or other rehabilitative services
7 provided by the insurer.

8 The claimant must be advised in writing of the provisions of this
9 subsection when he demands his payment in a lump sum, and has 20
10 days after the mailing or personal delivery of ~~this~~ *the* notice within
11 which to retract or reaffirm his demand, before payment may be
12 made and his election becomes final. *The provisions of this*
13 *subsection do not prohibit the claimant from taking any action*
14 *relating to his claim pursuant to chapter 616D of NRS.*

15 3. Any lump-sum payment which has been paid on a claim
16 incurred on or after July 1, 1973, must be supplemented if necessary
17 to conform to the provisions of this section.

18 4. Except as otherwise provided in this subsection, the total
19 lump-sum payment for disablement must not be less than one-half
20 the product of the average monthly wage multiplied by the
21 percentage of disability. If the claimant received compensation in
22 installment payments for his permanent partial disability before
23 electing to receive his payment for that disability in a lump sum, the
24 lump-sum payment must be calculated for the remaining payment of
25 compensation.

26 5. The lump sum payable must be equal to the present value of
27 the compensation awarded, less any advance payment or lump sum
28 previously paid. The present value must be calculated using monthly
29 payments in the amounts prescribed in subsection 7 of NRS
30 616C.490 and actuarial annuity tables adopted by the Division. The
31 tables must be reviewed annually by a consulting actuary.

32 6. If a claimant would receive more money by electing to
33 receive compensation in a lump sum than he would if he receives
34 installment payments, he may elect to receive the lump-sum
35 payment.

36 **Sec. 13.** NRS 616C.590 is hereby amended to read as follows:

37 616C.590 1. Except as otherwise provided in this section, an
38 injured employee is not eligible for vocational rehabilitation
39 services, unless:

40 (a) The treating physician or chiropractor approves the return of
41 the injured employee to work but imposes permanent restrictions
42 that prevent the injured employee from returning to the position that
43 he held at the time of his injury;

44 (b) The injured employee's employer does not offer
45 employment that:



- 1 (1) The employee is eligible for considering the restrictions
2 imposed pursuant to paragraph (a); ~~and~~
- 3 (2) Provides a gross wage that is equal to or greater than 80
4 percent of the gross wage that the employee was earning at the time
5 of his injury; and
- 6 (3) *Has the same seniority and benefits as the position of*
7 *the employee at the time of his injury; and*
- 8 (c) The injured employee is unable to return to gainful
9 employment with any other employer at a gross wage that is equal
10 to or greater than 80 percent of the gross wage that the employee
11 was earning at the time of his injury.
- 12 2. If the treating physician or chiropractor imposes permanent
13 restrictions on the injured employee for the purposes of paragraph
14 (a) of subsection 1, he shall specify in writing:
- 15 (a) The medically objective findings upon which his
16 determination is based; and
- 17 (b) A detailed description of the restrictions.
- 18 The treating physician or chiropractor shall deliver a copy of the
19 findings and the description of the restrictions to the insurer.
- 20 3. If there is a question as to whether the restrictions imposed
21 upon the injured employee are permanent, the employee may
22 receive vocational rehabilitation services until a final determination
23 concerning the duration of the restrictions is made.
- 24 4. Vocational rehabilitation services must cease as soon as the
25 injured employee is no longer eligible for the services pursuant to
26 subsection 1.
- 27 5. An injured employee is not entitled to vocational
28 rehabilitation services solely because the position that he held at the
29 time of his injury is no longer available.
- 30 6. An injured employee or his dependents are not entitled to
31 accrue or be paid any money for vocational rehabilitation services
32 during the time the injured employee is incarcerated.
- 33 7. Any injured employee eligible for compensation other than
34 accident benefits may not be paid those benefits if he refuses
35 counseling, training or other vocational rehabilitation services
36 offered by the insurer. Except as otherwise provided in NRS
37 616B.028 and 616B.029, an injured employee shall be deemed to
38 have refused counseling, training and other vocational rehabilitation
39 services while he is incarcerated.
- 40 8. If an insurer cannot locate an injured employee for whom it
41 has ordered vocational rehabilitation services, the insurer may close
42 his claim 21 days after the insurer determines that the employee
43 cannot be located. The insurer shall make a reasonable effort to
44 locate the employee.



1 9. The reappearance of the injured employee after his claim has
2 been closed does not automatically reinstate his eligibility for
3 vocational rehabilitation benefits. If the employee wishes to
4 reestablish his eligibility for ~~such~~ *those* benefits, he must file a
5 written application with the insurer to reinstate his claim. The
6 insurer shall reinstate the employee's claim if good cause is shown
7 for the employee's absence.

8 **Sec. 14.** NRS 616D.120 is hereby amended to read as follows:
9 616D.120 1. Except as otherwise provided in this section, if
10 the Administrator determines that an insurer, organization for
11 managed care, health care provider, third-party administrator or
12 employer has:

13 (a) ~~Through fraud, coercion, duress or undue influence:~~
14 ~~(1)~~ Induced a claimant to fail to report an accidental injury
15 or occupational disease;

16 ~~(2)~~ (b) Persuaded a claimant to ~~settle~~ :
17 (1) *Settle* for an amount which is less than reasonable;

18 ~~(3) Persuaded a claimant to settle~~
19 (2) *Settle* for an amount which is less than reasonable while a
20 hearing or an appeal is pending; or

21 ~~(4) Persuaded a claimant to accept~~
22 (3) *Accept* less than the compensation found to be due him

23 by a hearing officer, appeals officer, court of competent jurisdiction,
24 written settlement agreement, written stipulation or the Division
25 when carrying out its duties pursuant to chapters 616A to 617,
26 inclusive, of NRS;

27 ~~(b)~~ (c) Refused to pay or unreasonably delayed payment to a
28 claimant of compensation found to be due him by a hearing officer,
29 appeals officer, court of competent jurisdiction, written settlement
30 agreement, written stipulation or the Division when carrying out its
31 duties pursuant to chapters 616A to 616D, inclusive, or chapter 617
32 of NRS, ~~if~~ *regardless of when* the refusal or delay ~~occurs~~
33 *occurred, including, without limitation:*

34 (1) Later than 10 days after the date of the settlement
35 agreement or stipulation;

36 (2) Later than 30 days after the date of the decision of a
37 court, hearing officer, appeals officer or *the* Division, unless a stay
38 has been granted; or

39 (3) Later than 10 days after a stay of the decision of a court,
40 hearing officer, appeals officer or *the* Division has been lifted;

41 ~~(e)~~ (d) Refused to process a claim for compensation pursuant
42 to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

43 ~~(d)~~ (e) Made it necessary for a claimant to initiate proceedings
44 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of
45 NRS for compensation found to be due him by a hearing officer,



1 appeals officer, court of competent jurisdiction, written settlement
2 agreement, written stipulation or the Division when carrying out its
3 duties pursuant to chapters 616A to 616D, inclusive, or chapter 617
4 of NRS;

5 ~~(e)~~ (f) Failed to comply with the Division's regulations
6 covering the payment of an assessment relating to the funding of
7 costs of administration of chapters 616A to 617, inclusive, of NRS;

8 ~~(f)~~ (g) Failed to provide or unreasonably delayed payment to
9 an injured employee or reimbursement to an insurer pursuant to
10 NRS 616C.165; ~~(g)~~

11 ~~(g)~~ (h) *Without justification, failed to:*

12 (1) *Provide payment to a claimant; or*

13 (2) *Authorize or provide medical treatment or testing for a*
14 *claimant; or*

15 (i) Intentionally failed to comply with any provision of, or
16 regulation adopted pursuant to, this chapter or chapter 616A, 616B,
17 616C or 617 of NRS,

18 the Administrator shall impose an administrative fine of \$1,000 for
19 each initial violation, or a fine of \$10,000 for a second or
20 subsequent violation.

21 2. Except as otherwise provided in chapters 616A to 616D,
22 inclusive, or chapter 617 of NRS, if the Administrator determines
23 that an insurer, organization for managed care, health care provider,
24 third-party administrator or employer has failed to comply with any
25 provision of this chapter or chapter 616A, 616B, 616C or 617 of
26 NRS, or any regulation adopted pursuant thereto, the Administrator
27 may take any of the following actions:

28 (a) Issue a notice of correction for:

29 (1) A minor violation, as defined by regulations adopted by
30 the Division; or

31 (2) A violation involving the payment of compensation in an
32 amount which is greater than that required by any provision of this
33 chapter or chapter 616A, 616B, 616C or 617 of NRS, or any
34 regulation adopted pursuant thereto.

35 The notice of correction must set forth with particularity the
36 violation committed and the manner in which the violation may be
37 corrected. The provisions of this section do not authorize the
38 Administrator to modify or negate in any manner a determination or
39 any portion of a determination made by a hearing officer, appeals
40 officer or court of competent jurisdiction or a provision contained in
41 a written settlement agreement or written stipulation.

42 (b) Impose an administrative fine for:

43 (1) A second or subsequent violation for which a notice of
44 correction has been issued pursuant to paragraph (a); or



1 (2) Any other violation of this chapter or chapter 616A,
2 616B, 616C or 617 of NRS, or any regulation adopted pursuant
3 thereto, for which a notice of correction may not be issued pursuant
4 to paragraph (a).

5 The fine imposed ~~may~~ *must* not be greater than \$250 for an initial
6 violation, or more than \$1,000 for any second or subsequent
7 violation.

8 (c) Order a plan of corrective action to be submitted to the
9 Administrator within 30 days after the date of the order.

10 3. If the Administrator determines that a violation of any of the
11 provisions of paragraphs (a) to ~~((d))~~ *(e)*, inclusive, of subsection 1
12 has occurred, the Administrator shall order the insurer, organization
13 for managed care, health care provider, third-party administrator or
14 employer to pay to the claimant a benefit penalty in an amount that
15 is not less than \$5,000 and not greater than \$25,000. To determine
16 the amount of the benefit penalty, the Administrator shall consider
17 the degree of physical harm suffered by the injured employee or his
18 dependents as a result of the violation of paragraph (a), (b), (c), ~~for~~
19 (d) *or (e)* of subsection 1, the amount of compensation found to be
20 due the claimant, and the number of fines and benefit penalties
21 previously imposed against the insurer, organization for managed
22 care, health care provider, third-party administrator or employer
23 pursuant to this section. If this is the third violation within 5 years
24 for which a benefit penalty has been imposed against the insurer,
25 organization for managed care, health care provider, third-party
26 administrator or employer, the Administrator shall also consider the
27 degree of economic harm suffered by the injured employee or his
28 dependents as a result of the violation of paragraph (a), (b), (c), ~~for~~
29 (d) *or (e)* of subsection 1. Except as otherwise provided in this
30 section, the benefit penalty is for the benefit of the claimant and
31 must be paid directly to him within 10 days after the date of the
32 Administrator's determination. If the claimant is the injured
33 employee and he dies before the benefit penalty is paid to him, the
34 benefit penalty must be paid to his estate. Proof of the payment of
35 the benefit penalty must be submitted to the Administrator within 10
36 days after the date of his determination unless an appeal is filed
37 pursuant to NRS 616D.140. Any compensation to which the
38 claimant may otherwise be entitled pursuant to chapters 616A to
39 616D, inclusive, or chapter 617 of NRS must not be reduced by the
40 amount of any benefit penalty received pursuant to this subsection.

41 4. In addition to any fine or benefit penalty imposed pursuant
42 to this section, the Administrator may assess against an insurer who
43 violates any regulation concerning the reporting of claims
44 expenditures or premiums received that are used to calculate an



1 assessment, an administrative penalty of up to twice the amount of
2 any underpaid assessment.

3 5. If:

4 (a) The Administrator determines that a person has violated any
5 of the provisions of NRS 616D.200, 616D.220, 616D.240,
6 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

7 (b) The Fraud Control Unit for Industrial Insurance *of the Office*
8 *of the Attorney General* established pursuant to NRS 228.420
9 notifies the Administrator that the unit will not prosecute the person
10 for that violation,
11 the Administrator shall impose an administrative fine of not more
12 than \$10,000.

13 6. Two or more fines of \$1,000 or more imposed in 1 year for
14 acts enumerated in subsection 1 must be considered by the
15 Commissioner as evidence for the withdrawal of:

16 (a) A certificate to act as a self-insured employer.

17 (b) A certificate to act as an association of self-insured public or
18 private employers.

19 (c) A certificate of registration as a third-party administrator.

20 7. The Commissioner may, without complying with the
21 provisions of NRS 616B.327 or 616B.431, withdraw the
22 certification of a self-insured employer, association of self-insured
23 public or private employers or third-party administrator if, after a
24 hearing, it is shown that the self-insured employer, association of
25 self-insured public or private employers or third-party administrator
26 violated any provision of subsection 1.

27 **Sec. 15.** NRS 616D.130 is hereby amended to read as follows:

28 616D.130 1. Upon receipt of a complaint for a violation of
29 subsection 1 of NRS 616D.120, or if the Administrator has reason to
30 believe that such a violation has occurred, the Administrator shall
31 cause to be conducted an investigation of the alleged violation.
32 Except as otherwise provided in subsection 2, the Administrator
33 shall, within 30 days after initiating the investigation:

34 (a) Render a determination. The determination must include his
35 findings of fact and, if he determines that a violation has occurred,
36 one or more of the following:

37 (1) The amount of any fine required to be paid pursuant to
38 NRS 616D.120.

39 (2) The amount of any benefit penalty required to be paid to
40 a claimant pursuant to NRS 616D.120.

41 (3) A plan of corrective action to be taken by the insurer,
42 organization for managed care, health care provider, third-party
43 administrator or employer, including the manner and time within
44 which the violation must be corrected.



1 (4) A requirement that notice of the violation be given to the
2 appropriate agency that regulates the activities of the violator.

3 (b) Notify the Commissioner if he determines that a violation
4 was committed by a self-insured employer, association of self-
5 insured public or private employers or third-party administrator.

6 2. Upon receipt of a complaint for any violation of paragraph
7 (a) , (b) or ~~(c)~~ (d) of subsection 1 of NRS 616D.120, or if the
8 Administrator has reason to believe that such a violation has
9 occurred, the Administrator shall complete the investigation
10 required by subsection 1 within 120 days and, within 30 days after
11 the completion of the investigation, render a determination and
12 notify the Commissioner if he determines that a violation was
13 committed by a self-insured employer, association of self-insured
14 public or private employers or third-party administrator.

15 3. If, based upon the Administrator's findings of fact, he
16 determines that a violation has not occurred, he shall issue a
17 determination to that effect.

18 **Sec. 16.** NRS 616D.140 is hereby amended to read as follows:

19 616D.140 1. If a person wishes to contest a decision of the
20 Administrator to impose *or refuse to impose* an administrative fine
21 or benefit penalty pursuant to this chapter or chapter 616A, 616B,
22 616C or 617 of NRS, he must file a notice of appeal with ~~the~~
23 ~~Division within 10 days after receipt of the Administrator's~~
24 ~~decision, showing why~~ *an appeals officer in accordance with this*
25 *section. The notice of appeal must set forth the reasons* the
26 proposed fine or benefit penalty should *or should* not be imposed.

27 2. ~~If a notice of appeal is filed as required by subsection 1, the~~
28 ~~Administrator shall, in accordance with the provisions of NRS~~
29 ~~233B.121, issue a notice of hearing that must include a date for a~~
30 ~~hearing on the matter, which must be no sooner than 30 days after~~
31 ~~the notice of appeal is filed. The Administrator may grant a~~
32 ~~continuance of the hearing upon a showing of good cause.]~~ *A*
33 *person who is aggrieved by:*

- 34 (a) *A written determination of the Administrator; or*
35 (b) *The failure of the Administrator to respond within 30 days*
36 *to a written request mailed to the Administrator by the person who*
37 *is aggrieved,*
38 *may appeal from the determination or failure to respond by filing*
39 *a request for a hearing before an appeals officer. The request*
40 *must be filed within 70 days after the date on which the notice of*
41 *the Administrator's determination was mailed by the*
42 *Administrator or the unanswered written request was mailed to the*
43 *Administrator, as applicable. The failure of the Administrator to*
44 *respond to a written request for a determination within 30 days*



1 *after receipt of the request shall be deemed by the appeals officer*
2 *to be a denial of the request.*

3 3. If a notice of appeal is not filed as required by this section,
4 the imposition of *or refusal to impose* the fine or benefit penalty
5 shall be deemed a final order and is not subject to review by any
6 court or agency.

7 4. ~~Except as otherwise provided in NRS 616A.467, a~~ A
8 hearing held pursuant to this section must be conducted by the
9 ~~Administrator or a person designated by him. A record of the~~
10 ~~hearing must be kept but it need not be transcribed unless it is~~
11 ~~requested by the person against whom the order or notice of~~
12 ~~violation has been issued and that person pays the cost of~~
13 ~~transcription. The Administrator~~ *appeals officer as a hearing de*
14 *novo. The appeals officer* shall render a written decision on the
15 appeal. *Except as otherwise provided in this section, the provisions*
16 *of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed*
17 *pursuant to this section.*

18 5. An administrative fine imposed pursuant to this chapter or
19 chapter 616A, 616B, 616C or 617 of NRS must be paid to the
20 Division. If the violation for which the fine is levied was committed
21 by a person while acting within the course and scope of his agency
22 or employment, the fine must be paid by his principal or employer.
23 The fine may be recovered in a civil action brought in the name of
24 the Division in a court of competent jurisdiction in the county in
25 which the violation occurred or in which the person against whom
26 the fine is levied has his principal place of business.

27 6. A benefit penalty imposed pursuant to NRS 616D.120 must
28 be paid to the claimant on whose behalf it is imposed. If such *a*
29 payment is not made within the period required by NRS 616D.120,
30 the benefit penalty may be recovered in a civil action brought by the
31 Administrator on behalf of the claimant in a court of competent
32 jurisdiction in the county in which the claimant resides, in which the
33 violation occurred or in which the person who is required to pay the
34 benefit penalty has his principal place of business.

35 7. Any party aggrieved by a decision ~~of the Administrator~~
36 ~~rendered~~ *issued* pursuant to this section *by an appeals officer* may
37 appeal the decision directly to the district court.

38 **Sec. 17.** NRS 616D.280 is hereby amended to read as follows:

39 616D.280 1. If any workman is injured because of the
40 absence of any safeguard or protection required to be provided or
41 maintained by, or pursuant to, any statute, ordinance ~~or~~ or any
42 divisional regulation under any statute, the employer is liable to the
43 Division for a penalty of not less than \$300 nor more than \$2,000, to
44 be collected in a civil action at law by the Division.



1 2. The provisions of subsection 1 do not apply if the absence of
2 the safeguard or protection is due to the removal thereof by the
3 injured workman himself, or with his knowledge by any fellow
4 workman, unless the removal is by order or direction of the
5 employer or superintendent or foreman of the employer.

6 3. If the safeguard or protection is removed by the workman
7 himself, or with his consent is removed by any of his fellow
8 workmen, unless done by order or direction of the employer or
9 superintendent or foreman of the employer, the compensation of the
10 injured workman, as provided for by NRS 616C.405, 616C.425,
11 616C.435, 616C.440, 616C.445 and 616C.475 to 616C.505,
12 inclusive, must be reduced 25 percent.

13 4. *If the employer or an agent of the employer removed the*
14 *safeguard or protection, or if the employer consented to its*
15 *removal, the compensation for the injured workman specified in*
16 *subsection 3 must be increased by 25 percent.*

17 5. *If, before the injury, the injured workman or his agent*
18 *submitted a request to the employer to install or replace the*
19 *safeguard or protection and the employer, after receiving*
20 *the request, failed to comply with the request, the compensation of*
21 *the injured workman specified in subsection 3 must be increased*
22 *by 25 percent.*

23 **Sec. 18.** The amendatory provisions of subsection 3 of section
24 3 of this act do not apply to a payment received pursuant to a
25 contract entered into before October 1, 2003.

