

SENATE BILL NO. 292—SENATOR SCHNEIDER

MARCH 14, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises circumstances under which Nevada Attorney for Injured Workers is required to represent injured workers. (BDR 53-784)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

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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; revising the circumstances under which the Nevada Attorney for Injured Workers is required to represent injured workers; and providing other matters properly relating thereto.

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

1 **Section 1.** NRS 616A.450 is hereby amended to read as  
2 follows:

3 616A.450 1. Any claimant may request ~~[the appointment of]~~  
4 the Nevada Attorney for Injured Workers to represent ~~[him.]~~ *the*  
5 *claimant with regard to a claim or an appeal concerning a claim*  
6 *arising under chapters 616A to 617, inclusive, of NRS.* The request  
7 must be made in writing.

8 2. ~~[The appeals officer or Administrator, as the case may be,~~  
9 ~~shall consider each request within a reasonable time and shall make~~  
10 ~~any inquiry as he deems necessary. If he finds that the claimant~~  
11 ~~would be better served by legal representation in the case, he shall~~  
12 ~~appoint the Nevada Attorney for Injured Workers to represent the~~  
13 ~~claimant. Once the Nevada Attorney for Injured Workers has been~~  
14 ~~appointed to represent a claimant,] *Upon receipt of the request,* the~~  
15 Nevada Attorney for Injured Workers ~~[is authorized to]~~ *shall*  
16 represent the claimant ~~[at any level of proceedings if, in the opinion~~  
17 ~~of the Nevada Attorney for Injured Workers, the representation is~~



1 ~~necessary.]~~ with regard to the claim or the appeal concerning the  
2 claim in accordance with the provisions of NRS 616A.455.

3 **Sec. 2.** NRS 616A.455 is hereby amended to read as follows:  
4 616A.455 1. ~~[Except as otherwise provided in subsection 3,]~~

5 *If a claimant requests the Nevada Attorney for Injured Workers to*  
6 *represent the claimant with regard to a claim or an appeal*  
7 *concerning a claim arising under chapters 616A to 617, inclusive,*  
8 *of NRS,* the Nevada Attorney for Injured Workers shall ~~[, when~~  
9 ~~appointed by an appeals officer or the Administrator,]~~ represent *the*  
10 *claimant,* without charge ~~[a claimant before the]~~ , *before any*  
11 *hearing officer, any* appeals officer, *the* Administrator, *any* district  
12 court or *the* Supreme Court ~~[. In addition, the Nevada Attorney for~~  
13 ~~Injured Workers may give advice regarding a claimant's rights~~  
14 ~~before a hearing officer and the procedure for enforcing those rights.~~

15 ~~—2. When representing a claimant, the Nevada Attorney for~~  
16 ~~Injured Workers shall:~~

17 ~~—(a) Advise the claimant and present his case to the appeals~~  
18 ~~officer or Administrator; and~~

19 ~~—(b) Present in the district court or Supreme Court an appeal from~~  
20 ~~the decision of the appeals officer or Administrator if, in the opinion~~  
21 ~~of the Nevada Attorney for Injured Workers, the appeal is merited.~~

22 ~~—3. If]~~ , with regard to the claim or the appeal concerning the  
23 claim, unless the Nevada Attorney for Injured Workers determines,  
24 in accordance with the guidelines adopted pursuant to ~~[subsection 4,~~  
25 ~~that a]~~ *this section, that the claim or the appeal concerning the*  
26 *claim* is frivolous or lacks merit . ~~[, he may refuse to represent a~~  
27 ~~claimant.~~

28 ~~—4.]~~ 2. The Nevada Attorney for Injured Workers shall establish  
29 the policies to be followed in determining whether a claim *or an*  
30 *appeal concerning a claim* is frivolous or lacks merit.

31 **Sec. 3.** NRS 616C.050 is hereby amended to read as follows:

32 616C.050 1. An insurer shall provide to each claimant:

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

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

37 (1) Receive the information and forms necessary to file a  
38 claim;

39 (2) Select a treating physician or chiropractor and an  
40 alternative treating physician or chiropractor in accordance with the  
41 provisions of NRS 616C.090;

42 (3) ~~[Request the appointment of]~~ *Have* the Nevada Attorney  
43 for Injured Workers ~~[to represent him before the appeals officer,]~~  
44 *represent the claimant in accordance with NRS 616A.450 and*  
45 *616A.455;*



- 1 (4) File a complaint with the Administrator;
- 2 (5) When applicable, receive compensation for:
- 3 (I) Permanent total disability;
- 4 (II) Temporary total disability;
- 5 (III) Permanent partial disability;
- 6 (IV) Temporary partial disability; or
- 7 (V) All medical costs related to his injury or disease;
- 8 (6) Receive services for rehabilitation if his injury prevents
- 9 him from returning to gainful employment;
- 10 (7) Review by a hearing officer of any determination or
- 11 rejection of a claim by the insurer within the time specified by
- 12 statute; and
- 13 (8) Judicial review of any final decision within the time
- 14 specified by statute.

15 2. The insurer's statement must include a copy of the form  
16 designed by the Administrator pursuant to subsection 7 of NRS  
17 616C.090 that notifies injured employees of their right to select an  
18 alternative treating physician or chiropractor. The Administrator  
19 shall adopt regulations for the manner of compliance by an insurer  
20 with the other provisions of subsection 1.

21 **Sec. 4.** NRS 616C.330 is hereby amended to read as follows:

22 616C.330 1. The hearing officer shall:

23 (a) Within 5 days after receiving a request for a hearing, set the  
24 hearing for a date and time within 30 days after his receipt of the  
25 request;

26 (b) Give notice by mail or by personal service to all interested  
27 parties to the hearing at least 15 days before the date and time  
28 scheduled; and

29 (c) Conduct hearings expeditiously and informally.

30 2. The notice must include a statement that the injured  
31 employee may be represented by a private attorney or ~~seek~~  
32 ~~assistance and advice from~~ *may request* the Nevada Attorney for  
33 Injured Workers ~~to~~ *to represent the injured employee.*

34 3. If necessary to resolve a medical question concerning an  
35 injured employee's condition or to determine the necessity of  
36 treatment for which authorization for payment has been denied, the  
37 hearing officer may refer the employee to a physician or  
38 chiropractor of his choice who has demonstrated special competence  
39 to treat the particular medical condition of the employee. If the  
40 medical question concerns the rating of a permanent disability, the  
41 hearing officer may refer the employee to a rating physician or  
42 chiropractor. The rating physician or chiropractor must be selected  
43 in rotation from the list of qualified physicians and chiropractors  
44 maintained by the Administrator pursuant to subsection 2 of NRS  
45 616C.490, unless the insurer and injured employee otherwise agree



1 to a rating physician or chiropractor. The insurer shall pay the costs  
2 of any medical examination requested by the hearing officer.  
3 4. If an injured employee has requested payment for the cost of  
4 obtaining a second determination of his percentage of disability  
5 pursuant to NRS 616C.100, the hearing officer shall decide whether  
6 the determination of the higher percentage of disability made  
7 pursuant to NRS 616C.100 is appropriate and, if so, may order the  
8 insurer to pay to the employee an amount equal to the maximum  
9 allowable fee established by the Administrator pursuant to NRS  
10 616C.260 for the type of service performed, or the usual fee of that  
11 physician or chiropractor for such service, whichever is less.  
12 5. The hearing officer shall order an insurer, organization for  
13 managed care or employer who provides accident benefits for  
14 injured employees pursuant to NRS 616C.265 to pay the charges of  
15 a provider of health care if the conditions of NRS 616C.138 are  
16 satisfied.  
17 6. The hearing officer may allow or forbid the presence of a  
18 court reporter and the use of a tape recorder in a hearing.  
19 7. The hearing officer shall render his decision within 15 days  
20 after:  
21 (a) The hearing; or  
22 (b) He receives a copy of the report from the medical  
23 examination he requested.  
24 8. The hearing officer shall render his decision in the most  
25 efficient format developed by the Chief of the Hearings Division of  
26 the Department of Administration.  
27 9. The hearing officer shall give notice of his decision to each  
28 party by mail. He shall include with the notice of his decision the  
29 necessary forms for appealing from the decision.  
30 10. Except as otherwise provided in NRS 616C.380, the  
31 decision of the hearing officer is not stayed if an appeal from that  
32 decision is taken unless an application for a stay is submitted by a  
33 party. If such an application is submitted, the decision is  
34 automatically stayed until a determination is made on the  
35 application. A determination on the application must be made within  
36 30 days after the filing of the application. If, after reviewing the  
37 application, a stay is not granted by the hearing officer or an appeals  
38 officer, the decision must be complied with within 10 days after the  
39 refusal to grant a stay.  
40 **Sec. 5.** NRS 616C.595 is hereby amended to read as follows:  
41 616C.595 1. If an injured employee is eligible for vocational  
42 rehabilitation services pursuant to NRS 616C.590, the insurer and  
43 the injured employee may, at any time during the employee's  
44 eligibility for such services, execute a written agreement providing  
45 for the payment of compensation in a lump sum in lieu of the



1 provision of vocational rehabilitation services. An insurer's refusal  
2 to execute such an agreement may not be appealed.

3 2. If the insurer and the injured employee execute an agreement  
4 pursuant to subsection 1, the acceptance of the payment of  
5 compensation in a lump sum by the injured employee extinguishes  
6 his right to receive vocational rehabilitation services under his  
7 claim. Except as otherwise required by federal law, an injured  
8 employee shall not receive vocational rehabilitation services from  
9 any state agency after he accepts payment of compensation in a  
10 lump sum pursuant to this section.

11 3. Before executing an agreement pursuant to subsection 1, an  
12 insurer shall:

13 (a) Order an assessment of and counseling concerning the  
14 vocational skills of the injured employee, unless the provisions of  
15 NRS 616C.580 are applicable;

16 (b) Consult with the employer of the injured employee; and

17 (c) Provide a written notice to the injured employee that  
18 contains the following statements:

19 (1) That the injured employee is urged to seek ~~assistance~~  
20 ~~and~~ *representation or* advice from the Nevada Attorney for Injured  
21 Workers or to consult with a private attorney before signing the  
22 agreement.

23 (2) That the injured employee may rescind the agreement  
24 within 20 days after he signs it.

25 (3) That the 20-day period pursuant to subparagraph (2) may  
26 not be waived.

27 (4) That acceptance by the injured employee of payment of  
28 compensation in a lump sum in lieu of the provision of vocational  
29 rehabilitation services extinguishes his right to receive such  
30 services.

31 4. No payment of compensation in a lump sum may be made  
32 pursuant to this section until the 20-day period provided for the  
33 rescission of the agreement has expired.

34 **Sec. 6.** This act becomes effective on July 1, 2003.

