



# Senate

## File No. 857

General Assembly

January Session, 2007

**(Reprint of File No. 142)**

Substitute Senate Bill No. 1036  
As Amended by Senate Amendment Schedule  
"A" and House Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 21, 2007

**AN ACT CONCERNING NOTIFICATION TO INJURED EMPLOYEES  
OF THE DISCONTINUATION OR REDUCTION OF WORKERS'  
COMPENSATION BENEFITS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 31-296 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) If an employer and an injured employee, or in case of fatal injury  
4 [his] the employee's legal representative or dependent, at a date not  
5 earlier than the expiration of the waiting period, reach an agreement in  
6 regard to compensation, such agreement shall be submitted in writing  
7 to the commissioner by the employer with a statement of the time,  
8 place and nature of the injury upon which it is based; and, if such  
9 commissioner finds such agreement to conform to the provisions of  
10 this chapter in every regard, [he] the commissioner shall so approve it.  
11 A copy of the agreement, with a statement of the commissioner's  
12 approval, [thereof,] shall be delivered to each of the parties and  
13 thereafter it shall be as binding upon both parties as an award by the  
14 commissioner. The commissioner's statement of approval shall also

15 inform the employee or [his] the employee's dependent, as the case  
16 may be, of any rights the individual may have to an annual cost-of-  
17 living adjustment or to participate in a rehabilitation program under  
18 the provisions of this chapter. [He] The commissioner shall retain the  
19 original agreement, with [his] the commissioner's approval thereof, in  
20 [his] the commissioner's office and, if an application is made to the  
21 superior court for an execution, [he] the commissioner shall, upon the  
22 request of said court, file in the court a certified copy of the agreement  
23 and [his] statement of approval. [thereof.]

24 (b) Before discontinuing or reducing payment on account of total or  
25 partial incapacity under any such agreement, the employer or the  
26 employer's insurer, if it is claimed by or on behalf of the injured  
27 [person that his] employee that such employee's incapacity still  
28 continues, shall notify the commissioner and the employee, by certified  
29 mail, of the proposed discontinuance or reduction of such payments. [,  
30 with the date of such proposed discontinuance or reduction and the  
31 reason therefor, and, such] Such notice shall specify the reason for the  
32 proposed discontinuance or reduction and the date such proposed  
33 discontinuance or reduction will commence. No discontinuance or  
34 reduction shall [not] become effective unless specifically approved in  
35 writing by the commissioner. The employee may request a hearing on  
36 any such proposed discontinuance or reduction [within ten days of]  
37 not later than fifteen days after receipt of such notice. Any such request  
38 for a hearing shall be given priority over requests for hearings on other  
39 matters. The commissioner shall not approve any such discontinuance  
40 or reduction prior to the expiration of the period for requesting a  
41 hearing or the completion of such hearing, whichever is later. In any  
42 case where the commissioner finds that an employer has discontinued  
43 or reduced any payments made in accordance with this section  
44 without the approval of the commissioner, such employer shall be  
45 required to pay to the employee the total amount of all payments so  
46 discontinued or the total amount by which such payments were  
47 reduced, as the case may be, and shall be required to pay interest to the  
48 employee, at a rate of one and one-quarter per cent per month or

49 portion [thereof] of a month, on any payments so discontinued or on  
50 the total amount by which such payments were reduced, as the case  
51 may be, plus reasonable attorney's fees incurred by the employee in  
52 relation to such discontinuance or reduction. [Such]

53 (c) The employer's or insurer's notice of intention to discontinue or  
54 reduce payments shall (1) identify the claimant, the claimant's attorney  
55 or other representative, the employer, the insurer, and the injury,  
56 including the date of the injury, the city or town in which the injury  
57 occurred and the nature of the injury, (2) include medical  
58 documentation that (A) establishes the basis for the discontinuance or  
59 reduction of payments, and (B) identifies the claimant's attending  
60 physician, and (3) be in substantially the following form:

61 [WORKERS' COMPENSATION COMMISSION

62 OF CONNECTICUT

63 NOTICE TO COMPENSATION COMMISSIONER AND

64 EMPLOYEE OF INTENTION TO DISCONTINUE OR REDUCE

65 PAYMENTS.

66 To the Compensation Commissioner for the .... Congressional  
67 District and to ...., employee:

68 You are hereby notified that the undersigned employer intends on  
69 the .... day of ....., 20.., to discontinue or reduce the payments of  
70 compensation to the above-named employee for the following reason,  
71 to wit:

T1 .... Employer  
T2 by .... (Indicate Official Position), Insurer or Agent

T3 I HEREBY CERTIFY that the above named employee is able to return to  
T4 usual

T5 light work on the .... day of ....., 20 ..

T6 selected

T7 will

T8 There will not be permanent loss or loss of use of ... (member)

T9 .... Attending Surgeon

72 The following blanks are to be filled out in order that the case may be  
73 properly located in the records of the Commissioner:

74 Date of Injury ....

75 Date of Award or approval of agreement ....

76 Date when mailed by respondents .....

77 The employee may request a hearing by the compensation  
78 commissioner on the discontinuance or reduction set forth in this  
79 notice within ten days of receipt of this notice.]

80 IMPORTANT

81 STATE OF CONNECTICUT WORKERS' COMPENSATION COMMISSION

82 YOU ARE HEREBY NOTIFIED THAT THE EMPLOYER OR INSURER  
83 INTENDS TO REDUCE OR DISCONTINUE YOUR COMPENSATION

84 PAYMENTS ON \_\_\_\_\_ FOR THE FOLLOWING REASONS:

85 (date)

86 If you object to the reduction or discontinuance of benefits as stated  
87 in this notice, YOU MUST REQUEST A HEARING NOT LATER  
88 THAN 15 DAYS after your receipt of this notice, or this notice will  
89 automatically be approved.

90 To request an Informal Hearing, call the Workers' Compensation  
91 Commission District Office in which your case is pending.

92 Be prepared to provide medical and other documentation to  
93 support your objection. For your protection, note the date when you  
94 received this notice.

95 Sec. 2. Subsection (b) of section 31-288 of the general statutes is  
96 repealed and the following is substituted in lieu thereof (*Effective*  
97 *October 1, 2007*):

98 (b) (1) Whenever [(1)] through the fault or neglect of an employer or  
99 insurer, the adjustment or payment of compensation due under this  
100 chapter is unduly delayed, [or (2)] such employer or insurer may be  
101 assessed by the commissioner hearing the claim a civil penalty of not  
102 more than one thousand dollars for each such case of delay, to be paid  
103 to the claimant. (2) Whenever either party to a claim under this chapter  
104 has unreasonably, and without good cause, delayed the completion of  
105 the hearings on such claim, the delaying party or parties may be  
106 assessed a civil penalty of not more than five hundred dollars by the  
107 commissioner hearing the claim for each such case of delay. Any  
108 appeal of a penalty assessed pursuant to this subsection shall be taken  
109 in accordance with the provisions of section 31-301.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	31-296
Sec. 2	<i>October 1, 2007</i>	31-288(b)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

This bill extends, from 10 to 15 days, the period during which an employee can request a hearing after receiving a notice of a workers' compensation benefit reduction or discontinuation. This bill allows a workers' compensation commissioner to assess a civil penalty, payable to the claimant, if payment of compensation is unduly delayed. The bill also requires that certain additional information be included in the form notifying an employee of the pending reduction or discontinuation.

This bill has no fiscal impact on the state or municipalities.

Senate "A" allows a workers' compensation commissioner to assess a civil penalty, payable to the claimant, if payment of compensation is unduly delayed. Senate "A" has no fiscal impact.

House "A" extends from 10 to 15 days, the period during which an employee can request a hearing after receiving a notice of a workers' compensation benefit reduction or discontinuation. House "A" has no fiscal impact.

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**OLR Bill Analysis****sSB 1036 (as amended by Senate "A" and House "A")\******AN ACT CONCERNING NOTIFICATION TO INJURED EMPLOYEES OF THE DISCONTINUATION OR REDUCTION OF WORKERS' COMPENSATION BENEFITS.*****SUMMARY:**

This bill extends, from 10 to 15 days, the period during which an employee can request a hearing after receiving notice of a workers' compensation benefit reduction or discontinuation. By law, the employee has the right to request such a hearing. The bill also requires that certain additional information be included in the form (known as a "36") notifying an employee of the pending reduction or discontinuation.

It also increases, from \$500 to \$1,000, the maximum penalty for an employer's or insurer's undue delay of a compensation payment due to such party's fault or neglect. The compensation commissioner hearing the claim can assess the penalty to be paid to the claimant for each such case of delay.

\*Senate Amendment "A" (1) changes the original bill's provision of the period an employee has to request a hearing from 20 to 15 days in one part of the bill but leaves the 20-day period in another portion, (2) increases the maximum penalty for an employer's undue delay of a compensation payment from \$500 to \$1,000, and (3) makes a conforming change.

\*House Amendment "A" changes, from 20 to 15, the number of days an employee has to request a hearing in one part of the bill, thus making it consistent with the same change, from 20 to 15 days, that Senate "A" made in another part of the bill.

EFFECTIVE DATE: October 1, 2007

### **NEW NOTIFICATION REQUIREMENTS**

In addition to the existing notification requirements, including stating the employee's name and employer, the bill requires the notice to identify:

1. the employee's attorney or other representative;
2. the insurer;
3. the injury, its nature, and the date it occurred; and
4. the city or town in which the injury occurred.

(In practice, the current form used by the Workers' Compensation Commission calls for this information.)

The notice must also include medical documentation that establishes the basis for discontinuing or reducing benefits and identifies the employee's attending physician. Under current law, the employer must provide the reason for the reduction or discontinuation of benefits, and the "attending surgeon" must sign the form and indicate what kind of work the employee is able to perform.

### **NEW FORM REQUIREMENTS**

The bill requires that the notice form include the following statement:

"If you object to the reduction or discontinuation of benefits as stated in this notice, YOU MUST REQUEST A HEARING NOT LATER THAN 15 DAYS after your receipt of this notice, or this notice will automatically be approved."

Under current law, the form must state: "The employee may request a hearing by the compensation commissioner on the discontinuance or reduction set forth in this notice within 10 days of receipt of this notice."

In addition, the new required language specifies that the employee (1) must call the workers' compensation district office handling the claim to request a hearing, (2) must be prepared to provide medical and other documentation to support the claim, and (3) should note the date the notice was received. This language is not required under current law, although in practice the current form advises employees to be prepared to provide medical documentation at the hearing to support their claim.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/13/2007)

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (05/15/2007)