



# Senate

General Assembly

**File No. 159**

February Session, 2022

Substitute Senate Bill No. 222

*Senate, March 29, 2022*

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT REQUIRING NOTICE OF DISCONTINUING PRESCRIPTION MEDICINE UNDER A WORKERS' COMPENSATION CLAIM.***

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

1 Section 1. Subsection (a) of section 31-294d of the 2022 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2022*):

4 (a) (1) The employer, as soon as the employer has knowledge of an  
5 injury, shall provide a competent physician, surgeon, physician  
6 assistant or advanced practice registered nurse to attend the injured  
7 employee and, in addition, shall furnish any medical and surgical aid or  
8 hospital and nursing service, including medical rehabilitation services  
9 and prescription drugs, as the physician, surgeon, physician assistant or  
10 advanced practice registered nurse deems reasonable or necessary. The  
11 employer, any insurer acting on behalf of the employer, or any other  
12 entity acting on behalf of the employer or insurer shall be responsible  
13 for paying the cost of such prescription drugs directly to the provider.

14 If the employer utilizes an approved providers list, when an employee  
15 reports a work-related injury or condition to the employer the employer  
16 shall provide the employee with such approved providers list within  
17 two business days of such reporting.

18 (2) Before discontinuing or reducing payment for prescription drugs,  
19 which a physician has deemed reasonable or necessary under this  
20 section, the employer, or any insurer acting on behalf of the employer,  
21 shall notify the administrative law judge and the employee, by certified  
22 mail, of the proposed discontinuance or reduction of such payments.  
23 Such notice shall specify the reason for the proposed discontinuance or  
24 reduction and the date such proposed discontinuance or reduction will  
25 commence. The employer's or insurer's notice of intention to  
26 discontinue or reduce payments shall (A) identify the claimant, the  
27 claimant's attorney or other representative, the employer, the insurer,  
28 and the injury, including the date of the injury, the city or town in which  
29 the injury occurred and the nature of the injury, (B) include medical  
30 documentation that (i) establishes the basis for the discontinuance or  
31 reduction of payments, and (ii) identifies the claimant's attending  
32 physician or advanced practice registered nurse, and (C) be in  
33 substantially the following form:

34 IMPORTANT

35 STATE OF CONNECTICUT WORKERS' COMPENSATION  
36 COMMISSION

37 YOU ARE HEREBY NOTIFIED THAT THE EMPLOYER OR  
38 INSURER INTENDS TO REDUCE OR DISCONTINUE YOUR  
39 PRESCRIPTION PAYMENTS ON ... (date) FOR THE FOLLOWING  
40 REASONS:

41 If you object to the discontinuance of prescription payments as stated  
42 in this notice, YOU MUST REQUEST A HEARING NOT LATER THAN  
43 15 DAYS after your receipt of this notice, or this notice will  
44 automatically be approved.

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

47 Be prepared to provide medical and other documentation to support  
48 your objection. For your protection, note the date when you received  
49 this notice.

50 (3) No discontinuance or reduction shall become effective unless  
51 specifically approved in writing by the administrative law judge. The  
52 employee may request a hearing on any such proposed discontinuance  
53 not later than fifteen days after receipt of such notice. Any such request  
54 for a hearing shall be given priority over requests for hearings on other  
55 matters. The administrative law judge shall not approve any such  
56 discontinuance or reduction prior to the expiration of the period for  
57 requesting a hearing or the completion of such hearing, whichever is  
58 later.

59 (4) In any case where the administrative law judge finds that an  
60 employer has discontinued or reduced any payments made in  
61 accordance with this section without the approval of the administrative  
62 law judge, such employer shall be required to pay to the employee the  
63 total amount of all payments so discontinued and shall be required to  
64 pay interest to the employee, at a rate of one and one-quarter per cent  
65 per month or portion of a month, on any payments so discontinued or  
66 on the total amount by which such payments were reduced, as the case  
67 may be, plus reasonable attorney's fees incurred by the employee in  
68 relation to such discontinuance or reduction.

69 [(2)] (5) If the injured employee is a local or state police officer, state  
70 marshal, judicial marshal, correction officer, emergency medical  
71 technician, paramedic, ambulance driver, firefighter, or active member  
72 of a volunteer fire company or fire department engaged in volunteer  
73 duties, who has been exposed in the line of duty to blood or bodily fluids  
74 that may carry blood-borne disease, the medical and surgical aid or  
75 hospital and nursing service provided by the employer shall include any  
76 relevant diagnostic and prophylactic procedure for and treatment of any  
77 blood-borne disease.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	31-294d(a)

**Statement of Legislative Commissioners:**

In Subdiv. (2) of Subsec. (a), "prescriptions" was changed to "prescription drugs" for consistency with existing statutory language, and the terms "or reduce", "or reduction" and "or reducing" were added for consistency.

**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Admin. Serv., Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	STATE MANDATE <sup>1</sup> - Potential Cost	See Below	See Below

**Explanation**

The bill results in a potential cost to both the state and municipalities, as employers, for any discontinued or reduced payments and applicable attorney's fees related to an employee's discontinued or reduced coverage for prescriptions not pre-approved by the Workers' Compensation Commissioner.

For context, the bill requires employers, or insurers acting on behalf of employers, to provide notice and get approval before discontinuing coverage for prescriptions. In the event where an employer has discontinued or reduced coverage without the approval of the Workers' Compensation Commissioner, the employer is required to pay the

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<sup>1</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

employee the total amount of all discontinued payments with interest at a rate of one and one-quarter per cent per month. The bill also requires employers to pay for reasonable attorney's fees incurred by the employee in relation to the discontinuance or reduction.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 222*****AN ACT REQUIRING NOTICE OF DISCONTINUING PRESCRIPTION MEDICINE UNDER A WORKERS' COMPENSATION CLAIM.*****SUMMARY**

This bill requires an employer or insurer to provide notice to an employee and the Workers' Compensation Commission (WCC) before discontinuing or reducing payments for prescription drugs the employee is receiving under workers' compensation. The bill specifies (1) how the notice must be made, (2) that the employee has the right to a hearing on the matter, and (3) that no discontinuance or reduction in payment will happen before an administrative judge approves it in writing.

It also sets a penalty if a discontinuance or reduction takes place without approval.

EFFECTIVE DATE: October 1, 2022

**PRESCRIPTION DRUGS UNDER WORKERS' COMPENSATION**

By law, when an employee is injured at work, the employer has the responsibility to provide a physician, surgeon, physician assistant, or advanced practice registered nurse to attend to the injured employee. These medical professionals can prescribe prescription drugs for the employee as they deem necessary and the employer or the employer's insurance (or any representative acting on behalf of the employer or insurer) must pay for the prescription drugs and medical treatment.

***Notice***

The bill requires the notice of a possible discontinuance or reduction of payments to be made by certified mail to the employee and the WCC administrative law judge. The notice must inform the employee that a

request for a hearing must be made no later than 15 days after the receipt of the notice, or it will be approved automatically (Presumably, this means the request for the discontinuance or reduction of payment will be approved, not the notice itself.)

The notice also must include:

1. the reason for the discontinuance or reduction and the date it would begin;
2. the employee's identity, the employee's attorney or other representative, the employer, and the insurer;
3. information about the injury, including the date it happened, the city or town where it happened, and the nature of the injury; and
4. (4) medical documentation providing the basis for the discontinuance or reduction and the name of the claimant's attending physician or advanced practice registered nurse.

The bill requires the notice to substantially follow a form included in the bill. The form for the notice requires a heading stating, "IMPORTANT," followed by the notification that the employer or insurer intends to reduce or discontinue the individual's prescription payments on a specified date and the other required information mentioned above.

The form includes the following directions for the employee:

1. To request an Informal Hearing, call the Workers' Compensation Commission District Office in which your case is pending.
2. Be prepared to provide medical and other documentation to support your objection.
3. For your protection, note the date when you received this notice.

### **Hearing**

Under the bill, any such request for a hearing must have priority over



requests for hearings on other matters. An administrative law judge cannot approve a discontinuance or reduction before the expiration of the 15-day period for requesting a hearing or the completion of a hearing, whichever is later. No discontinuance or reduction will become effective unless the administrative law judge specifically approves it in writing.

**Penalty**

Under the bill, when the administrative law judge finds the employer has discontinued or reduced any payments for prescriptions without the judge’s approval, the employer will be required to pay the employee (1) the amount of all payments discontinued, plus interest at a rate of 1.25% per month or portion of a month on any discontinued payments or payment reductions and (2) reasonable attorney’s fees incurred by the employee related to the discontinuance or reduction.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/10/2022)