

January 23, 1963.
Social Security.

House File 54

By HAGIE, MOWRY, MENSING and RILEY.

Inst. Industrial Relations 2/13 - Passed as amended 2/26

Passed House, Date 2-11-63

Passed Senate, Date 3-21-63

Vote: Ayes 106 Nays 0

Vote: Ayes 47 Nays 0

Approved 3-28-63

*Note - Amended by Senate
concurrent by House
aye 95 - Nay 0
3/25*

A BILL FOR

An Act to amend chapter eighty-five (85), Code 1962, relating to workmen's compensation so as to liberalize certain benefits, to provide for certain credits, and waivers, and the administration thereof.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Section eighty-five point twenty-six (85.26),
2 Code 1962, is amended by changing the period (.) at the end
3 thereof to a comma (,) and by adding thereto the following:
4 "or within two (2) years after the time the employee had
5 knowledge thereof, or in the exercise of reasonable diligence,
6 should have had knowledge thereof."

1 Sec. 2. Section eighty-five point twenty-seven (85.27),
2 Code 1962, is amended by striking all thereof following the
3 period (.) in line nine (9), and substituting in lieu thereof
4 the following:

5 "The total amount which may be allowed for medical,
6 surgical, and hospital services and supplies, services of
7 special nurses, one set of prosthetic devices, and ambulance
8 charges, shall be unlimited. However, if the aggregate thereof
9 exceeds seventy-five hundred dollars (\$7,500.00), application
10 for the allowance of such additional amounts shall be made to
11 the commissioner by the claimant, and the commissioner may,
12 upon reasonable proof being furnished of real necessity therefor,
13 allow and order payment for additional surgical, medical,
14 osteopathic, chiropractic, podiatric and hospital services

15 and supplies, and no statutory period of limitation shall be
16 applicable thereto.

17 Charges believed to be excessive or unnecessary may be
18 referred to the industrial commissioner for determination, and
19 the commissioner may, in connection therewith, utilize the
20 procedures provided in section eighty-six point thirty-eight
21 (86.38).

22 Except in emergencies, it shall be the prerogative of the
23 employer to select the medical, surgical, and hospital services
24 to be furnished.”

1 Sec. 3. Section eighty-five point twenty-eight (85.28), Code
2 1962, is amended by striking from line four (4) thereof, the word
3 “three”, and substituting in lieu thereof the word “five”.

1 Sec. 4. Chapter eighty-five (85), Code 1962, is amended by
2 inserting immediately after section eighty-five point twenty-six
3 (85.26), a new section as follows:

4 “85.26a. No claim or proceedings for compensation shall be
5 maintained by any person other than the injured employee, his
6 dependent or his legal representative, if entitled to benefits.”.

1 Sec. 5. Section eighty-five point fifty-five (85.55), Code 1962,
2 is hereby amended by adding thereto the following:

3 “If an employer believes an employee has such a physical
4 defect, and the employee refuses the request of his employer to
5 enter into a written waiver agreement, the employer may in
6 writing petition the industrial commissioner to make a
7 determination whether such a physical defect exists. If the
8 industrial commissioner on hearing determines that the employee
9 has such a physical defect, then the employee and his dependents
10 shall not be entitled to compensation nor other benefits for any

11 injuries which may occur directly or indirectly because of such
12 physical defect. Nothing herein shall prevent an employer from
13 discharging an employee having such a physical defect, in lieu
14 of securing a waiver.”.

1 Sec 6. Chapter eighty-five (85), Code 1962, is hereby
2 amended by adding thereto a new section as follows:
3 “Credit for benefits paid under group plans. In the event
4 the disabled employee shall receive any benefits, including
5 medical, surgical or hospital benefits, under any group plan
6 covering nonoccupational disabilities contributed to wholly or
7 partially by the employer, which benefits should not have been
8 paid or payable if any rights of recovery existed under this
9 chapter or chapter eighty-five A (85A), then such amounts so
10 paid to said employee from any such group plan shall be credited
11 to or against any compensation payments, including medical,
12 surgical or hospital, made or to be made under this chapter or
13 chapter eighty-five A (85A). This section shall not apply to
14 payments made under any group plan which would have been
15 payable even though there was an injury under this chapter
16 or an occupational disease under chapter eighty-five A (85A).
17 Any employer receiving such credit shall keep such employee
18 safe and harmless from any and all claims or liabilities
19 that may be made against them by reason of having received
20 such payments only to the extent of such credit.”.

EXPLANATION OF HOUSE FILE 54

This bill will extend the two-year period of limitation within which actions may be brought for workmen's compensation benefits to meet the requirements of delayed discovery in cases caused by radiation and radio-active materials. Heretofore, the maximum allowed for medical surgical services has been limited to \$3,000 with certain exceptions, subject to the approval of the industrial commissioner. This bill provides that the total maximum amount allowable for medical and surgical services shall be unlimited, except when said total amount exceed \$7,500, the claimant must secure the approval of the industrial commissioner therefor. Such expenses could be paid for the life of the claimant. Also, the amount allowable for burial expense is raised from a

maximum of \$300 to \$500. The bill further restricts the filing of claims for benefits to the injured employee, or his dependent if entitled to collect benefits.

This bill further provides for a hearing before the Iowa industrial commissioner to determine whether an employee has an existing physical defect which increases the risk of injury, and if so, in the event the employee refuses to sign a waiver on account thereof, to provide for a hearing and determination as to whether compensation should be waived on account of injuries arising out of such defects.

This bill also provides that in the event an employee is paid benefits under a group or insurance plan and it is later determined that such benefits should have been paid under the workmen's compensation law, credit shall be given for such payments under the group plan which should have been paid under workmen's compensation.

- 1 Amend House File 54 by adding thereto a new section seven
- 2 (7) as follows:
- 3 "Sec. 7. Section eighty-five point thirty-seven (85.37),
- 4 Code 1962, is amended by striking therefrom all of lines
- 5 nine (9) to seventeen (17), and all line eighteen (18) to the
- 6 semi-colon (;) therein and substituting in lieu thereof the
- 7 following:
- 8 "Fifty dollars per week for an employee who has four or
- 9 more children;
- 10 Forty-six dollars per week for an employee who has three
- 11 children;
- 12 Forty-two dollars per week for an employee who has two
- 13 children;
- 14 Thirty-eight dollars per week for an employee who has one
- 15 child;
- 16 Thirtyfour dollars per week for an employee who has no
- 17 children;"

Filed - *adopted 2-6*
January 31, 1963.

HAGIE of Wright.
MOWRY of Marshall.
MENSING of Cedar.
RILEY of Linn.

HOUSE FILE 54

- 1 1. Amend House File 54 by striking therefrom all of
- 2 section five (5).
- 3 2. Further amend House File 54 by renumbering all subse-
- 4 quent sections.

Filed *Adopted 2-11*
February 4, 1963.

MURRAY of Webster.

- 1 Amend the title to House File 54, line three (3) by
- 2 striking therefrom the following: ", and waivers".

Filed and adopted
February 11, 1963.

MOWRY of Marshall.

- 1 Amend House File 54, section four (4), line four (4),
- 2 by striking the word "compensation" and inserting in lieu
- 3 thereof the word "benefits".

Filed and adopted
February 11, 1963.

KNOCK of Union.

- Adopted 3/21*
- (Committee Amendment)
- 1 → 1. Amend section 1 by striking lines 22, 23, and 24.
 - 2 2. Amend section 4 by inserting the following after the
 - 3 period (.) in line 13: "Such amounts so credited shall
 - 4 be deducted from the payments made under these chapters.
 - 5 Any nonoccupational plan shall be reimbursed in the
 - 6 amount so deducted."
- Adopted 3/21*

Filed
February 26, 1963.

By COMMITTEE ON INDUSTRIAL RELATIONS
RICHARD L. STEPHENS, *Chairman.*

House concurred
3/25

- 1 Amend House File 54 as follows:
- 2 1. Amend section 5, line 7, by striking the words
- 3 "Forty-six" and inserting in lieu thereof the words
- 4 "Forty-seven".
- 5 2. Amend section 5, line 9, by striking the words
- 6 "Forty-two" and inserting in lieu thereof the words
- 7 "Forty-four".
- 8 3. Amend section 5, line 11, by striking the words
- 9 "Thirty-eight" and inserting in lieu thereof the words
- 10 "Forty-one".
- 11 4. Amend section 5, line 13, by striking the words
- 12 "Thirty-four" and inserting in lieu thereof the words
- 13 "Thirty-eight".

Filed
February 27, 1963.

By O'MALLEY.

HOUSE FILE 54

- 1 Amend House File 54 by adding after line 21, section
- 2 2, the following:
- 3 "No employer shall show partiality between any licensed
- 4 practicing physician selected by the employee but may require that
- 5 any treatment, diagnosis, or determination be verified by another
- 6 licensed practicing physician."
- 7 "If any employer finds reason to object to the competency of
- 8 a particular physician for a specific treatment, diagnosis, or
- 9 determination, the industrial commissioner shall review any medical
- 10 statements or other facts and make determinations as to the type
- 11 of physician or specialist necessary for the specific treatment,
- 12 diagnosis, or determination."

Filed
February 28, 1963.

By WILSON.

HOUSE FILE 54

- 1 Amend the Committee Amendment to House File 54 by striking
- 2 line 1 and substituting the following in lieu thereof:
- 3 "1. Amend section 1 by striking lines 22, 23 and 24 and
- 4 substituting the following paragraph therefor:
- 5 'Except in emergencies, it shall be the prerogative of the
- 6 employee to select his medical, surgical and hospital services.
- 7 If the employer can prove to a reasonable degree of medical
- 8 certainty either that the services selected by the employee
- 9 were not reasonably necessary or that the same or better services
- 10 and results could have been obtained at lesser cost had the
- 11 employee accepted the employer's recommendation in the selection
- 12 of such services, the employer shall be liable only for the fair
- 13 and reasonable value of the services reasonably necessary.
- 14 Unless the employer requests it, the employer shall not be
- 15 liable for transporting the employee beyond the nearest city or
- 16 town in which hospital services are obtainable. In no event
- 17 shall the employer be liable for any medical, surgical or
- 18 hospital services if the employee refuses to submit to exami-
- 19 nation by any licensed practicing physician selected by the
- 20 employer.'"

Filed
March 12, 1963.

By TURNER.

HOUSE FILE 54

- 1 Amend the committee amendment by
- 2 striking line 1 and substituting the following in lieu thereof:
- 3 "1. Amend section 1 by striking lines 22, 23 and 24 and
- 4 substituting the following paragraph therefor:
- 5 'Except in emergencies, it shall be the prerogative of
- 6 the employer to select the medical, surgical and hospital
- 7 services. Upon application by the employee the commissioner
- 8 may require the employer to substitute such services, or
- 9 any part thereof, with others if the commissioner determines
- 10 that the service or services originally selected are in-
- 11 adequate to properly provide for the employee's recovery or
- 12 relief, or if any person or persons performing such services
- 13 is unqualified or incompetent to perform such services or
- 14 if such person is hostile to the employee or prejudiced
- 15 against him. No substitution of services shall be made
- 16 by the commissioner without an opportunity for the employer
- 17 to be heard following reasonable notice.'"

Filed and lost
March 21, 1963.

By BENEKE.

*Vote 16
aye
nays 41
Lost 3/21*

Lost 3/21

*Withdrawn
3/21*

*Vote 16
aye 37
nays 41
Lost 3/21*

HOUSE FILE 54

- 1 Amend House File 54, section 1, lines 20 and 21, by striking
- 2 "section eighty-six point thirty-eight (86.38)" and inserting in lieu
- 3 thereof the following: "sections eighty-six point thirty-eight (86.38)
- 4 and eighty-six point thirty-nine (86.39), Code 1962".

Filed and adopted
March 21, 1963.

*House concurred
3/25*

By TURNER.

HOUSE FILE 54

- 1 Amend the Committee Amendment to House File 54 by
- 2 striking line 1 and substituting the following in lieu thereof:
- 3 "1. Amend section 1 by striking lines 22, 23 and 24 and
- 4 substituting the following paragraph therefor:
- 5 'Except in emergencies, it shall be the prerogative of
- 6 the employer to select the medical, surgical and hospital
- 7 services. Upon application by the employee the commissioner
- 8 may require the employer to substitute such services, or
- 9 any part thereof, with others if the commissioner determines
- 10 that the service or services originally selected are in-
- 11 adequate to properly provide for the employee's recovery or
- 12 relief, or if any person or persons performing such services
- 13 is unqualified or incompetent to perform such services or
- 14 if such person is hostile to the employee or prejudiced
- 15 against him. No substitution of services shall be made
- 16 by the commission without an opportunity for the employer
- 17 to be heard following reasonable notice.'"

Filed and lost
March 21, 1963.

By TURNER.

HOUSE FILE 54

- 1 Amend the Schroeder amendment filed March 21, 1963, to
- 2 House File 54, line 4, by inserting after the word "pay" the
- 3 following: "without reasonable cause to be determined by the
- 4 district court".

Filed and lost
March 21, 1963.

By NOLAN.

HOUSE FILE 54

- 1 Amend House File 54 as follows:
- 2 1. By adding the following after the word "benefits." in
- 3 line 6 of section 3:
- 4 "If the employer or carrier shall decline to pay a claim
- 5 and appeal from a ruling of the industrial commissioner and
- 6 the injured person shall have employed an attorney at law in
- 7 the successful prosecution of his or her claim, there shall,
- 8 in addition to the award for compensation, be awarded a reason-
- 9 able attorney fee, to be approved by the industrial commissioner,
- 10 which may be paid directly to the attorney for the claimant, in
- 11 a lump sum. For services rendered in the district court and
- 12 supreme court, the attorney's fee shall be subject to the
- 13 approval of a judge of a district court, which fees shall be
- 14 in addition to the compensation paid the claimant, and shall
- 15 be paid as the court may direct, provided:
- 16 "If the employer or carrier submits a written offer of
- 17 settlement to the claimant or his duly appointed representative,
- 18 and said offer is of a definite amount and made prior to a
- 19 hearing before either the deputy commissioner, commissioner or
- 20 district court, and if the subsequent award is not in excess of
- 21 the written offer of settlement, then and in that event, the
- 22 attorney fee shall not be assessed against the employer or
- 23 carrier."

Filed and lost
March 21, 1963.

*Vote -
aye 23
nay 25*

By SCHROEDER.