

ENROLLED ACT NO. 13, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2004 BUDGET SESSION

AN ACT relating to workers' compensation; amending temporary light duty award; amending temporary light duty requirements; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 27-14-403(a)(i) and (c)(intro) and 27-14-404(j) are amended to read:

27-14-403. Awards generally; method of payment.

(a) In addition to payment of medical and hospital care and artificial replacement, an injured employee and his dependents may be entitled to one (1) or more awards for:

(i) Temporary total disability or temporary light duty;

(c) All awards stated in ~~subsection (a) of~~ this section except awards under subsections paragraph (a)(i), subsection (b), and paragraphs (e)(ii), (iv) and (v) and (h)(ii) and subsection (k) of this section shall be paid monthly at the rates prescribed by this subsection. For permanent partial impairment under paragraph (a)(ii) of this section, the award shall be paid monthly at the rate of two-thirds (2/3) of the statewide average monthly wage for the twelve (12) month period immediately preceding the quarterly period in which the injury occurred as determined pursuant to W.S. 27-14-802. For temporary total disability under paragraph (a)(i) of this section, the award shall be paid monthly at the rate of two-thirds (2/3) of the injured employee's actual monthly earnings at the time of injury but not to exceed the statewide average monthly wage for the twelve (12) month period immediately preceding the

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quarterly period in which the injury occurred as determined pursuant to W.S. 27-14-802. For temporary light duty under paragraph (a)(i) of this section, the award shall be paid monthly at the rate of eighty percent (80%) of the difference between the employee's light duty wage and the employee's actual monthly earnings at the time of injury. For permanent partial and permanent total disability or death under paragraphs (a)(iii), (iv) and (v) of this section, the award shall be paid monthly computed as follows:

27-14-404. Temporary total disability; benefits; determination of eligibility; exceptions for volunteers or prisoners; period of certification limited; temporary light duty employment.

(j) An employer may make a written offer of temporary light duty work to an employee receiving temporary total disability under subsection (a) of this section. The offer shall be a bona fide offer on a form supplied by the division, stating with specificity the proposed hours of employment, starting date, wage and physical or other functional capacity requirements of the light duty work. If the employee accepts the offer, the temporary total disability award ~~calculated pursuant to W.S. 27-14-403(c) shall be reduced by two-thirds (2/3) and the balance of the award shall not be charged to the employer's experience rating. If the employee refuses light duty work offered under this subsection, the award shall be reduced by two-thirds (2/3) of the temporary total disability award calculated pursuant to W.S. 27-14-403(c) and the balance of the award shall not be charged to the employer's experience rating~~ shall cease and the employee shall receive a temporary light duty award, subject to the following terms and conditions:

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(i) After notice to the employer, the health care provider who certified temporary total disability or any other health care provider who physically examined the employee certifies, following review of the written work offer, that the offered has certified on the light duty work agreement that the employee is released to perform the light duty work is not expected to unreasonably endanger the employee or unreasonably hinder the employee's recovery described in the agreement;

(ii) The All periods of light duty work assignment is not greater than the time period prescribed under subsection (c) of this section may not exceed one (1) year cumulatively for any one (1) injury;

(iii) The reduction in the temporary total disability award temporary light duty assignment commences not less than fourteen (14) days following the written offer;

(iv) The wage paid to the employee for Payment of the temporary light duty work is at least two-thirds (2/3) of the employee's regular wage rate award shall cease as provided for temporary total disability under subsection (c) of this section or if the employee's actual monthly earnings from all sources when combined with the temporary light duty award exceed ninety-five percent (95%) of the employee's actual monthly earnings at the time of injury;

(v) Upon request of The employer, there has been a final administrative determination, based upon competent medical evidence, that the offered shall provide the division before commencement of the light duty work is not likely to unreasonably endanger the employee or unreasonably hinder the employee's recovery. Any determination and any review of a determination under this

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~~paragraph shall be in accordance with W.S. 27-14-601 and 27-14-602. In any hearing held pursuant to W.S. 27-14-602 for purposes of this paragraph, the employee shall have the burden of proving that the offered light duty work is likely to unreasonably endanger the employee or unreasonably hinder the employee's recovery~~ with a copy of the light duty work agreement signed by the employer and the employee, and shall report to the division by the fifteenth of each month the employee's hours and rate of pay for the previous month; ~~and~~

(vi) ~~The employee has not refused the light duty work pursuant to this paragraph.~~ temporary total disability award of any employee tendered refusing a bona fide written offer of temporary light duty work pursuant to this subsection ~~may refuse the light duty work offered if~~ shall be reduced by two-thirds (2/3) unless the employee provides written proof to the employer and the division of enrollment by the employee in any collegiate, vocational retraining, general education development or other program approved by the division which is designed to retrain the employee for employment in an occupation other than that previously offered by the employer; ~~and~~ and

(vii) The temporary light duty award under this subsection and the balance of a temporary total disability award under paragraph (vi) of this subsection shall not be charged to the employer's experience rating established under W.S. 27-14-201(d).

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Section 2. This act is effective July 1, 2004.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk