



SENATE BILL 489: Clarify Workers' Comp. Policy Cancellation.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Insurance	Date:	June 22, 2017
Introduced by:	Sens. Bishop, Daniel, Clark	Prepared by:	Bill Patterson
Analysis of:	PCS to Second Edition S489-CSTG-34		Staff Attorney

OVERVIEW: *The PCS for Senate 489 would provide that an insurer's delivery of a notice of cancellation of a workers' compensation insurance policy will be deemed to have been completed within three days of having been sent if the insurer also sends it on the same day by first-class mail and by electronic means to the insured and any other person designated in the policy to receive notice. The PCS deletes a provision in Section 1 of the Second Edition of the bill that would have required notice of cancellation also to be given by first-class mail to any person to whom the insurer provided a certificate of insurance, and adds a new Section 3 authorizing another deputy commissioner or member of the Industrial Commission to be assigned to decide a case and issue an award if the deputy commissioner or member who conducted the hearing is unable to do so.*

CURRENT LAW:

In order to cancel a workers' compensation policy, the insured must be given written notice of the insurer's intent to cancel at least 15 days before the proposed effective cancellation date.¹ The required notice can be sent by registered or certified mail, return receipt requested, or by any method for service permitted under Rule 4 of the North Carolina Rules of Civil Procedure. If the insurer sends the notice by registered or certified mail, return receipt requested, the cancellation is not effective until that method of delivery is employed and completed.

Except for cancellation, termination, or nonrenewal of workers' compensation policies, when any State insurance law requires that a communication be provided to a party in writing, signed by a party, provided by means of a specific delivery method, or retained by an insurer, the requirement is satisfied if the insurer complies with the Uniform Electronic Transactions Act.²

Disputed workers' compensation claims may be heard by the Industrial Commission, any Commission member, or a deputy commissioner. When a claim is assigned for hearing to a deputy commissioner, G.S. 97-84 provides "said deputy shall proceed to a complete determination of the matters in dispute . . . and cause to be issued an award pursuant to such determination." This provision has been construed to require that a disputed workers' compensation claim must be handled by the same deputy commissioner, from the hearing to the issuance of an award.³

ANALYSIS: Section 1 would provide that a notice of intent to cancel a workers' compensation policy sent by registered or certified mail, return receipt requested, is conclusively presumed completed three days after the notice is sent if, on the same day the notice is sent by registered or certified mail, return receipt requested,

¹ G.S. 58-36-105(b).

² G.S. 58-2-255(b).

³ Bentley v. Jonathan Piner Constr., 790 S.E.2d 379, 381 (2016).

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the insurer also sends the notice by first-class mail and by electronic means⁴ to the insured and any other person designated in the policy to receive notice. Delivery of the supplemental notice by electronic means would be effective for the limited purpose of establishing this conclusive presumption.

Section 2 would provide that when any State insurance law requires that a communication involving cancellation, termination, or non-renewal of a workers' compensation policy be provided to a party in writing, signed by a party, provided by means of a specific delivery method, or retained by an insurer, the requirement is satisfied if the insurer complies with the Uniform Electronic Transactions Act.

Section 3 would provide that in the event that the deputy commissioner or Commission member who heard the parties and their representatives and witnesses is unable to determine the matters in dispute and issue an award, the Commission may assign another member or deputy commissioner to do so.

EFFECTIVE DATE: This act is effective when it becomes law. Sections 1 and 2 apply to notices of cancellation of workers' compensation policy sent on or after that date. Section 3 applies to claims pending on or after that date.

⁴ Under G.S. 58-2-255(a) "delivered by electronic means" includes any of the following:

- Delivery to an electronic mail address or an electronic account at which a party has consented to receive electronic communications.
- Displaying information, or a link to information, as an essential step to completing the transaction to which such information relates.
- Providing notice to a party at the electronic mail address or an electronic account at which the party has consented to receive notice of the posting of a communication on an electronic network or site.