

Why Amended R.C. 4123.512(A) Will Save Your Clients Time and Money

By Chelsea Fulton Rubin

On June 30, 2017, Governor Kasich signed into law Substitute House Bill 27, the Bureau of Workers' Compensation budget bill. It made several substantive changes to Ohio's workers' compensation statute, including two amendments to R.C. 4123.512. First, it raised the maximum attorney fee from \$4,200 to \$5,000 if a claimant proves their right to participate under R.C. 4123.512(F). Additionally, it created an extended window of time for parties to attempt to settle before filing an appeal into a court of common pleas under R.C. 4123.512(A). However, claimants' workplace injuries must have occurred on or after September 29, 2017 for the amendments to apply.

The new settlement window should have a significant—and positive—impact on your clients. The amendment increases the time for filing a R.C. 4123.512 appeal from sixty days to one-hundred-fifty days if a party files a notice of intent to settle with the Bureau of Workers' Compensation within thirty days of a final, appealable order from the Industrial Commission. The parties will then have one-hundred-fifty days to attempt to settle the claim unless the opposing party files an objection to the notice of intent to settle within fourteen days. In the latter scenario, the party would then have to file a R.C. 4123.512 appeal within the original sixty-day timeframe if they still wish to pursue an appeal. Under the amendment, even if a case is complex and requires mediation, the parties will have one-hundred-fifty days to attempt to arrive at a resolution. And if settlement is not possible, the parties can still go to court.

The new settlement provision will save all parties a significant amount of blood, sweat, and tears. Neither party will need to pay ever-increasing filing fees to a court of common pleas if the underlying reason for the appeal is to initiate settlement discussions. Judges across the state will no longer need to deal with workers' compensation cases that clog their dockets and which

are generally settled without the assistance of the courts. Workers' compensation practitioners will no longer need to do superfluous discovery or face court deadlines if the primary strategy behind their R.C. 4123.512 appeal is to initiate settlement. Solo practitioners will no longer need to refer R.C. 4123.512 appeals to other attorneys and will be able to settle more of their cases expediently. Ideally, the office of the Ohio Attorney General will no longer need to refer cases to private firms in order to represent the Bureau of Workers' Compensation as the amendment will significantly reduce their workload in the future.

In sum, this amendment will single-handedly make the workers' compensation system more expedient and economical for all sides, the reason the system was created in the first place:

The [Ohio Workers' Compensation Act] was designed to create a new system, fair to both employee and employer, and to do away with the vexatious and protracted litigation which had proved so costly, exhaustive and unsatisfactory, oftentimes resulting in great injustice. Material concessions were made by both employee and employer for the ultimate good of both.¹

The only problem with the amendment is that it exclusively applies to injuries that have occurred on or after September 29, 2017. The Ohio Association for Justice should work with the business community and the Bureau of Workers' Compensation to amend the legislation and apply it retroactively. For the settlement provision benefits everyone—injured workers, employers, taxpayers, the Industrial Commission, the Ohio Bureau of Workers' Compensation—touched by the Ohio workers' compensation system.

¹ *Goodman v. Beall*, 130 Ohio St. 427, 200 N.E. 470 (1936).