

and inserted “the lesser of—” after “by” in introductory language, designated balance of existing provisions as par. (1), substituted “; or” for a period at end of par. (1), and added par. (2).

Subsec. (i). Pub. L. 98-426, §10(a)(2), added subsec. (i). 1972—Subsecs. (f) to (h). Pub. L. 92-576 added subsecs. (f) to (h).

1948—Subsec. (a). Act June 24, 1948, included a factor (a 260 multiplier) so as to make this subsec. useful in 5-day week employments.

Subsec. (b). Act June 24, 1948, included the new factor (a 260 multiplier) to make this subsec. consistent with subsec. (a).

Subsec. (c). Act June 24, 1948, permitted the inclusion of all earnings of the injured workman in determining the employee's annual earning capacity.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 10(a) of Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after such date and to claims pending on such date, and amendment by section 10(b) of Pub. L. 98-426 effective Sept. 28, 1984, see section 28(a), (e)(1) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 24, 1948, applicable to death or injuries occurring after June 24, 1948, see section 6 of act June 24, 1948, set out as a note under section 906 of this title.

§ 911. Guardian for minor or incompetent

The deputy commissioner may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this chapter and to exercise the powers granted to or to perform the duties required of such person under this chapter.

(Mar. 4, 1927, ch. 509, §11, 44 Stat. 1431.)

§ 912. Notice of injury or death

(a) Time limitation

Notice of an injury or death in respect of which compensation is payable under this chapter shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of a relationship between the injury or death and the employment, except that in the case of an occupational disease which does not immediately result in a disability or death, such notice shall be given within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability. Notice shall be given (1) to the deputy commissioner in the compensation district in which the injury or death occurred, and (2) to the employer.

(b) Form and content

Such notice shall be in writing, shall contain the name and address of the employee and a

statement of the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by some person on his behalf, or in case of death, by any person claiming to be entitled to compensation for such death or by a person on his behalf.

(c) Delivery requirements

Notice shall be given to the deputy commissioner by delivering it to him or sending it by mail addressed to his office, and to the employer by delivering it to him or by sending it by mail addressed to him at his last known place of business. If the employer is a partnership, such notice may be given to any partner, or if a corporation, such notice may be given to any agent or officer thereof upon whom legal process may be served or who is in charge of the business in the place where the injury occurred. Each employer shall designate those agents or other responsible officials to receive such notice, except that the employer shall designate as its representatives individuals among first line supervisors, local plant management, and personnel office officials. Such designations shall be made in accordance with regulations prescribed by the Secretary and the employer shall notify his employees and the Secretary of such designation in a manner prescribed by the Secretary in regulations.

(d) Failure to give notice

Failure to give such notice shall not bar any claim under this chapter (1) if the employer (or his agent or agents or other responsible official or officials designated by the employer pursuant to subsection (c)) or the carrier had knowledge of the injury or death, (2) the deputy commissioner determines that the employer or carrier has not been prejudiced by failure to give such notice, or (3) if the deputy commissioner excuses such failure on the ground that (i) notice, while not given to a responsible official designated by the employer pursuant to subsection (c) of this section, was given to an official of the employer or the employer's insurance carrier, and that the employer or carrier was not prejudiced due to the failure to provide notice to a responsible official designated by the employer pursuant to subsection (c), or (ii) for some satisfactory reason such notice could not be given; nor unless objection to such failure is raised before the deputy commissioner at the first hearing of a claim for compensation in respect of such injury or death.

(Mar. 4, 1927, ch. 509, §12, 44 Stat. 1431; Pub. L. 92-576, §12(a), Oct. 27, 1972, 86 Stat. 1259; Pub. L. 98-426, §11, Sept. 28, 1984, 98 Stat. 1648.)

Editorial Notes

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-426, §11(a), inserted a comma after “aware” and “only by reason of medical advice” after “diligence” and inserted “except that in the case of an occupational disease which does not immediately result in a disability or death, such notice shall be given within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability” in first sentence.