Suspension of Portions of Section 413 of the Workers' Compensation Act

As part of the on-going disaster declaration to address the spread of COVID-19, in alliance with the Governor's objectives to mitigate the impacts of COVID-19 within the workers' compensation system in Pennsylvania, the Governor has suspended Section 413 of the Workers' Compensation Act (77 P.S. §§ 774.2 and 774.3).

(c) Notwithstanding any provision of this act, an insurer may suspend the compensation during the time the employee has returned to work at his prior or increased earnings upon written notification of suspension by the insurer to the employee and the department, on a form prescribed by the department for this purpose. The notification of suspension shall include an affidavit by the insurer that compensation has been suspended because the employee has returned to work at prior or increased earnings. The insurer must mail the notification of suspension to the employee and the department within seven days of the insurer suspending compensation.

(1) If the employee contests the averments of the insurer's affidavit, a special supersedeas hearing before a workers' compensation judge may be requested by the employee indicating by a checkoff on the notification form that the suspension of benefits is being challenged and filing the notification of challenge with the department within twenty days of receipt of the notification of suspension from the insurer. The special supersedeas hearing shall be held within twenty-one days of the employee's filing of the notification of challenge.

(2) If the employee does not challenge the insurer's notification of suspension within twenty days under paragraph (1), the employee shall be deemed to have admitted to the return to work and receipt of wages at prior or increased earnings. The insurer's notification of suspension shall be deemed to have the same binding effect as a fully executed supplemental agreement for the modification of benefits.

(d) Notwithstanding any provision of this act, an insurer may modify the compensation payments made during the time the employee has returned to work at earnings less than the employee earned at the time of the work-related injury, upon written notification of modification by the insurer to the employee and the department, on a form prescribed by the department for this purpose. The notification of modification shall include an affidavit by the insurer that compensation has been modified because the employee has returned to work at lesser earnings. The insurer must mail the notification of modification to the employee and the department within seven days of the insurer's modifying compensation.

(1) If the employee contests the averments of the insurer's affidavit, a special supersedeas hearing before a workers' compensation judge may be requested by the employee indicating by a checkoff on the notification form that the modification of benefits is being challenged and filing the notification of challenge with the department within twenty days of receipt of the notification of modification from the insurer. The special supersedeas
hearing shall be held within twenty-one days of the employe's filing of the notification of challenge.

(2) If the employe does not challenge the insurer's notification of modification within twenty days under paragraph (1), the employe shall be deemed to have admitted to the return to work and receipt of wages at lesser earnings as alleged by the insurer. The insurer's notification of modification shall be deemed to have the same binding effect as a fully executed supplemental agreement for the modification of benefits.