



SUMMARY OF CURRENT SPRINGFIELD LEGISLATIVE ACTIVITY

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On June 28, 2011, Gov. Quinn signed into law the workers' compensation reform bill known as "Senate Amendment 3 to HB 1698". This bill represents the culmination of lengthy debate amongst several entities, including the Illinois business community, organized labor, the medical community and Illinois' legislators. Proponents of the bill anticipate Illinois businesses will realize annual savings of \$500 million to \$750 million.

Notably absent in the reform bill is the "causation" provision that would have required the workplace to represent the primary contributing cause of the claimed injury in order to establish a compensable claim. Highlights of the reform bill include:

1. **Proof of injury.** Case law is now codified to require that employees claiming benefits prove by a preponderance of the evidence that his or her injury "arises out of" and "in the course of" the employment.
2. **Limitations on wage differential.** The bill provides for revision of the duration of wage differential payments pursuant to Section 8(d)1. The bill limits wage differential payments to age 67 or five years, whichever occurs later.
3. **Limits on carpal tunnel claims.** Effective immediately, repetitive or cumulative trauma CTS claims are limited at up to 15% loss of the hand. The maximum number of weeks under Section 8(e)9 is capped at 190 weeks for CTS. There is a provision allowing for benefits up to 30% loss of the hand for good cause and with the presentation of "clear and convincing evidence" as to the reason for the increased benefit.
4. **Adoption of American Medical Association standards to determine disability.** For injuries after September 1, 2011, the Commission shall base its determination of permanent partial disability on:
 - AMA Guidelines;
 - The claimant's occupation;
 - The claimant's age;
 - The claimant's future earning capacity; and
 - "Evidence of disability" corroborated by the treating records.

Under this provision, the trier of fact is precluded from relying solely on one of the factors.

5. **Temporary Partial Disability (TPD).** TPD benefits, which are included in Section 8(a) of the Act, are now calculated based on gross earnings instead of the net earnings.

6. **Accidents involving drugs or alcohol.** Compensation is denied where intoxication is the proximate cause of accidental injuries. There are specific guidelines, including the 0.08% standard for alcohol in the blood, urine or breath. There are additional provisions defining “proximate cause”, including refusal to submit to testing.
7. **Revision of the Fee Schedule.** The bill includes a 30 percent reduction in the medical fees, restructuring and reduction of the “geozips”, caps on the cost of implants and inclusion of prescription medications dispensed outside a licensed pharmacy.
8. **Utilization review.** The standards for recognition of Utilization Review have been revised with provisions for increasing the recognition and consideration of Utilization Review reports.
9. **Creation of PPO network.** Effective immediately, the bill provides for the creation of provider networks, similar to preferred provider networks already used in health care generally. A key element of this provision is the employer’s ability to direct the claimant to the preferred treatment facility. Refusal by the employee to participate is construed as the “first choice” of doctor, which will then limit the employee to one additional choice.
10. **Interest on medical bills.** Employers are now required to either pay or provide written notification with the basis of denial and request the necessary “data elements” necessary to adjudicate the bill within 30 days. Exposure for interest and penalties will arise after 30 days.
11. **IWCC structure and standards.** Key provisions include the termination of all sitting arbitrators. The arbitrators may be re-appointed. The term limit for arbitrators is reduced from 6 to 3-years; subject to re-appointment by the Chairman and approval by the Senate. Additional provisions are included for the duration of the assignment to call sites and ethical and educational guidelines for arbitrators.

Please continue to watch the ISIA website for additional developments. The ISIA will be providing periodic updates as to the roll-out of the reform bill.

Please contact the ISIA relative to any questions regarding this important legislation.