

Enterprise Law Group, LLP

Bulletin

CHANGES TO IL WORKERS' COMPENSATION -- IS YOUR COMPANY AWARE?

The Illinois Workers Compensation Reform of 2011 (the "New Law") offers major changes; the following is synopsis of the changes embodied by Bill HB 1698 and is intended as a guide. The New Law became effective September 1, 2011. Below are some important changes employers should know:

One major change under the New Law is how an employee chooses his/her doctors after the employee was injured in a work-related accident. Previously, injured workers could choose up to two doctors for treatment and the employer was responsible for paying the medical bills of both doctors. The New Law establishes a physicians' preferred provider network of medical professionals for treatment of work related injuries. Employees have choices of doctors in the employer's network. This means employees can select two doctors to use for treatment from the employer's network. Employees may opt out of the network, in writing, at any time. If employees opt out, they only have one doctor choice outside the network. This benefits the employer where the employer has the first choice of medical treatment by selecting the network, and the employees' choice of doctors would be limited. For the most part, the broad choice of doctors is no longer part of receiving benefits for workers' compensation claims in Illinois.

Under the New Law, medical providers will also be taking a reduction according to a new medical fee schedule. Previously, the Illinois legislature placed caps on fees for medical treatment, services or supplies, but that did not control associated medical expenses. Among other changes, the New Law establishes new payment structures that amount to a 30% reduction in fees. Essentially, reimbursements to doctors and hospitals were cut by 30% from the current fee schedule. An added benefit to the employer is that the Illinois Department of Insurance expects up to a 10% reduction on employer insurance premiums.

There were also differences after the New Law was implemented, when assessing the permanent partial disability of the injured worker. When an employee returns to regular work but has a permanent limitation or restriction, Illinois provides for an assessment known as permanent partial disability. Previously, the subjective testimony of the injured worker was weighed during such assessment. That testimony included the employee's complaints and factors such as age and nature of the injury. Instead, five specific objective measures, such as occupation, age, future earnings capacity, evidence of disability, and level of impairment, will be looked at to determine the extent of permanent partial disability. These measures will be based on American Medical Association guidelines.

The New Law also reduces the amounts of benefits injured workers can receive for carpal tunnel injuries. Carpal tunnel syndrome is a repetitive stress injury caused to the hands. Benefits are based on a partial loss of the use of the hand. Now, the permanency award will not exceed 15% loss of use to the hand, except where for cause shown by clear, convincing evidence, the award may be up to a maximum of 30% loss of the hand. The total loss of the hand in this instance is limited to 190 weeks of compensation. But in any event, these benefits are now capped and carry less compensation than they did before.

Further, the New Law will provide another reduction in benefits for injured workers for lost wages that are the result of a work related accident. Previously, the injured worker could be compensated over his/her lifetime for the “wage differential,” the reduced amount the injured worker is able to earn at work. Under the New Law, the wage differential benefits end the later of the injured worker’s 67th birthday or five (5) years after the claim.

The New Law also denies claims by intoxicated workers injured due to their own inebriation. Workers will not receive benefits for these injuries, unless they can prove that their injury was not caused by the alcohol, and that they were not so intoxicated that it could not be considered a work incident any longer.

If you have any questions regarding the foregoing, please contact Serge Biberman at (312) 428-3019 or serge@enterpriselg.com, or Michael Gnesin at (312) 428-3017 or mgnedin@enterpriselg.com.