



Legislative Update

Workers' Compensation Reform

The state legislature has approved a New Worker's Compensation Law reform package. These are the elements of the new proposal offered by Governor Eliot Spitzer, which is now law.

Increases the maximum weekly benefits for permanent or temporary partial disability and permanent or temporary total disability from \$400 to \$500 in the first year, \$550 in the second year, \$600 in the third year, and two-thirds the New York State average weekly wage each year thereafter.

Increases the maximum amount of weekly compensation to be taken into account in calculating death benefits.

Creates a max number of weeks that a permanent partial disability recipient may receive indemnity payments.

Reduces employer costs for workers compensation by 10 % to 15 % at an annual savings of nearly \$1 billion.

Raises the minimum weekly benefit from \$40 to \$100.

Provisions relating to fraud prevention, detection, or punishment

Failure to secure coverage for compensation for five or more employees during a twelve-month period is a Class E felony, and a second or subsequent conviction is a Class D felony.

Provides for the assessment of costs against parties, and attorneys fees against attorneys or licensed workers compensation representatives, who institute or maintain actions without reasonable ground.

Facilitates greater coordination and communication between the Workers' Compensation Board, the Dept. of Labor, the Dept. of Taxation and Finance, the Dept. of Motor Vehicles and the Dept. of Insurance.

Provides that any employers or insurance carrier that discriminates against an injured veteran shall be guilty of a Class A misdemeanor.

Provisions to achieve greater efficiencies or costs savings in the Workers' Compensation System

Provides for dental care and prosthetic devices to the list of covered treatments and covered devices and apparatus, respectively, which employers must provide to injured employees.

Requires employers and/or carriers to pay the scheduled fee for prescription drugs in all cases, unless the liability of the employer for the cost of the prescribed medicine is not reasonably clear.

Raises from \$500 to \$1,000 the maximum cost of specialist treatments for which an employer is automatically liable without prior authorization from the carrier, the State Insurance Fund or employer.

Authorizes carriers, self-insurers and the State Insurance Fund to contract with a network or networks to perform diagnostic tests, x-ray examinations, magnetic resonance imaging, or other radiological examinations.

Requires the Commissioner of Labor to promulgate rules and regulations for the implementation of safety, drug and alcohol prevention and "return to work" incentive programs.

Deems ineligible for all benefits under the Workers' Compensation Law those persons incarcerated upon conviction of a felony.

Allows the chair to remove from the list of physicians authorized to render medical care those physicians who have been found guilty of professional or other misconduct.

Allows for an insurance policy providing coverage for workers' compensation claims to be issued by more than one insurance company authorized to transact workers' compensation insurance in the state.

Allows the State Insurance Fund to invest up to ten % of its surplus and reserve funds in certain securities.

These changes have been publicized as a major expense saver for employers. Only time will tell, but they are a step in the right direction