

HB 1698 -Workers' Compensation Reform Summary of Key Components

1. The promise of Workers Comp.
 - a. Fair treatment and compensation of workers injured on the job, limited legal involvement.
 - b. Evolved into an expensive system unduly benefiting some doctors and lawyers over patient/employers interests.
2. How did we get here?
 - a. Organized labor support for employee benefits. Medical/Lawyer support.
 - b. System became so maligned even Democrats supporting it knew a review/changes were required.
3. What are the changes?
 - a. A 30% reduction in the Medical Fee Schedule to address health care costs that are the second highest in the United States. However, among states with fee schedules, Illinois **will continue to have the second highest fee schedule in the country.**
 - b. Will require doctors to use American Medical Association standards to determine impairment for the first time in Illinois history. Arbitrators will use AMA impairment ratings when determining disability. However, there is significant flexibility in the language that will allow the Commission to weigh other factors into its decisions including occupation, age and future earning capacity.
 - c. Allows an employer to utilize a preferred provider organization (PPO) approved by the Department of Insurance to provide workers compensation medical services and requires an employee to use providers that are part of the network. However, an injured employee may choose in writing at any time to decline the preferred provider program. Also, an employee will be allowed a third choice of doctor outside of the network.
 - d. Strengthens the 2005 Utilization Review provisions. "An admissible utilization review shall be considered by the Commission, along with all other evidence and in the same manner as all other evidence, and must be addressed along with all other evidence in the determination of the reasonableness and necessity of the medical bills or treatment." The medical professional responsible for review in the final state of utilization review or appeal must be available for interview or deposition.

e.. Eliminates lifetime wage differential payments. Employees will now receive wage differential payments during their work career to the age of 67 or five years, whichever is later.

f. Reduces carpal tunnel syndrome payments from an average 40 weeks award to a maximum of 28 weeks.

g. Allows for the appointment of new Workers' Compensation arbitrators, who must be approved by the Senate and all new appointees must be lawyers. There are a number of provisions pertaining to the Workers' Compensation Commission including new ethical standards, training requirements, operations and personnel appointments. Also, there are a number of fraud provisions including the establishment of criminal penalties based on severity of crime starting with misdemeanor to Class 1 felony. The Department is also given subpoena powers, also directed to investigate fraud by employing modern investigative methods.

h. Changes the rebuttable presumption for workers injured while under the influence of illegal drugs or alcohol. No compensation shall be payable if the employee's intoxication is the sole proximate cause of the employee's accidental injury or at the time the employee incurred the accidental injury, the employee was so intoxicated, the intoxication constituted a departure from the employment and producing an annual report of their activities and findings.

i. The National Council on Compensation Insurance will be required to recalculate the worker's compensation advisory premium rates and assigned risk pool premium rates so that those premiums incorporate the provisions of this legislation and to publish such rates on or before September 1, 2011. Reductions were not as great as many had proclaimed. (see Tim's remarks for actual rate changes)

j. The Department of Insurance is required to submit an annual report to the Governor and key legislators on the state of the Illinois workers' compensation market. To generate this report, significant additional data may be required from NCCI and from workers' compensation insurers. Also rules for the submission of electronic medical bills.

k. The Department of Labor shall adopt a selection process to designate two labor organizations to participate in the collective bargaining pilot program. To have a valid ADR agreement, the workers compensation insurer must agree to any contractual agreements.

4. What employers sought, but didn't get.
 - a. Causation
 - b. Broader bargained for Worker's Comp
 - c. Choice of Doctor

5. Where do we go from here?
 - a. Don't expect any immediate changes to the law next year.
 - b. Continued monitoring of medical fees and insurance rates in order to show additional reform is needed.