

2011 Illinois Workers' Compensation Reform Key Components

Law Changes Effective June 28, 2011

Carpal Tunnel Syndrome

New Law

- Repetitive or cumulative traumas only.
- CTS awards/settlement capped at 15% loss of use of the hand (28.5 weeks).
- For "clear & convincing evidence" award can increase to 30% (57 weeks).
- PPD awards/settlements for the hand related to CTS have been reduced back to 190 weeks from 205 of disability

Prior Law

- Repetitive or cumulative trauma cases with regard to carpal tunnel awards/settlements were NOT capped.

Anticipated Benefits

- Employers should see lower costs of repetitive trauma CTS awards/settlements.

Preferred Physician Panels (PPP's)

New Law

- If no PPP, current law applies:
 - Employee can choose 2 doctors and all referrals
- If PPP:
 - Employee can opt out in writing and choose 1 doctor and all referrals.
 - Employee can opt in and choose 2 doctors all referrals.

Prior Law

- PPP provision is a new section of the Act.

Anticipated Benefits

- Allows some medical direction by employer.
- Limits doctor choice.

Temporary Partial Disability (TPD) Computation

New Law

- New provision requires us to calculate using gross wages.

Prior Law

- TPD was calculated using net wages.

Anticipated Benefits

- Employers will experience savings from the new calculation provision.

Law Changes Effective June 28, 2011 Continued

Arbitrators

New Law

- All Arbitrators were terminated and have since been either re-appointed or replaced.
- 3-year terms.
- Must be IL-licensed attorneys (current non-attorneys grandfathered in).
- Minimum of three Arbitrators in all venues.
- New training requirements for Arbitrators.

Prior Law

- No term limit.
- No requirement to be a licensed attorney.
- One arbitrator per venue prior to reform.

Anticipated Benefits

- Increased accountability and commitment to CLE.

Law Changes Effective September 1, 2011

Fee Schedule

New Law

- Reimbursement for fee scheduled treatment has been reduced by 30%.
- Fee schedule now includes in-patient hospital care, out of pocket hospital care, emergency room care, Surgical Centers and prescriptions.
- If not fee scheduled: reimbursement will be 53.2%.

Prior Law

- Non fee schedule treatment was reimbursed at 76%.

Anticipated Benefits

- All medical fees should see a reduction.
- Employers should see a significant savings.

Intoxication

New Law

- No compensation if: (1) Intoxication is proximate cause of injury; (2) So intoxicated that the intoxication was departure from employment.
- Rebuttable presumption that intoxication is the proximate cause of the injury when the employee's blood, breath or urine test results report 0.08% or higher or where there is evidence of impairment due to unlawful or unauthorized use of drugs.
- If the employee refuses to submit to drug and/or alcohol testing, there is a rebuttable presumption that the employee was intoxicated and that the intoxication was the proximate cause of the injury.

Prior Law

- Provision codifies existing case law.

Law Changes Effective September 1, 2011 Continued

PPD

New Law

- AMA guidelines to be used to determine impairment along with 4 other factors:
 - Occupation
 - Age
 - Future earning capacity
 - Evidence of disability in medical records
- No single factor shall determine disability.

Prior Law

- New law - did not exist before.

Anticipated Benefits

- Should help to reduce amount of awards/settlements as determinations will be more objective and not as subjective.

Utilization Review

New Law

- If valid UR denies treatment, employee has a burden to show treatment is reasonably required.
- UR only for extent & scope of treatment.
- UR professional must be available in IL or by phone for deposition.

Prior Law

- Clarifies existing laws - stronger language.

Anticipated Benefits

- Unknown until we see how arbitrators interpret this new language. IT is our expectation UR will now carry more weight with the arbitrator.

Wage Differential (Section 8(d)(1))

New Law

- Award payable until claimant reaches the age 67 or 5 years from the date the award becomes final, whichever is later.

Prior Law

- Wage differential awards were lifetime benefits.

Anticipated Benefits

- Employers should see significant cost savings by capping these benefits.