

2011 Illinois Workers' Compensation Reform

On May 31, 2011 the Illinois House and Senate passed a bill to reform the workers' compensation act; the bill will go into effect on September 1, 2011. Sponsors of the bill have estimated that there could be significant annual savings – we will not know the full impact of the reform until cases have been tried and the Commission and Courts have interpreted the changes.

Permanent Partial Disability

The 2011 Act requires the treating physician to provide a PPD rating based on objective measurable criteria. In determining the level of PPD, the Commissioner shall base its determination on the following factors:

- Reported level of impairment from the physician
- Employee's occupation
- Age of the employee
- Future earning capacity
- Evidence of disability corroborated by the treating medical records
- No single factor alone shall determine disability
- Any fact used in addition to impairment rating must be explained in written order
- This applies to claims that occur on or after September 1, 2011

Choice of Physician

- Unless an employer adopts a preferred choice of physician program, the "two doctor rule" still applies
- Otherwise, the employer shall furnish a written list of physicians in the preferred provider program to employee upon notice of injury

- The employee may in writing, decline the program and choose his own physician
- When employee opts out of the program, the employee is then limited to one choice of physician
- Upon finding by Commission that care being rendered by employee's second choice within network is improper or inadequate, employee may then choose a provider outside network at employer's expense
- Commission's decision on inadequate or improper care must be made within 5 days of the hearing

New Temporary Partial Disability Calculation

- TPD benefits will be paid based on 2/3 of the difference between the employee's Average Weekly Wage and the GROSS amount made while working modified duty

Wage Differential Claims

- Capped at age 67 or 5 years, which ever is greater
- For claims occurring after September 1, 2011

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Fee Schedule

- Maximum allowable payment shall be 70% of the Fee Schedule amount
- For non-Fee Schedule treatment, reimbursement reduced to 53.2% (previously 76%)
- Implants reimbursed at 25% above net manufacturer's invoice less rebates plus reasonable and customary shipping
- Out of state treatment reimbursed at the lesser of the State Fee Schedule where treatment performed or Illinois Fee Schedule
- Applies to any treatment that occurs on or after September 1, 2011

Medical Billing Payments

- Employers or the carriers now have 30 days to pay bills
- If additional information is necessary to review for payment, it must be requested in writing to the provider within 30 days of receipt of bills

Carpal Tunnel Claims

- For repetitive or cumulative trauma only
- Reduced back to the pre 2/1/2006 rate of 190 weeks
- PPD shall not exceed 15% loss of use of hand
- However, with "clear and convincing evidence" PPD can increase to no more than 30% loss of use of hand
- With "clear and convincing evidence" can increase to no more than 30% loss of use of hand
- For claims on or after date of amendment

Intoxication

- Rebuttable presumption that intoxication is proximate cause of accident
- Intoxication = BAC greater than .08%, under influence of cannabis or other controlled substance
- Refusal to submit to drug/alcohol test is rebuttable presumption of intoxication
- Applies to accidents occurring on or after September 1, 2011

Arbitrators

- All arbitrators are terminated as of July 1, 2011, but will continue to serve until reappointed or replaced by the Governor with consent of Senate
- Arbitrators will serve 3 year term limits and must be Illinois licensed attorneys or "grandfathered" in as a prior arbitrator
- A minimum of 3 arbitrators will serve in ALL venues

Utilization Review

When treatment is denied based on UR, employee has burden to show that a variance from the standard of care is reasonably required.

Frequently Asked Questions

Question: How much money is the Illinois Workers' Compensation Reform expected to save employers?

Answer: The National Council on Compensation Insurance (NCCI) estimates an 8.8% reduction on WC costs. The majority of the 8.8% is based on saving results from use of the medical fee schedule (7.4% of the 8.8%). Wage Differential and Permanent Partial Disability benefits for Carpel Tunnel Syndrome combine for only 1.4% of the savings.

Question: When does the new fee schedule take effect?

Answer: September 1, 2011.

Question: Will savings be seen on claims with a date of loss prior to September 1, 2011?

Answer: Yes. Any bill with a date of service of September 1, 2011 or later will be subject to the new fee schedule.

Question: Will the employer be able to direct the injured employee to network physicians/providers?

Answer: Yes. However, the employee can opt out of the employer's Preferred Provider Program (PPP). If the injured employee does this, they are entitled to choose their own physician.

Question: If the employee opts out of the Preferred Provider Program (PPP), do they still have a choice of two physicians?

Answer: No. If the employee opts out, that opt out is considered one choice, leaving the injured employee only one choice in totality, including the referral chain.

Question: What has Zurich done to prepare for the new Preferred Provider Program (PPP)?

Answer: Our current Preferred Provider Organization (PPO) is ready to create a PPP once rules have been promulgated. The benefit of the PPP is dependent on the level of employer and employee participation in the program. There are too many unknowns at this time to estimate savings.

Question: Who has the responsibility to register the account within the Preferred Provider Program (PPP)?

Answer: This answer is unknown. Once the answer is known, Zurich will be able to timely move on this issue.

Question: Did the reform address timely payment of medical bills?

Answer: Yes. Any medical bill payment must now be issued within 30 days of receipt of the invoice by the employer or carrier.

This FAQ was provided as an accommodation service. While the information provided is compiled from reliable sources interpreting the new law, it is too premature to fully comprehend and interpret the actual impact of the new law. It is not legal advice and cannot be relied upon as such. Please obtain competent legal advice as to the potential impact of this new law on your business. Information provided herein is for general informational purpose to assist employers understand the potential impact of the new law with respect to their operations based on reliable sources. This is not intended to provide an exhaustive review of potential or actual risk and insurance issues, and does not in any way affect, change or alter the coverage provided under any Zurich policy.

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1400 American Lane, Schaumburg, Illinois 60196-1056
800 382 2150 www.zurichna.com

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