



Changes to Illinois Workers' Compensation Act

November 17, 2011

Dear Client:

On September 1st 2011, changes to the Illinois Workers' Compensation System became effective as a result of the high cost and alleged fraud associated with workers' compensation claims. The Illinois Workers' Compensation System was designed to settle cases between employers and injured employees through a state-run process that eliminates the need for litigation.

In 2005, Amendments were enacted to the Workers' Compensation Act, which empowered the Illinois Department of Insurance to create a special investigative unit to oversee fraudulent workers' compensation claims and maintain insurance compliance. This law requires employers to obtain workers' compensation insurance. Penalties for knowingly and willfully failing to obtain insurance include fines up to \$500 for every day of non-compliance, with a minimum fine of \$10,000 and imprisonment for corporate leaders.

Currently, the Workers' Compensation System cost employers \$3 billion a year. According to the Governor's office, Illinois ranks 19th in the nation among states with the highest workers' compensation premiums in the nation and pays 40 percent more in workers' compensation charges than neighboring states such as Indiana, Michigan and Wisconsin. To restore solvency to the system, Illinois legislatures implemented House Bill 1698 (HB1698) to reform the 2005 Workers' Compensation Act Amendments. This reform is expected to save employers an estimated half-billion dollars annually and reduce doctor and hospital fees by 30 percent.

Notable changes in the reform include decreased compensation for carpal tunnel injuries, limited wage differential pay, limited medical provider options, and a revised intoxication defense standard.

- **Compensation for Carpel Tunnel Recovery Capped:** The amount of benefits an employee can receive for Carpal Tunnel Syndrome in the hand is capped at 15 percent (30 percent for severe cases). HB1698 also reduces the amount of time an employee can receive benefits to 190 week.
- **Permanent Disability Determination:** Under the new legislation, an employee's age, occupation, future earning capacity and evidence of disability in medical records are required to claim permanent disability. An employee's testimony is no longer sufficient evidence to claim permanent disability based on its subjective nature.
- **Wage Differential Limitations:** An employee can only receive differential benefits for five years or until they turn 67 years old, depending on which condition comes later.

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- **Limited Medical Provider Options:** Employers can now enroll in a Preferred Provider Program (PPO) to significantly decrease the employee's choice of medical providers covered under the plan by mandating they visit doctors in the network. Employees may decline entry into the PPO plan through a written consent but will only be entitled to one medical provider option.
- **Reduction in current Medical Fee Rate:** There is a 30% deduction fee rate provided to doctors and other medical providers.
- **Intoxication Defense:** An employee is not entitled to workers' compensation benefits if involved in an accident that is a direct cause of drugs or alcohol use. Also employees may not be awarded workers' compensation benefits if they fail a drug or alcohol test. If there is evidence of a blood alcohol level of .08% or if there is evidence of impairment as a result of the use cannabis or other drugs then it will be presumed the employee was intoxicated and intoxication was the proximate cause of the injury. The employee has the opportunity to present admissible evidence that indicates intoxication was not the sole cause of the accident to overcome the denial of benefit. The statute states a drug or alcohol test should be taken immediately. SCI requires the completion of a drug or alcohol test within 24 hours of the incident.

All content in this notice is based on current information and supersedes previous communications regarding this topic. If you have any questions or concerns, please contact your assigned SCI Professional.

Sincerely,

SCI Companies