



Research BULLETIN



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STATE WORKERS' COMPENSATION LEGISLATION AND RELATED CHANGES ADOPTED IN 2013

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JULY 2014

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Executive Summary

This report details significant state workers' compensation law and rule changes in 2013. There were 40 state legislatures (including Puerto Rico) that enacted workers compensation laws and 33 state agencies that adopted administrative rule changes in 2013. Medical exams and costs, employer rates, claim appeal and adjudication continue to be the primary areas of concern. The extended list of changes categorized by issue and state is provided below as a handy reference. A detailed summary of the legislative and administrative changes in the 50 states, District of Columbia, Puerto Rico and the U.S. Virgin Islands follows.

Claim Procedures, Adjudication, Appeals, Arbitration, Mediation, Settlements, Attorney Fees

CO, DE, GA, HI, IL, KS, LA, MN, MO, NE, NV, NM, NY, NC, OH, OK, RI, SC, UT and WV.

Classification of Workers, Electronic Claim Filings and Benefit Payments, Exemptions

AR, AK, CA, CO, FL, KS, ME, MD, MN, MO, OR, TN, UT and WA.

Employer Rates, Notices, Costs, Filings and Rating Programs

AL, AK, CO, DE, FL, ID, ME, MD, MO, OH, SD, TN, UT, VT, VA and WA.

Administration, Proof of Coverage, Annual Reports, Renewals

AR, CA, CO, DE, GA, HI, IL, KS, LA, NY, OH, PR and VA.

Third-Party Administrators, Employer Leasing Companies, Professional Employer Organizations

HI, NV and TX.

Medical Exams, Authorization, Information, Fee Schedules, Notices, Examiners, Providers, MCOs

CA, DE, FL, GA, ID, IL, IN, KS, LA, ME, MN, MO, MT, NE, NH, NM, NY, OH, OK, OR, SD, TX, UT, VA and WA.

Fraud, Audits, Penalties, Subrogation, Overpayments and Compensation Offsets

CO, FL, GA, LA, ME, MD, MO, MT, NV, NY, TN and UT.

Self-Insurance, Excess Coverage and Captive Insurance Companies

ID, KS, MI, MO, NY, OH, OK, OR, TX, UT, VT, WA and WV.

Confidentiality of Information

NC, OK and TN.

Temporary and Permanent Total, Permanent Partial Disability, Compensation Offsets

AZ, AR, CO, GA, ID, MN, MO, NV, OR, SD, TN and TX.

Death and Disfigurement Benefits

AR, CA and RI.

Vocational Rehabilitation, Remain/Stay-at-Work and Return-to-Work

DE, FL, GA, LA, MN, NE, OR, TN, UT and WA.

Volunteer and Public Employee Benefits, Public Employers

CT, ID, IL, MO, MT, NE, NV, NJ, NY, SD, TN, VT and VA.

Extraterritorial Issues

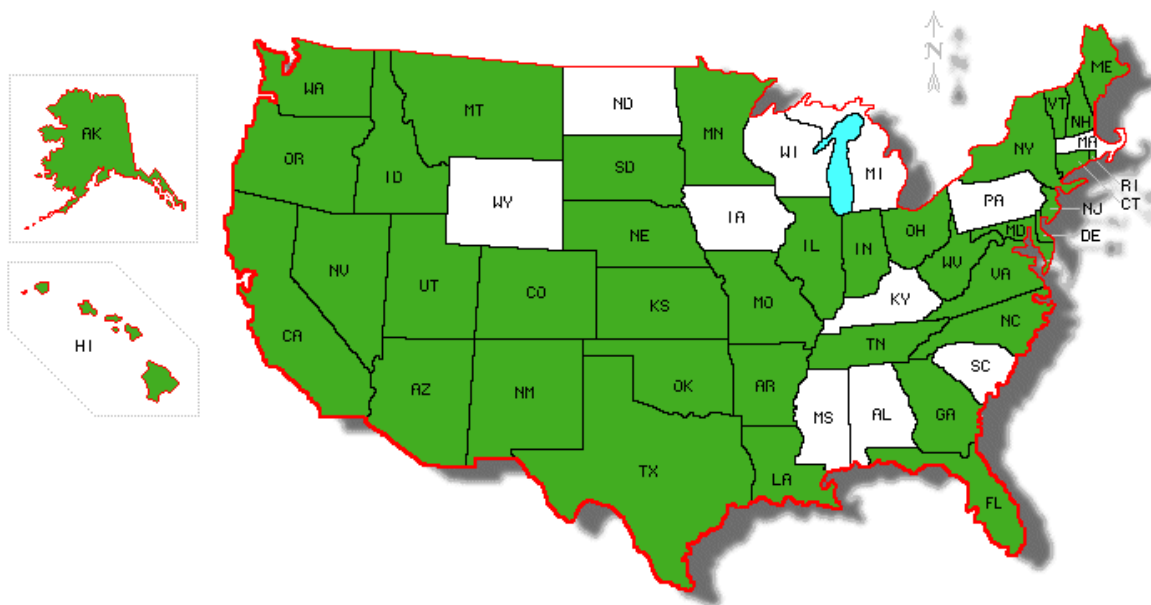
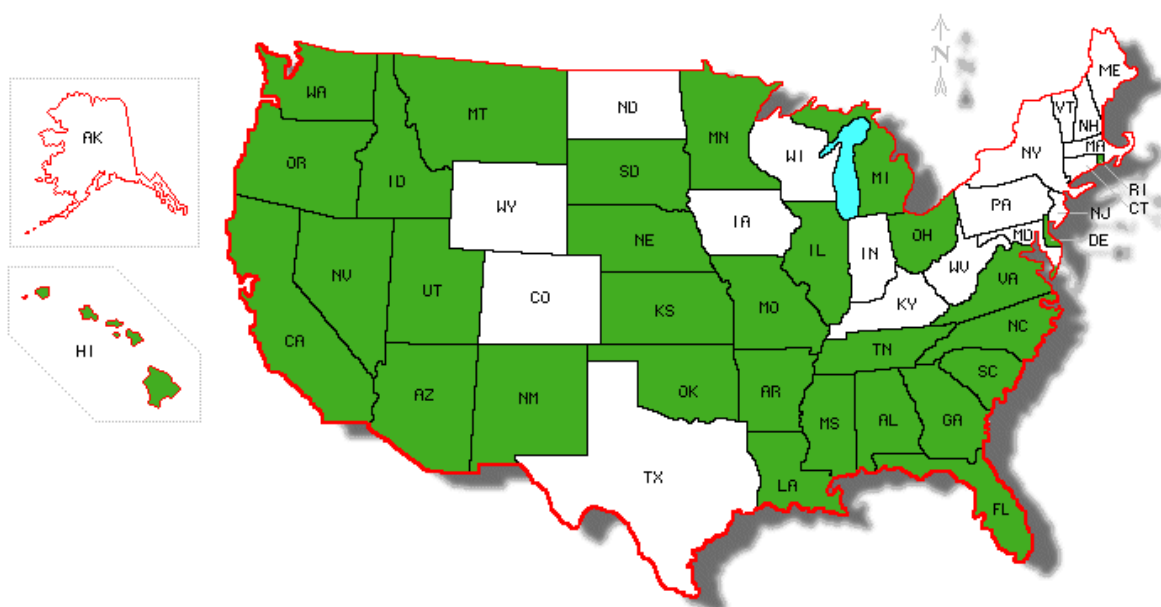
AZ, MT and TN.

Claim Eligibility, Drug and Alcohol, Prescription Drug Abuse

CA, DE, MN, OK and WA.

Intentional Torts, Negligence Actions, Exclusive Remedy

MT, OK and OR.

States that enacted statutory workers' compensation changes in 2013**States that made administrative rule changes in 2013**

ALABAMA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

- ◆ Rule change redefining Actuarially Determined Rates found in the Alabama Department of Labor's Administrative Rule [480-5-3.06](#).

ALASKA

- Amended Statute



Legislation:

- **HB 76** was signed by Alaska Governor Sean Parnell and became effective on September 10, 2013. The bill empowers the Commissioner of the Department of Labor and Workforce Development to authorize electronic filing as a substitute equivalent to paper filing. Click [here](#) for a copy of **HB 76**.

Administrative Changes: None.

ARIZONA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 1310** was signed by Arizona Governor Jan Brewer and became effective on September 13, 2013. The bill states that a worker who is employed in Arizona and sustains an industrial injury while temporarily in another state incidental to employment is entitled to benefits as though the injury occurred in Arizona. Click [here](#) for a copy of **SB 1310**.

Administrative Changes:

- ◆ Rule 165 directs the Industrial Commission to use a specific index when calculating the annual increase to the maximum average monthly wage. In essence, the maximum average monthly wage is increased each year by the same percentage increase in the Employment Cost Index. The Commission is required by statute to adopt such an amount by August 1 of each year to be effective for the following calendar year. The Commission applied Rule 165 to adopt the maximum average monthly wage for calendar year 2014. Click [here](#) for more information on this rule.

ARKANSAS

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 802** was signed by Arkansas Governor Mike Beebe on April 12, 2013 and became law on August 16, 2013. The bill states that: (1) an owner-operator that provides a commercial motor vehicle and services of one or more drivers to a motor carrier under a written contract, the driver so provided is not an employee, but an independent contractor of the motor carrier; (2) the motor carrier is not liable for any compensation to the owner-operator, its employees, or subcontractors; (3) an owner-operator under exclusive contract to the motor carrier may elect to secure coverage for the owner-operator and drivers through a workers' compensation insurance policy that insures the motor carrier if: (a) the election is in writing as part of a written contract between the owner-operator and the motor carrier; (b) the owner-operator pays the premiums as requested by the motor carrier; (4) this election does not affect the independent contractor status of the owner-operator or its drivers. Click here for a copy of [SB 802](#).

Administrative Changes:

There were two advisory updates and one rule issued by the Arkansas Workers' Compensation Commission.

- ◆ [Rule 099.40](#): Carrier Premium Tax Auditing. Effective July 1, 2013, every carrier writing workers' compensation

insurance in the state of Arkansas shall, upon request by the Commission, make available policy information sufficient to allow auditing of premium calculations to verify accurate payment of workers' compensation premium tax in accordance with Ark. Code Ann. §11-9-303. A carrier's failure to comply with this rule shall result in said carrier being referred to the Insurance Commissioner for appropriate administrative action against the Arkansas certificate of authority.

- ◆ [Advisory 2000-1, Update](#): Weekly Workers' Compensation Rates for 2014 in Arkansas. This advisory, issued October 29, 2013, sets the weekly maximum workers' compensation rates for 2014. The maximum in 2014 for Total Disability (TD) is \$617.00 and for Permanent Partial Disability (PPD) is \$463.00. The maximum for workers' compensation weekly benefits is based on 85% of the state Average Weekly Wage (AWW). The state AWW was \$725.53 as determined by the Department of Workforce Services. Workers in 2014 get 66 2/3 of their individual AWW, rounded to the nearest whole dollar, up to a maximum of \$617.00 (85% of \$725.53 = \$616.70, which rounds off to \$617.00). For PPD if TD is \$205.35 or greater, the PPD maximum is 75% of TD, rounded to the nearest whole dollar, up to \$463.00 (75% x \$617.00 = \$462.75, which rounds off to \$463.00). If TD is less than \$205.35, PPD is 66 2/3% of the worker's AWW, up to a \$154.00 maximum.
- ◆ [Advisory 2007-1 Update](#): D&PTD Threshold. This advisory, issued October 29, 2013, updates the threshold when the Death and Permanent



Disability Trust Fund will assume payments for injuries resulting in permanent disability or death in 2014. This amount in 2014 will be \$200,525 ($\$617 \times 325 = \$200,525$).

CALIFORNIA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **AB 10** was signed by California Governor Jerry Brown on Sept. 25, 2013. The bill increases the minimum wage for all industries in California from \$8 to \$9 per hour effective July 1, 2014, and from \$9 to \$10 per hour on Jan. 1, 2016. Click [here](#) for a copy of **AB 10**.
- **AB 241** was signed by California Governor Jerry Brown on Sept. 26, 2013. The bill establishes a Domestic Worker Bill of Rights, which requires that in-home personal caregivers and certain other domestic workers be paid a minimum wage and that in-home caregivers be paid overtime pay for work beyond 9 hours per day or 45 hours a week. Click [here](#) for a copy of **AB 241**.
- **AB 607** was signed by California Governor Jerry Brown on Oct. 13, 2013. The bill enables a deceased employee's totally dependent children to receive workers' comp death benefits irrespective of whether the employee's surviving spouse is totally dependent. Click [here](#) for a copy of **AB 607**.
- **AB 1309** was signed by California Governor Jerry Brown on Oct. 8, 2013. The bill restricts cumulative trauma and

occupational disease claims by professional athletes in five sports (baseball, basketball, football, ice hockey and soccer), especially those who played for out-of-state teams, under specified conditions. Click [here](#) for a copy of **AB 1309**.

- **AB 1376** was signed by California Governor Jerry Brown on Oct. 13, 2013. The bill delays DWC's workers' comp qualified medical interpreter certification regulations, required by SB 863, from taking effect until March 1, 2014. Click [here](#) for a copy of **AB 1376**.
- **AB 1394** was signed by California Governor Jerry Brown on Sept. 9, 2013. The bill allows the State Fund Insurance Compensation Board of Directors to appoint a chief medical officer, a chief actuarial officer, a chief claims operations officer and a chief of internal affairs. Click [here](#) for a copy of **AB 1394**.
- **SB 146** was signed by California Governor Jerry Brown on Aug. 19, 2013. The bill eliminates the requirement that copies of prescriptions be sent with requests for payment unless the provider entered into a written agreement to do so. Also enables any entity that was denied payment of a pharmacy bill submitted from Jan. 1 to March 31, 2014 to resubmit the bill if payment was denied for failure to include a copy of the prescription. It allows payers to request copies of prescriptions for a review of records of prescriptions dispensed by a pharmacy. Click [here](#) for a copy of **SB 146**.
- **SB 251** was signed by California Governor Jerry Brown on Sept. 26, 2013. The bill allows insurers to electronically transmit offers of renewal,



notices of conditional renewal and offers of coverage, and sets requirements for doing so. Click [here](#) for a copy of SB 251.

- **SB 294** was signed by California Governor Jerry Brown on Oct. 4, 2013. The bill prohibits pharmacies without a California Sterile Compounding Pharmacy License from compounding or dispensing sterile drug products for injection, ocular administration or inhalation, and requires out-of-state pharmacies compounding these products for shipping to California to have such a license as well. Also requires the pharmacies to allow annual inspections and removes the option for accreditation from outside agencies. Click [here](#) for a copy of SB 294.

- **SB 375** was signed by California Governor Jerry Brown on Sept. 9, 2013. The bill corrects erroneous cross-references included in the bill and makes technical, clarifying, and conforming changes with respect to the provisions. Click [here](#) for a copy of SB 375.

- **SB 527** was signed by California Governor Jerry Brown on July 11, 2013. The bill enables full-time, year-round lifeguards employed by the City of San Diego to be eligible for "4850 leave" following a work injury. Click [here](#) for a copy of SB 527.

- **SB 809** was signed by California Governor Jerry Brown on Sept. 27, 2013. The bill assesses an annual \$6 fee on provider and dispenser licenses to fund the Controlled Substance Utilization Review and Evaluation System (CURES) monitoring program. The changes also require the state Medical Board to develop and distribute to physicians and acute care hospitals

materials on assessing a patient's risk of abusing or diverting controlled substances and information about CURES, and require the state to streamline the application and approval process for medical providers and pharmacists to access CURES. Click [here](#) for a copy of SB 809.

Administrative Changes:

The following regulations were adopted or revised. The regulations can be found by clicking [here](#).

- ◆ Electronic document filing and lien filing fee;
- ◆ Hospital outpatient departments and ambulatory surgical fee schedule;
- ◆ Independent bill review, standardized paper billing and payment, and electronic billing and payment;
- ◆ Independent medical review;
- ◆ Inpatient hospital fee schedule;
- ◆ Interpreter certification regulations;
- ◆ Physician fee schedule;
- ◆ Qualified medical evaluator regulations and permanent disability rating determination; and
- ◆ Supplemental job displacement benefit.

COLORADO

– Amended Statute



Legislation:



■ **SB 129** was signed by Colorado Governor John Hickenlooper on May 24, 2013 and became effective upon signature. The bill eliminates the requirement that the State Auditor conduct a performance review of the Office of Administrative Courts handling of workers' compensation disputes every four years, rendering it discretionary for the state auditor to conduct or cause a performance review to be conducted. Click [here](#) for a copy of **SB 129**.

■ **SB 147** was signed by Colorado Governor John Hickenlooper on June 5, 2013 and became effective upon signature. The bill: (1) creates a presumption that a "buyer of goods" is excluded from the definition of statutory employer, when a lessee, sub lessee, contractor or subcontractor, is injured delivering goods while not on the buyer's premises, but this presumption can be overcome if it is shown that the job would normally be performed by an employee of the buyer of goods; (2) does not create a presumption of a statutory employer-employee relationship even if, injury to the lessee occurs on the buyer's premises; and (3) defines lessor contractors as "statutory employers" for purposes of establishing liability and responsibility to pay benefits under the workers' compensation act and specifically that a statutory employer includes individuals or companies (lessor contractors) who conduct business by leasing or contracting out any or all of the work to a lessee, sub lessee, contractor or subcontractor. Click [here](#) for a copy of **SB 147**.

■ **SB 249** was signed by Colorado Governor John Hickenlooper on May 25, 2013 and became effective on August 7, 2013. The bill: (1) eliminates confusion

over what triggers the start date for an insurer to react to the results of a Division Independent Medical Evaluation (DIME.); (2) shortens the time to admit or appeal the outcome; and (3) establishes a time frame for the physician to correct errors identified by the Division. Click [here](#) for a copy of **SB 249**.

■ **SB 285** was signed by Colorado Governor John Hickenlooper on May 28, 2013 and became effective on July 1, 2013. The bill: (1) requires that an injured worker or other payer be reimbursed for reasonable, necessary and related medical expenses when an employer fails to provide medical care after receiving notice of a claim that is later found to be compensable; (2) states that an insurer or provider may not recover medical costs from an injured worker where the employer has furnished medical treatment except in the case of fraud; (3) states that an insurer must reimburse an injured worker for the full amount paid, but it may seek reimbursement from the medical provider for amounts paid in excess of the fee schedule; (4) sets a 15-day timeframe to recalculate the average weekly wage and begin payment of benefits at the adjusted rate, along with any interest, from the date of notice that a fringe benefit was terminated and are payable from the date of termination; (5) mirrors the requirement that payment of temporary total benefits at least once every two weeks, apply to the payment of temporary partial benefits; (6) requires the insurer provide a complete copy of the claim file within 15 days after the mailing of a written request by the injured worker/representative; (7) requires that a party requesting attorney's fees on an issue that is not ripe for adjudication prove they've



attempted to have the issue stricken by a prehearing law judge; and (8) extends the time from the date of injury (from 18 to 24 months), before an insurer can request a division independent medical examination (DIME) to overrule the treating physician's opinion that the injured worker has not yet reached maximum medical improvement (MMI). Click [here](#) for a copy of SB 285.

- **HB 1025** was signed by Colorado Governor John Hickenlooper on April 26, 2013 and became effective on July 1, 2013. The bill: (1) changes the maximum deductible from \$5,000.00 per claim (on deductible policies) to an amount not to exceed the *split point* approved by the Commissioner of Insurance; (2) defines "split point" as the amount an insurer can claim as a primary loss on each worker's compensation claim; (3) states that the full amount of primary losses counts in an employer's experience modification for purposes of calculating its credit or surcharge on workers' compensation coverage; (4) reiterates the employer's responsibility to pay the full amount of compensation and benefits due under the statute, rendering it a violation to require an employee pay any part of compensation or benefits provided by the act; (5) makes it a violation for an employer to require that an employee use any other type of insurance or employment benefit to pay compensation or benefits due under the act; and (6) does not relieve insurers the obligation to offer no-deductible policies. Click [here](#) for a copy of HB 1025.

- **HB 1314** was signed by Colorado Governor John Hickenlooper on May 28, 2013 and became effective on March 1, 2014. The bill updates the statutory

reference for persons who provide host home services for individuals with developmental disabilities under the Health Care Policy and Financing Act and states that no change in coverage occurred as these persons were not previously considered employees of community-centered boards or service agencies for purposes of workers' compensation. Click [here](#) for a copy of HB 1314.

Administrative Changes: None.

CONNECTICUT

– Amended Statutes



Legislation:

- **HB 6348** (Public Act No. 13-25) was signed by Connecticut Governor Dan Malloy on May 24, 2013. The bill: (1) defines members of the armed forces of the state as employees for the specific purposes of liability, immunity and being subject to the jurisdiction of the Workers' Compensation Commission and chapter 568; (2) redefines the 31-275(9) definition of armed forces employees to "a member of the armed forces of the state while in the performance of military duty, whether paid or unpaid for such military duty, in accordance with the provisions of section 27-17, 27-18, or 27-61, as amended by this act"; and (3) gives the state's armed forces, and its retirees when performing state military duty, the same workers' compensation, liability, and immunity protections as state employees. Click [here](#) for a copy of HB 6348.

Administrative Changes: None.



DELAWARE

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **HB175** was signed into law by Governor Jack Markell on June 27, 2013. This bill implements the legislative recommendations of the Workers' Compensation Task Force, created by House Joint Resolution 3, including: (1) expanding the responsibilities and resources of the Data Collection Committee by providing the committee with more frequent updates on medical cost drivers for the Delaware workers' compensation market as a whole, and allows the Committee to review company-specific medical cost information and direct examinations of companies that do not appear to be exercising sufficient oversight over medical costs; (2) implementing a number of changes to Delaware's medical cost control provisions for workers' compensation recipients, including a two-year inflation freeze on fees that would otherwise be entitled to an annual inflation increase, a reduction in the annual inflation increase allowed for hospitals treating workers' compensation patients (which exceeded the inflation increase allowed for other providers), inclusion of many procedures on the state's current medical fee schedule which were previously exempted, and new cost control provisions for pharmaceuticals, drug testing, and anesthesia; (3) imposing more responsibility on insurance carriers to ensure that employers are complying with their responsibilities to provide

doctors with a complete list of job opportunities that an injured employee might be able to fill while still unable to perform his or her previous job; (4) creating a statute of limitations for parties who wish to appeal a utilization review decision as the Delaware Supreme Court recently ruled that such a statute of limitations must be created by statute and not by regulation; (5) making three changes to Delaware's workplace safety credit program: it requires that the program be more rigorous with respect to inquiring about past injuries in a workplace before awarding the credit, it allows insurance company safety inspections which are at least as rigorous as those performed by the Department of Insurance to substitute for the Department's inspections, and it requires that companies be compliant with their 'back to work' responsibilities for injured employees before being eligible for the credit; (6) providing the Data Collection Committee with the authority to direct the examinations; (7) reforming the procedure used to scrutinize industry-wide rate requests submitted by the workers compensation insurance industry, creating an advocate in the rate-setting process for Delaware businesses and establishing a process where that rate advocate can gather the information necessary to advocate for businesses and effectively present their arguments with respect to rates to the hearing officer making recommendations to the Department of Insurance; (8) requiring that both the workers compensation industry and the Department of Insurance specifically consider each of the reforms created by this Act and by new regulations accompanying this Act when setting rates in 2013; and (9) continuing the existence of the Workers Compensation

Task Force so that it can chart the impact of the reforms it recommended and make further recommendations for cost savings as necessary. Click [here](#) for a copy of HB 175.

Administrative Changes:

- ◆ Effective September 11, 2013, 19 **DE Admin. Code** 1341 was amended to support and align the Delaware Administrative Code (“the regulations”) with the significant changes mandated in HB175. The changes revised sections of the “Fee Schedule Instructions and Guidelines,” Forms, Provider Certification, and Utilization Review, as well as revised 19 **DE Admin Code** 1342, the Health Care Practice Guidelines, to reduce the frequency of some treatment, services, or procedures and clean up language inadvertently left in the original guidelines. The changes addressed a specific anesthesia methodology; revenue neutral language for annual coding updates; a mandatory preferred drug formulary; and caps on fees for compounding and repackaged drugs. The itemized fee schedule changed to reduce the occurrence of fees paid at 85 percent of charge (POC). Click [here](#) for a copy of the final regulation changes, which can be found in the Register of Regulations, Volume 17, Issue 1 (July 2013).

DISTRICT OF COLUMBIA

- *Made
Administrative
Changes*



Legislation: None.

Administrative Changes:

◆ **New compensation rates for 2014 effective 1/1/2014:**

- Maximum: \$1,441.80 (increase 1.69%)
- Minimum: \$360.20

FLORIDA

- *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **HB 553** was signed by Florida Governor Rick Scott and became effective on July 1, 2013. The bill: (1) provides that stop-work orders and penalties assessed against a limited liability company (LLC) continue in force against successor companies of the LLC to the same extent (and under the same conditions) that they remain in force against successor companies of corporations, partnerships, and sole proprietorships.; (2) eliminates the requirement that workers' compensation health care providers be certified by the Department of Financial Services (DFS) and repeals corresponding rulemaking authority; (3) provides additional time for health care providers, carriers, and employers to file medical reimbursement disputes with the DFS, for carriers to respond to petitions, and for the DFS to issue a written determination; (4) eliminates the requirements that: (a) the DFS approve the advance payment of workers' compensation benefits in certain circumstances; (b) carriers submit reemployment status reports to the DFS for review; (c) a vocational evaluation always be conducted prior to the DFS authorizing training and

education for an injured employee; and (d) the DFS serve as custodian of certain collective bargaining agreements; and (5) conforms an administrative fine that may be assessed against employers or carriers that violate reporting requirements with the \$500 civil penalty per violation relating to electronic reporting. Currently, the law provides for an administrative fine of up to \$1,000 per violation and, for employers that fail to timely submit more than 10 percent of notices of injury or death within a calendar year, an administrative fine of up to \$2,000 per violation. The DFS uses their authority to assess penalties for violations of reporting requirements, but it has never assessed a penalty greater than \$500 per violation or against an employer based upon a percentage of late filings. Click [here](#) for a copy of HB 553.

- **SB 662** was signed by Florida Governor Rick Scott and became effective on July 1, 2013. The bill revises provisions relating to reimbursement for prescription medications in the following manner: (1) revises the amount of reimbursement for prescription medications of workers' compensation claimants by providing that the reimbursement rate for repackaged or relabeled drugs dispensed by a dispensing practitioner would be capped at 112.5 percent of the average wholesale price (AWP), plus \$8.00 for the dispensing fee; (2) maintains the reimbursement rate for other prescription medications at AWP plus \$4.18 dispensing fee; (3) provides that the AWP would be calculated by multiplying the number of units dispensed times the per-unit AWP set by the original manufacturer of the

- underlying drug dispensed, based upon the published manufacturer AWP published in the Medi-Span Master Drug Database as of the date of dispensing; (4) provides an exception to the reimbursement schedule if the employer or carrier, or a third party acting on behalf of the employer or carrier, directly contracts with a provider seeking reimbursement at a lower rate; and (5) prohibits a dispensing practitioner from possessing such medications unless payment has been made to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of the medication. Click [here](#) for a copy of SB 662.

Administrative Changes:

The Florida Division of Workers' Compensation made the following changes in 2013:

- ◆ Workers' Compensation Claims ([69L-3.001](#))
- ◆ Provision of Benefits and Safe Working Environment by Self-Insurers ([69L-5.216](#))
- ◆ Forms and Instructions ([69L-6.009](#))
- ◆ Notice of Election to be Exempt ([69L-6.012](#))
- ◆ Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule ([69L-7.602](#) and [69L-7.710](#))
- ◆ Repealed On-site Audit Criteria ([69L-10.0165](#))
- ◆ Repealed Computation of Time ([69L-26.003](#))
- ◆ Several rules regarding Health Care Provider Certification ([69L-29](#))



GEORGIA

- *Amended Statute and Made Administrative Changes*

**Legislation:**

- **HB 154** was signed by Governor Nathan Deal and the changes were effective July 1, 2013. The bill: (1) states that for injuries occurring on or after July 1, 2013, a 400-week cap on medical treatment is placed on injuries/claims, except those designated “catastrophic”; (2) provides that payment of mileage expenses is reduced from 30 days to 15 days; (3) states that the interest rate on advances is reduced from 7% to 5%; (4) provides that if a light-duty job is offered under the 240 process, an employee is required to attempt the light-duty job for eight cumulative hours or one scheduled workday, whichever is greater and failure to attempt a light-duty job for this minimum amount of time may result in the suspension of the employee’s income benefits; and (5) states that for injuries occurring on or after July 1, 2013, the maximum TTD rate is raised from \$500.00 per week to \$525.00 per week as well as raises the maximum TPD rate from \$334.00 per week to \$350.00 per week. Click [here](#) for a copy of **HB 154**.

Administrative Changes:

The 2013 Rules, effective July 1, 2013, contain organizational, editorial, and substantive changes adopted by the Georgia State Board of Workers’ Compensation. For detailed information regarding changes to a particular rule, please refer to the published version of the rule by clicking [here](#).

- ◆ Parties at Interest - Rules 206(c), Rule 15(n) and Rule 15(o) were amended to address claims by parties at interest.
- ◆ A phrase was added to Rule 206(c) to specifically provide that in addition to receiving notice of any pending hearing, a party at interest will be permitted to present evidence of its claimed interest at the hearing.
- ◆ Rule 15(n) states the Board’s policy of not approving settlements until WC-206/WC-244 party at interest claims are resolved.
- ◆ Rule 15(o) was added to require the submission to the Board of a statement specifying the party responsible for outstanding medical expenses in the context of no liability stipulated settlements.
- ◆ Rule 15 Administrative Changes - Rule 15(a)(3) was amended to eliminate the mandatory filing of a WC-1 in every case involving a stipulated settlement, and to provide the Board with discretion to require the filing of the WC-1 when needed.
- ◆ Rule 15(a)(8) was amended to allow the filing of settlement supporting documents that cause a stipulated settlement to exceed 25 pages without obtaining approval of the Board. The 25 page limitation still applies to the stipulated settlement document itself, but supplemental documents filed in support of the stipulated settlement are not subject to the 25 page limitation.
- ◆ Rule 104 unilateral conversion of temporary total disability benefits to temporary partial disability benefits Effective January 1, 2014, Rule 104 is being amended to require simultaneous



filing of the Form 104 with the Board at the time it is served on the employee and the employee's attorney.

GUAM

– No Changes
Were Made in 2013



Legislation: None.

Administrative Changes: None.

HAWAII

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 921** (Act 014) was signed by Hawaii Governor Neil Abercrombie April 16, 2013. The bill affirms the authority of the Labor and Industrial Relations Appeals Board to issue orders or take other appropriate action to enforce its rules and orders and allows parties to electronically file appeals to the appellate court. Click [here](#) for a copy of **HB 921**.

Administrative Changes:

- ♦ **Cancellation of workers' compensation insurance** (Section 12-10-93) Amendment to subsection (b) allows the carrier or an approved third party agency to notify the director in writing or in electronic format of the date of service and cancellation.

IDAHO

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **S1145** was signed by Idaho Governor Butch Otter and became effective July 1, 2013. The bill: (1) amends existing law relating to workers' compensation to extend a temporary premium tax reduction (from 2.5% to 2.0%) and to extend certain deduction provisions; and (2) extends the legislature's temporary tax relief to sureties and self-insured employers through December 31, 2015. Click [here](#) for a copy of **S1145**.

Administrative Changes:

- ♦ **Administrative Rules of the Industrial Commission under the Workers' Compensation Law – Benefits** (170204-1201) – The rule, effective April 4, 2013, coincides with the current language in Section 72-1104, Idaho Code, that broadens access to the Peace Officer and Detention Officer Temporary Disability Fund by including injuries incurred by officers when caused by the actions of another person in the performance of his or her duties. Click [here](#) for a copy of Rule 170204-1201.
- ♦ **Medical Fees** (170209-1201) – The rule, effective July 1, 2013, reduces the number of conversion factors and provides the annual adjustment of the medical fee schedule for physician reimbursement in accordance with Section 72-803, Idaho Code; creates a pharmaceutical fee schedule for pharmacies and dispensing physicians;

standardizes the required coding sets used by providers for billing medical services. A requirement for identification of the individual components with the original manufacturer's National Drug Code (NDC) for compound medications was added.

- ◆ **Medical Fees – Temporary Rule (170209-1301)** – This rule, effective July 1, 2013, adjusts the dispensing fees for pharmacies allowed under the pharmaceutical fee schedule. These fees were determined in collaboration with interested stakeholders. Under the physician fee schedule, a correction is made to a range of CPT codes in the conversion factor table that had been improperly included in Surgery Group 2. Click [here](#) for a copy of Rule 170209-1301.

ILLINOIS

– Amended Statute
And Made
Administrative
Changes



Legislation:

- **HB 3390** was signed into law by Governor Pat Quinn on June 28, 2013 as Public Act 98-0040. The bill: (1) eliminates the requirement that the Illinois Workers' Compensation Commission send a copy of its informational handbook to each injured employee who is the subject of a first report of injury; (2) eliminates a fee paid by parties to the Commission for the preparation of the record for cases appealed to Circuit Court; and (3) requires the Commission to provide language interpreters when necessary for pro se parties signing a settlement

contract. Click [here](#) for a copy of **HB 3390**.

- **SB 1847** was signed by Governor Pat Quinn on August 9, 2013 and became law on January 1, 2014 as Public Act 98-0291. The bill provides that for health conditions resulting from blood borne pathogens, lung or respiratory diseases, and certain other diseases, the rebuttable presumption that those impairments arise out of employment does not apply to emergency medical technicians and paramedics who are employed by a private employer and who spend the preponderance of their time engaged in medical transports. Click [here](#) for a copy of **SB 1847**.

Administrative Changes:

- **50 Ill. Adm. Code 2051.285 Department of Insurance Rules – Preferred Provider Programs**. Public Act 97-18 authorized employers to create preferred provider programs for the provision workers' compensation health care services. These rules set forth the requirements for registration and regulation of these networks, which fall under the jurisdiction of the Department of Insurance. These rules are effective March 4, 2013. Click [here](#) for a copy of this rule on page 2901.

INDIANA

– Amended Statute



Legislation:

- **HB 1320** was signed by Indiana Governor Mike Pence in 2013 and becomes effective on July 1, 2014. The bill: (1) installs a medical fee schedule



for hospitals for medical services provided to injured workers at such facilities; (2) states that such services will then be paid at the amount that would be paid to that facility on that date at 200% of the Medicare reimbursement rate or at an amount negotiated by the parties; (3) increases the maximum benefit payable to injured workers for both indemnity and impairment for injuries occurring on or after July 1, 2014; and (4) limits the repackaging of prescription drugs and payments for implants. Click [here](#) for a copy of HB 1320.

Administrative Changes: None.

IOWA

– *No Changes Were Made in 2013*



Legislation: None.

Administrative Changes: None.

KANSAS

– *Amended Statute and Made Administrative Changes*



Legislation:

- **SB 187** was signed by Kansas Governor Sam Brownback on April 16, 2013 and became law on April 25, 2013. The bill replaces the Workers Compensation Administrative Law Judge (ALJ) Nominating and Review Committee and

the Workers Compensation Board Nominating Committee with a new entity named the Workers Compensation and Employment Security Boards Nominating Committee. The new Committee makes nominations pertaining to ALJ and Board member positions in the Workers Compensation Division and for the Employment Security (Unemployment Insurance or UI) Board of Review. The bill also revises provisions of the Workers Compensation Act regarding qualifications for Workers Compensation Appeal Board members; the process for recusal of an ALJ, and for the evaluation of physical impairment using the 6th Edition of the AMA Guides to Evaluation of Impairment beginning 1/1/15. Section 11 of SB 198 – K.S.A. 44-520 was amended regarding the time for reporting a work related injury by the injured worker to the employer. This change went into effect April 25, 2013. In order to be eligible for workers compensation, the bill shortens certain time periods for employees to give notice to the employer of the accident or injury: from 30 days to 20 days, starting from the date of the accident or injury due to repetitive trauma; and from 20 days to 10 days, starting after the employee's last day of work for the employer. Click [here](#) for a copy of SB 187.

Administrative Changes:

- ◆ Kansas mandated the use of IAIABC Electronic Data Interchange (EDI) Release 3 Standards beginning April 2013. Implementation of the mandate will follow a tiered or phased approach outlined in an amendment to [K.A.R. 51-9-17](#). All insurance carriers, group pools and self-insurers will be required to use



EDI to file both First Reports of Injury (FROI) and Subsequent Reports of Injury (SROI) using the using the Release 3 Standards.

KENTUCKY

– *No Changes Were Made in 2013*



Legislation: None.

Administrative Changes: None.

LOUISIANA

– *Amended Statute and Made Administrative Changes*



Legislation:

- **HB 410** (Act 314) was signed by Louisiana Governor Bobby Jindal on June 16 and became effective on August 1, 2013. The bill repealed the provisions of the “Sunset Law” which would have automatically terminated the Louisiana WC Second Injury Fund. Click [here](#) for a copy of **HB 410**.
- **HB 566** (Act No. 48) was signed by Louisiana Governor Bobby Jindal and became effective on August 1, 2013. The bill: (1) allows the administrator to enter into reciprocal arrangements regarding the recovery of overpaid benefits with appropriate agencies of other states or with the U.S.; (2) provides for the recovery of state or federal benefits by providing the procedure both the requesting state and

the recovering state must follow; (3) requires the requesting state to send the recovering state a request for overpayment, as well as a notice of such to the claimant; (4) requires the requesting state to send a new overpayment balance to the recovering state whenever the requesting state receives any amount of repayment from a source other than the recovering state; (5) requires the recovering state to issue an overpayment recovery determination to the claimant and provides what this determination shall include; (6) provides that the recovering state shall offset benefits payable for each week claimed in the amount determined under state law and to notify the claimant of the offset; (7) requires that the recovering state shall prepare and forward, at least once a month, a payment representing the amount recovered, made payable to the requesting state except as provided for in combined wage claims; (8) requires the recovering state to retain a record of the overpayment balance, not redetermine the original overpayment determination, recover across benefit years and programs, and use the ET Handbook for determining priorities for offsetting overpayments; (9) provides for combined wage claims and outlines the procedure for both the paying state and the recovering state; (10) requires the paying state to offset any outstanding overpayment in a transferring state prior to honoring a request from any other participating state and credit the deductions against the statement of benefits paid to combined wage claimants, or forward a payment to the transferring state.; (11) provides that withdrawal of a combined wage claim after benefits have been paid shall be honored only if the claimant has repaid any benefits paid or authorizes the new

liable state to offset the overpayment; (12) requires the paying state to issue an overpayment determination and forward a copy of the determination, with an overpayment recovery request and an authorization to offset, to the liable state; (13) requires the recovering state to prioritize the offset of overpayments and offset the total amount of any overpayment prior to the release of any payments to the claimant; (14) requires the recovering state to provide the claimant with a notice of the amount offset and prepare and forward a payment representing the amount recovered to the requesting state. Click [here](#) for a copy of HB 566.

- **HB 728** (Act 337) was signed by Louisiana Governor Bobby Jindal and became effective on August 1, 2013. The bill: (1) provides that an employee shall have a right to an expedited hearing when denied his right to an initial physician of choice; (2) provides that the workers' compensation judge shall set a hearing date within three days of receiving the employee's motion, and that the hearing shall be held between 10 and 30 days after the employee files the motion; (3) requires that the judge notify all parties of the hearing date in the same manner and at the same time; (4) requires the authorization of the employee's choice of physician unless good cause is shown as to why it should not be authorized; (5) defines "payor" to mean the entity responsible, whether by law or contract, for the payment of benefits incurred by a claimant as a result of a work related injury, and changes references to "employer or insurer" to "employer or payor"; (6) requires the payor to send notice to the office, the employee, and the employee's representative upon making the first payment of compensation, and upon any

payment, modification, suspension, termination, or controversion of compensation or medical benefits; (7) requires the employer or payor to prepare a "Notice of Modification, Suspension, Termination, or Controversion of Compensation and/or Medical Benefits"; (8) requires the notice of the initial indemnity payment to the injured employee to be sent on the same day as the first payment of compensation is made; (9) requires the employer or payor to send a copy of the notice of the first payment of compensation to the office within 10 days of the date original notice was sent to the injured employee; (10) requires the director to make the notice available upon request of the employee; (11) requires the employer or payor to send a copy of the "Notice of Modification, Suspension, Termination, or Controversion of Compensation and/or Medical Benefits" to the office on the same day as it was sent to the employee; (12) provides that if an injured employee disagrees with any information on the notice form, he shall notify the employer or payor of the basis for disagreement by returning the form to the employer or payor, or by letter of amicable demand, and provide any amounts of compensation he believes appropriate; (13) provides that if the employer or payor provides the benefits that the employee claims he is due, including any arrearage, within seven days of the demand, he shall not be subject to any penalties or attorney fees; (14) provides that if the employer or payor does not provide the benefits that the employee claims are due, the employee may file a disputed claim for benefits; (15) provides that only the employer or payor who initially sent the notice as required and has complied with the provisions of

new law, who wishes to have a preliminary determination hearing shall request the hearing in his answer to the disputed claim arising from the notice; (16) provides that an employer or payor who does not comply may be subject to penalties and attorney fees; (17) provides that the preliminary determination hearing shall be a contradictory hearing at which all parties may introduce evidence; (18) allows the testimony of physicians by certified records or deposition, or, when the parties agree, uncertified medical records and physician reports may be introduced into evidence; (19) allows witnesses to testify or offer testimony by deposition; (20) provides that an employer or payor who is entitled to a preliminary determination and who complies with an order of the court issued pursuant to a hearing within 10 days shall not be subject to any penalty or attorney fees arising out of the original notice which was the subject of the hearing; (21) requires the workers' compensation judge to set a hearing date within three days of receiving the motion, and that the hearing shall take place between 10 and 30 days after the employee receives the notice of the motion; (22) requires the workers' compensation judge to provide the notice and the hearing date to the employer or the payor at the same time and in the same manner as it is provided to the injured employee and his representative; and (23) provides that the employer or payor may file a disputed claim against an employee, his dependent, or his beneficiary when the employer or payor alleges the employee has committed fraud. Click [here](#) for a copy of HB 728.

- **HB 450** (Act 317) was signed by Louisiana Governor Bobby Jindal and

became effective on August 1, 2013. The bill: (1) authorizes the director to hire an associate medical director and provides for his qualifications; (2) provides that if a conflict of interest exists among any party to the suit, the director or the associate medical director, that the conflict shall be communicated, in writing, to the director, who shall make a determination within two business days on whether a conflict exists; (3) requires that in the event of a conflict of interest, the director shall notify the patient, the physician, and if represented, the attorney, within two business days; and (4) provides that in instances in which a treatment is not covered by the medical treatment schedule, the employer is liable to pay when it has been demonstrated by a preponderance of the scientific evidence to the medical director that the treatment is appropriate. Click [here](#) for a copy of HB 450.

- **SCR 129** passed the Louisiana Senate. The resolution: (1) requests the medical advisory council within the office of workers' compensation administration in the Louisiana Workforce Commission to meet and formulate guidelines to address the injured workers' need for routine physician office visits as well as formulate guidelines to address the interruption in prescribed active therapy treatment for injured workers; and (2) provides that the medical advisory council report to the Senate and House committees on labor and industrial relations the reformulated guidelines no later than September 1, 2013. Click [here](#) for a copy of SCR 129.

Administrative Changes

The following administrative changes were made by the Louisiana Workforce Commission Office of Workers'



Compensation.

- ◆ Increased the average weekly wage rates for claimants injured during the period September 1, 2013 through August 31, 2014. Click [here](#) for a copy of this rule.

MAINE

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **LD 1 (P.L. 2013, c. 63)** was signed by Maine Governor Paul LePage and became law on May 7, 2013. The bill was submitted by the Board in large part to provide clarification needed in light of the enactment of P.L. 2011, c. 647. Click [here](#) for a copy of LD 1.
- **LD 696 (P.L. 2013, c. 111)** was signed by Maine Governor Paul LePage and became law on May 21, 2013. The bill expands the definition of "agriculture" in the workers' compensation law by adding equine activity to the definition. "Equine activity" means activities as defined in the Maine Revised Statutes, Title 7, section 4101, subsection 5, which includes boarding, keeping, trailering, showing and displaying an equine. This amendment applies to cases currently pending before the Workers' Compensation Board on the effective date of the Legislation. Click [here](#) for a copy of LD 696.
- **LD 761 (P.L. 2013, c. 87)** was signed by Maine Governor Paul LePage and became law on May 8, 2013. The bill clarifies that the agricultural exemption applies if there are 6 or fewer concurrently employed workers OR if

there are more than 6 workers, the exemption applies if the total hours worked in a week do not exceed 240 for the prior 52 weeks. In addition, spouses of family members will not be included when counting the number of workers. Click [here](#) for a copy of LD 761.

- **LD 949 (P.L. 2013, c. 152)** became law on May 29, 2013. The bill allows for a proportional offset of pension and retirement benefits, based on the employer's contributions to the pension or retirement program, to apply to workers' compensation awards regardless of whether or not the employee had contributed directly to the pension or retirement plan or program. Current law allows workers' compensation awards to be offset by the full after-tax amount of a pension or retirement benefit received by an injured employee, for those employees that did not contribute directly to the pension or retirement plan or program. For employees that did contribute to their pension or retirement plan or program, their workers' compensation awards are offset only by the proportional amount that the employer contributed to their plan. Click [here](#) for a copy of LD 949.
- **LD 1376 (P.L. 2013, c. 164)** was signed by Maine Governor Paul LePage and became law on May 29, 2013. As drafted, the bill gave injured employees the right under the Maine Workers' Compensation Act of 1992 to choose the provider, pharmacy or pharmacist to dispense any drugs or medication prescribed to treat the injury or disease for which compensation is claimed and sets formulas for reimbursement under the Maine Workers' Compensation Act of 1992 for generic and brand-name drugs or medications. The bill also established a reimbursement formula for

prescription drugs. As enacted, P.L. 2013, c. 164 gives employees the right to choose pharmacy providers, but does not include a reimbursement formula. Click [here](#) for a copy of LD 1376.

Administrative Changes: None.

MARYLAND

– Amended Statute



Legislation:

- **HB 1330** was signed by Governor Martin O'Malley on May 16, 2013. The legislation will enforce compliance with certain workers' compensation insurance coverage requirements and establishes penalties of up to \$10,000 for failure to provide compensation and an additional penalty of up to \$10,000 for failure to comply with an Order from the Commission to secure insurance coverage. Click [here](#) for a copy of HB 1330.
- **SB 65** was signed by Governor Martin O'Malley on April 9, 2016. The legislation provides that a copy of certain decisions by the Commission may be sent by electronic means to a party or a party's attorney of record. Click [here](#) for a copy of SB 65.

Administrative Changes: None.

MASSACHUSETTS

– No Changes Made in 2013



Legislation: None.

Administrative Changes: None.

MICHIGAN

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

Two Self-Insurance program rule changes that were filed with the Secretary of State on May 13, 2013:

- ◆ Changes were made for a technical correction to the group investment rules specifically R408.43i adding clarity to the amount that can be invested in corporate or municipal bonds by a self-insurer group.
- ◆ The other change was to R408.43b which now requires public employer self-insurers to file a renewal application annually and provide the same documentation as private employer self-insurers.

MINNESOTA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SF 1234** was signed by Minnesota Governor Mark Dayton on May 13, 2013. The bill provisions that became effective on May 17, 2013 were: (1)



Rehabilitation Complaints. This change gives the commissioner discretionary authority as to whether to investigate complaints filed against QRCs and rehabilitation vendors; (2) Medical Disputes. This change gives the commissioner the authority to hold administrative conferences on medical disputes of more than \$7,500 when the issue is whether a particular charge is excessive; (3) SCF Reimbursement. This change precludes an insolvent insurer from obtaining reimbursement from the Special Compensation Fund (SCF) for second injury and supplementary benefits unless the insolvent insurer filed for reimbursement before June 1, 2013 and also allows the SCF to offset reimbursements against any debt owed by an insurer or employer; (4) Exclusion from Genetic Information. This change provides that the medical data collected and retained by the department in connection with a workers' compensation claim does not constitute "genetic information" for purposes of the Minnesota Genetic Privacy Act; (5) Limitation on Employer Defenses. This change requires the special compensation fund to notify an uninsured employer if it is going to enter into a settlement with an employee. If the employer does not object to the settlement within 15 days of notice, the employer will be deemed to have waived any defenses it could have raised in a subsequent action by the SCF to recover funds from the employer; (6) Sampling Methodology. This change removes the requirement of the commissioner to use Six Sigma methodology to sample required payment filings; and (7) Reimbursement Cost Study. This change requires DLI to conduct a study of the effects of potential reforms and barriers regarding workers'

compensation medical costs and administrative costs. The department must report its findings and make recommendations to the Workers' Compensation Advisory Council by December 31, 2013. The bill provision that became effective on July 1 2013 was regarding Settlement Approval. This change provides that a settlement reached while a matter is pending before the Workers' Compensation Court of Appeals must be approved by a compensation judge at the Office of Administrative Hearings. The bill provisions that became effective on October 1, 2013 were: (1) Coverage for Post-traumatic Stress Disorder. This change amends the definition of "occupational disease" to include coverage for employees who have been diagnosed by a licensed psychiatrist or psychologist with post-traumatic stress disorder arising out of employment. PTSD has the meaning given in the Diagnostic and Statistical Manual of Mental Disorders and excludes coverage for any alleged injury resulting from good faith job actions taken by the employer; (2) Coverage for Post-traumatic Stress Disorder. This change amends the definition of "personal injury" to include coverage for post-traumatic stress disorder; (3) Attorneys' Fees. This section changes the contingent fee formula for attorneys' fees (currently 25% of the first \$4000 and 20% thereafter) to a flat 20% of the first \$130,000 (subject to an increased "cap" of \$26,000); (4) Attorney Fee Reimbursement. As a result of these changes, an insurer is no longer required to reimburse an employee for attorney fees if the fees were paid by the insurer in the first place; (5) Increase in Maximum Benefit. This change increases the maximum weekly benefit



to 102% of the statewide average weekly wage (SAWW); (6) Job Development Limits. This change limits job development services to 20 hours per month for no more than 13 consecutive or intermittent weeks, which the parties, DLI or an administrative law judge can extend to 26 weeks. Such services include contacting prospective employers, identifying job openings, and arranging interviews; (7) Disability Case Management. This change prohibits a QRC from performing non-statutory case management services and statutory case management services under a rehabilitation plan on the same claim; (8) Rehabilitation Conferences. This change requires DLI and OAH to hold rehabilitation conferences within 21 days of the request for conference, unless there is good cause or the issue involves only fees for past services. If there is a rehabilitation plan in effect, rehabilitation services would continue until at least the date of the initially scheduled conference; (9) Determination of Prevailing Charge. This change allows prevailing charges to be based on data collected during a two-year period; (10) Adjustment of Benefits. This section changes the cap on the annual adjustment of benefits from two percent to three percent and provides that no change in benefits shall be less than zero and changes the date upon which the adjustments commence, from the fourth anniversary of the date of injury to the third anniversary; (11) Pain Contracts. This change gives the commissioner authority to adopt rules governing criteria for the long term use of narcotics or other scheduled medication to alleviate intractable pain, including the use of treatment contracts between an injured worker and his/her health care provider setting out the expectations and

responsibilities of each; and (12) Patient Advocate Pilot Program. This change directs the commissioner to implement a two-year pilot program for workers with back injuries who are considering spinal fusions. The program will utilize the services of a patient advocate to help workers understand their treatment options and receive appropriate treatment. Click [here](#) for a copy of SF 1234.

Administrative Changes:

- ◆ Minn. R. Chapter 5221: The workers' compensation medical fee schedule relative value units and conversion factors were updated pursuant to statutory requirements effective for services on and after October 1, 2013.
- ◆ Minn. R. 5219.0500, subp. 4: The maximum workers' compensation independent medical examination fees were increased by 1.2 percent for services provided on or after October 1, 2013.
- ◆ Minn. R. 5220.2530, 5220.2820 and 5220.2830: Rules adopted in 2013 provide that, effective January 1, 2014, self-insured employers and insurers are required to file First Report of Injury forms with the workers' compensation division electronically, either by EDI or by an eFROI Web portal. Click [here](#) for more information on this rule.

MISSISSIPPI

- *Made
Administrative
Changes*



Legislation: No changes

Administrative Changes: The Mississippi Workers' Compensation Commission Medical Fee Schedule for 2013 must be used for reimbursement for all services on or after November 1, 2013. For ordering information, visit www.optumcoding.com (keyword: Mississippi Workers' Comp) or call 1-800-464-3649, option 1.

MISSOURI

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 1** was signed into law by Missouri Governor Jay Nixon on July 10, 2013 and became effective on January 1, 2014. The bill: (1) amends the definition of employee to exclude any person who performs services for board, lodging, aid, or sustenance received from any charitable, religious or relief organization; (2) provides for a direct causal relationship to be established as a standard of proof for paid peace officers of a police department certified under chapter 590 for psychological stress; (3) establishes a statute of limitations period for filing an application for payment of additional reimbursement with the Division in Medical Fee disputes; (4) allows an employer to insure in whole or in part their employer liability under a policy of insurance or a self-insurance plan; (5) provides for occupational diseases to be exclusively covered under the Workers' Compensation Law; (6) creates a new definition for "occupational diseases due to toxic exposure" to include the following: mesothelioma, asbestosis, berylliosis, coal worker's pneumoconiosis,

bronchiolitis obliterans, silicosis, silicotuberculosis, manganism, acute myelogenous leukemia, myelodysplastic syndrome; (7) provides for an enhanced benefit to be paid to an employee for all claims filed on or after January 1, 2014, for "occupational diseases due to toxic exposure" which result in permanent total disability (PTD) or death, (a) for occupational disease due to toxic exposure *not including mesothelioma* the enhanced benefit is an amount equal to 200% of the state average weekly wage (SAWW) as of the date of diagnosis for 100 weeks, (b) for occupational disease due to toxic exposure that *is diagnosed to be mesothelioma*, the enhanced benefit is an amount equal to 300% of the SAWW for 212 weeks which expire on December 31, 2038, (c) employers shall not have subrogation rights to recover monies paid in the workers' compensation case from a third party action, and (d) provides for payment of the enhanced benefit to an employee's spouse or children if the employee dies before the enhanced benefits have been paid; (8) creates the Missouri Mesothelioma Risk Management Fund and gives an employer the option to elect to accept or reject mesothelioma liability - Employers who elect to accept mesothelioma liability may do so either by: (a) insuring their liability by purchasing insurance coverage with an insurance carrier; (b) qualifying as a self-insurer; or (c) becoming a member of a group of employers that agrees to pool their liabilities; (9) states that for employers who reject mesothelioma liability the exclusive remedy shall not apply to such liability; (10) creates the Missouri Mesothelioma Risk Management Fund (Fund) with powers vested in a Board of Trustees (Board); (11) states any employer may participate

in this Fund and use monies collected to pay mesothelioma awards against the employer member of the Fund and provides that employers who join the Fund make annual contributions in amounts determined by the Board based upon rates filed by insurers and joining the Fund has same effect as purchase of insurance and as a self-insurance plan; (12) states that money in the fund is available for: (a) payment and settlement of mesothelioma related awards for employers who participate in the Fund; (b) Attorney's fees and expenses related to administration and representation of the Fund, and (c) establishes other duties relating to meetings, quorum, record of proceedings, operations of the Fund, administration and operation of the Fund, rules, coverage, use of moneys collected, investments, assessments of members, and refunds; (13) addresses the solvency issues of the Second Injury Fund (SIF) by authorizing the Division Director to collect a supplemental SIF surcharge not to exceed 3% for calendar years 2014 to 2021, of policyholder's or self-insured's workers' compensation net deposits, net premiums or net assessments of the previous policy year with an expiration on December 31, 2021; (14) authorizes the taxpayer to either request a refund or apply the credit against the tax obligation that is owed; (15) makes other changes to the SIF including: (a) authorizes the Division Director to have an annual actuarial study done with the first study to be completed by July 1, 2014; (b) eliminates permanent partial disability (PPD) claims against the SIF on or after January 1, 2014 and provides for the PTD claims to be covered as long as the prior disability meets certain established conditions; (16) provides for PTD benefits against the SIF to employees

employed in a sheltered workshop; (17) eliminates the uninsured medical and death benefits to be paid from the SIF and also the second job wage loss benefits on or after January 1, 2014; (18) establishes a prioritization schedule for payment of SIF liabilities; (19) states that no compensation is payable from the SIF when an employee files a Claim for Compensation under the Workers' Compensation Law of another state for the injury or accident or occupational disease; (20) provides for the suspension of life payments to be made from the SIF when the employee is able to obtain suitable gainful employment or be self-employed; (21) authorizes the Attorney General's Office to obtain a medical examination report on behalf of the SIF if the employer does not obtain one; (22) makes changes to the composition of the Administrative Law Judge Review Committee and states that any ALJ who receives 3 or more votes of no confidence under 2 successive performance audits by the ALJ Review Committee may have their appointment immediately withdrawn; and (23) allows a workers' compensation insurer to develop an individual risk premium modification rating plan to prospectively modify premiums. Click [here](#) for a copy of SB 1.

Administrative Changes:

- ◆ **Resolution of Medical Fee Disputes** (Amended Regulation 8 CSR 50-2.030). inserts a statutory period of limitation (S/L) for a health care provider to file a dispute of the medical charge in reasonableness disputes. It allows an employer or insurer to request an award on undisputed facts in regard to the application for payment of additional reimbursement on the ground that it was not filed within the S/L, or charges have



been paid. Click [here](#) for a copy of the regulation.

MONTANA

- *Amended Statute and Made Administrative Changes*



Legislation:

- **HB 82** was signed by Montana Governor Steve Bullock and became law on March 20, 2013. The bill: (1) revises the applicability of extraterritorial workers' compensation agreements and reciprocity of workers' compensation coverage; (2) specifies that employees from another state who are engaged in the construction industry must be covered by Montana's work comp laws unless there is a reciprocal agreement negotiated by the Department of Labor and Industry, with approval by the governor, with the state in which the contractor is based; and (3) outlines the terms required in the reciprocal agreement. Click [here](#) for a copy of **HB 82**.
- **HB 232** was signed by Montana Governor Steve Bullock and became law on July 1, 2013. The bill: (1) specifies a higher standard of proof for claims against an employer or fellow employee for intentional and deliberate acts; (2) states that if an employee is intentionally injured by their employer or by their fellow employee while performing the duties of employment, the employee has the right to receive workers' compensation and have a cause for damages against the person who intentionally caused the injury; and (3)

provides that the standard of proof for an act to be determined intentional is clear and convincing evidence. Click [here](#) for a copy of **HB 232**.

- **HJR 25** provides for an interim study of workers' compensation. A study will be conducted regarding subrogation, the workers' compensation court structure, the structure of the state compensation insurance fund, and various medical and safety components of the workers' compensation system. The final results and any findings and conclusions will be reported to the 64th legislature. Click [here](#) for a copy of **HJR 25**.
- **SB 323** was signed by Montana Governor Steve Bullock and became law on July 1, 2013. The bill: (1) revises workers' compensation laws on prescribing schedule II and III drugs; (2) specifies that ongoing prescriptions for Schedule II and III drugs may be ordered only by a treating physician and allows the treating physician to query the prescription drug registry prior to an initial or refill prescription; (3) requires a notation in the patient's medical file for each query; and (4) excludes certain circumstances, including immediately prior to or after surgery or during emergencies. Click [here](#) for a copy of **SB 323**.
- **SB 386** was signed by Montana Governor Steve Bullock and became law on July 1, 2013. The bill: (1) revises the volunteer firefighter benefit laws; (2) allows for certain governmental fire agencies to provide workers' compensation coverage for volunteer firefighters; and (3) revises premium and benefit provisions for volunteer firefighters and certain volunteer emergency medical technicians. Click

[here](#) for a copy of SB 386.

Administrative Changes:

Effective July 1, 2013, the Montana Department of Labor and Industry adopted the following new Administrative Rules for the workers' compensation medical fee schedule.

- ◆ Rule 24.29.1433 Facility Service Rules and Rates for Services Provided On or After July 1, 2013 – This rule sets the reimbursement amounts for medical services provided by a facility when a person is discharged on or after July 1, 2013. Click [here](#) for a copy of ARM 24.29.1533.
- ◆ Rule 24.29.1512 Selection of Physician for Claims Arising On or After July 1, 2013 – The 2011 Legislature gave insurers authority to approve or designate treating physicians. This rule clarifies the process by which this will take place. Click [here](#) for a copy of ARM 24.29.1512.
- ◆ Rule 24.29.1523 Medical Equipment and Supplies for Dates of Service On or After July 1, 2013 – This rule establishes rates applicable to both facilities and professional services for medical equipment and supplies. In addition, medical coding updates are incorporated in the rule. Click [here](#) for a copy of ARM 24.29.1523.
- ◆ Rule 24.29.1534 Professional Fee Schedule for Services Provided On or After July 1, 2013 – This rule sets the reimbursement amount for medical services provided by a medical provider at a nonfacility or facility furnished on or after July 1, 2013. Click [here](#) for a copy of ARM 24.29.1534.

Effective July 1, 2013, the Montana

Department of Labor and Industry adopted the following modified Administrative Rules for the workers' compensation medical fee schedule.

- ◆ Rule 24.29.1401A Definitions – This rule modification added the term “designated treating physician” and redefined “facility” or “health care facility.” Click [here](#) for a copy of ARM 24.29.1401A.
- ◆ Rule 24.29.1402 Payment of Medical Claims – This rule modification renames “nonfacility fee schedule” to “professional fee schedule,” and established procedures to implement the provisions established by the 2011 Legislature to assess penalties on insurers for failure to use the proper fee schedule in a timely manner. Click [here](#) for a copy of ARM 24.29.1402.
- ◆ Rule 24.29.1406 Facility Bills – This rule modification requires that facility bills be submitted on a UB04 form. Click [here](#) for a copy of ARM 24.29.1406.
- ◆ Rule 24.29.1432 Facility Service Rules and Rates for Services Provided From December 1, 2008 Through June 30, 2013 – This rule modification ends the time frame for this rule effective June 30, 2013, due to the new rule, 24.29.1433 (above). Click [here](#) for a copy of ARM 24.29.1432.
- ◆ Rule 24.29.1510 Selection of Physician for Claims Arising From July 1, 1993 Through June 30, 2013 – This rule modification ends the time frame for this rule effective June 30, 2013, due to the new rule, 24.29.1512 (above). Click [here](#) for a copy of ARM 24.29.1510.
- ◆ Rule 24.29.1513 Documentation Requirements – This rule modification



incorporates the statutorily required use of the medical status form, requires bills to be submitted on the national CMS 1500 form for standardized billing practices, and clarifies billing procedures between facilities and professional fees. Click [here](#) for a copy of ARM 24.29.1513.

- ◆ Rule 24.29.1515 Functional Improvement Status – This rule modification clarifies the type of improvement required and how it can be adequately documented. Click [here](#) for a copy of ARM 24.29.1515.
- ◆ Rule 24.29.1522 Medical Equipment and Supplies Provided by a Nonfacility for Dates of Service From January 1, 2008 Through June 30, 2013 – This rule modification ends the time frame for this rule effective June 30, 2013, due to the extent of changes in the new rule, 24.29.1523 (above). Click [here](#) for a copy of ARM 24.29.1523.
- ◆ Rule 24.29.1533 Nonfacility Fee Schedule for Services provided From January 1, 2008 Through June 30, 2013 - This rule modification ends the time frame for this rule effective June 30, 2013, due to the extent of changes in the new rule, 24.29.1534 (above). Click [here](#) for a copy of ARM 24.29.1533.
- ◆ Rule 24.29.1538 Conversion Factors for Services Provided On or After January 1, 2008 – Methodology – This rule modification updated the conversions for professional services, which had been frozen since December 31, 2010, at the direction of the 2011 Legislature. This rule modification ends the time frame for this rule effective June 30, 2013, due to the extent of changes in the new rule, 24.29.1523 (above). Click [here](#) for a

copy of ARM 24.29.1538.

NEBRASKA

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **LB 21** was signed by Nebraska Governor Dave Heineman and became effective on March 7, 2013. The bill repeals a sunset provision as of June 30, 2014 for mental injuries sustained by first responders pursuant. Click [here](#) for a copy of **LB 21**.
- **LB 141** was signed by Nebraska Governor Dave Heineman and became effective on May 7, 2013. The bill: (1) eliminates the prohibition on filing motions for reconsideration; (2) makes the law consistent with Supreme Court rules for appeals from district court; (3) changes the time for filing the praecipe for bill of exceptions from “within 30 days after the date of [the] final order” to “at the same time the notice of appeal is filed”; and (4) changes the deadline for filing the bill of exceptions from “within two months of the filing of the praecipe” to “within seven weeks from the date the notice of appeal is filed.” Click [here](#) for a copy of **LB 141**.

Administrative Changes:

All of the rule changes summarized below were adopted by the judges of the court. Click [here](#) for a copy of the following rules.

The following amendments to the Nebraska Workers' Compensation Court's Rules of Procedure were adopted at a public meeting on December 12, 2013.



- ◆ **Rule 26, Schedules of Fees for Medical, Surgical, and Hospital Services.** Amended to identify Medicare Diagnostic Related Groups to be included in the Diagnostic Related Group inpatient hospital fee schedule effective January 1, 2014.
- ◆ **Rule 37, Vocational Rehabilitation Reporting.** Amended to require that vocational rehabilitation counselors provide the court with the employee's term grade point average.
- ◆ **Rule 47, Lump Sum Settlement.** Amended to eliminate a requirement that a lump sum settlement application be an original, and to provide that in lump sum settlements involving life expectancies, the U.S. Life Table, 2008, rather than 2006, shall be the minimum life expectancy table used, and to adopt a revised Addendum 2, U.S. Life Table: 2008.

NEVADA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **AB 11** was signed by Nevada Governor Brian Sandoval and became effective May 24, 2013. The bill amends the information reported annually by an insurer to the Administrator of the Division for claims of firefighters, police officers, arson investigators or emergency medical attendants; and expanded the definition of "police Officer" to include peace officers. Click [here](#) for a copy of **AB 11**.
- **AB 90** was signed by Nevada Governor Brian Sandoval and became effective October 1, 2013. The bill allows an employee in a workers' compensation appeal to be represented by an employee of an employee's labor organization if the employee is not an independent contractor. Click [here](#) for a copy of **AB 90**.
- **AB 170** was signed by Nevada Governor Brian Sandoval and became effective January 1, 2013. The bill amends the term "advanced practitioner of nursing" to "advanced practice registered nurse." Click [here](#) for a copy of **AB 170**.
- **AB 206** was signed by Nevada Governor Brian Sandoval and became effective May 21, 2013. The bill adds a provision assigning a deemed wage of \$2,000 per month to volunteer members of a search and rescue organization who sustain an industrial injury. Click [here](#) for a copy of **AB 206**.
- **AB 208** was signed by Nevada Governor Brian Sandoval and became effective October 1, 2013. The bill amends the Nevada Occupational Disease Act to include bailiffs or a deputy marshal of the District Court or Justice Court to the definition of "police officer." Click [here](#) for a copy of **AB 208**.
- **AB 488** was signed by Nevada Governor Brian Sandoval and became effective July 1, 2013. The bill changes the name from the "Division of Mental Health and Developmental Services" to the "Division of Public and Behavioral Health." Click [here](#) for a copy of **AB 488**.
- **SB 100** was signed by Nevada Governor

Brian Sandoval and became effective January 1, 2014. The bill amends the terms “intermediate emergency medical technician” to “advanced emergency medical technician” and “advanced emergency medical technician” to “paramedic.” Click [here](#) for a copy of SB 100.

- **SB 463** was signed by Nevada Governor Brian Sandoval and became effective January 1, 2015, if approved by 2014 general election. The bill amends the current statute by inserting a court of appeals for the Supreme Court of Nevada. Click [here](#) for a copy of SB 463.

Administrative Changes:

Adopted a regulation effective October 23, 2013, LCB File No. R149-09. A summary of the provision follows:

- ◆ Section 1 set forth new requirements which support the Division’s determination to refuse to recommend the licensing of a third party administrator.
- ◆ Section 2 set forth new factors the Administrator will consider in making a determination regarding a benefit penalty under NRS 616D.120 (1) (h).
- ◆ Sections 3, 4, 5 and 7 included employee leasing companies as potentially subject to administrative fines and benefit penalties.
- ◆ Section 6 amended NAC 616D.411 by revising the structure for calculating benefit penalties assessed under NRS 616D.120.

NEW HAMPSHIRE

– Amended Statute



Legislation:

- **HB 546** was signed by New Hampshire Governor Maggie Hassan on July 24, 2013, effective January 1, 2014. The bill requires that claimants be notified when independent medical examinations are requested by employers for the purpose of medical opinions, not treatment. Click [here](#) for a copy of HB 546.

- **SB 95** was signed by New Hampshire Governor Maggie Hassan on June 20, 2013, effective January 1, 2014. The bill gives injured workers the right to choose their pharmacy. Click [here](#) for a copy of SB 95.

Administrative Changes: None.

NEW JERSEY

– Amended Statute



Legislation:

- **SB 1469** was signed by New Jersey Governor Chris Christie on June 13, 2013. The bill allows the surviving spouses of police and fire personnel who die in the line of duty to remarry and continue to receive dependency benefits. Click here for a copy of SB 1469.

Administrative Changes: None.

NEW MEXICO

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **SB 233** was signed by New Mexico Governor Susana Martinez on April 4, 2013. The bill raised the attorney fee cap to \$22,500 from the previous cap of \$16,500. It also raised the cap for attorney fees based on bad faith claims practices to \$5,000 from the current cap of \$2,500. Click [here](#) for a copy of **SB 233**.
- **SB 275** was signed by New Mexico Governor Susana Martinez on April 3, 2013. The bill was a workers' compensation clean-up bill. The intent of this bill was to clarify and consolidate parts of the statute. Click [here](#) for a copy of **SB 275**.

Administrative Changes:

The following changes were made to the New Mexico Workers' Compensation Administration Rules and Statutes, effective December 31, 2013. Click [here](#) for a complete listing of the New Mexico Workers' Compensation Administration Rules and Statutes.

- ◆ Changes have been made to the medical fee schedule and WCA Rules, including: updates to Part 2, Data Reporting and Safety Requirements; Part 6, Judicial Selection; Part 13, Controlled Insurance Plans; and the repeal and reissuance of Part 7, Payments for Health Care Services.

NEW YORK

– Amended Statute

**Legislation:**

- **SB 7748** was signed by New York Governor Andrew Cuomo and enacted on March 26, 2013. While the bill was the state executive budget it contained several changes to the state's workers' compensation system. Specifically, the bill: (1) changes the Composition of the New York State Workers' Compensation Board's Chiropractic Practice Committee from 1 doctor and 2 chiropractors to 3 chiropractors and the Psychology Practice Committee from 2 psychologists to 3 psychologists; (2) permits a single arbitrator process for the resolution of medical billing disputes for under \$1,000, or at a providers request; (3) streamlines assessment collection by providing an assessment methodology that charges all employers based on a common factor such as written premium (or its equivalent) by implementing an Administrative Expense for the Disability Benefits Fund included in the assessment rate as well as the expenses associated with the administration of the Volunteer firefighters' benefit law and Volunteer Ambulance Workers' benefit law; (4) adds non-payment of assessments as a reason an insurance policy can be cancelled by a carrier; (5) implements an annual evaluation of the condition of the Disability Benefits Fund on April 1st; (6) adds any assessment necessary to restore the fund to \$12 million to the streamlined assessment amount as opposed to current assessment on carriers; and (7) authorizes the Chair to transfer assessment monies to the

Disability Benefit Fund if the fund is less than \$3 million; (8) changes the investment authority of the State Insurance Fund to provide greater security for the investment of funds held as reserves while permitting greater diversification on investment of funds held as surplus; (9) provides that the assessment reserves held by SIF are to be released to the general fund, as they are no longer necessary with the establishment of a pass through assessment; (10) establishes a bonding program by changing the name from Group self-insurer default fund to Self-Insurer offset fund, allowing the chair to request the transfer of bond proceeds into the Group Self-insurer default offset fund for the purposes outlined in the bond financing agreement, establishes a bonding program with the Dormitory Authority to fund the Group Self-Insurer default offset fund; (11) repeals the requirement that the Board maintain principal offices in Albany; (12) defines "surviving spouse"; (13) clarifies the definition of "abandonment"; (14) closes the Reopened Case Fund to new claims as of 1/1/2014; (15) reduces the time to adjudication by allowing 30 days to file a discretionary full board review, establishing a standard of review for appeals in alternative dispute resolution cases, and allows alternative dispute resolution in which appeals are to be heard by the court of competent jurisdiction; (16) increase board flexibility in penalizing employers for non-coverage by increasing the Board's flexibility in assessing penalties for non-coverage and now allows the Chair to penalize an employer who does not have Workers' Compensation insurance with a penalty up to \$2,000 or 2 times the payroll amount during that period; (17) increases minimum wage replacement

benefit amount from \$100 per week to \$150 per week, effective May 1, 2013; (18) makes changes to the management of the Special Disability Fund by deleting the definition of Special Funds Conservation Committee (SFCC), confirming the Board's authority to oversee the defense of the special disability fund, effective 1/1/2014, and giving the Chair of the Board the authority to appoint an attorney to represent and defend the fund; (19) increases Board data collection ability by allowing the Board and the Department of Financial Services with the authority to request data from the New York Compensation Insurance Rating Board. Click [here](#) for a copy of SB 7748.

Administrative Changes: None.

NORTH CAROLINA

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **HB 74** was signed by North Carolina Governor Pat McCrory and enacted on August 23, 2013. The bill: (1) revises acceptable procedures for cancellation of workers' compensation insurance; (2) adds the following language to the statute: "Notice of cancellation, termination, or nonrenewal may also be given by any method permitted for service of process pursuant to Rule 4 of the North Carolina Rules of Civil Procedure"; (3) revises the liability relationship between contractors and subcontractors; (4) adds the following language to the statute, "any [contractor] who shall sublet any contract ... shall

not be held liable to any employee of such subcontractor if either, (a) the subcontractor has a workers' compensation insurance policy in effect on the date of injury regardless of whether the principal contractor, intermediate contractor, or subcontractor failed to timely obtain a certificate from the subcontractor; or (b) the policy expired or was cancelled prior to the date of injury provided the [contractor] obtained a certificate at any time before subletting such contract to the subcontractor and was unaware of the expiration or cancellation; and (5) creates a rebuttable presumption that certain taxicab drivers are independent contractors and not employees under the Workers' Compensation Act. Click [here](#) for a copy of **HB 74**.

- **HB 92** was signed by North Carolina Governor Pat McCrory and enacted on August 23, 2013. The bill states that the physician and hospital fee schedules shall be based on an adjusted Medicare payment methodology with the goals of ensuring that (a) injured workers are provided the standard of services and care intended, (2) providers are reimbursed reasonable fees for providing these services, and (3) medical costs are adequately contained. Click [here](#) for a copy of **HB 92**.

- **HB 168** was signed by North Carolina Governor Pat McCrory and signed by North Carolina Governor Pat McCrory and enacted on July 18, 2013. The bill: (1) applies to fee disputes between current and former attorneys for an employee where historical disputes were argued in superior court; and (2) states that the Commission shall hear and determine any dispute between an employee's current and past attorney or attorneys regarding the division of a fee

as approved by the Commission. Click [here](#) for a copy of **HB 168**.

- **SB 44** was signed by North Carolina Governor Pat McCrory and enacted on April 3, 2013. The bill provides that the following information shall be publically available from the Commission: employer name and address; carrier name, address, and telephone number; policy number; policy effective dates; policy cancellation dates; and policy reinstatement dates. Click [here](#) for a copy of **SB 44**.
- **SB 174** was signed by North Carolina Governor Pat McCrory and enacted on July 9, 2013. The bill: (1) disapproves 28 of 42 rules subject to legislative review; (2) includes procedures related to the reinstatement of compensation by an employee; (3) allows for expedited medical motions and describing related procedures; (4) adds language indicating that the Commission shall adopt rules for administrative motions and their practices and procedures, including (a) a party shall not issue a subpoena duces tecum less than 30 days prior to the hearing date except upon prior approval of the Commission, and (b) a form of discovery includes the production of books, papers, records, and other tangible things; and (5) states any new forms or substantive amendments to old forms adopted after July 1, 2013, shall be adopted in accordance with Article 2 of Chapter 150B. Click [here](#) for a copy of **SB 174**.
- **SB 402** was signed by North Carolina Governor Pat McCrory and enacted on August 23, 2013. The bill provides that the following information shall be provided by the Commission to the State Controller and the GDAC (Government Data Analytics Center): all data requested by GDAC relating to: (i)



workers' compensation insurance coverage, (ii) claims, (iii) appeals, (iv) compliance, and (v) enforcement. Click [here](#) for a copy of SB 402.

- **SB 520** was signed by North Carolina Governor Pat McCrory and enacted on June 11, 2013. The bill directs the Commission that as of August 1, 2013, unless waived by consent of the parties, all hearings of the full Commission shall be recorded. Click [here](#) for a copy of SB 520.

Administrative Changes:

In compliance with the Administrative Procedure Act, the North Carolina Industrial Commission has adopted rules approved by the Rules Review Commission. On January 1, 2013, the following new rules became effective.

- ◆ **04 NCAC 10A.0301, Proof of Insurance Coverage** – Click [here](#) for a copy of 04 NCAC 10A .0301.
- ◆ **04 NCAC 10J.0101, Fees for Medical Compensation** - Click [here](#) for a copy of 04 NCAC 10J.0101.

Pursuant to G.S. §150B-21.3(b2), a portion of the approved rules are subject to legislative review. All remaining approved rules have a delayed effective date, to be determined in accordance with the legislative review. Click [here](#) for the rules subjected to legislative review and [here](#) for the approved rules with a delayed effective date.

NORTH DAKOTA

– No Changes were made in 2013



Legislation: None.

Administrative Changes: None.

OHIO

– Amended Statute and Made Administrative Changes



Legislation:

- **HB 34** was signed by Ohio Governor John Kasich on March 26, 2013. The bill makes appropriations for the Bureau of Workers' Compensation (BWC) for the biennium beginning July 1, 2013, and ending June 30, 2015, to provide authorization and conditions for the operation of the Bureau's programs. Click [here](#) for a copy of HB 34.
- **HB 59** was signed by Ohio Governor John Kasich on June 30, 2013. The bill primarily establishes Ohio's Operating Budget appropriations for Fiscal Years 2013 & 2014, but also included provisions: (1) removing a requirement for BWC to transfer funds to the Ohio Department of Natural Resources for mine safety; (2) allowing BWC to self-administer tenant improvements, establish rules regarding criteria that an employer must meet to waive employee count for self-insurance and removes a provision giving Medicaid the right to subrogate benefits payable to a person subject to a support order; (3) granting statutory authority for BWC to execute contracts with Managed Care Organizations (MCOs); (4) expanding the Safety Grant Program from \$5million to \$15million; and (5) modernizing the workers' compensation

billing system from retrospective to prospective. Click [here](#) for a copy of HB 59.

- **HB 72** was signed by Ohio Governor John Kasich on October 31, 2013. The bill: (1) modernizes and makes changes regarding how the county recorder's office maintains records; and (2) contains a provision that removes the limit for BWC liens on tangible property only. Click [here](#) for a copy of SB 72.

Administrative Changes:

The following summarizes Ohio Bureau of Workers' Compensation rules that were amended or enacted in 2013. All rules can be found on the [Register of Ohio](#) or [Lawriter](#).

- ◆ **Claims Procedure rules:** Claim procedures subsequent to allowance; Lump sum advancements.
- ◆ **Medical Rules:** Provider access to the HPP - Denial of provider, entity or MCO certification based on criminal conviction or civil action; Bureau fee schedule; Records to be retained by MCO; Payment for outpatient medication; Payment for outpatient medication by self-insuring employer; Outpatient medication formulary; Payment of hospital inpatient services; Payment of hospital outpatient services; Payment of ambulatory surgical center services; Payment for home health nursing services; Payment of nursing home and residential care/assisted living services.
- ◆ **Ethics Rules.**
- ◆ **Personal Information Systems rules.**
- ◆ **General Rating for the State Insurance Fund rules.**
- ◆ **Self-Insured Employer rules:** Where an employer desires to secure the privilege to pay compensation, etc., directly; Assessment for self-insuring employers' guaranty fund.
- ◆ **Coal-Workers' Pneumoconiosis Fund rules.**

- ◆ **Construction Safety rules:** Cutting and welding; Demolition.
- ◆ **Public Employment Risk Reduction Program rules.**

OKLAHOMA

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **HB 1108** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill allows a captive insurance company to apply to the Insurance Commissioner for a license in all insurance, removing the exemption of workers' compensation insurance, allowing a captive insurance company to provide excess insurance to its parent and affiliated companies. A captive insurance company may not join or contribute financially to a guaranty or insolvency fund in this state and no benefits from any such fund for claims arising out of the captive insurance company's operations shall be received by the captive insurance company, or its insured or its parent or any affiliated company or any member organization of its association, a subscriber of the company or a protected cell or participant in a protected cell. Click [here](#) for a copy of HB 1108.
- **HB 1343** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill authorizes any insurance company or other insurance entity which is owned or financially controlled in whole or in part by any federally recognized American Indian tribe or nation to apply for a certificate of authority or license to

transact insurance business in this state. Click [here](#) for a copy of HB 1343.

- **HB 1419** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill directs the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to send a written or electronic notice to a prescribing practitioner alerting them of the possibility that a person engaged in fraudulent or deceptive efforts to fill or refill multiple prescriptions for controlled dangerous substances may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act. Click [here](#) for a copy of HB 1419.

- **HB 1622** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill allows the carrying of a concealed or unconcealed weapon on private elementary or private secondary school property if a policy has been adopted by the governing entity of the private school. A governing entity of a private school which has adopted a policy is immune from liability except for acts of gross negligence or willful or wanton misconduct. The immunity does not extend to claims made pursuant to the Workers' Compensation Code. Click [here](#) for a copy of HB 1622.

- **HB 1783** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill provides that a written or oral prescription for any product containing hydrocodone with another active ingredient shall not be refilled. Click [here](#) for a copy of HB 1783.

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- **HB 2188** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill: (1) modifies charges for accessing medical records stating: (a) providers may charge a patient or the patient's personal representative, spouse or responsible family member not more than \$0.50 per page for copies of medical records; (b) the cost of any x-ray or other photograph or image or pathology slide shall be \$5.00; (c) medical record requests by attorneys, insurance companies or pursuant to subpoena shall be charged a base fee of \$10.00, in addition to the per page charges, plus postage or a delivery fee; (2) states that under certain circumstances, the provider or their business associates shall reproduce the record in digital form at the rate of \$0.30 per page; (3) provides that the charge for reproduction of electronically stored and delivered medical records shall not exceed \$200.00, plus postage or a delivery fee; and (4) states that no fee for searching, retrieving, reviewing and preparing records for copying, or for providing copies by facsimile, to a person who requests their own record shall be charged. Click [here](#) for a copy of HB 2188.

- **HB 2201** was signed by Oklahoma Governor Mary Fallin and all provisions in the bill become effective by January 1, 2015. The bill: (1) creates the CompSource Mutual Insurance Company Act for the purpose of converting CompSource Oklahoma to a domestic mutual insurer operating in accordance with the Oklahoma Insurance Code, with specific exemptions, effective January 1, 2015; (2) names the entity "CompSource Mutual Insurance Company" ("CompSource"), (3) states it shall



provide workers' compensation insurance to any employer in Oklahoma which seeks such insurance and meets other reasonable requirements; (4) provides that the Insurance Commissioner shall approve the company's articles of incorporation and issue a certificate of authority to the company by August 1, 2014 to write workers' compensation insurance as provided by law which shall become effective January 1, 2015; (5) establishes a ten member board of directors comprised of public and private sector representatives; (6) states the company shall be a member of and be protected by the Oklahoma Property and Casualty Insurance Guaranty Association and, in the event of the company's insolvency, the Association shall only be liable for claims with a date of injury occurring on or after January 1, 2015; (7) provides that all persons employed by CompSource before January 1, 2015 shall remain members of the Oklahoma Public Employees Retirement System until retirement or termination; (8) establishes that the company is responsible for employer contributions to the system and the employees shall continue to pay employee contributions; (9) allows CompSource to influence the Multiple Injury Trust Fund (MITF) assessment until the MITF repays in full any loan owed by the MITF to the company or its predecessor CompSource Oklahoma; and (10) severs the MITF from CompSource Oklahoma effective August 23, 2013 and provides that the person serving as the Administrator of the MITF on the date of passage and approval of the act shall serve as the initial MITF Director, if that person is serving as the MITF Administrator on the effective date of the act. Click [here](#) for a copy of HB 2201.

- **SB 173** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill makes a place of business, worship, corporation or other business entity that allows a person to carry a loaded or unloaded concealed or unconcealed weapon on property that it owns or controls immune from liability arising from that decision, except for acts of gross negligence or willful or wanton misconduct, but this immunity does not extend to claims made pursuant to the Workers' Compensation Code. Click [here](#) for a copy of SB 173.
- **SB 250** was signed by Oklahoma Governor Mary Fallin and became effective on April 13, 2013. The bill amends the Workers' Compensation Act by modifying restrictions on reimbursement for magnetic resonance imaging (MRI) by replacing the 1.0 Tesla field strength limitation with a requirement that the MRI be provided by an entity that meets Medicare requirements for the payment of MRI services or is accredited by the American College of Radiology, the Intersocietal Accreditation Commission or the Joint Commission on Accreditation of Healthcare Organizations. Click [here](#) for a copy of SB 250.
- **SB 549** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill expands "racketeering activity" under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act to include insurance fraud and workers' compensation fraud. Click [here](#) for a copy of SB 549.
- **SB 788** was signed by Oklahoma Governor Mary Fallin and became effective on July 1, 2013. The bill: (1)



requires contractors to have and be able to prove issuance of a workers' compensation policy in compliance with Title 85 of the Oklahoma Statutes; (2) states that a bona fide association representing construction related entities may offer benefit plans and insurance coverage to a particular trade, business, profession or industry or their subsidiaries; (3) provides that a workers' compensation policy for a nonresident contractor shall show "Oklahoma" or "All States" for Other States Insurance on Section 3C of the policy; and (4) provides that any contractor failing to provide the required information or proof of bond, if required, shall be fined by the Oklahoma Tax Commission in an amount not to exceed 10% of the contractor's total bid, which shall be in addition to any other penalties allowed by law. Click [here](#) for a copy of SB 788.

- **SB 1062** was signed by Oklahoma Governor Mary Fallin and became effective on February 1, 2013. The bill: (1) creates the Administrative Workers' Compensation Act (AWCA), Oklahoma Employee Injury Benefit Act (OEIBA), Workers' Compensation Arbitration Act (WCAA), and the Workers' Compensation Court of Existing Claims (CEC) in a new Title 85A of the Oklahoma Statutes; (2) repeals most then existing workers' compensation statutes effective February 1, 2014; (3) provides that under the AWCA the Workers' Compensation Commission has jurisdiction of all workers' compensation claims with injury dates on and after February 1, 2014 and that claims for compensation with injury dates before February 1, 2014 are governed by prior law and are to be administered by the CEC (previously known as the Workers' Compensation Court); (4) states that judges of the

Workers' Compensation Court shall serve as judges of the CEC until their respective terms expire at which time the positions dissolve as the terms expire; (5) provides that Administrative law judges shall be assigned to assist the CEC when a vacancy on the Court occurs or is certain to occur; (6) states that the OEIBA allows an employer to voluntarily elect to be exempt from the AWCA and become a "qualified employer"; (7) provides that such an election is contingent upon satisfaction of certain notice requirements, payment of a nonrefundable \$1,500 fee to the Insurance Commissioner (and annually thereafter), and establishment of a benefit plan for payment of benefits to covered employees as a result of occupational injury; (8) states that a qualified employer's liability under a benefit plan is exclusive and in place of all other liability of the qualified employer and any of its employees at common law or otherwise, for a covered employee's occupational injury or loss of services, to the covered employee, the employee's dependents or any other person, except for intentional torts; and (9) provides that the WCAA allows parties to enter into an agreement to arbitrate claims for injuries covered by the Administrative Workers' Compensation Act. Click [here](#) for a copy of SB 1062.

- **SB 1090** was signed by Oklahoma Governor Mary Fallin and became effective on November 1, 2013. The bill: (1) amends provisions related to judgments against certain political subdivisions of the state; and (2) grants exclusive jurisdiction over workers' compensation actions against the political subdivision in administrative law judges and the administrative agency designated by the Legislature to



administer the state's workers' compensation laws, and makes the agency's administrative orders "judgments" payable against the political subdivision. Click [here](#) for a copy of SB 1090.

Administrative Changes:

The Oklahoma Workers' Compensation Court of Existing Claims Rules and Workers' Compensation Commission rules were promulgated in response to the comprehensive reforms made in SB 1062 (2013). Both sets of rules became effective in 2014.

- ◆ Click [here](#) to access the Court's rules, click on the following.
- ◆ Click [here](#) to access the Commission's rules and scroll to "Commission Rules"

OREGON

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **HB 2069** was signed by Oregon Governor John Kitzhaber in 2013 and became effective on January 1, 2014. The bill corrects an inadvertent statutory omission, as it allows the director of the Department of Consumer and Business Services to resolve a dispute about the duration of temporary disability benefits during a vocational training program by ordering the payment of temporary disability compensation for up to 21 months upon good cause shown by the injured worker. Click [here](#) for a copy of HB 2069.
- **HB 2909** was signed by Oregon Governor John Kitzhaber in 2013 and

became effective on January 1, 2014. The bill changes the name of the Center for Research on Occupational and Environmental Toxicology to the Oregon Institute of Occupational Health Sciences. This reflects an updated emphasis on total worker health, as opposed to research solely focused on occupational and environmental toxicology. Click [here](#) for a copy of HB 2909.

- **SB 96** was signed by Oregon Governor John Kitzhaber in 2013 and became effective on January 1, 2014. The bill gives self-insured employer groups that are municipal or public corporations the right to apply for exemption from certain security deposit requirements. For an exemption to be approved by the director of the Department of Consumer and Business Services, the group would have to establish a "loss reserve account," which is money set aside specifically for the payment of compensation to injured workers. Click [here](#) for a copy of SB 96.
- **SB 190** was signed by Oregon Governor John Kitzhaber in 2013 and became effective on January 1, 2014. The bill provides authority to the Workers' Compensation Board to adopt new rules and revise existing rules to allow the electronic transmission and signature of filings, notices, and other documents. Click [here](#) for a copy of SB 190.
- **SB 533** was signed by Oregon Governor John Kitzhaber in 2013 and became effective on January 1, 2014. The bill extends the authority for authorized nurse practitioners to treat and authorize time-loss (wage replacement) benefits to 180 days (which has been 90 days for treatment and 60 days for time-loss). The measure also allows an injured worker enrolled in a managed care

organization (MCO) to be treated by a non MCO-paneled chiropractic physician under specified circumstances that focus on a current patient-provider relationship. In addition, an MCO is permitted to deny or terminate the authorization of non-MCO panel physicians, nurse practitioners, and chiropractic physicians under certain conditions. Click [here](#) for a copy of SB 533.

- **SB 678** was signed by Oregon Governor John Kitzhaber in 2013 and became effective on June 14, 2013. The bill extends the exclusive remedy protection to include an employer's partners, LLC members, and similar corporate entities. The Oregon Court of Appeals had ruled in *Cortez v. Nacco Materials Handling, 248 Or App 435 (2012)* that workers' compensation exclusive remedy protection did not apply to limited liability corporation (LLC) members that employed an injured worker, because the statute did not explicitly include those entities. SB 678 also clarifies that exclusive remedy can be negated when an employer's negligence is a substantial factor in causing the injury or illness and occurs outside of the employer's capacity. Click [here](#) for a copy of SB 678.

Administrative Changes:

The following rules were adopted by the Oregon Workers' Compensation Division in 2013. Click on the rule number for a copy of the rule.

- ◆ **OAR 436-009, Oregon Medical Fee and Payment Rules**. Effective 4/1/2013, adopts updated medical fee schedules for the payment of health care providers; specifies that payments for certain

hospital outpatient imaging services are limited to the maximums allowed under the physician fee schedule and are therefore not subject to a hospital's cost/charge ratio; clarifies that an insurer must provide an explanation for any reductions in reimbursements (not only for denials) to a worker for the worker's claim-related expenses; increases the maximum allowable payments for certain chiropractic manipulation codes; prescribes payment criteria for time-based CPT® codes for physical medicine and rehabilitation services; and defines interpreter services to include reasonable time spent on necessary paperwork for the provider's office. | [Effective 1/1/2014](#), adopts the National Uniform Claim Committee's recently published v1.1 0613 0212 NUCC 1500 Instruction Manual for the updated 02/12 1500 Claim Form that providers may elect to use starting Jan. 6, 2014.

- ◆ **OAR 436-010, Medical Services**. Effective 4/1/2013, specifies limitations on an employer or insurer representative's right to attend a worker's medical examination and to obtain medical records, and prescribes treatment plan requirements for services of Oregon licensed massage therapists. | [Effective 1/1/2014](#), reflects a statutory change that expands the authority of authorized nurse practitioners to treat injured workers and to authorize time loss.
- ◆ **OAR 436-015, Managed Care Organizations (MCOs)**. Effective 4/1/2013, clarifies that the State of Oregon may appoint a medical service provider or panel of providers to review the medical records or examine a worker as needed to resolve a medical treatment or services dispute involving a worker



enrolled in an MCO. | [Effective 1/1/2014](#), reflects a statutory change by including chiropractic physicians who are not MCO panel members among the types of health care providers who may continue to treat, under certain conditions, workers who have been enrolled in an MCO; and prescribes the types of information MCOs must include in an annual report to the State of Oregon, regarding denials and terminations of the authorization of primary care physicians, chiropractic physicians, and nurse practitioners, who are not members of the managed care organization, to provide compensable medical treatment.

- ◆ [OAR 436-050, Employer/Insurer Coverage Responsibility](#). Effective 1/1/2014, reflects a statutory change that gives self-insured employer groups that are municipal or public corporations the right to apply for exemption from certain security deposit requirements.
- ◆ [OAR 436-105, Employer-at-Injury Program](#). Effective 7/1/2013, reduces the percentage of wage subsidy paid by the Workers' Benefit Fund from 50 percent to 45 percent of gross wages.
- ◆ [OAR 436-110, Preferred Worker Program](#). Effective 6/7/2013, provides that the State of Oregon may develop one or more pilot projects to test alternatives to the current system of re-employing preferred workers.
- ◆ [OAR 436-120, Vocational Assistance to Injured Workers](#). Effective 1/1/2014, reflects a statutory change that gives the director of the Department of Consumer and Business Services authority to extend temporary disability compensation during training for up to

21 months upon good cause shown by the injured worker.

- ◆ [OAR 436-160, Electronic Data Interchange; Medical Bill Data](#). Effective 7/1/2014, adopts the International Association of Industrial Accident Boards and Commissions EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb 1, 2013, and the ASC (Accredited Standards Committee) X12 Implementation Acknowledgment for Health Care Insurance (999), dated February 2011.

PENNSYLVANIA

– No Changes
Were Made in
2013



Legislation: None

Administrative Changes: None.

PUERTO RICO

– Amended Statute



Legislation:

- [S 327](#) (Law Number 16-2013) became effective on May 6, 2013. The bill restructures the governing body of the Corporation of the State Insurance Fund and amends the term of appointment of its members. Click [here](#) for a copy of [S 327](#).

Administrative Changes: None.



RHODE ISLAND

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **S 951 Substitute A** was signed by Rhode Island Governor Lincoln Chaffee on July 16, 2013. All sections took effect upon signing except for sections 1 and 3 that became effective on October 1, 2013. This act amends various procedural provisions in the general laws regarding workers' compensation cases, including notice requirements. It also increases the amount paid for burial expenses for work related injuries resulting in death, and extends the effective date of the uninsured employer fund to cover injuries that occur only on or after January 1, 2015. Click [here](#) for a copy of **S 951**.

Administrative Changes: None.

- ◆ **Workers' Compensation Court Rules of Practice** The Workers' Compensation Court Rules of Practice have been revised on several occasions to address statutory changes which have required rule revisions. The most recent amendments to the Rules were approved by the Rhode Island Supreme Court and became effective on April 2, 2013. Click [here](#) for a copy of these rules.

SOUTH CAROLINA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

- ◆ **R67-1801 through R67-1809 Mediation**. Effective June 28, 2013, South Carolina Workers' Compensation cases may be required to be mediated by Regulations 67-1801 through 67-1809. Mediation is a process for parties to find a resolution prior to having the matter set for a hearing. Click [here](#) for a copy of this regulation.

SOUTH DAKOTA

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **HB 1097** was signed by South Dakota Governor Dennis M. Daugaard on February 20, 2013 and became law on July 1, 2013. The bill revised certain provisions relating to an employer's denial of workers' compensation claims. Click [here](#) for a copy of **HB 1097**.
- **SB 75** was signed by South Dakota Governor Dennis M. Daugaard on March 25, 2013 and became law on July 1, 2013. The bill adopted updated guidelines for the evaluation of permanent impairment in connection with workers' compensation claims. Click [here](#) for a copy of **SB 75**.
- **SB 206** was signed by South Dakota Governor Dennis M. Daugaard on March 25, 2013 and became law on July 1, 2013. The bill revised certain provisions relating to liability and to worker's compensation and disability payments for law enforcement officers performing duties in other jurisdictions.

Click [here](#) for a copy of SB 206.

Administrative Changes:

The following rule changes were reported by the South Dakota Department of Labor and Regulation for 2013.

- ◆ 47:03:05: **Medical Fee Schedules.** Effective June 26, 2013, the rule change revised the workers compensation fee schedule. Click [here](#) for a copy of these rules.

TENNESSEE

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 124/HB 136** (Public Chapter 50) was signed by Tennessee Governor Bill Haslam and became effective on March 26, 2013. The bill authorizes the Department of Labor and Workforce Development to request and obtain information regarding employer workers' compensation insurance policies in order to ensure compliance with the law. Certain information is considered public record. Any additional information relating to workers' compensation insurance policies is deemed confidential and would not constitute a public record. However, such information may be used by any state agency, or vendor designated by the state, for the purpose of ensuring compliance with the law. Click [here](#) for a copy of SB 124/HB 136.
- **SB 1174/HB 626** (Public Chapter 210) was signed by Tennessee Governor Bill Haslam and became effective on April 23, 2013. The bill defines "volunteer

firefighters" to mean any member or personnel of a fire department, volunteer fire department, rescue squad or volunteer rescue squad, including, but not limited to, a junior member, a board member or an auxiliary member of the department or squad. Click [here](#) for a copy of SB 1174/HB 626.

- **SB 432/HB 864** (Public Chapter 367) was signed by Tennessee Governor Bill Haslam and became effective on May 13, 2013. The bill provides that workers from a foreign state who are temporarily performing work in Tennessee for a foreign state employer will be covered under the workers' compensation laws of the foreign state, should an injury occur, if: the foreign state employer has furnished workers' compensation coverage under the laws of the foreign state; the extraterritorial provisions of Tennessee workers' compensation law are recognized in the foreign state; and employees and employers who are covered in Tennessee are exempted from the application of the workers' compensation insurance or similar law in the foreign state. Tennessee employees working in a foreign state temporarily (i.e., no more than 14 days consecutively or no more than 25 days in a calendar year) shall only be entitled to benefits under Tennessee workers' compensation laws if injured incidental to their employment. A Tennessee employee injured while working in a foreign state, other than temporarily, may still receive benefits in Tennessee if: the employment was principally located in Tennessee; the contract for hire was made in Tennessee; or the employee was a Tennessee resident at the time the injury occurred in the foreign state and "there existed a substantial relationship between [Tennessee] and the particular employer and employee relationship." Click [here](#)



for a copy of [SB 432/HB 864](#).

- **[SB 302/HB 362](#)** (Public Chapter 439) was signed by Tennessee Governor Bill Haslam and became effective on May 16, 2013. The bill specifies that the Local Education Agency must continue to pay the teacher's full benefits including health insurance benefits until the earlier of the date on which the teacher is released by the teacher's physician to return to work or the date on which the teacher is determined by the teacher's physician to be permanently disabled from returning to work. Click [here](#) for a copy of [SB 302/HB 362](#).

- **[SB 833/HB 551](#)** (Public Chapter 424) was signed by Tennessee Governor Bill Haslam and became effective on July 1, 2013. The bill subjects any construction services provider who misclassifies employees to avoid proper classification for workers' compensation insurance premium calculations by concealing any information pertinent to the computation and application of an experience rating modification factor to a civil penalty. The penalty will also apply to any construction services provider who materially understates or conceals: the amount of their payroll, the number of their employees, or any of the construction services provider's employee's duties. This does not affect a construction services provider's or carrier's duty to provide workers' compensation benefits or any of the construction services provider's or carrier's rights and defenses under the workers' compensation law. Click [here](#) for a copy of [SB 833/HB 551](#).

- **[SB 519/HB 549](#)** (Public Chapter 476) was signed by Tennessee Governor Bill Haslam and became effective on May 20, 2013 for [rulemaking](#) and January 1,

2014 for all other provisions. The bill exempts a construction services provider who is an individual and who does not meet the other exemption criteria established in present law, but who is a member of a recognized religious sect or division and is an adherent of established tenets or teachers of such sect or division by reason of which such construction services provider is conscientiously opposed to acceptance of the workers' compensation benefits from the present law requirement that all construction services providers carry workers' compensation insurance on themselves. No more than five individuals associated with one business entity may be exempt pursuant to this amendment. Each person seeking the exemption must register with the Secretary of State's Office. Click [here](#) for a copy of [SB 519/HB 549](#).

- **[SB 200/HB 194](#)** (Public Chapter 289) was signed by Tennessee Governor Bill Haslam and became effective on April 29, 2013 for rulemaking purposes and July 1, 2014 for all other provisions. The bill separates the Division of Workers' Compensation from the Department of Labor and Workforce Development, except for administrative matters only. It defines "maximum total benefits" for injuries occurring on, or after July 1, 2014, as 450 times 100 percent of the state's average weekly wage and revises the permanent partial disability benefit formula. This law establishes an alternative dispute method for resolving claims with a workers' compensation mediator and creates the Court of Workers' Compensation Claims composed of judges for the adjudication of claims. It establishes an ombudsman program to assist employees and employers that are not represented by an attorney in a claim. It also establishes a medical payment committee and a



medical advisory committee. Click [here](#) for a copy of SB 200/HB 194.

- **SB 1275/HB 1159** (Public Chapter 282) was signed by Tennessee Governor Bill Haslam and became effective on July 1, 2014. The bill makes various changes to present law concerning workers' compensation. Click [here](#) for a copy of SB 1275/HB 1159.

Administrative Changes:

- ◆ Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2013 through June 30, 2014 is \$918.50 or 110% of the state's average weekly wage.
- ◆ Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2013 through June 30, 2014 is \$835.00 or 100% of the state's average weekly wage.
- ◆ Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2013 through June 30, 2014 for both temporary and permanent benefits is \$125.25.

TEXAS

- *Amended Statute*



Legislation:

- **HB 1762** (Chapter No. 321) was signed by Texas Governor Rick Perry and became effective on June 27, 2013. The bill relates to workers' compensation and other remedies available to an injured temporary employee. Click [here](#) for a copy of HB 1762.

- **HB 2645** (Chapter No. 1024) was signed by Texas Governor Rick Perry and became effective on July 12, 2013. The bill relates to certification and operation of independent review organizations for workers' compensation medical benefits. Click [here](#) for a copy of HB 2645.

- **HB 3152** (Chapter No. 374) was signed by Texas Governor Rick Perry and became effective on June 28, 2013. The bill relates to payments and contracts with health care providers by entities under contract with a certified workers' compensation network. Click [here](#) for a copy of HB 3152.

- **SB 381** (Chapter No. 743) was signed by Texas Governor Rick Perry and became effective on July 8, 2013. The bill relates to misuse of the name or symbols of the Texas division of workers' compensation. Click [here](#) for a copy of SB 381.

- **SB 734** (Chapter No. 569) was signed by Texas Governor Rick Perry and became effective on July 9, 2013. The bill provides for the licensing and regulation of captive insurance companies. Click [here](#) for a copy of SB 734.

- **SB 1286** (Chapter No. 117) was signed by Texas Governor Rick Perry and became effective on June 24, 2013. The bill provides that the duties and obligations of an employer are allocated between co-employers under a professional employer services agreement. Click [here](#) for a copy of SB 1286.

- **SB 1322** (Chapter No. 1202) was signed by Texas Governor Rick Perry and became effective on July 30, 2013. The bill relates to the provision of durable medical equipment and home health care

services through informal and voluntary networks in the workers' compensation system. Click [here](#) for a copy of SB 1322.

Administrative Changes: None.

UTAH

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 22** was signed by Utah Governor Gary R. Herbert on March 22, 2013 and became law May 14, 2013. The bill repeals the Utah Injured Worker Reemployment Act as of July 1, 2014. Click here for a copy of SB 22.
- **SB 45** was signed by Utah Governor Gary R. Herbert on March 22, 2013 and became law May 14, 2013. The bill: (1) clarifies that a corporation which elects to exclude persons from workers' compensation coverage must serve written notice naming those persons; (2) states such individuals must be directors or officers; (3) stipulates that not more than five individuals may be excluded from coverage; (4) requires self-insured corporations to serve written notice upon the Commission; and (5) grants rule making authority allowing the Commission to define the form of the written notice. Click here for a copy of SB 45.
- **SB 59** was signed by Utah Governor Gary R. Herbert on April 1, 2013 and becomes law July 1, 2014. The bill: (1) would require a private health care

insurer to pay medical benefits of an injured worker whose workers' compensation claim is being adjudicated; (2) would require the workers' compensation carrier to reimburse the insurer for incurred medical expenses plus interest as well as reimburse claimants for out-of-pocket expenses plus interest upon the Commission's determination of compensability or approval of a settlement agreement stipulating to compensability; (3) exempts carriers with less than two percent of the workers' compensation premium market; (4) prohibits health care providers from balance billing a workers' compensation carrier; and permits the Commission to penalize a carrier which does not reimburse a health care insurer or employer and to report the carrier to the Utah Insurance Department. Click here for a copy of SB 59.

- **SB 147** was signed by Utah Governor Gary R. Herbert on March 22, 2013 and became law July 1, 2013. The bill: (1) adds advanced practice registered nurses to those medical providers authorized to treat claimants in preferred provider networks; (2) provides the Commission rulemaking authority to establish the time period for employers to report a work related injury or illness, and removes the seven day reporting requirement from statute; (3) allows the Commission to assess a civil assessment of up to \$500 for an employer and /or the employer's workers' compensation carrier. A criminal penalty of up to \$500 for an employer not reporting a work-related injury or illness is eliminated; and (4) provides to the Commission rule making authority to promulgate medical fee standards. Click here for a copy of SB 147.



Administrative Changes:

- ◆ **R612-100. General Provisions.** The "General Provisions" rule became effective February 25, 2013. The rule consolidates similar provisions of a prior Commission rule, R612-1, and re-codifies. The provisions of this rule include: (1) Definitions; (2) Official forms; and (3) Penalty Assessments Designated as Informal Proceedings.
- ◆ **R612-200. Filing and Paying Claims.** Provisions of Section 200 took effect February 25, 2013. The rule establishes: (1) Claim reporting requirements for carriers and medical providers; (2) Exclusion of reporting injuries that require only first aid treatment (first aid defined); (3) Protocols for filing claims via the Commission's Electronic Data Interchange (EDI); (4) Standards regulating payment of claims, accrued interest and present value (PV) discounts; (5) Dispute conciliation and compensation agreement procedures; and (6) Guidelines governing determination of permanent total disability claims.
- ◆ **R612-300. Medical Fee Standards.** This rule was promulgated pursuant to authority granted under the amendments made to 34A-2-407 by **SB 147** (see above), and became effective November 22, 2013. This rule consolidates the provisions of Commission rule, R612-2, the Commission's 2012 Medical Fee Standards, and re-codifies. The rule provides: (1) Reasonable fees for medical care necessary to treat workplace injuries; (2) Standards for disclosure of medical records; (3) Reporting requirements; and (4) Treatment protocols and quality care guidelines. The rule's approved 2014 fees for approved medical modalities

with related CPT codes and unit values for the treatment of workers compensation injuries are based on the "Optum 2013 Current Procedural Coding Expert, CPT codes with Medicare essentials enhanced for accuracy," ("CPT" hereafter); and the "Optum 2013 The Essential RBRVS, 2013 1st Quarter Emergency Update."

- ◆ **R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.** This rule was promulgated effective, February 25, 2013, and consolidates, amends and re-codifies provisions of sections R612-3 thru 8. The rule: (1) Eliminates direct reporting of insurance coverage by any insurance carrier; (2) Clarifies language that governs policies and endorsements of employee leasing companies; and (3) Clarifies the process by which an employer may seek self-insured status.
- ◆ **Premium Rates:** Effective December 23, 2013, the workers' compensation premium rates for the Uninsured Employers' Fund was changed from 0.15 percent to 0.35 percent.

VERMONT

– Amended Statute

**Legislation:**

- **HB 51** (Act 6) was signed by Vermont Governor Peter Shumlin on April 23, 2013 and became effective on July 1, 2013. The bill authorized payment of workers' compensation benefits by electronic payroll card provided certain criteria are met. Click [here](#) for a copy of **HB 51**.

- **SB 85** (Act 86) was signed by Vermont Governor Peter Shumlin on June 13, 2013 and became effective on July 1, 2013. The bill added a presumption for firefighters and emergency personnel exposed to blood borne pathogens in the line of duty. In addition, the workers' compensation assessment on premiums was maintained at 1.45% but a "technology assessment" of 0.16 percent on premiums and 0.25 percent of self-insured losses was established to enable an upgrade of workers' compensation technology and data collection resources. Click [here](#) for a copy of **SB 85**.

Administrative Changes: None.

VIRGINIA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 1305** was signed by Virginia Governor Robert F. McDonnell on March 12, 2013 (effective on July 1, 2013). The bill revises the provision enacted in 2011 that created a presumption, in the absence of a preponderance of evidence to the contrary, that an injury is work related if an employee is physically or mentally unable to testify and there is un rebutted prima facie evidence that the injury was work related. This measure clarifies that where the factual circumstances are of sufficient strength from which the only rational inference to be drawn is that the accident arose out of and in the course of employment, it shall be presumed the accident arose out of and in the course of employment, unless such presumption is overcome by a preponderance of competent evidence to the contrary. Click [here](#) for a copy of **HB 1305**.
- **HB 1347** was signed by Virginia Governor Robert F. McDonnell on March 12, 2013 (effective on July 1, 2013). The bill states that an injury to a public safety officer in situations where weather constitutes a particular risk of his employment shall be compensable where the injury arose out of and in the course of his employment. This bill is identical to **SB 896**. Click [here](#) for a copy of **HB 1347**.
- **HB 1656** was signed by Virginia Governor Robert F. McDonnell on February 20, 2013 (effective on July 1, 2013). A bill to amend and reenact § 65.2-204 of the Code of Virginia, relating to the Virginia Workers' Compensation Commission; location of offices. Eliminates a requirement that the offices of the Workers' Compensation Commission must be located in a building in the City of Richmond. Click [here](#) for a copy of **HB 1656**.
- **HB 1705** was signed by Virginia Governor Robert F. McDonnell on March 13, 2013 (effective on July 1, 2013). The bill provides that the Fund has a lien on a victim's claim if an award was made from the Fund. The bill also provides that if the defendant pays restitution, and the Fund has made any payments for expenses included in the restitution order, then at the request of the Fund, the entity collecting the restitution must, upon presentation of a written request, pay as much of the restitution collected to the Fund as will reimburse the Fund for its payments. Click [here](#) for a copy of **HB 1705**.
- **HB 1733** was signed by Virginia

Governor Robert F. McDonnell on March 12, 2013 (effective on July 1, 2013). The bill allows any party to a dispute regarding medical treatment or services that has been referred to a peer review committee to have the matter remanded to the Workers' Compensation Commission if the matter has not been resolved within six months of its referral. A case remanded to the Commission shall not be re-referred to a peer review committee. Click [here](#) for a copy of HB 1733.

Administrative Changes:

The Virginia Workers' Compensation Commission changed the following rules.

- ◆ ***Effective July 1, 2013:*** Maximum Compensation Rate: \$955 and the Minimum Compensation Rate: \$238.75
- ◆ ***Effective October 1, 2013:*** The COLA Rate: 1.7%

VIRGIN ISLANDS

– *No Changes
Were Made in
2013*



Legislation: None.

Administrative Changes: None.

WASHINGTON

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **HB 1469** was signed by Governor Jay Inslee on April 25, 2013 (effective July 28, 2013). The requirement that workers' compensation premiums for employees in the horse racing industry be computed on a per license basis and assessed at the time the license is issued or renewed is removed. Instead, rates will be established based on the risk insured as determined by rules adopted by the department and the Washington Horse Racing Commission. Click [here](#) for a copy of HB 1469.
- **HB 1887** was signed by Governor Jay Inslee on May 21, 2013 (effective July 28, 2013). The 2007 legislation that established the Vocational Rehabilitation Pilot Program also created the Vocational Rehabilitation Subcommittee made up of representatives from business and labor. The statute was amended stating that the subcommittee must consider options that, under limited circumstances, would allow injured workers to attend baccalaureate institutions under their vocational rehabilitation plans. Click [here](#) for a copy of HB 1887.
- **SB 5362** was signed by Governor Jay Inslee on May 21, 2013 (effective May 21, 2013). The bill allows for continuation of improvements to vocational services for injured workers to help them get back to work. Legislation was enacted in 2007 that established a five year vocational training pilot program, known as the Vocational Improvement Project (VIP). The bill extended the sunset date for the vocational rehabilitation three years to June 30, 2016. Click [here](#) for a copy of SB 5362.
- **SB 5476** was signed by Governor Jay Inslee on May 3, 2013 (effective July 28, 2013). This bill clarifies the employment status of independent contractors in the newspaper business. RCW 51.12.020(10) was amended to clarify that any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to business, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment,

submits material for publication for free or a fee when the material is published are excluded from mandatory industrial insurance coverage. Click [here](#) for a copy of SB 5476.

Administrative Changes:

The following Washington Administrative Code (WAC) rules were created or amended:

- ◆ **Authorization of medical care, WAC 296-15-330:** This rule was amended to clarify what self-insurers must do to comply with the requirements of the statewide health care provider network. Self-insurers are required to ensure that only network providers treat injured workers after the initial office or emergency room visit. Self-insurers must inform their workers about the provider network, the requirement that only network providers can be paid for treatment after the initial office or emergency room visit, and promptly assist workers to transfer care to a network provider of their choice, when necessary. This WAC became effective May 10, 2013. Click [here](#) for a copy of WAC 296-15-330.
- ◆ **Independent Medical Examinations:** This is another phase of rules to implement provisions of Substitute Senate Bill 5801 (Chapter 6, Laws of 2011) that create minimum standards for treating providers in the medical provider network to treat injured workers. WACs [296-23-302](#), [296-23-317](#) and [296-23-337](#) were amended to: fill the gap between the current standards for IME providers and the recently adopted provider network credentialing standards, include changes to address other stakeholder concerns and incorporate best practices to ensure that high quality IME services are available and that appropriate medical decisions are made to promote the quickest recovery and earliest safe return to work possible for injured workers. The changes became effective February 25, 2013.
- ◆ **Medical Aid Conversion Factors, Physical Therapy Rules, and Occupational Therapy Rules:** These rules update

conversion factors provided in WAC [296-20-135](#) maximum daily fees provided in WAC [296-23-220](#) and [296-23-230](#) for certain professional health care services for injured workers. Rule changes are necessary to maintain current overall fees for health care services, which are published annually in the Medical Aid Rules and Fee Schedules.

- ◆ **Drug Rules:** These rules were adopted to ensure safe, appropriate, and effective drug therapy designed to improve clinical outcomes and support a successful return to work. The following WACs were amended by this rulemaking and became effective July 1, 2013.
- ◆ WAC [296-20-03010](#) was amended to clarify payment for prescription drugs to those approved by the Food and Drug Administration (FDA) or other similar regulatory agencies outside the United States for workers who live in other countries. Off-label use of a drug is defined.
- ◆ WAC [296-20-03011](#) now allows pensioners with ongoing medical treatment and workers with claims that are held open for life-sustaining treatment to receive a 90-day supply of prescription drugs via mail-order.
- ◆ WAC [296-20-03012](#) was amended to change the Washington State Medical Association's (WSMA) industrial insurance and rehabilitation committee to the Industrial Insurance Medical Advisory Committee (IIMAC).
- ◆ WAC [296-20-03015](#) was amended to include steps that can be taken when the department or self-insurer is concerned about the safety of the worker receiving prescription drugs.
- ◆ **Opioid Rules:** These rules focus on the prescription of and payment for opioids. These WACs support key concepts in Labor and Industries' *Guideline for Prescribing Opioids to Treat Pain in Injured Workers* and ensure consistency with the Department of Health's pain management rules.



Authorization requirements are based on best practices for prescribing opioids, such as screening for risks and tracking function and pain, and will improve care for injured and ill workers.

- ◆ The following WACs became effective July 1, 2013: WACs [296-30-03030](#), [296-20-03035](#), [296-20-03040](#), [296-20-03045](#), [296-20-03050](#), [296-20-03055](#), [296-20-03056](#), [296-20-03057](#), [296-20-03058](#), [296-20-03059](#), [296-20-03060](#), [296-20-03065](#), [296-20-03070](#), [296-20-03075](#), [296-20-03080](#), [296-20-03085](#), and [296-20-06101](#).

WEST VIRGINIA

– Amended Statute



Legislation:

- **HB 3069** was signed by Governor Earl Ray Tomblin and became effective on July 12, 2013. The bill: (1) permits an award of attorney's fees and costs to workers' compensation claimants against private carriers and self-insured employers (\$500 per litigated issues, up to \$2,500 per claim) for a reversal of a denial of authorization of medical benefits; and (2) caps the hourly rate at \$125. Click [here](#) for a copy of **HB 3069**.

Administrative Changes: None.

WISCONSIN

– No Changes
Made in 2013



Legislation: None.

Administrative Changes: None.

WYOMING

– No Changes
Made in 2013



Legislation: None.

Administrative Changes: None.

Legislative Session Information

There are twenty-six states that did not carry over bills from 2012 to 2013 (odd to even years) because they began new legislative sessions in 2013, including AK, CA (12/3/12), DE, GA, HI, IL, IA, KS, ME(12/5/12), MA, MI, MN, NE, NH, NY, NC, OH, OK, PA, RI, SC, TN, VT, WA, WV and WI (RI technically does carry over bills, but typically will reintroduce legislation). Two states (NJ and VA) began new legislative sessions in 2012 and carried over legislation from 2012 to 2013 (even years to odd years). The remaining eighteen states do not carry over legislation, including AL, AZ, AR, CO, CT, FL, ID, IN, KY, LA, MD, MS, MO, NM, OR, SD, UT and WY. Four states hold biennial legislative sessions in odd years, including MT, NV, ND and TX where there will be no legislative session in 2014. To see more detail on the status of state legislative sessions in 2014, click [here](#).

UWC wishes to acknowledge that many of the legislative summaries were derived or excerpted from analyses prepared by various state agencies or research bureaus and the states.

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