



Research *BULLETIN*



Prepared by UWC – Strategic Services on Unemployment & Workers' Compensation
Published by the National Foundation for Unemployment Compensation & Workers' Compensation

910 17th Street, NW, Suite 315, Washington, DC 20006 (202) 223-8902 Fax (202) 783-1616 www.UWCstrategy.org

STATE WORKERS' COMPENSATION LEGISLATION AND RELATED CHANGES ADOPTED IN 2011

Contributing Author: [Tony Fiore](#)

AUGUST 2012

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Executive Summary

This report details significant changes in 2011 to state workers' compensation laws and administrative rules. Medical exams, medical costs, employer rates and adjudication continue to be the primary areas of concern. An area of increasing concern relates to prescription drug abuse. 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, Mediation and Attorney Fees

AK, AZ, CA, CT, DE, FL, LA, ME, MD, MI, MN, MS, NE, NH, NM, OH, OK, OR, PA, TN, TX, and VA

Classification of Workers and Exemptions

FL, ME, MT, PA and VT

Employer Rates, Notices, Costs, Filings and Rating Programs

FL, OH, OR, PA, TN and WA

Proof of Coverage

CA, CT, FL, IN, MN and TN

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

NV and TX

Medical Exams, Authorization, Information, Costs, Notices, Examiners, Providers

AL, AK, CA, CO, DE, FL, IN, LA, ME, MI, MN, MT, NE, NH, NM, NY, NC, OH, OK, OR, SD, TN, TX, VA and WA

Fraud, Penalties, Subrogation and Overpayments

CA, CT, IN, ME, MN, MT, NV, NM, OH, OR, TX and WA

Self-Insurance

AZ, CA, FL, LA, NY, OH, TX, WA and WV

Settlements

AZ, CO, CT, MD, MN, MT, NM, OK, OR and TN

Confidentiality of Information

OH and VT

Temporary and Permanent Total, Permanent Partial Disability, Compensation Offsets

AZ, AR, MI, MT, NC, OK, OR and WA

Death Benefits

AR, MD, NC and OK

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

AK, CA, CT, LA, MT, NV, NC, OH and WA

Volunteer and Public Employee Benefits

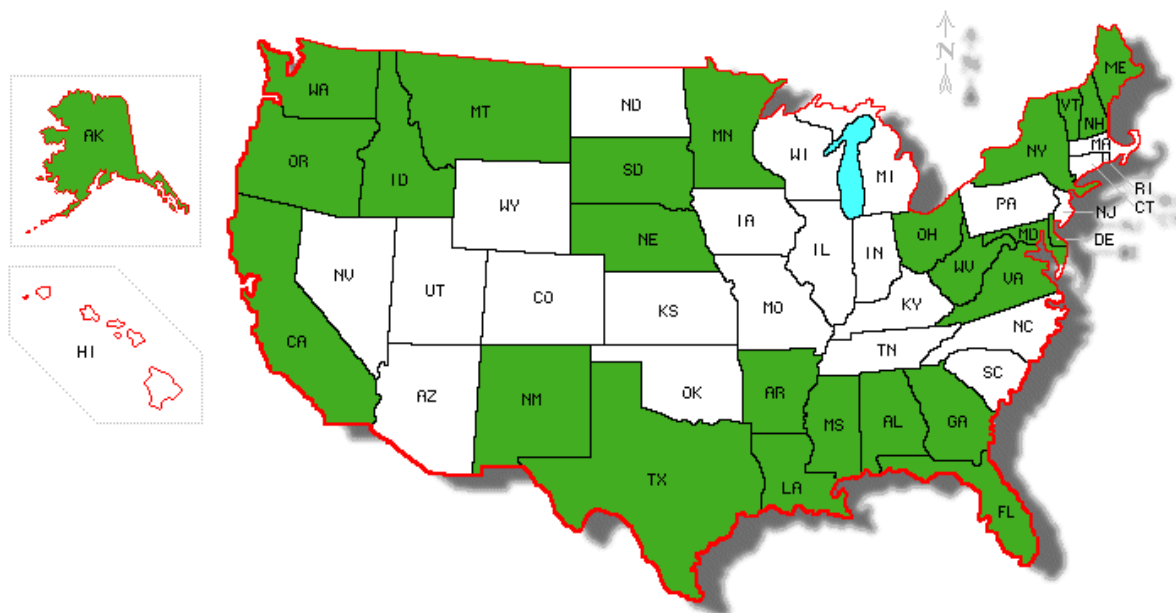
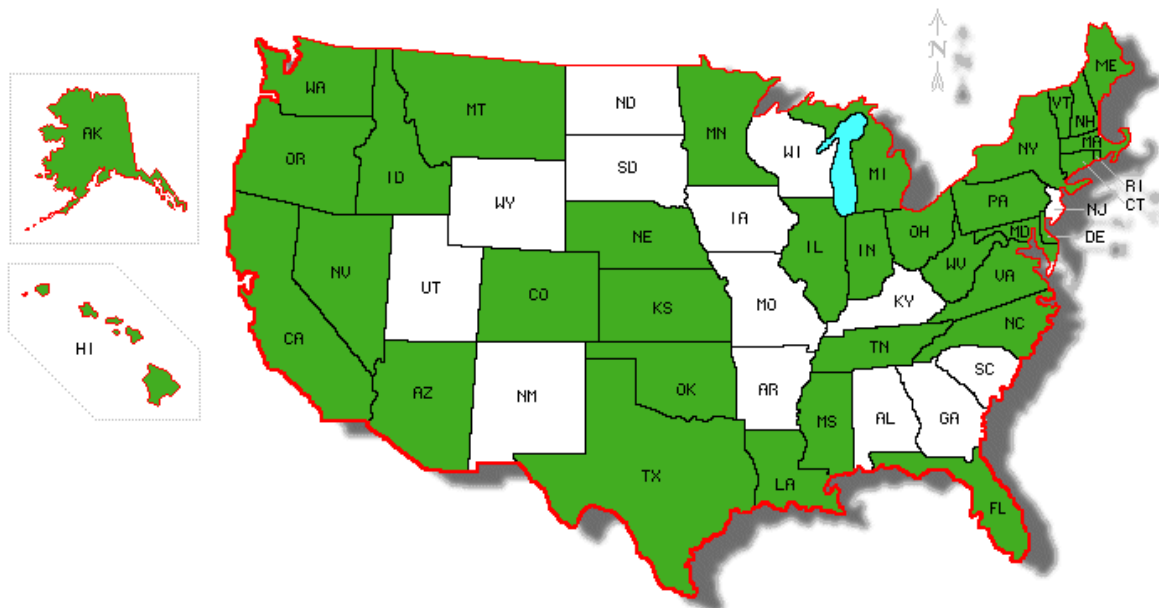
CA, MD, MI, MT, NV, PA, RI, TX, VA and WV

Extraterritorial Issues

AL, CA, DE, FL and OK

Claim Eligibility, Drug and Alcohol, Prescription Drug Abuse

AL, CA, DE, FL OH and OK



ALABAMA

– Made
Administrative
Changes



Legislation: None

Administrative Changes:

- ◆ **Rule 480-5-5-.37 – Out-of-State Medical Providers** – The rule establishes three methods by which out-of-state providers will be reimbursed for the treatment of an employee who falls under Alabama's jurisdiction. Reimbursement of out-of-state providers under the rule is not limited to one particular methodology, but rather enables flexibility for the payer and provider to determine the appropriate payment. For any injury under Alabama's jurisdiction, the out-of-state medical provider is paid: (a) according to that state's workers' compensation fee schedule for that provider; (b) according to a mutually negotiated payment rate pursuant to Code of Alabama, 1975, § 25-5-314; or (c) according to the Alabama workers' compensation fee schedule for nonfacility medical providers. Click [here](#) for a copy of Rule 480-5-5-.37.

ALASKA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 13** was signed by Alaska Governor Sean Parnell on September 28, 2011, (effective September 29, 2011). The bill amends AS 23.30.097(a) so as to authorize the creation of a new workers' compensation medical fee schedule for payment of treatment on or after December 31, 2010. The fee schedule is to be established by the Alaska Workers' Compensation Board and adopted by reference in regulation. The fee schedule must be based on statistically credible data, reflect the cost in the geographical area where services are provided, and be at the 90th percentile. Click [here](#) for a copy of HB 13.

Administrative Changes:

- ◆ **Register Rule 197** – Effective February 20, 2011, the rule establishes qualifying medical examinations required for the attachment of the statutory firefighter presumption of workers' compensation coverage for certain diseases for certain firefighters. Click [here](#) for a copy of Register Rule 197.
- ◆ **Register Rule 199** – Effective July 9, 2011, the rule: (1) amends 8 AAC 45.065, establishing that an appeal of a discovery order of a Workers' Compensation Board designee must be filed no later than 10 days after the filing of the discovery order; (2) amends 8

AAC 45.074, adding that the parties' stipulation to a continuance for good cause is an acceptable cause for granting a continuance or cancelation of a hearing before the Alaska Workers' Compensation Board; (3) amends 8 AAC 45.082, establishing when a physician may be changed and the consequences of an unlawful change of physician, and defining the terms "month" and "provider"; (4) amends 8 AAC 45.182, establishing that, if the board determines there was an unfair and frivolous controversion of benefits, a copy of the decision and order must be provided to the director for action or to the commissioner's designee for consideration in a self-insured employer's renewal application for self-insurance; and (5) amends 8 AAC 45.510-.560, concerning the eligibility evaluation for reemployment benefits. Click [here](#) for a copy of Register Rule 199.

- ◆ **Register Rule 200** – Effective November 20, 2011, the rule: (1) amends 8 AAC 45.082, adopting the *Official Alaska Workers Compensation Medical Fee Schedule*, effective December 31, 2010 (see HB 13 under Legislation). Click [here](#) for the portion of Register Rule 200 amending 8 AAC 45.082; (2) amends 8 AAC 45.0786, concerning the requirement that a provider who renders medical or dental services must serve a report on the employer no later than fourteen (14) days after each service, and detailing what that report must include; and (3) amends 8 AAC 45.900, concerning the definition of "previously rehabilitated." Click [here](#) for the portion of Register Rule 200 amending 8 AAC 45.0786 or 8 AAC 45.900.

ARIZONA

– Amended Statute



Legislation:

- **HB 2476** (Ch. 317) was signed by Arizona Governor Jan Brewer, effective July 20, 2011. The bill: (1) increases the time period that an employee has to report, in writing, to an employer the details of possible significant exposure to methicillin-resistant staphylococcus aureus (MRSA), spinal meningitis or tuberculosis from 10 calendar days to 30 calendar days; and (2) modifies the time period that an employee must be diagnosed with MRSA from 2 to 10 days to 15 days after reporting the possible exposure. Click [here](#) for a copy of HB 2476.
- **HB 2584** (Ch. 93) was signed by Arizona Governor Jan Brewer, effective July 20, 2011. The bill establishes a pilot program to allow a city with a population of more than 150,000 persons and a self-insured county insurance pool to direct care to specific medical, surgical and hospital providers. Click [here](#) for a copy of HB 2584.
- **HB 2616** (Ch. 338) was signed by Arizona Governor Jan Brewer, effective July 20, 2011. The bill: (1) requires physicians to include information regarding the use of narcotic or opium based controlled substances greater or equal to 120 mg morphine equivalent dose per day, the prescription of a long-acting or controlled release opioid for acute pain and justification for the controlled substance and a treatment

plan in the reports submitted to the Controlled Substance Prescription Monitoring Program; (2) allows an interested party to request that the physician submit an inquiry to the state Board of Pharmacy requesting information on a prescription compiled under the Program; and (3) states that failure by a physician to comply with these requirements constitutes grounds to request a change of physician. Click [here](#) for a copy of HB 2616.

- **HB 2617** (Ch. 139) was signed by Arizona Governor Jan Brewer, effective July 20, 2011. The bill: (1) allows parties to a workers' compensation claim to agree to a final settlement agreement and release of a claim for undisputed entitlement to future supportive medical maintenance benefits upon approval of the Industrial Commission of Arizona (ICA); (2) requires the carrier or employer to file with the ICA a summary of reasonably anticipated future medical maintenance benefits and the projected costs; and (3) mandates that all medical conditions subject to the final settlement agreement be described in the final settlement agreement, and that the employer remain responsible for payment of treatment not listed in the agreement unless subject to dispute or included in the final settlement agreement. Click [here](#) for a copy of HB 2617.

- **SB 1264** (Ch. 345) was signed by Arizona Governor Jan Brewer, effective July 20, 2011. The bill: (1) requires wages payable for job positions modified by the date-of-injury employer under the Americans with Disabilities Act to be included in determining any temporary partial or permanent partial earning capacity, regardless of the modified job position not being available

on the open competitive labor market; (2) requires a report to be submitted to Joint Legislative Audit Committee (JLAC) if legislation affecting the establishment of a presumption of compensability is proposed by the preceding September 1st; and (3) specifies the scientific evidence and financial information to be included in the report. Click [here](#) for a copy of SB 1264.

Administrative Changes: None.

ARKANSAS

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

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

- ◆ **Advisory 2000-1** – The first advisory update was issued on October 27, 2011 and titled “AWCC Advisory 2000-1, Update, Weekly Workers' Compensation Rates for 2012 in Arkansas.” This advisory sets the weekly maximum workers' compensation rates for 2012. The maximums in 2011 are \$584.00 for Total Disability (TD) and \$438.00 for Permanent Partial Disability (PPD). For injury or death on and after January 1, 2012, through December 31, 2012, the *maximum* for workers' compensation weekly indemnity benefits is based on 85% of the state Average Weekly Wage (AWW) of \$686.71. The AWW is

determined by the Department of Workforce Services and is used by the Arkansas Workers' Compensation Commission to calculate compensation rates for injured workers. For TD in 2012, workers get $66 \frac{2}{3}\%$ of their individual AWW, rounded to the nearest whole dollar, up to a *maximum* of \$584.00 (85% of $\$686.71 = \583.70 , rounded to \$584.00). For PPD in 2012, *if TD is \$205.35 or greater*, the PPD maximum is 75% of TD, rounded to the nearest whole dollar, up to \$438.00 ($75\% \times \$584.00 = \438.00). *If TD is less than \$205.35*, PPD is $66 \frac{2}{3}\%$ of the worker's AWW, up to a \$154.00 maximum. The *minimum* weekly PPD and TD rate is \$20. The PPD rate for amputation or permanent total loss of use of a member is the same as the employee's TD rate. Click [here](#) for a copy of the 2000-1 Update.

- ◆ **Advisory 2007-1** – The second advisory update was issued on October 27, 2011 and titled "AWCC Advisory 2007 – 1, Update, D&PTD Threshold." This advisory increases the Death and Permanent Disability threshold. In 2007, the threshold was raised from seventy-five thousand dollars (\$75,000) at which the Death and Permanent Disability Trust Fund assumes payments of benefits for injuries resulting in permanent disability or death. The act raising the threshold from \$75,000 eliminated the \$75,000 cap on weekly benefits paid by the employer or its insurance carrier for injuries occurring on or after January 1, 2008. For injuries occurring prior to January 1, 2008, the \$75,000 limit on employer/carrier liability still applies. For injuries occurring on or after January 1, 2008, the employer or its carrier is required to pay weekly benefits for death or permanent total disability not to exceed

three hundred twenty-five (325) times the maximum total disability rate at the time of the injury. The maximum total disability rate for 2012 has been determined to be \$584.00. Thus, the threshold at which the Death and Permanent Disability Trust Fund will assume payments of benefits for injuries resulting in permanent disability or death for 2012 (1/1 through 12/31) will be \$189,800 ($\$584 \times 325 = \$189,800$). Click [here](#) for a copy of the 2007-1 Update.

- ◆ **Advisory 2011-1** – The new advisory was issued on April 25, 2011 and is titled "AWCC Advisory 2011-1, Form AR-4 Update Reports and Questions Concerning Form Filings." This advisory requires an employer to send to the Arkansas Workers' Compensation Commission notice of final payment of compensation within thirty (30) days after the final payment of compensation has been made and in accordance with a form prescribed by the commission. Form AR-4 satisfies this requirement. If additional monies are paid on a claim after the filing of Form AR-4, the additional monies must be reported by the filing of a Form AR-4 "Update Report" within the same time frame. Only the additional monies are reported and reflected in the Grand Total on the AR-4 "Update Report." Click [here](#) for a copy of the 2011-1 Advisory.



CALIFORNIA

– Amended Statute
and Made
Administrative
Change

**Legislation:**

- **AB 335** was signed by California Governor Jerry Brown on October 7, 2011. The bill: (1) requires the administrative director, in consultation with the commission, to prescribe reasonable rules and regulations for serving certain notices on an employee; (2) requires the administrative director, in consultation with the commission, to develop, make fully accessible on the department's Internet Web site, and make available at district offices informational material written in plain language that describes the overall workers' compensation claims process; (3) requires each notice to be written in plain language and to reference the informational material to enable employees to understand the context of the notices; and (4) modifies provisions required to be in, and procedures for, specified notices, and deletes a requirement for notice by certified mail, and makes conforming changes. Click [here](#) for a copy of **AB 335**.

- **AB 378** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). This bill: (1) adds pharmacy goods, as defined, to the list of medical goods or services for which it is unlawful for a physician to refer a person, except in prescribed circumstances. By creating a new crime, this bill would impose a state-mandated local program; (2) prohibits the maximum reasonable fees

paid for pharmacy services and drugs from including specified reductions in the relevant Medi-Cal payment system; (3) requires any compounded drug product, as defined, to be billed by the compounding pharmacy or dispensing physician at the ingredient level, as prescribed, and in accordance with regulations adopted by the California State Board of Pharmacy; (4) sets specified maximum reimbursement for a dangerous drug, dangerous device, or other pharmacy goods, dispensed by a physician; (5) prohibits a provision concerning physician-dispensed pharmacy goods from being superseded by any provision of the official medical fee schedule adopted by the administrative director unless the official medical fee schedule provision is expressly applicable; (6) requires the provision adopted by the administrative director to govern if a provision concerning physician-dispensed pharmacy goods is inconsistent with the prescribed official medical fee schedule; (7) deletes obsolete provisions relating to the adoption of a medical fee schedule for patient facility fees for burn cases; (8) incorporates additional changes in Section 5307.1 of the Labor Code proposed by Senate Bill 923, that would become operative only if Senate Bill 923 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last; and (9) provides that no reimbursement is required by this act for a specified reason. Click [here](#) for a copy of **AB 378**.

- **AB 397** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). The bill: (1) requires, at the time of renewal, an active contractor licensee with an exemption for workers' compensation insurance on file with the board to either

recertify the licensee's exemption or to provide a current and valid Certificate of Workers' Compensation Insurance or Certificate of Self-Insurance; and (2) provides for retroactive license renewal, as specified, for otherwise acceptable license renewal applications when the applicant provides the required documentation within 30 days after notification by the board of the renewal rejection. Click [here](#) for a copy of AB 397.

- **AB 585** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). The bill extends the existing cancer presumption for firefighters to active firefighting members of a fire department serving a National Aeronautics and Space Administration installation who adhere to specified training standards. Click [here](#) for a copy of AB 585.

- **AB 878** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). The bill: (1) requires a workers' compensation insurer to report to the registrar of contractors a licensee whose workers' compensation insurance policy is canceled by the insurer if the insurer has completed a premium audit or investigation, a material misrepresentation has been made by the insured that results in financial harm to the insurer, and no reimbursement has been paid by the insured to the insurer; (2) provides that the above information is not subject to the California Public Records Act; and (3) provides that a willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action by the registrar

against the licensee. Click [here](#) for a copy of AB 878.

- **AB 1168** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). This bill: (1) requires, on or before January 1, 2013, the Administrative Director of the Division of Workers' Compensation to adopt, after public hearings, a fee schedule that establishes reasonable hourly fees paid for services provided by vocational experts; and (2) prohibits a vocational expert from being paid, and prohibits the appeals board from allowing, vocational expert fees in excess of those that are reasonable, actual, and necessary. Click [here](#) for a copy of AB 1168.

- **AB 1426** was signed by California Governor Jerry Brown on October 7, 2011, effective immediately. The bill removes the position of court administrator and distributes the duties to the Workers' Compensation Appeals Board and the Administrative Director of the Division of Workers' Compensation, as specified. Click [here](#) for a copy of AB 1426.

- **SB 457** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). The bill requires the Workers' Compensation Appeals Board to determine, on the basis of liens filed, reimbursement for benefits paid or services provided by a self-insured employee welfare benefit plan notwithstanding the official medical fee schedule when an award is made for reimbursement for self-procured medical costs for the effects of an injury or illness arising out of and in the course of employment. Click [here](#) for a copy of SB 457.

- **SB 684** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). The bill: (1) requires an insurer that intends to use a dispute resolution or arbitration agreement to resolve disputes arising in California out of a workers' compensation insurance policy or endorsement issued to a California employer, as defined, to disclose to the employer, contemporaneously with any written quote that offers to provide insurance coverage, that choice of law and choice of venue or forum may be a jurisdiction other than California and that these terms are negotiable between the insurer and the employer; (2) requires that the employer sign the disclosure, as evidence of receipt, when the employer accepts the offer of coverage; (3) authorizes the dispute resolution or arbitration agreement to be negotiated before any dispute arises; and (4) provides that these provisions apply to workers' compensation policies issued or renewed on or after July 1, 2012. Click [here](#) for a copy of **SB 457**.

- **SB 826** was signed by California Governor Jerry Brown on October 7, 2011 (effective January 1, 2012). The bill: (1) requires the Administrative Director of the Division of Workers' Compensation to assess an administrative penalty against a claims administrator for a violation of data reporting requirements; (2) requires the administrative director to promulgate a schedule of penalties providing for an assessment of no more than \$5,000 against a claims administrator in any single year, calculated by violation type and excluding threshold rates of violations, as prescribed; (3) provides that any penalty is to be deposited in the Workers' Compensation Administration Revolving Fund; and (4) requires the

administrative director to publish an annual report disclosing the compliance rates of claims administrators and authorizes the administrative director to publish the identity of claims administrators for this purpose. Click [here](#) for a copy of **SB 826**.

Administrative Changes:

- ◆ **Electronic and Standardized Medical Billing** – The California Department of Industrial Relations Division of Workers' Compensation adopted substantial amendments and additions to regulations relating to electronic and standardized medical treatment billing. The changes were effective April 18, 2011. Click [here](#) for a copy of the **Electronic and Standardized Medical Billing Regulations**.

COLORADO

– *Amended Statute*



Legislation:

- **SB 11-199** was signed by Colorado Governor John Hickenlooper on May 23, 2011. The bill: (1) adds a subsection to the maximum medical improvement and impairment (MMI) rating provisions, requiring an employer or insurer admit liability for reasonable, necessary and related medical benefits after MMI where: 1) such benefits are recommended by an authorized treating physician, 2) such benefits are provided by an authorized treating physician, and 3) there is no contrary medical opinion in the record; (2) eliminates the requirement that parties agree to discovery where both sides are



represented; (3) requires that an employer or insurer scheduling a non-division independent medical evaluation (IME) provide advance payment of estimated travel expenses to the injured worker, if requested; and (4) amends the applicability of section 8 of Senate Bill 10-187, enacted in 2010, to extend to all requests for lump sum payments regardless of the date of injury. Section 8-43-406(1) as amended by this bill, prohibits the Director or Administrative Law Judge from conditioning a lump sum payment on the claimant waiving the right to pursue permanent total disability benefits. Click [here](#) for a copy of SB 11-199.

Administrative Changes: None.

CONNECTICUT

– Amended Statutes



Legislation:

- **SB 1240** (Public Act 11-44) was signed by Governor Dannel P. Malloy on June 13, 2011 (effective July 1, 2011). **HB 6652** (Public Act 11-61) was signed by Governor Dannel P. Malloy on June 21, 2011 (effective July 1, 2011). These bills merge the Workers' Compensation "Rehabilitation Services Program" under the newly established "Bureau of Rehabilitative Services" within the Department of Social Services. The administrative responsibility for the WCC vocational rehabilitation program is transferred from the Workers' Compensation Chairman to the Director of the Bureau of Rehabilitative Services (BRS). The Connecticut Workers'

Compensation Commission will continue to provide all funding specifically designated for the WCC vocational rehabilitation program through its annual assessment on business. The bills were enacted as a result of the state's effort to consolidate all disability-based state programs. Click [here](#) for a copy of SB 1240. Click [here](#) for a copy of HB 6652.

- **HB 6438** (Public Act 11-128) was signed by Governor Dannel P. Malloy on July 8, 2011 (effective July 1, 2011). This bill extends workers' compensation coverage to elected probate court judges by having them fall within the statutory definition of "employee." Click [here](#) for a copy of HB 6438.
- **HB 6474** (Public Act 11-205) was signed by Governor Dannel P. Malloy on July 13, 2011 (effective July 1, 2011). This bill amends §31293(a) by reducing an employer's claim for reimbursement of workers' compensation benefits paid to an employee when the employee sues a third party who is liable for the injury and the employer does not join the suit. The reduction does not apply if reimbursement is made to the (1) state or a political subdivision, including a local public agency, as the employer; or (2) Second Injury Fund administrator. By law, the employee or employer or Second Injury Fund administrator paying benefits can bring such a lawsuit. The individual bringing the suit must immediately notify the others in writing and the others can join the suit. Under prior law, if the others did not join the suit within 30 days, their right of action against the party in question abates. The act provides that the right of action does not abate if the employer, insurer, or administrator fails to join the lawsuit but gives written notice of a lien. By law, an

employer, its insurance carrier, or the Second Injury Fund paying benefits to an injured employee has a lien on any judgment or settlement the employee receives if they provide notice of the lien before judgment or settlement. Click [here](#) for a copy of HB 6474.

- **HB 6618** (Public Act 11-242) was signed by Governor Dannel P. Malloy on July 13, 2011 (effective October 1, 2011). This bill amends §31-286a(d) which requires applicants for a license or permit necessary to operate a business to present “sufficient evidence” of compliance with the workers' compensation insurance coverage requirements. As an alternative to presenting a hard copy of the insurance certificate, the act allows applicants for Department of Public Health (DPH) licenses and permits, along with Department of Consumer Protection (DCP) licenses and permits, to meet this requirement by providing the (1) name of the applicant's insurer; (2) policy number; and (3) effective coverage dates, certified as truthful and accurate. Click [here](#) for a copy of HB 6618.

Administrative Changes: None.

DELAWARE

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 108** was signed by Delaware Governor Jack Markell on August, 17, 2011. This bill: (1) ensures that

Delaware medical providers do not take advantage of the Title 19, Chapter 23 “greater of” clause by opening a facility across state lines to perform procedures on patients that could be performed in state to collect higher fees. The bill provides that services performed by a health care provider, who is licensed or permitted to render such services in Delaware, but performs the procedure outside of Delaware, shall be reimbursed for the amount set forth in the Delaware health care payment system. However, if a service is rendered outside of Delaware by a health care provider not licensed or permitted to render such service within Delaware, then the amount of reimbursement will be the greater of (a) the amount set forth in the workers' compensation health care payment system or fee schedule adopted by the state in which the care was rendered, or (b) the amount that would be authorized by the payment system adopted by Delaware if the service were rendered in the geo-zip where the injury occurred or where the employee was principally assigned; and (2) the bill provides that the medical provider's report is to serve as the triggering event for the completion of the employer's report of modified-duty availability, which must be provided to the medical provider and the employer's insurance carrier within fourteen (14) days of the employer's receipt of the initial medical provider's report. Click [here](#) for a copy of SB 108.

Administrative Changes:

- ◆ Amended **Regulation 19 DE Admin. Code 1341** (Introduction and Fee Schedule Guidelines) Effective June 13, 2011 – The Section 5.0 amendment: (1) streamlines the utilization review request package; and (2) requires payers to

render a decision for surgery preauthorization requests. Click [here](#) for a copy of Regulation 19 DE Admin. Code 1341.

- ◆ Added **Regulation 19 DE Admin. Code 1342, Part G** (Lower Extremities Health Care Practice Guidelines) Effective June 13, 2011 – The regulation adds a seventh health care practice guideline, concerning lower extremities health care. Click [here](#) for a copy of Regulation 19 DE Admin. Code 1342, Part G.
- ◆ Comprehensively revised **Regulation 19 DE Admin. Code 1331** (Industrial Accident Board (IAB) Rules) Effective December 12, 2011 – The last significant change to the IAB Rules occurred in 1998. The revisions reflect a massive clean-up of outdated language and processes, and remove information redundant to the Delaware statute. With this revision, the Office of Workers' Compensation (OWC) versus the IAB may create and revise forms/petitions, as necessary. In tandem with the effective date of the IAB Rules revisions, OWC revised most of the forms and petitions used in Delaware Workers' Compensation, and added a new type of petition to determine additional compensation due (DACD). The new DACD is dedicated to appeals of utilization review determinations for medical treatment challenged through the Delaware Workers' Compensation Health Care Payment System (HCPS). Click [here](#) for a copy of Regulation 19 DE Admin. Code 1331.

DISTRICT OF COLUMBIA

– No Changes Were
Made in 2011



Legislation: None.

Administrative Changes: None.

FLORIDA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 170** was signed by Florida Governor Rick Scott on June 21, 2011 (effective July 1, 2011). The bill provides for electronic procedures in administrative proceedings. The bill requires parties represented by attorneys in hearings held under the Division of Administrative Hearings and in the Workers' Compensation Appeals Program to file all documents electronically. Click [here](#) for a copy of SB 170.
- **HB 723** was approved by Florida Governor Rick Scott on June 17, 2011 (effective July 1, 2011, applies to any claim made on or after that date, regardless of the date of the accident). The bill provides: (1) if a Florida employee temporarily leaves the state incidental to his or her employment and is injured in the course of employment, that employee is entitled to the benefits as if the employee were injured in Florida; (2) if an employee from another state is injured incidental to employment while temporarily in Florida, that

employee and his or her employer are exempt from Florida law if: (a) the employer has workers' compensation insurance coverage under its own state laws; (b) the extraterritorial provisions of Florida law are recognized in the employer's state and; (c) employers and employees covered in Florida are exempted from the workers' compensation laws of the other state; (3) if an employee from another state is injured incidental to employment while temporarily in Florida, the exclusive remedy against the employer is the workers' compensation law of the other state; (4) a certificate from the appropriate office of another state is prima facie evidence that an employer carries workers' compensation coverage in the other state; (5) for any litigation in Florida that involves a question of construction of laws in another state, the Florida court shall take judicial notice of the laws of the other state; (6) when an employee has a claim under workers' compensation in another jurisdiction for the same injury or occupational disease as a claim filed in Florida, the total amount of compensation derived from the other jurisdiction shall be credited against the compensation due under Florida Workers' Compensation Law; and (7) an employee is considered to be temporarily working in another state if the duration of that work does not exceed 10 consecutive days or 25 days during a calendar year. Click [here](#) for a copy of HB 723.

- **HB 1087** was approved by Florida Governor Rick Scott on June 17, 2011 (effective July 1, 2011). This bill: (1) allows for the use of a prepaid card for the provision of workers' compensation benefits to an injured employee if certain conditions are met. Previously, such benefits were payable by check or by

direct deposit into the employee's account; (2) permits flexibility for insurers regarding the frequency of premium audits by providing that such audits are not required for coverage, except as provided by the insurance policy, by an order of the Office of Insurance Regulation (OIR), or at least once each policy period at the request of the insured; and (3) provides that assessments for the Special Disability Trust Fund are determined on a calendar year basis rather than a fiscal year basis. Click [here](#) for a copy of HB 1087.

Administrative Changes:

The Florida Division of Workers' Compensation enacted the following administrative code changed and amended rules in 2011.

- ◆ **Self-Insurer's Loss Data Reporting Rules** (69L-5.205, F.A.C.; 69L-5.217, F.A.C.), became effective on December 29, 2011. Rule 69L-5.205, F.A.C. clarifies that former self-insurers must report loss data for the final period of authorization only once. Rule 69L-5.217, F.A.C., reduces the penalties assessed against self-insurers for late filing of required forms, reports and documents. Click [here](#) for a copy of Rule 69L-5.205. Click [here](#) for a copy of Rule 69L-5.217.
- ◆ **Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (ASCs) Rule** (Rule 69L-7.100, F.A.C.), became effective November 13, 2011. The rule incorporates by reference the Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (ASC Manual), 2011 Edition. The ASC Manual contains the Maximum Reimbursement Allowances determined



by the Three-Member Panel, pursuant to Section 440.13(12), F.S. and establishes reimbursement policies, guidelines, codes and maximum reimbursement allowances (MRAs) for items and services provided to an injured worker in connection with a surgical procedure performed in an Ambulatory Surgical Center. Click [here](#) for a copy of Rule 69L-7.100.

◆ **Construction Industry Classification Codes, Descriptions, and Operations Scope of Exemption Rule** (Rule 69L-

6.021, F.A.C.), became effective on October 11, 2011. The Rule deletes discontinued class codes, adds new class codes and revises the descriptions of construction class codes, as published in the Florida exception pages in the National Council on Compensation Insurance, Inc. (NCCI), Basic Manual, 2001 edition. The rule also adopts the corresponding definitions published in the NCCI, Scopes of Basic Manual Classifications (February, 2011) and defines when an employer is engaged in the construction industry, for purposes of the rule. The aforementioned materials include updates through February 1, 2011. The effect of the rule is to incorporate and maintain accurate construction class codes, descriptions and definitions for purposes of determining the necessary coverage requirements when obtaining workers' compensation insurance. Click [here](#) for a copy of Rule 69L-6.021.

◆ **Carrier Report of Health Care Provider Violations Chapter** (Rule 69L-34.002, F.A.C.), became effective

September 6, 2011. This new rule chapter does not require carriers to change their filing practices, rather it specifies that they will meet their filing requirements by continuing to comply

with other existing rules. The rule chapter provides that carriers satisfy their mandatory reporting requirement under Section 440.13(8), F.S., "Pattern or Practice of Overutilization," by filing the required medical claims data elements and other medical billing and payment information required by the Division in accordance with the provisions of subsections (5) and (6) of the Florida Workers' Compensation Medical, Billing, Filing, and Reporting Rule (69L-7.602, F.A.C.) or by denying authorization of a recommended medical benefit by issuing a Notice of Denial, form DFS-F2-DWC-12, pursuant to Rule 69L-3.012, F.A.C. The rule chapter also incorporates a new "Health Care Provider Violation Referral Form", Form DFS-F6-DWC-2000, that provides a discretionary method of reporting health care provider violations. Click [here](#) for a copy of Chapter 69L-34.

- ◆ **Compensation Notice Rule** (Rule 69L-6.007, F.A.C.), became effective January 30, 2011. The rule adopts the revised workers' compensation notice posters, including the Spanish version of the poster and updates the information that is required to be included on the poster. Section 440.40, F.S., requires every employer who has secured workers' compensation insurance to post in its place of business a workers' compensation notice and an Anti-Fraud Reward Program notice. Section 440.40, F.S., also authorizes the Department, by rule, to prescribe the form of the notices and to require carriers to provide the notices to policyholders. For a transitional period of 90 days from the effective date of the rule, an insurer or self-insurance servicing agent may use the "broken arm" posters identified and adopted in subsection 69L-6.007(1), Florida Administrative Code, or the



corresponding poster(s) in effect prior to the adoption of the rule. After the completion of the 90 day transitional period, only the revised posters adopted in this rule may be used. Click [here](#) for a copy of Rule 69L-6.007.

GEORGIA

–Made Administrative Changes



Legislation: None.

Administrative Changes:

The 2011 Rules adopted by the Georgia State Board of Workers' Compensation became effective on July 1, 2011. Click [here](#) for a copy of the 2011 rules.

- ◆ **Stipulated Settlements (Rule 15)** – The rule was amended to clarify procedures regarding when and under what circumstances Board Forms WC-1, WC-14 and attorney fee contracts should be filed with the Board during the stipulated settlement approval process.
- ◆ **Electronic Data Interchange (EDI) (Rule 62)** – The rule was amended to clarify that the filing of Board Forms WC-1, WC-2, WC-2a, WC-3 and WC-4 in paper for claims created after July 1, 2009, may be rejected by the Board and may subject the filing party to a penalty. The rule was also amended to provide that when suspending benefits via EDI, required attachments shall be mailed to or electronically filed with the Board prior to or simultaneously with the filing of the EDI suspension.
- ◆ **Postponements, Leaves of Absence, and Legal Conflicts (Rule 102(C))** – The rule was amended to provide that hearing postponements must be requested or communicated to the administrative law judge by 2:00 p.m. on the business day immediately preceding the scheduled hearing day.
- ◆ **Policy for Media Coverage of Proceedings (Rule 102.1)** – This new rule states the Board's policy for print and electronic media coverage of workers' compensation proceedings. The Board rule tracks the Superior Court Uniform Rule on media coverage of court proceedings.
- ◆ **Attorney's Fees (Rule 108(d)-(e))** – The rule was amended to provide that any attorney who has made an appearance in a workers' compensation case by filing either a Form WC-14 or a Form WC-102B and who wishes to withdraw as counsel must file a Form 108b with the Board and serve a copy on all counsel and unrepresented parties, including the former client. The rule was further amended to provide that if an attorney is requesting reimbursement for expenses, such expenses should be included on the Form 108b.
- ◆ **Insurance in More Than one Company; Self-insurance; Insurance by Counties and Municipalities (Rule 121(b) and (c))** – The rule was amended to be consistent with a legislative change that increased the minimum security required to be posted by self-insurers from \$100,000.00 to \$250,000.00. The rule was also amended to state that counties, municipalities and other political subdivisions who qualify to be self-insured must carry excess insurance coverage.

- ◆ **Provision of Rehabilitation Services (Rule 200.1)** – The rule was amended to provide for a new rehab objection form to be used to file objections to Forms WC-R1, WC-RICATEE, WC-R2A or WC-R3 rather than using the motion Form WC-102D.
- ◆ **Payment of Medical Expenses; Procedure When Amount of Expenses are Disputed (Rule 203(c)(2))** – The rule was amended to delete the peer review committee that is no longer performing Board peer review.
- ◆ **Necessity of Treatment; Disputes Regarding Authorized Treatment (Rule 205(b)(4))** – The rule was amended to clarify that medical treatment that is deemed pre-approved due to failure to timely respond to a Form 205 must be related to the compensable injury in accordance with the workers' compensation law of the state.
- ◆ **Reimbursement of Group Carrier or Other Healthcare Provider (Rule 206(a))** – The rule was amended to clarify that, in accordance with the corresponding statutory provision, only a party to a claim, a group insurance company or other health care provider who covers the costs of medical treatment or provides medical services to the employee may file to be a party at interest on a Form WC-206.

Guam

– *No Changes Were Made in 2011*



Legislation: None.

Administrative Changes: None.

HAWAII

– *Amended Statute*



Legislation:

- **HB 519** (Act 196) was signed by Hawaii Governor Neil Abercrombie on July 8, 2011 (effective July 7, 2011). This bill excludes from the definition of “employment” under the Workers' Compensation Act members of LLCs or LLPs who hold 50% or more interest, partners, and sole proprietors. Click [here](#) for a copy of **HB 519**.

Administrative Changes: None.

IDAHO

– *Amended Statute and Made Administrative Changes*



Legislation:

- **HB 240** was signed by Idaho Governor C.L. Otter on April 8, 2011 (effective July 1, 2011). The Industrial Commission is required by IC§ 72-523



to collect a tax each year from insurance companies and self-insured employers equal to 2.5% of the net premiums collected on all workers' compensation insurance policies written in Idaho (or on the premium that would have been paid by a self-insured employer). The bill amends existing law relating to the Industrial Commission to revise provisions relating to the deduction of a certain premium tax, and to reduce the premium tax rate from 2.5% to 2.0% effective from January 1, 2012 through December 31, 2013. This tax reduction will be passed on to businesses in the form of lower workers' compensation insurance premiums for all insured Idaho employers. Click [here](#) for a copy of HB 240.

- **SB 1186** was signed by Idaho Governor C.L. Otter on April 11, 2011 (effective July 1, 2011). The bill amends existing law to allow the Industrial Commission to adopt rules for annual adjustment of physician fees each year. Previously, the Industrial Commission was to use the methodology set forth in Section 56-136 to adjust physician fees each year, however that section was repealed. This bill also removes obsolete language pertaining to the establishment of the original fee schedule. Click [here](#) for a copy of SB 1186.

- **HB 76** was signed by Idaho Governor C.L. Otter on March 8, 2011 (effective July 1, 2011). The bill Amends Section 72-205 of the Idaho Code to remove reference to "the State Insurance Fund." The Idaho Code § 72-205, stated that a student participating in a school's work experience program would be covered by the school district's workers' compensation insurance policy "with the state insurance fund." However, Idaho Code § 72-301 authorizes any employer,

including school districts, to self-insure their obligations under this law with the approval of the Industrial Commission. This amendment removes "state insurance fund" language to eliminate confusion. Click [here](#) for a copy of HB 76.

- **SB 1139** was signed by Idaho Governor C.L. Otter on April 5, 2011 (effective July 1, 2011). The bill amends existing law relating to security for compensation to provide correct terminology and to revise provisions relating to certain money and bond requirements for insurers transacting worker's compensation insurance. Click [here](#) for a copy of SB 1139.

Administrative Changes:

- ◆ **Rule 17.02.03 – Security for Compensation** – The rule, effective April 7, 2011, was repealed and rewritten in two sections: Rule 17.02.10 Security for Compensation – Insurance Carriers and Rule 17.02.11 Security for Compensation – Self-Insured Employers.
- ◆ **Rule 17.02.05 – Industrial Commission** – The amendment was originally submitted as a temporary rule effective July 1, 2010; the permanent rule became effective April 7, 2011. The amendment establishes the requirements for reporting by an employer/surety attorney and by a claimant attorney. This rule amendment coincides with legislative changes in 2010 to reduce the redundancy of reporting costs and fees of attorneys to the Industrial Commission. Click [here](#) for a copy of Rule 17.02.05.



- ◆ **Rule 17.02.08 – Miscellaneous Provisions** – The rule, effective April 7, 2011, was repealed and re-written to remove the medical provider information into a separate section. This re-write contained no substantive changes.
- ◆ **Rule 17.02.09 – Medical Fees** – The new chapter contains medical fee provisions including the annual update for physician fee reimbursement effective July 1, 2011, and a new methodology for reimbursement for hospitals and ambulatory surgery centers effective January 1, 2012. Click [here](#) for a copy of Rule 17.02.09.
- ◆ **Rule 17.02.10 – Security for Compensation – Insurance Carriers** – Effective April 7, 2011, this is one of two chapters created to replace Rule 17.02.03 that adopts rules governing insurance carriers, clarifies definitions and terms, and implements more comprehensive application requirements. Click [here](#) for a copy of Rule 17.02.10.
- ◆ **Rule 17.02.11 – Security for Compensation – Self-Insured Employers** – Effective April 7, 2011, this is the second of two chapters to replace Rule 17.02.03 that adopts rules governing self-insured employers, clarifies terms, provides a more detailed application process and outlines continuing reporting and security deposit requirements. The rule also increases the basic security deposit from \$50,000 to \$150,000 and includes a \$250 application fee for employers requesting self-insurance authority. Click [here](#) for a copy of Rule 17.02.11.

ILLINOIS

– Amended Statute



Legislation:

- **HB 1698** (Public Act 97-18) was signed by Illinois Governor Pat Quinn on June 28, 2011, with several different effective dates depending on the provision of the bill. The bill contains several amendments and additions to the Illinois Workers' Compensation Act, including provisions affecting the medical fee schedule, Utilization Review, insurance compliance, fraud, and the operation of the Illinois Worker's Compensation Commission. Most notably, the bill: (1) reduces all current fee schedules by 30% for all treatment performed on or after September 1, 2012, and reduces the current 76% percent of charge default to 53.2%; (2) reduces reimbursement for implants to 125% of the net manufacturer's invoice price minus rebates, plus actual reasonable shipping charge; (3) specifies that accredited Ambulatory Surgical Treatment Facilities are reimbursed under the schedule as well as licensed Ambulatory Surgical Treatment Centers; (4) codifies that the Petitioner has the burden of proving by a preponderance of evidence that the injuries arose out of and in the course of employment; (5) provides that for accidents on or after September 1, 2011, wage differential awards shall be effective only until the petitioner reaches the age of 67 or 5 years after the date of the award becomes final, whichever occurs later; (6) reduces Temporary Partial Disability (TPD) benefits by using the "gross" rather than "net"

amount of income earned from the light duty position; (7) allows employers to establish preferred provider programs (PPP) approved by the Department of Insurance and sets guidelines related to the PPPs; (8) caps repetitive Carpal Tunnel Syndrome awards to 15% of the loss of the use of a hand unless the petitioner proves greater disability by clear and convincing evidence, at which time the award is capped at 30% loss of the use of the hand; (9) provides factors to be considered in determining Permanent Partial Disability ("PPD") for accidents occurring on or after September 1, 2011; (10) precludes, for accidents on or after September 1, 2011, compensation if the employee's intoxication was the proximate cause of his injury or if the employee's level of intoxication was sufficient to constitute a departure from employment, and establishes relevant presumptions; and (11) effective June 28, 2011, adds prescriptions filled and dispensed outside of a licensed pharmacy to the fee schedule. Click [here](#) for a copy of HB 1698.

Administrative Changes: None.

INDIANA

– Amended Statute



Legislation:

- **SB 576** was signed by Indiana Governor Mitch Daniels on May 10, 2011 (effective July 1, 2011, except Section 5 which was effective May 10, 2011). The bill: (1) requires that all members of the worker's compensation board (board) be

attorneys in good standing admitted to the practice of law in Indiana; (2) renames the position of executive secretary to executive administrator; (3) requires a health care provider to file a claim for payment with the board not later than two years after the provider receives an initial written communication from an employer, the employer's insurance carrier, or an agent acting on behalf of the employer in response to the provider's submission of a bill for services; (4) requires a hospital or facility that is a medical service provider to pay a \$60 filing fee for each application filed in a balance billing case; (5) provides that a filing fee is not required for an application filed for a denied or unpaid claim; (6) allows a provider to combine up to 10 individual claims into one application whenever all of the individual claims involve the same employer, insurance carrier, or billing review service, and the amount of each individual claim does not exceed \$200; (7) allows the second injury fund to be used to pay certain fund liabilities; (8) authorizes the board to resolve claims using mediation; (9) requires an employer to provide a copy of an injury or disablement report to the board upon request; (10) requires an injury or disablement report within seven days after the first day of a disability arising from a work place injury or disablement by occupational disease (rather than the occurrence of the injury or disablement); (11) increases civil penalties for failure to: (a) post certain notices; (b) file certain records; or (c) comply with IC 22-3-3-7 or IC 22-3-7-16 (concerning the determination and payment of compensation or benefits); (12) permits the board to request evidence of worker's compensation and occupational diseases compensation coverage from an

employer; (13) establishes a civil penalty of \$50 per employee per day for an employer's failure to provide proof of coverage; (14) requires the board to waive a civil penalty assessed whenever an employer provides proof of coverage by the twentieth day after the board provides written notice of the employer's failure to provide evidence of the coverage; (15) allows the board, after notice and a hearing, to post on the board's web site the name of an employer who fails or refuses to provide proof of coverage or pay a civil penalty assessed for the failure or refusal to provide coverage; (16) provides that an employer's name may not be removed from the board's web site until the employer provides proof of coverage and pays the civil penalties assessed; (17) requires that civil penalties be deposited in the worker's compensation supplemental administrative fund, instead of the state general fund; (18) increases criminal penalties for an employer's failure to insure or otherwise provide adequate security for the employer's worker's compensation and occupational disease liabilities and for violating any other worker's compensation or occupational disease laws; (19) provides that a court may temporarily order an employer that fails or refuses to pay worker's compensation or occupational disease benefits when due to cease doing business until the employer furnishes to the board proof of insurance or other assurances to establish that the employer has the ability to meet all worker's compensation and occupational disease liabilities; (20) allows the owner of a sole proprietorship who is an independent contractor and does not elect worker's compensation and occupational disease coverage to obtain a certification of exemption; and

(21) requires, if the commission or another committee is assigned the topics, that the commission or committee issue a final report containing the commission's or committee's findings and recommendations, including any recommended legislation, not later than November 1, 2011. Click [here](#) for a copy of SB 576.

Administrative Changes: None.

IOWA

– *No Changes Were Made in 2011*



Legislation: None.

Administrative Changes: None.

KANSAS

– *Amended Statute*



Legislation:

- **HB 2134** was signed by Kansas Governor Sam Brownback on April 27, 2011 (effective May 15, 2011). Most notably, the bill: (1) defines or revises substantive words and terms in the Workers Compensation Act; (2) disallows compensation if the injury resulted from the employee's reckless violation of the employer's workplace safety rules and regulations, and provides an exception to the existing statutory exemptions when, in the totality of the circumstances, or when

the employer approves, it is not reasonable for safety equipment to be used; (3) extends the period of time, from ten days to thirty calendar days, in which an employee must give notice that an injury by accident or repetitive trauma has occurred. However, in instances where the employee was no longer employed or where the employee sought medical treatment specifically for the injury, the employee has twenty calendar days to give notice; (4) revises provisions regarding employee drug testing and the admissibility of that evidence. With regard to proving that an employee was impaired due to alcohol or drugs, the bill deletes references to an employer needing probable cause to require testing and replaces the standard with "sufficient cause"; (5) shortens the period of time, from five years to three years, that a case may remain open without a hearing; (6) requires compensation awards for permanent partial impairment, work disability, or permanent total disability to be reduced by that amount of functional impairment that is determined to be preexisting; however, this kind of reduction will not apply to compensation for temporary total disability or for medical treatment; (7) replaces the prior statutory conditions for permanent total disability and requires expert evidence to prove permanent total disability instead; (8) revises the compensation calculation with regard to permanent partial general disability, so that an employee is eligible to receive benefits if the functional impairment exceeds 7.5 percent to the body or 10.0 percent to the body when a preexisting condition is present; (9) stipulates that, with regard to temporary total disability, the opinion of an authorized treating physician is presumed to be determinative of an

employee's ability to engage in gainful employment; (10) replaces the term "average gross wages" as it appeared in several statutory provisions with the term "average wages," and revises the calculation for determining an employee's average wages which are used to determine compensation benefits; (11) increases the cap on maximum compensation for various benefits; and (12) requires a claimant show the work-related injury was the "prevailing factor" (primary factor) in causing the injury to receive an award of benefits. Previously a claimant only had to show that the work-related injury aggravated, accelerated, or increased symptoms. Click [here](#) for a copy of HB 2134.

Administrative Changes: None.

KENTUCKY

– *No Changes Were Made in 2011*



Legislation: None.

Administrative Changes: None.

LOUISIANA

– *Amended Statute and Made Administrative Changes*



Legislation:

- **HB 502** (Act 291) was signed by Louisiana Governor Bobby Jindal on June 28, 2011 (effective August 15,

2011). Existing law created the Workers' Compensation Second Injury Fund to fund the administrative expenses of the Second Injury Board and to reimburse compensable claims of property and casualty insurers, self-insured employers, and group self-insurance funds. The bill: (1) provides that the Second Injury Board may approve funds to be allocated to the La. Rehabilitation Services to assist potential employers and qualified employees with disabilities; and (2) requires the La. Rehabilitation Services to provide a quarterly report to the Second Injury Fund Board that includes all funding balances and expenditures as well as case statistical information. Click [here](#) for a copy of HB 502.

Administrative Changes:

The following administrative changes were made by the Louisiana Workforce Commission Office of Workers' Compensation. Click [here](#) to access the complete rules.

- ◆ **Workers' Compensation Medical Guidelines** – (1) Pursuant to La. Revised Statute 23:1203.1, Louisiana developed current, evidence based medical guidelines for the treatment of common workplace injuries; and (2) established a rapid process for the resolution of disputes over medical treatment by referral of such disputes to the Medical Director of the Office of Workers Compensation. C [here](#) to access medical Guidelines.
- ◆ **Utilization Review Rules** - New Utilization Review rules were adopted for the implementation of the Medical Guidelines and the process for dispute resolution by the Medical Director (see above). Click [here](#) to access Utilization Review Rules.

- ◆ **Joint Continuances Rule** – Places a limitation on the grant of joint continuances of matters before the Workers' Compensation Court. Previously the sitting judge did not have discretion as to whether or not to grant a continuance of any hearing before the court when the request was made jointly by the parties. Under the new rule, the court is required to grant only one such joint continuance. Thereafter, the mover must show, and the judge find, good cause shown for the continuance before it is granted.
- ◆ **Electronic Billing** - Allowed for electronic billing between insurers and employers as well as physicians.

MAINE

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **HP 791/ LD 1056** was signed by Maine Governor Paul LePage on June 3, 2011. This bill: (1) requires that independent medical examiners must be certified by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations; (2) prohibits a physician from being appointed to perform an independent medical examination if he or she has examined the employee at the request of an insurance company, employer or employee in accordance with section 207 or has been closely affiliated with the insurance company at any time during the previous 52 weeks, unless the



parties agree or no other physician is reasonably available; (3) limits an independent medical examiner selected and paid for by an employer to examine an employee in accordance with section 207 to twelve such examinations per calendar year; and (4) requires independent medical examiners to notify the Workers' Compensation Board within ten days of the date of the examination. Click [here](#) for a link to HP 791/LD 1056.

- **SP 332/LD 1099** was signed by Maine Governor Paul LePage on May 31, 2011. This bill: (1) allows a person engaged in freight transportation or courier and messenger services to be considered an independent contractor either by meeting all of the factors for determining independent contractor status described in the bill or by being able to provide proof of coverage under a workers' compensation policy; (2) changes one of the factors to require that there be a statement signed by both the person providing the services and the hiring entity that the person meets all of the requirements for being an independent contractor and is considered an independent contractor; and (3) provides for the repeal of these provisions on October 1, 2013. Click [here](#) for a copy of SP 332/LD 1099.

- **SP 365/LD 1244** was signed by Maine Governor Paul LePage on June 14, 2011. This bill: (1) directs the Workers' Compensation Board to adopt rules to establish a medical fee schedule for services provided under the Maine Workers' Compensation Act of 1992 by individual health care practitioners and health care facilities based upon the Medicare payment methodologies that are the basis for most health care payment systems today; (2) removes

any reference in existing workers' compensation law to "usual and customary charge"; (3) requires an annual update of the medical billing and coding systems underlying the medical fee schedule and requires a more comprehensive review of the medical fee schedule every three years beginning in 2014; (4) directs the executive director of the Workers' Compensation Board to obtain annually from the Maine Health Data Organization the private 3rd-party average payment rates across all private payors and all providers in the Maine Health Data Organization's database for the most common medical services rendered under the Maine Workers' Compensation Act of 1992 during the previous year; and (5) requires the Workers' Compensation Board to complete its current medical fee rulemaking by December 31, 2011 and to report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development regarding the status of the medical fee schedule not later than February 15, 2012. Click [here](#) for copy of SP 365/LD 1244.

- **SP 389/LD 1268** was signed by Maine Governor Paul LePage on June 15, 2011. Maine law authorizes an employer or insurer to recover from an employee overpayments made pending an appeal to the Law Court. This bill extends that authorization to allow an insurer or employer to recover overpayments made to an employee pending a motion for findings of fact and conclusions of law filed with the hearing officer. Click [here](#) for a copy of SP 389/LD 1268.
- **SP 477/LD 1515** was signed by Maine Governor Paul LePage on June 22, 2011. This bill clarifies and simplifies the reporting requirement for general



contractors for public construction projects by moving the requirement from the various state agencies to a central reporting site at the Workers' Compensation Board. It moves the requirement from the Maine Revised Statutes, Title 26 to Title 39-A and complements the current reporting requirement to the Workers' Compensation Board. Click [here](#) for a copy of SP 477/LD 1515.

Administrative Changes:

- ◆ **Rule Chapter 5 – Medical Fee Schedule** became effective on December 11, 2011. The new rule repeals and replaces the former rule and establishes schedules of maximum reimbursement for inpatient, outpatient and ambulatory surgical center facility fees. Click [here](#) to access Rule Chapter 5.

MARYLAND

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 244** was signed by Maryland Governor Martin O'Malley on May 19, 2011 (effective October 1, 2011). This bill: (1) extends the presumption of a compensable occupational disease under workers' compensation law to include Anne Arundel County deputy sheriffs who suffer from heart disease or hypertension resulting in partial or total disability or death under specified circumstances; and (2) requires that workers' compensation benefits are in addition to specified retirement benefits and subject to a specified adjustment. Click [here](#) for a copy of HB 244.
- **HB 392** (companion SB 568) was signed by Maryland Governor Martin O'Malley on May 10, 2011 (effective October 1, 2011). The bill alters the venue available to individuals and employers appealing a decision of the Workers' Compensation Commission. Click [here](#) for copy of HB 392.
- **HB 417** (companion SB 212) was signed by Maryland Governor Martin O'Malley on May 19, 2011 (effective October 1, 2011). The bill: (1) provides that specified death benefit provisions of the workers' compensation law apply only to specified covered employees of a municipal corporation or a county, and their dependents; (2) alters the authority of the Workers' Compensation Commission to make specified determinations of dependency; (3) alters the provisions relating to calculation of death benefits for individuals who are wholly or partly dependent; and (4) provides for the amount of death benefits to specified dependents. Click [here](#) for copy of HB 417.
- **HB 453** (companion SB 269) was signed by Maryland Governor Martin O'Malley on April 12, 2011 (effective October 1, 2011). The bill expands the circumstances under which the Workers' Compensation Commission retains jurisdiction pending an appeal of a Commission order to include a request for approval of a proposed settlement of all or part of a claim. Click [here](#) for a copy of HB 453.
- **HB 598** (companion SB 693) was signed by Maryland Governor Martin O'Malley on April 12, 2011 (effective July 1, 2011). The bill: (1) provides that

employees of the Injured Workers' Insurance Fund are not subject to specified laws, regulations, or executive orders governing State employee compensation; and (2) repeals a requirement that the Board for the Fund set compensation for its employees in accordance with the state pay plan. Click [here](#) for a copy of HB 598.

- **SB 1** was signed by Maryland Governor Martin O'Malley on April 12, 2011 (effective October 1, 2011). The bill expands the membership of the Joint Committee on Workers' Compensation Benefit and Insurance Oversight to include a representative from a self-insured local government entity. Click [here](#) for copy of SB 1.

Administrative Changes:

The Maryland Workers' Compensation Commission adopted the following rules in 2011. Click [here](#) to access the Commission website.

- ◆ **Amendment to 14.09.01.01 and .19** - On October 27, 2011 (effective November 28, 2011), the Maryland Workers' Compensation Commission adopted amendments to Regulation .01 and Regulation .19 under COMAR 14.09.01 Procedural Regulations to clarify the procedures for reviewing settlements to ensure compliance with the Medicare Secondary Payer Act when settling claims involving future medical benefits. Click [here](#) for a copy of Amendment to 14.09.01.
- ◆ **Amendment to 14.09.01.05** - On April 14, 2011 (effective May 16, 2011), the Maryland Workers' Compensation Commission adopted amendments to Regulation .05 under COMAR 14.09.01 Procedural Regulations to comply with

the statutorily mandated notice requirement set forth in Insurance Article, §19-406, Annotated Code of Maryland. Click [here](#) for a copy of Amendment to 14.09.01.05.

- ◆ **Amendment to 14.09.01.06** - On February 24, 2011 (effective March 21, 2011), the Maryland Workers' Compensation Commission adopted amendments to Regulation .06 under COMAR 14.09.01 Procedural Regulations to remove the employee's average weekly wage as a mandatory element required to process a claim for workers' compensation benefits. Click [here](#) for a copy of Amendment to 14.09.01.06.
- ◆ **Amendment to 14.09.02.01** - On February 10, 2011 (effective March 7, 2011), the Maryland Workers' Compensation Commission adopted the recodification of existing Regulation .01 to be new .01-1, new Regulations .01, .05, and .08-.11, and the repeal of existing Regulations .05 and .08 under COMAR 14.09.02 Government Group Self-Insurance. Click [here](#) for a copy of Amendment to 14.09.02.01.

MASSACHUSETTS

– Amended Statute



Legislation:

- **HB 39** (Chapter 3) was signed by Massachusetts Governor Deval Patrick on March 11, 2011. The bill restructured and streamlined the Executive Office of Labor & Workforce Development (EOLWD) and its agencies. The functions of the Department of Labor



and Department of Workforce Development were incorporated into EOLWD and the remaining five EOLWD agencies, including the Department of Industrial Accidents, which administers the Workers Compensation system in Massachusetts, now reports directly to the EOLWD secretariat. Click [here](#) for a copy of HB 39.

Administrative Changes: None.

MICHIGAN

– *Amended Statute*



Legislation:

- **HB 5002** was signed by Michigan Governor Richard Snyder on December 19, 2011. The bill: (1) requires an injury to be "medically distinguishable" from an employee's prior condition in order to be compensable; (2) requires an employee's perception of actual events to be grounded in reality, for a mental disability to be compensable; (3) provides that a limitation of wage earning capacity would occur only if an employee were unable to perform all jobs paying the maximum wages in work suitable to his or her qualifications and training; (4) includes wages an employee earns or is capable of earning in the definition of "wage earning capacity", and provides that an employee would have an affirmative duty to seek reasonably available work; (5) adds a separate definition of "wage earning capacity" for certain police officers and fire department employees; (6) allows wage loss to be demonstrated by an

employee's good-faith effort to find suitable work; (7) requires an employee to demonstrate certain conditions in order to establish an initial showing of disability and wage loss, and provides that an employer would bear the burden of refuting an employee's initial showing of disability and wage loss; (8) allows an employee to be treated by his or her own physician after 28 days, rather than 10 days, from the start of medical care; (9) requires the effect of medical treatment to be considered in a determination of whether the loss of a specific body part had occurred; (10) exempts from the Act a professional athlete who was hired under a contract with an out-of-state employer and injured while temporarily in Michigan, if certain conditions were met; (11) revises the calculation of interest on weekly compensation; (12) deletes provisions under which a wife is presumed to be dependent on her husband for support; (13) allows the parties to stipulate to certain determinations regarding a redemption agreement; (14) allows claims to be made either electronically or on written forms; (15) allows an application for a hearing or mediation to be submitted electronically, and a magistrate's opinion and order to be submitted and distributed electronically; and (16) requires magistrates to be evaluated annually, rather than biennially. Click [here](#) for a copy of HB 5002.

Administrative Changes: None.

MINNESOTA

- *Amended Statute and Made Administrative Changes*

**Legislation:**

- **SF 1159** (companion HF 1362) (Chapter 89) was signed by Minnesota Governor Mark Dayton on May 27, 2011. The bill adopts the amendments of the Workers' Compensation Advisory Council. The bill: (1) addresses the use and timing of settlement conferences before a hearing; the need for flexibility in scheduling to avoid unnecessary resets; and, the need for the use of experienced and independent decision makers at hearing. All changes would be at the Office of Administrative Hearings where judges decide cases after efforts at the Department of Labor and Industry have failed; (2) makes technical changes incorporating existing workers' compensation law changes, enacted in 1998, that were never codified in Minnesota Statutes, Chapter 176; (3) increases the amount of money available for remodeling or alteration of an injured workers' residence, and specifies when an architect's certification and supervision is not required; and (4) changes the formula used to establish maximum fees for drugs used to treat a workers' compensation injury. Click [here](#) for a copy of **SF 1159**.

Administrative Changes:

- ◆ The Minnesota Department of Labor and Industry adopted exempt permanent rules relating to workers' compensation, effective July 27, 2011. The amendments pertain to rules governing

workers' compensation rules of practice, penalties, medical services and fees, reimbursement of supplementary benefits, insurance verification and loggers targeted industry fund. They are technical amendments to workers' compensation rules to incorporate statutory changes, replace obsolete terms and references, and make other changes that do not alter the meaning or effect of the rules. Click [here](#) for a copy of the rule changes adopted by the Minnesota Department of Labor and Industry.

MISSISSIPPI

- *Amended Statute and Made Administrative Changes*

**Legislation:**

- **HB 1078** was signed by Mississippi Governor Phil Bryant on March 11, 2011 (effective July 1, 2011). The bill provides that appeals of Mississippi Workers' Compensation Commission awards will now go directly to the Mississippi Supreme Court instead of first being sent to the circuit court for the county where the injury occurred. Click [here](#) for a copy of **HB 1078**.

Administrative Changes:

- ◆ Effective July 1, 2011, the Mississippi Workers' Compensation Commission amended Procedural Rule 11 to correspond with the adoption of **HB 1078**. The rule amended the appeals procedure to provide that appeals of Mississippi Workers' Compensation Commission awards will now go directly

to the Mississippi Supreme Court instead of first being sent to the circuit court for the county where the injury occurred. Click [here](#) for a copy of Procedural Rule 11.

MISSOURI

– *No Changes Were Made in 2011.*



Legislation: None.

Administrative Changes: None.

MONTANA

– *Amended Statute and Made Administrative Changes*



Legislation:

- **HB 43** was signed by Montana Governor Brian Schweitzer on May 6, 2011. The bill: (1) clarifies employer rights related to workers' compensation, drug testing, and disciplinary action involving an employee's medical use of marijuana; (2) expands the types of employees covered by the Workforce Drug and Alcohol Testing Act; and (3) creates employment related exceptions to the protections of the Medical Marijuana Act, providing that employees will not be eligible for workers' compensation if marijuana is the major contributing cause of the injury or occupational disease. Click [here](#) for a copy of HB 43.
- **HB 110** was signed by Montana Governor Brian Schweitzer on April 8, 2011 (effective July 1, 2011). The bill:

(1) requires an insurer to annually obtain a written certification from a third-party agent that each medical bill reviewed and paid will be calculated using the Montana workers' compensation medical fee schedules that are in effect on the date of service. Managed care organizations (MCOs) and Preferred provider organizations (PPOs) are exempt from this requirement. The Department of Labor and Industry can penalize an insurer if the agent neglects or fails to use the proper fee schedule; (2) clarifies when the Department of Labor and Industry may revoke an independent contractor exemption; and (3) clarifies that the interest on a security deposit posted by a plan No. 2 insurer accrues to the insurer. Click [here](#) for a copy of HB 110.

- **HB 118** was signed by Montana Governor Brian Schweitzer on March 25, 2011. The bill requires that the Board of Directors of State Compensation Insurance fund include one person with executive management experience in an insurance company or executive experience in insurance financial accounting. Click [here](#) for a copy of HB 118.
- **HB 334** was signed by Montana Governor Brian Schweitzer on April 12, 2011 (various effective dates provided in text of the bill). The bill: (1) provides that any reduction in a state agency's premium compared to a previous year must also reduce the appropriation, and the difference must be returned to the original funding source; (2) requires the insurance commissioner to perform an annual review of the State Fund's audit and rates and provide a report and recommendations; (3) requires doctors to use the 6th Edition of the AMA Guides to Evaluation of Permanent Impairment

for determining an impairment rating; (4) awards a permanent partial disability (PPD) payment only to injured workers who suffer a whole person impairment rating greater than zero and a wage loss or to injured workers with a Class 2 or greater impairment rating converted to a whole person and no wage loss; (5) increases the number of weeks included in the calculation of the award from 375 to 400 weeks; (6) terminates medical benefits on permanent partial claims 60 months from the date of injury or occupational disease (OD) and provides for reopening of terminated medical benefits within 5 years of termination through a request to and recommendation from the Department of Labor and Industry's Medical Director plus two other physicians chosen by the Department to review the request; (7) provides that payments for medical services are based on the fee schedule in effect on the date of service; (8) requires the Department adopt Utilization and Treatment Guidelines that establish compensable medical treatment for injured workers, and review of those Guidelines each year in consultation with health care providers; (9) requires the Department hire a Medical Director and may establish by rule an independent review of treatments denied by insurers; (10) provides retroactive payment of the waiting period if disability exceeds 21 days; (11) allows for a mutual agreement to settle future medical benefits on an accepted claim if the claimant has reached maximum medical improvement and the settlement is in the best interest of the parties to the settlement; (12) provides for early Stay-At-Work/Return-To-Work assistance from the Department or Insurer and provides an assessment to fund Department assistance; (13) allows

injured worker to choose initial health care provider and allows insurer to approve workers' choice as treating physician or designate a different treating physician to manage and coordinate medical treatment; and (14) details treating physician requirements and explains fee schedule reimbursement rates for medical treatment. Click [here](#) for a copy of HB 334.

- **HB 359** was signed by Montana Governor Brian Schweitzer on March 23, 2011 (applies retroactively to claims for injuries and occupational diseases for which all benefits have not been settled). The bill allows for a mutual agreement to settle future medical benefits on an accepted claim if the claimant has reached maximum medical improvement and the settlement is in the best interest of the parties to the settlement. The parties must set out the rationale that is the basis for the settlement and the claimant must sign an acknowledgment of understanding of what benefits will be terminated by the settlement. Click [here](#) for a copy of HB 359.
- **HB 552** was signed by Montana Governor Brian Schweitzer on April 21, 2011 (effective July 1, 2011). The bill: (1) allows for levies used to fund public safety volunteers' disability income insurance to be used alternatively for workers' compensation coverage; and (2) provides coverage for volunteer EMS providers under certain conditions. Click [here](#) for a copy of HB 552.
- **SB 242** was signed by Montana Governor Brian Schweitzer on April 21, 2011 (effective July 1, 2011). The bill amended the definitions of "employee" or "worker" to exclude a person who is performing temporary agricultural work for an employer if the person performing

the work is otherwise exempt from the requirement to obtain workers' compensation coverage. Click [here](#) for a copy of SB 242.

- **SB 287** was signed by Montana Governor Brian Schweitzer on April 15, 2011 (effective July 1, 2011). The bill requires certain managers of manager-managed limited liability companies working in the construction industry be covered by workers' compensation or obtain an independent contractor exemption certificate. Click [here](#) for a copy of SB 287.

Administrative Changes:

- ♦ **Rule 24.29.1591 - Montana Utilization & Treatment Guidelines** – Effective July 1, 2011, the Montana Department of Labor and Industry adopted the latest version of the Montana Utilization and Treatment Guidelines to establish evidence-based utilization and treatment guidelines for primary and secondary medical services for workers' compensation injuries and occupational diseases, as authorized by § 39-71-704, MCA, and incorporated by reference in ARM 24.29.1591. The Guidelines include General Guideline Principles at the beginning of each chapter, which are designed to adequately and consistently address the functional improvement goals of an injured worker. The Guidelines are applicable to all medical services provided on or after July 1, 2011. Prior authorization is not required for treatment within the Guidelines. Click [here](#) for a copy of the Montana Utilization & Treatment Guidelines.

NEBRASKA

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **LB 151** was signed by Nebraska Governor Dave Heineman on May 24, 2011 (court location provisions effective May 24, 2011, all other provisions effective August 27, 2011). The bill provides, changes, and eliminates powers and duties of the Nebraska Workers' Compensation Court. The bill: (1) provides that the Court of Appeals or Supreme Court, rather than the compensation court, shall allow attorney's fees as applicable; (2) provides that appeals from orders regarding employers who willingly fail to obtain workers' compensation insurance shall be in accordance with sections 48-182 and 48-185 rather than 48-179; (3) eliminates a requirement that judges of the court shall reside in Lancaster County; (4) eliminates a requirement that the workers' compensation court must maintain offices in the State Capital; (5) replaces the 14-day appeal period with a 30-day period; (6) allows telephonic and videoconferencing for non-evidentiary hearings, and evidentiary hearings if stipulated by the parties; (7) eliminates the requirement that a modification or change to an order be limited to correcting an ambiguity, clerical error, or patent or obvious error, and to change the 10-day time limit to 14 days after the date of such findings, order, award, or judgment; (8) allows motions for modification by any party, rather than only on the court's own motion; and (9)

provides that an appeal from a final order of the compensation court shall be made within 30 days rather than 14 days. Click [here](#) for a copy of LB 151.

- **LB 152** was signed by Nebraska Governor Dave Heineman on May 26, 2011 (effective August, 27, 2011). The bill provides for a trauma fee schedule for workers' compensation claim reimbursement. The bill: (1) provides that hospitals providing inpatient trauma care will be reimbursed 160% of its medicare rate. For those "outlier" cases that require unusual expense to treat, the bill provides additional compensation. For outlier cases there is a stop loss threshold; (2) provides that claims for inpatient trauma services on or after January 1, 2012 for Diagnostic Related Groups subject to the Diagnostic Related Group inpatient hospital fee schedule shall be reimbursed under the trauma services inpatient hospital fee schedule; and (3) requires each hospital, workers' compensation insurer, risk management pool and self-insured employer report to the court by October 15 of each year the number of claims for each Diagnostic Related Group that included trauma services, and the number of times billed charges exceeded the Stop-Loss Threshold amount for each trauma service. Click [here](#) for a copy of LB 152.

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 rule was adopted on June 3, 2011:

- a) **Rule 1, Office of the Court.** Amended to provide that until June 30, 2011, the office of the Workers' Compensation Court shall be deemed to be in the State

Capitol Building, Lincoln, NE, and that on and after July 1, 2011, the office of the Court shall be deemed to be at 1010 Lincoln Mall, Lincoln, NE.

The following rules were adopted on June 3, 2011:

- a) **Rule 1, Office of the Court.** Amended to eliminate a reference to review hearings and to update the location of the office of the Nebraska Workers' Compensation Court from the above rule adopted on June 3, 2011.
- b) **Rule 5, Interpreters.** Amended to provide for appointment of provisionally certified court interpreters, to provide that in proceedings in which a Spanish interpreter is utilized, only a certified or registered interpreter shall be allowed, to provide that in proceedings in which a sign interpreter is utilized, only a Level I or Level II classification interpreter shall be allowed, and to update a reference to a Supreme Court rule.
- c) **Rule 7, Allotted Time for Trial.** Amended to eliminate "before one judge" as a qualifier of cases set for trial.
- d) **Rule 8, Continuances.** Amended to eliminate a reference to review hearing, and to amend the criteria for granting of continuances.
- e) **Rule 10, Evidence.** Amended to eliminate "single" as a qualifier of a judge of the court before whom hearings are held.
- f) **Rule 11, Decisions.** Amended to eliminate a reference to original hearing, to standardize terms referring to decisions of the court, and to provide that copies of orders, awards, or judgments will be mailed to all attorneys and self-represented parties.



- g) **Rule 12, Appeals; Rule 13, Transcript of Pleadings; Rule 14, Bill of Exceptions; Rule 15, Records Checked Out; Rule 16, Briefs; Rule 17, Scheduling, Argument, and Submission; Rule 18, Summary Dispositions; Rule 19, Opinions; Rule 20, Dismissal of Appeal; Rule 21, Costs.** Amended to add language

stating the rule is applicable only to cases pending on August 27, 2011, in which a hearing on the merits has been held prior to August 27, 2011.

- h) **Rule 22, Appeal after Review.** Repealed.

The following rules were adopted on December 15, 2011:

- a) **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, 2012, to revise references to a single inpatient hospital fee schedule and eliminate obsolete language in order to accommodate the new Trauma Services Inpatient Hospital Fee Schedule set forth in Neb. Rev. Stat. § 48-120.04, to update the effective dates of the Schedule of Fees for Hospitals and Ambulatory Surgical Centers and the Schedule of Fees for Implantable Medical Devices, and to eliminate language requiring that paper copies of the court's fee schedules be available at the court's offices.

- b) **Rule 29, First Report of Alleged Occupational Injury or Illness.** Amended to adopt an amended NWCC Form 1 (First Report of Alleged Occupational Injury or Illness) with revised instructions on the back of the form to add a notice that the social security number must be provided on the

form, to provide the authority for requesting the social security number, and to state the uses that will be made of the social security number.

NEVADA

– Amended Statute



Legislation:

- **AB 74** – was signed by Nevada Governor Brian Sandoval on June 17, 2011. The bill: (1) requires the Commissioner of Insurance to adopt regulations relating to electronic signatures, records and payments; (2) revises provisions relating to the external review of adverse determinations of health carriers; (3) clarifies the circumstances under which an actuary is not liable for damages with respect to the actuary's opinion; (4) authorizes the electronic transmission of fingerprints with an application for a license; (5) revises provisions relating to the licensing of adjusters; (6) revises provisions relating to surplus lines insurance; (7) revises provisions relating to the use of credit information; (8) requires that certain policies of group insurance be filed with and approved by the Commissioner; (9) revises provisions relating to annuities, pure endowment contracts and policies of life insurance; (10) revises provisions relating to evidence of insurance for motor vehicles; (11) revises provisions relating to disciplinary action by the Commissioner; (12) revises and clarifies provisions relating to employee leasing companies; and (13) provides for coverage by the Nevada Life and Health Insurance Guarantee Association for certain unallocated annuity contracts

owned by certain governmental retirement plans. Click [here](#) for a copy of AB 74.

- **AB 141** - was signed by Nevada Governor Brian Sandoval on May 27, 2011 (effective October 1, 2011). The bill: (1) expands the frequency with which certain volunteer firefighters must submit to physical examinations to receive workers' compensation coverage for certain occupational diseases; and (2) revises provisions relating to the procedure for scheduling such physical examinations under certain circumstances. Click [here](#) for a copy of AB 141.

- **SB 21** was signed by Nevada Governor Brian Sandoval on May 30, 2011. The bill: (1) revises certain provisions concerning catastrophic injuries; (2) specifies additional injuries that constitute a catastrophic injury; (3) revises the qualifications of a certified vocational rehabilitation counselor; (4) revises provisions governing claims for catastrophic injuries; (5) revises the requirements of a life care plan developed by an insurer for an injured employee; and (6) revises the qualifications of an adjuster who administers a claim for a catastrophic injury. Click [here](#) for a copy of SB 21.

- **SB 58** was signed by Nevada Governor Brian Sandoval on June 1, 2011 (effective October 1, 2011). The bill: (1) provides for the punishment of an employer who knowingly misrepresents or conceals a material fact relating to a person's eligibility for industrial insurance benefits; (2) grants certain immunities to persons who disclose information relating to such an employer; (3) directs the Administrator of the Division of Industrial Relations of

the Department of Business and Industry and the Fraud Control Unit for Industrial Insurance of the Office of the Attorney General to establish procedures concerning the reporting, notification of prosecution and sharing of information regarding such an employer; (4) authorizes the Attorney General to prosecute criminal and civil actions relating to such an employer; (5) provides that certain books, records and payrolls must be open to inspection under certain circumstances; (6) provides that such an employer is liable for certain costs of investigation and prosecution; and (7) requires a provider of health care to make certain health care records available for inspection during the investigation of such an employer. Click [here](#) for a copy of SB 58.

- **SB 63** was signed by Nevada Governor Brian Sandoval on June 1, 2011 (effective July 1, 2011). The bill: (1) establishes provisions for the collection of certain amounts owed to the Division of Industrial Relations of the Department of Business and Industry for payments from the Uninsured Employers' Claim Account; (2) revises provisions governing the penalty for failure to provide mandatory industrial insurance; and (3) prohibits certain conduct by persons who fail to pay certain amounts owed to the Division. Click [here](#) for a copy of SB 63.

- **SB 152** was signed by Nevada Governor Brian Sandoval on June 3, 2011 (effective October 1, 2011). The bill: revises provisions governing insurance adjusters; and (2) exempts certain persons from provisions of the Nevada Insurance Adjusters Law governing the licensing and regulation of adjusters. Click [here](#) for a copy of SB 152.

- **SB 164** was signed by Nevada Governor Brian Sandoval on June 17, 2011 (effective January 1, 2012). The bill authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to conduct certain investigations and examinations of third-party administrators. Click [here](#) for a copy of **SB 164**.
- **SB 213** was signed by Nevada Governor Brian Sandoval on June 4, 2011 (effective October 1, 2011). The bill revises the requirements for the issuance or renewal of a certificate of registration to operate an employee leasing company in Nevada. Click [here](#) for a copy of **SB 213**.

Administrative Changes: None.

NEW HAMPSHIRE

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 1371** was signed by New Hampshire Governor John Lynch on June 29, 2010 (effective January 1, 2011). The bill: (1) allows an injured employee to have a witness present at the examination by health care providers performing independent medical examinations; and (2) establishes a committee to study certain aspects of independent medical examinations. Click [here](#) for a copy of **HB 1371**

Administrative Changes:

The following changes were made to the New

Hampshire Department of Labor Administrative Rules in 2011. Click [here](#) for a complete listing of the Administrative Rules.

- ◆ **Regulation Lab 506.02** was amended to allow disability benefits to be paid by electronic paycard.
- ◆ **Regulation Lab 702 - 704** were amended to clarify that injury management facilitators in managed care programs must be qualified every five years and must generally work for the managed care organization rather than the employer.
- ◆ **Regulation Lab 205** was amended regarding depositions at appeal hearings and the prehearing conference process.
- ◆ **Regulation Lab 206** was amended to clarify the timing and grounds for a motion for rehearing.

NEW JERSEY

– No Changes Were
Made in 2011



Legislation: None.

Administrative Changes: None.

NEW MEXICO

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

The following changes were made to the New Mexico Workers' Compensation Administration Rules and Statutes, effective December 31, 2011. Click [here](#) for a complete listing of the New Mexico Workers' Compensation Administration Rules and Statutes.

- ◆ Updates and standardization of the Complaint form, Application to Workers' Compensation Judge form, and the Joint Petition for Lump Sum Settlement. The forms were standardized to require the same basic claim information in each of the forms and to make them more user friendly, both for the form users and workers' compensation judges. Instructions were added concerning the use of the forms as well as specific information regarding Medicare. The Joint Petition was modified to contain specific information about the terms of the lump sum settlement.
- ◆ **Rule 7** – Updates and amendments to the Health Care Provider Fee Schedule.
- ◆ **Rule 12** – The Uninsured Employers' Fund (UEF) Rules were amended to clarify the method by which UEF claims are submitted. The amendments: (1) revoked the requirement that an uninsured employer post a bond pending the outcome of the claim; (2) amended the penalty assessment language in the rule to increase the minimum penalty to 15% and lower the maximum to 50% of the total value of the award to the injured worker; and (3) revoked the language preventing the UEF from seeking reimbursement of attorney fees.

NEW YORK

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **A 6686-B/S 4559-B** was signed by New York Governor Andrew Cuomo on September 23, 2011, as Chapter 517 of the Laws of 2011. The bill provides for separate reimbursement of implantable hardware and instrumentation used in spinal surgeries covered by workers' compensation. This bill retroactively reinstates the rule previously found in Workers' Compensation Law § 13(a-1), which sunset on April 1, 2011, through April 1, 2012. The new law provides for full reimbursement of the documented invoice cost of implantable hardware and instrumentation used in spinal surgeries that fall within one of the following All Patients Refined Diagnostic Related Groups (APR-DRGs): 23 spinal procedures, 303 dorsal and lumbar fusion procedures for curvature of back, 304 dorsal and lumbar fusion procedures except for curvature of back, 310 intervertebral disc excision and decompression, 321 cervical spinal fusion and other back/neck procedures excluding disc excision/decompression. Hospitals are entitled to full payment of the case rate under the Inpatient Fee Schedule determined by the APR-DRG plus the documented invoice cost of the implants and an additional 10% of the invoice cost up to \$350. Click [here](#) for a copy of **A6686-B/S4559-B**.

- **A 4007-C/S 2807-C** was signed into law by New York Governor Andrew Cuomo on March 31, 2011, as part of the 2011-2012 budget, Chapter 57 of Laws of 2011. Part G of the bill provides that: (1) insolvent group self-insurance trusts (GSITs) are exempt from assessments for the special disability fund (WCL § 15(8)) and workers' compensation board administrative costs (WCL § 151) through January 1, 2016; (2) insolvent GSITs will have to pay a one-time assessment in January 2016 to compensate for the exemption unless they have transferred their liability through a loss portfolio transfer or have collected all of their outstanding liabilities and are current in claim payments; (3) only GSITs that are fully funded and have met other standards of financial stability may continue to operate after November 1, 2011; and (4) the Chair is authorized to seek a judgment if a member of an insolvent GSIT has not met its financial obligations. Click [here](#) for a copy of **A 4007-C/S 2807-C**.

Administrative Changes:

The New York Workers' Compensation Board adopted the following rules in 2011.

- ◆ **Chiropractic Fee Schedule Regulations** – Effective February 9, 2012, the chiropractic fee schedule regulation (12 N.Y.C.R.R. §348) was amended to clarify that the fee schedule in place on the date of treatment is the operative fee schedule, regardless of the date of accident. Click [here](#) for a copy of the Chiropractic Fee Schedule amendment.
- ◆ **Livery Fund Regulations** - Title 12 N.Y.C.R.R. §300.1(a)(9) was amended and §309 was added to implement provisions regarding the Independent

Livery Driver Benefit Fund (Fund), which was created in Chapter 392 of the Laws of 2008 to provide workers' compensation benefits in limited situations to independent livery drivers dispatched by members of the Fund. This bill provides that in order to be a member of the Fund, independent livery bases must meet certain criteria set forth by the Chair of the Workers' Compensation Board in regulation. Workers' compensation benefits are paid for the death of an independent livery driver dispatched by an independent livery base arising out of and in the course of covered services, and for all injuries (1) resulting from a crime against such livery driver as shown by a police report, or (2) for the following conditions: (a) the amputation or loss of an arm, leg, hand, foot, multiple fingers, index finger, multiple toes, ear, or nose, (b) paraplegia or quadriplegia, or (c) total and permanent blindness or deafness. Further, the Chair is required to set by regulation the presumptive wage earned by an independent livery driver. Click [here](#) for a copy of the amendments and additions to the **Livery Fund Regulations**.

NORTH CAROLINA

– Amended
Statutes



Legislation:

- **HB 709** was signed by North Carolina Governor Beverly E. Perdue on June 24, 2011. The bill: (a) specifically defines “suitable employment;” (b) provides for the structuring of second opinion and rating evaluations; (c) outlines procedures for reasonable access to



medical information; (d) places caps on duration of compensation; (e) increases partial incapacity pay period; (f) structures vocational rehabilitation; and (g) increases death benefits. Click [here](#) for a copy of HB 709.

Administrative Changes: None.

NORTH DAKOTA

– *No Changes
Made in 2011*



Legislation: None.

Administrative Changes: None.

OHIO

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

■ **HB 86** was signed by Ohio Governor John Kasich on June 29, 2011. The bill primarily revises Ohio's criminal sentencing law. However, the bill includes provisions revising the law regarding workers' compensation fraud to include workers' compensation fraud as a theft offense. Click [here](#) for a copy of HB 86.

■ **HB 93** was signed by Ohio Governor John Kasich on May 20, 2011. The bill

primarily establishes and modifies laws regarding the prevention of prescription drug abuse. However, the bill includes provisions: (1) requiring the administrator of workers' compensation to implement a coordinated services program substantially similar to the coordinated services programs established for the Medicaid program for claimants who are found to have obtained prescription drugs that were reimbursed pursuant to an order of the administrator or of the industrial commission or by a self-insuring employer but were obtained at a frequency or in an amount that is not medically necessary; and (2) provides that on receipt of a request from the administrator of workers' compensation, the board of pharmacy may provide to the administrator information from the drug database relating to a claimant. Click [here](#) for a copy of HB 93.

■ **HB 123** was signed by Ohio Governor John Kasich on April 25, 2011. The bill: (1) makes appropriations for the Bureau of Workers' Compensation and for the Workers' Compensation Council for the biennium beginning July 1, 2011, and ending June 30, 2013; (2) provides authorization and conditions for the operation of the Bureau's and the Council's programs; (3) allows the Administrator of Workers' Compensation to waive criteria certain public employers must satisfy to become self-insuring employers; (4) requires bills for medical and vocational rehabilitation services in claims that are ultimately denied to be paid from the Surplus Fund Account under specified circumstances; (5) allows the Administrator to charge additional security from a public employer for whom the Administrator waives any

criteria to become a self-insuring employer under the act; (6) reduces the time period for the payment of bills for medical or vocational rehabilitation services from two years to one year from the date of service or the date the payment is otherwise permitted under continuing law, except for reimbursement of conditional payments for Medicaid or Medicare and except as provided in a rule that the Administrator must adopt; (7) removes the requirement that the Bureau of Workers' Compensation include in the annual actuarial valuation report specified information concerning financial information and methods used in making that valuation; (8) reduces the biannual reporting requirement for the Health Care Data Program to once annually, to be submitted with the BWC Board's annual report; (9) revises the membership of the Workers' Compensation Board of Directors Nominating Committee and abolishes the BWC Division of Research and Statistics. Click [here](#) for a copy of HB 123.

- **HB 153** was signed by Ohio Governor John Kasich on June 30, 2011. The bill primarily establishes Ohio's Operating Budget appropriations for Fiscal Years 2012 & 2013. The bill: (1) abolishes the Workers' Compensation Council; (2) abolishes the Workers' Compensation Council Remuneration Fund and the Workers' Compensation Council Fund and requires any cash balances in these funds to be transferred to the State Insurance Fund; and (3) eliminates the appropriation of \$471,200 per year for the Council made in H.B. 123 and Transfers all Council records to the Legislative Service Commission and all other assets and liabilities of the Council

to the Bureau of Workers' Compensation. Click [here](#) for a copy of HB 153.

- **SB 171** was signed by Ohio Governor John Kasich on June 30, 2011. The bill implements recommendations of the Sunset Review Committee, including the elimination of the Workers' Compensation Council. Click [here](#) for a copy of SB 171.

Administrative Changes:

The following summarizes Ohio Bureau of Workers' Compensation rules that were amended in 2011. All rules can be found on the Register of Ohio by entering the rule number [here](#).

- ◆ Claims Rules
- ◆ Medical Rules
- ◆ Confidential Personal Information Rules
- ◆ Employer Premium and Rate Program Rules
- ◆ Rehabilitation Rules
- ◆ Construction Safety Rules
- ◆ Workshops and Factories Safety Rules
- ◆ Public Employment Risk Reduction Program Rules

OKLAHOMA

– Amended Statute



Legislation:

- **SB 878** was signed by Oklahoma Governor Mary Fallin on May 24, 2011 (effective August 26, 2011). This bill is comprehensive and far-reaching. Look to the copy of the bill for a complete overview of its provisions. The bill: (1) provides for exclusive remedy in place

of all other liability at common law or otherwise, except for intentional torts and when the employer fails to secure its workers' compensation obligations; (2) extends the immunity to oil and gas owners and operators who are intermediate or principal employers but not the immediate employer of an injured or deceased worker; (3) creates a ten judge Workers' Compensation Court and provides requirements for appointments and qualifications; (4) prohibits certain conduct by Court personnel, including prohibiting an attorney from withholding client funds for the purpose of making contributions to a political fund, candidate or campaign; (5) defines the employer's duty to pay compensation and jurisdiction over injuries occurring outside the state or on Federal lands within the state; (6) lists injuries excluded from the act, including injuries resulting directly from the willful failure of the injured worker to use a guard or protection against accident, injuries which occur when an employee tests positive for the presence of alcohol, illegal drugs or chemicals, and injuries occurring before being hired or after termination of employment; (7) defines the date of the law governing benefit determinations. For a single event injury, it is the law in effect at the time of injury. For a cumulative trauma injury or occupational disease/illness, it is the law in effect when the employee knew or reasonably should have known the injury/disease/illness was related to work activity. For death, it is the law in effect at the time of death; (8) makes the last employer liable for occupation disease or injury resulting in cumulative trauma; (9) establishes limitations period for filing, prosecuting and reopening, a claim for compensation. Allows a

claimant to dismiss a claim for compensation, with or without prejudice, upon paying a filing fee, if the case has not been finally submitted to the Court for decision. Permits a claim dismissed without prejudice to be refiled within 1 year; (10) directs the Court Administrator to create a workers' compensation counselor or ombudsman program, and to notify injured workers of its availability, within 10 days of the employer's filing of a Form 2 notice of injury; (11) allows mediation and specifies related procedures; (12) directs employers to record injuries and to report them to the Court and the employer's insurer within a certain time, or be subject to a fine; (13) creates a rebuttable presumption that a single event injury is not work related unless reported or medical attention was provided within 30 days. Creates a rebuttable presumption that an occupational disease or cumulative trauma injury is not work related unless reported within 90 days of separation from employment; (14) requires an employer to provide reasonable and necessary medical care to a worker within 7 days of actual knowledge of the injury. Provides that if the employer fails to do so, or in the case of an emergency, the injured employee may select a physician at the employer's expense; (15) provides that effective 3/1/12, scope and duration of medical treatment will be governed by the Work Loss Data Institute's "Official Disability Guidelines (ODG)." Directs the Physician Advisory Committee to adopt Oklahoma Treatment Guidelines (OTG) for medical treatment to the spine that is not addressed in or recommended by ODG, and for continuing medical maintenance and pain management. Creates a presumption that care provided

per the ODG or OTG is reasonable and necessary; (16) prohibits the Court from awarding continuing medical maintenance (CMM) unless recommended by the treating physician at maximum medical improvement or by an IME; (17) directs the Court Administrator to develop a new workers' compensation fee schedule by 1/1/12, after notice and public hearing, which limits reimbursement for health care services provided to injured workers and reduces the overall cost of medical care by 5%; (18) requires the Court to develop and maintain an Independent Medical Examiner System comprised of licensed physicians who have completed certain course study and who have been recommended as IMEs by the Physician Advisory Committee; (19) provides for determination of a worker's average weekly wage as the basis upon which compensation is computed; (20) provides limits and requirements for temporary total and temporary partial disability; (21) provides limits and requirements for permanent partial impairment and permanent total disability; (22) requires an employer to furnish necessary prosthetic devices for the lifetime of an injured worker whose compensable injury resulted in certain anatomical losses or the replacement of a joint; (23) provides for a full, final and binding settlement of any issue of a claim by "compromise settlement" which shall be signed by the parties, approved by the Court or Administrator, and filed with the Court; (24) makes written orders of the trial judge final unless appealed to a three-judge review panel of the Workers' Compensation Court within 10 days, or to the Oklahoma Supreme Court within 20 days; (25) Prohibits discharge of an employee or termination of the

employee's group health insurance for filing a workers' compensation claim and for other grounds. Click [here](#) for a copy of SB 878 and [here](#) for a more detailed and comprehensive summary of its provisions.

Administrative Changes: None.

OREGON

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 2093** was signed by Oregon Governor John Kitzhaber on May 19, 2011 (effective January 1, 2012). The bill gives the Department of Consumer and Business Services the ability to take administrative action against a person or company that is actively managing the care of workers when that person or company is not certified as a managed care organization. The Department will be able to address these violations by imposing civil penalties and issuing cease-and-desist orders. A process is provided for the person or company to appeal the Department's action. Click [here](#) for a copy of HB 2093.
- **HB 2094** was signed by Oregon Governor John Kitzhaber on May 19, 2011 (effective January 1, 2012). The bill allows a delay of the reconsideration of claim closure and disability process for up to 45 days when the parties are actively engaged in settlement negotiations that include reconsideration issues and both parties agree to delay the process. Either party may request that the reconsideration process be resumed.

If the parties fail to reach a settlement on reconsideration issues, the reconsideration process will restart at the end of the deferral period and the Department will complete the process as usual. The bill also provides that permanent disability payments to the worker continue during the settlement negotiations, as currently happens during the reconsideration process. Click [here](#) for a copy of HB 2094.

- **HB 2712** was signed by Oregon Governor John Kitzhaber on June 30, 2011 (effective January 1, 2012). The bill changes and standardizes statutory references to fines, violations, and penalties. As a result, there are updates to some of the workers' compensation penalties found in ORS 656.990 (see Section 268 of the bill). Instead of specifying the fine or prison sentence, this section now refers to specific types of violations (e.g., Class A misdemeanor). These categories of violations are defined elsewhere in statute. Click [here](#) for a copy of HB 2712.

- **HB 2743** was signed by Oregon Governor John Kitzhaber on May 19, 2011 (effective January 1, 2012). The bill: (1) gives podiatric physicians and surgeons the ability to serve as attending physicians without limitation; and (2) removes the requirement that podiatric physicians and surgeons must certify that they have reviewed informational materials about the workers' compensation system developed by the director. Click [here](#) for a copy of HB 2743.

- **SB 43** was signed by Oregon Governor John Kitzhaber on June 14, 2011 (effective January 1, 2012). The bill

increases the amount of withholding the Department of Justice may order from an obligor's workers' compensation benefits to satisfy current or past-due child or spousal support obligations. The increases include up to half of lump-sum permanent disability payments, permanent disability benefits, and benefits under a compromise and release or disputed claim settlement. Click [here](#) for a copy of SB 43.

- **SB 173** was signed by Oregon Governor John Kitzhaber on May 19, 2011 (effective January 1, 2012). This bill addresses the disputed claim settlement process. The current law allows a worker to settle unpaid medical bills, but limits how much of the settlement can go toward that purpose. If not covered by the settlement, a provider can collect any outstanding balance directly from the worker and the amount is not limited to the workers' compensation fee schedule. This bill allows a worker to pay outstanding medical bills directly out of his or her disputed claim settlement. If the worker does that, this bill requires medical providers to accept this as payment in full and not balance-bill the worker for any charges that exceed the workers' compensation medical fee schedule. Click [here](#) for a copy of SB 173.

Administrative Changes:

The following rules were adopted by the Oregon Workers' Compensation Division in 2011. Click on the rule number for a copy of the rule.

- ◆ **Oregon Medical Fee and Payment Rules** [[chapter 436, division 009](#)] – Effective 4/1/11 and 4/1/12*: Updated medical fee schedules and related



service codes; set minimum requirements for explanations that accompany medical bill payments or denials of payment; required payment at 80% of the provider's usual fee, with certain exceptions, if the rules don't state a maximum payment amount; limited payment for a prosthetic or orthosis to the lesser of the provider's usual rate or 140 percent of the actual cost to the provider for the item [later amended by temporary rule – see below]; required health care providers to send clinical justifications to insurers, on a State of Oregon form, when prescribing greater than a five-day supply of Celebrex®, Cymbalta®, Fentora®, Kadian®, Lidoderm®, Lyrica®, or OxyContin®; required partial payment of an interpreter who arrives at the provider's office for an appointment that was required by the insurer or the agency, even if the patient fails to attend the appointment or the provider has to cancel or reschedule the appointment; and, *Effective 4/1/12 (to give stakeholders time to update their computer programs), established new billing and payment requirements for ambulatory surgery center services that are generally consistent with the Centers for Medicare and Medicaid Services' prospective payment system.

- ◆ **Medical Services Rules** [[chapter 436, division 010](#)] – Effective 4/1/11: Established progress reporting standards for physical therapists; eliminated the requirement that independent medical examination (IME) providers give workers a survey form (workers may complete an online survey or contact the agency for assistance); required IME providers to make the State of Oregon Form 440-3923, "Important Information about Independent Medical Exams," available to workers before the

examinations; and eliminated the three-hour initial training course requirement for IME providers, while including an option to review training materials provided by the agency.

- ◆ **Claims Administration Rules** [[chapter 436, division 060](#)] – Effective 4/1/11: Eliminated the requirement that the insurer include a survey form with each independent medical examination appointment notice it sends to workers.
- ◆ **Premium Assessment Rules** [[chapter 436, division 085](#)] –Effective 7/1/11: Clarified premium reporting and payment requirements through the use of plain language and removal of obsolete information; redefined "exempted earned premium" and "self-insured employer group"; and listed key criteria for annual (versus quarterly) reporting eligibility.
- ◆ **Oregon Medical Fee and Payment Temporary Rule** [[chapter 436, division 009, rule 0080](#)] –Effective 7/5/11: Reversed the April 1, 2011 changes affecting maximum payments for orthotic and prosthetic services; the agency determined that payment based on material and device costs was inadequate, and amended the relevant rule to require payment at the provider's usual rate, unless otherwise provided by a contract.
- ◆ **Oregon Medical Fee and Payment Rules** [[chapter 436, division 009](#)] – Effective 1/1/12: Established maximum payments for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), using the Healthcare Common Procedure Coding System (HCPCS) codes published by the Centers for Medicare and Medicaid



Services; and set maximum payment criteria for services and items that have no HCPCS codes, and for equipment that is used or rented.

- ◆ **Medical Services Rules** [[chapter 436, division 010](#)] –Effective 1/1/12: Implemented enrolled HB 2743 (2011) by including podiatric physicians and surgeons among those health care providers who may serve as attending physicians, without limitation, in the Oregon workers' compensation system.
- ◆ **Managed Care Organization (MCO) Rules** [[chapter 436, division 015](#)] – Effective 1/1/12: Implemented enrolled HB 2093 (2011) by referring to civil penalties and to cease and desist orders that may be issued under ORS 656.260(20); HB 2093 specified medical management activities that may only be employed by a state-certified MCO.
- ◆ **Claim Closure and Reconsideration Rules** [[chapter 436, division 030](#)] – Effective 1/1/12: Implemented enrolled HB 2094 (2011) by describing the process for the agency to suspend the reconsideration timeline for up to 45 days when both parties request a delay for settlement negotiations; in addition, the rules more fully described the arbiter selection process, including options for participation by the parties in the selection; and aligned rule with statute regarding the effective suspension date if a worker fails to attend or cooperate with a medical arbiter examination.

PENNSYLVANIA

– Amended Statute



Legislation:

- **HB 440** was signed by Pennsylvania Governor Tom Corbett on June 30, 2011 as Act 20 of 2011. The bill: (1) amended the Workers' Compensation Act to authorize insurance carriers, including the State Workers' Insurance Fund, to provide, on a voluntary basis, workers' compensation insurance to sole proprietors, partners of partnerships and members of a limited liability company; and (2) authorized a transfer of \$4 million from the Workers' Compensation Administration Fund to the Uninsured Employers Guaranty Fund. Click [here](#) for a copy of **HB 440**.
- **HB 797** was signed by Pennsylvania Governor Tom Corbett on July 7, 2011 as Act 46 of 2011. The bill amended the Workers' Compensation Act to expand the ability of a career or volunteer firefighter to secure benefits for certain cancers. Click [here](#) for a copy of **HB 797**.

Administrative Changes: None.

PUERTO RICO

– No Changes
Were Made in
2011



Legislation: None.

Administrative Changes: None.

RHODE ISLAND

– Amended Statute



Legislation:

- **H5894** was signed by Rhode Island Governor Lincoln Chaffee on June 30, 2011. This bill is the budget bill for the fiscal year ending June 30, 2012. Article 12, Section 3 of the bill provides that appeals from the police/fire retirement board regarding accidental disability pensions are now heard at the Workers' Compensation Court. Click [here](#) for a copy of **H5894**.

Administrative Changes: None.

SOUTH CAROLINA

– No Changes
Were Made in
2011



Legislation: None.

Administrative Changes: None.

SOUTH DAKOTA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

Chapter 47:03 The following rule changes were adopted by the South Dakota Department of Labor and Regulation and became effective December 12, 2011. Click on the rule number for a copy of the rule.

- ◆ The Appendix A and C fee schedule tables were repealed, but the reimbursements are the same as before; they are calculated by multiplying the unit value found in Relative Values for Physicians, 2011© by the corresponding conversion factor found at rule [ARSD 47:03:05:05](#) (or [47:03:05:10.01](#) for anesthesia).
- ◆ Inpatient hospital facility charges, billed under Revenue codes, are reimbursed at either 80 percent or 100 percent of billing per [ARSD 47:03:05:12](#).
- ◆ Outpatient hospital or ASC service billings are reimbursed by referring to the CPT/HCPCS service code (not the Revenue code) and applying the [47:03:05:05](#) methodology. As before, for dentistry, refer to [ARSD 47:03:05:13](#), and for pharmacy, ARSD [47:05:03:14](#). All other charges are paid at either eighty percent or one hundred percent of billing per [47:03:05:05](#) or [47:03:05:12](#).

TENNESSEE

– Amended Statute

**Legislation:**

- **HB 1503/SB 0932** (Public Chapter 416) was signed by Tennessee Governor Bill Haslam on June 6, 2011 (effective for injuries occurring on or after June 6, 2011). The bill: (1) allows the parties to a workers' compensation case to settle a claim, subject to the approval of a trial judge or a workers' compensation specialist, without future medical benefits; (2) modifies the *Overstreet* communication procedures regarding contact between the authorized treating physician and employers on the workers' compensation injury; (3) clarifies the definition of an injury and occupational disease; and (4) clarifies that hearing loss, carpal tunnel and repetitive injury claims are compensable only if the condition primarily arises out of and in the scope of employment. Click [here](#) for a copy of Public Chapter 416.
- **HB 2047/SB 1785** (Public Chapter 203) was signed by Tennessee Governor Bill Haslam on May 20, 2011 (effective July 1, 2011). The bill changes the evidence standard from a preponderance of the evidence to clear and convincing evidence for rebutting the presumption that drugs or alcohol were the proximate cause of an injury from a positive drug test result or the refusal to submit to a drug test. Click [here](#) for a copy of Public Chapter 203.
- **HB 2030/SB 1550** (Public Chapter 422) was signed by Tennessee Governor Bill Haslam on June 6, 2011 (effective October 1, 2011). The bill: (1) revises

various provisions of present workers' compensation law regarding construction services providers; (2) clarifies that the general contractor of a commercial construction project may select the three individual construction services providers who may be exempt from workers' compensation coverage while working on that commercial construction project; (3) increases the amount of owners of a family owned business and corporate officers eligible for an exemption from the requirements that they be covered by workers' compensation insurance to five; (4) allows members of a limited liability company and partners in a limited, limited liability, or general partnership with at least 20% ownership to be eligible for the exemption. It also allows an individual to obtain more than one exemption if the individual is affiliated with multiple companies. Click [here](#) for a copy of Public Chapter 422.

Administrative Changes: None.**TEXAS**

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **HB 528** was signed by Texas Governor Rick Perry on June 17, 2011. The bill relates to the provision of pharmaceutical services through informal and voluntary network in the workers' compensation system. The bill: (1) allows informal and voluntary networks to contract rates below the Division of Workers' Compensation's

fee schedule for pharmaceutical services; (2) requires the informal and voluntary networks to notify, at least quarterly, each health care provider of any person who has been given access to the network's contractual fee arrangements with the health care provider and specifies notification requirements; (3) requires insurance carriers or networks to provide copies of contracts to the Division upon request; (4) specifies any administrative penalty assessed under the subsection shall be assessed against the carrier, regardless of whether the carrier or agent committed the violation; (5) requires each informal or voluntary network to report specific information, and any changes to that information, to the Division on a specific timeline; (6) clarifies that prescription medication or services may not, directly or through a contract, be delivered through a workers' compensation health care network; and (7) validates any contractual agreement that was in effect on any date between and including January 1, 2011 and June 17, 2011. Click [here](#) for copy of HB 528.

- **HB 625** was signed by Texas Governor Rick Perry on June 17, 2011 (effective September 1, 2011). The bill relates to notice of staff leasing services company workers' compensation claims and payment information. The bill: (1) requires workers' compensation insurance license holders to provide within 60 days certain claim information to client companies upon written requests; and (2) specifies a staff leasing services company license holder commits a violation if the license holder fails to provide this information. Click [here](#) for a copy of HB 625.

- **HB 2089** was signed by Texas Governor Rick Perry on June 17, 2011 (effective September 1, 2011). The bill relates to

the resolution of overpayment or underpayment of income benefits to injured employees. The bill requires the Commissioner to establish by rule the procedures insurance carriers may use to recoup an overpayment of income benefits from future income benefit payments that are not reimbursable under Labor Code §410.209 and to pay an underpayment of income benefits. Click [here](#) for a copy of HB 2089.

- **HB 2605** was signed by Texas Governor Rick Perry on June 17, 2011 (effective September 1, 2011). The bill: (1) extends the Division until September 1, 2017; (2) provides that network claims are to follow the same medical necessity dispute process as non-network claims; (3) requires the Division to adopt a policy outlining the Division's complaint process and to develop procedures to formally document and analyze complaints received; (4) provides that designated doctor examination assignments shall be made according to the appropriate doctor's credentials for the area of the body affected by the injury and the injured employee's diagnosis; (5) provides that an injured employee's treating doctor may perform a maximum medical improvement/impairment rating (MMI/IR) exam after a designated doctor's MMI/IR exam if it is the first designated doctor's MMI/IR exam and the injured employee disagrees with the designated doctor's opinion; (6) requires the Commissioner to develop a process by rule for the certification of designated doctors, to include standard training and testing; (7) requires designated doctors to continue providing services related to an assigned case until the doctor is permitted to discontinue as provided by Division rule; (8) provides that a party that fails to attend a benefit review



conference may forfeit the party's entitlement to a benefit review conference on the issue in dispute; (9) provides that the appeals panel may, in certain circumstances, issue a written decision on an affirmed case; (10) provides that medical fee disputes must be conducted by the State Office of Administrative Hearings' (SOAH) contested case hearings and medical necessity disputes must be conducted by the Division's contested case hearings; (11) provides that medical fee disputes must proceed to a benefit review conference or arbitration before proceeding to a contested case hearing; (12) amends requirements for the medical quality review panel; (13) requires the Commissioner, in consultation with the medical advisor, to adopt criteria concerning the medical case review process; (14) requires the Medical Advisor to establish a quality assurance panel (QAP) within the medical quality review panel (MQRP) to provide an additional level of evaluation in medical case review and to assist the medical advisor and the MQRP; (15) requires the Commissioner, after consultation with the medical advisor, to adopt rules concerning the operation of the MQRP and rules concerning the training and requirements for members of the MQRP; (16) establishes that the Commissioner or the investigation unit may review the operations of a person regulated by the Division, including an agent of the person, to determine compliance; (17) requires the Commissioner to prescribe by rule the procedures to be used for both announced and unannounced on-site visits; (18) provides a clean-up of statutory language regarding violations and sanctions; (19) provides that the

Commissioner may issue emergency cease and desist orders under certain circumstances; (20) provides that an order of the Commissioner is subject to judicial review under the substantial evidence rule; (21) provides that claims administered by political subdivisions or pools with unresolved medical necessity disputes are entitled to Division contested case hearings; and (22) provides for the expedited provision of medical benefits for certain injuries sustained by first responders, employed by certain political subdivisions, in the course and scope of employment. Click [here](#) for a copy of HB 2605.

- **SB 800** was signed by Texas Governor Rick Perry on June 17, 2011. The bill relates to the qualifications and operations of workers' compensation data collection agents. The bill: (1) establishes the required qualifications of data collection agents; and (2) establishes that the data collection agent may collect fees from reporting insurance carriers and that reporting insurance carriers must pay this fee, but governmental entities are excluded. Click [here](#) for a copy of SB 800.
- **SB 809** was signed by Texas Governor Rick Perry on June 17, 2011 (effective September 1, 2011). The bill relates to adjudication of certain workers' compensation disputes, including judicial review in district court. The bill: (1) establishes that a party who exhausts all administrative remedies for a medical dispute may seek judicial review of the decision within 45 days; and (2) provides that injured employees covered by a certified health care network may proceed to the Division's dispute resolution process if there is an issue regarding whether a carrier properly

provided the employee the information required by §1305.451. Click [here](#) for a copy of SB 809.

- **SB 1714** was signed by Texas Governor Rick Perry on June 17, 2011 (effective September 1, 2011). The bill relates to certain actions against an employer by an employee who is not covered by workers' compensation insurance. The bill: (1) specifies that certain common-law defenses do not apply to an action against an employer by or on behalf of an employee who is not covered by workers' compensation insurance obtained through a licensed insurance company or through self-insurance, rather than an action against an employer who does not have workers' compensation insurance coverage; (2) extends the prohibition of pre-injury liability waivers to all employees who are not covered by workers' compensation insurance and not just employees of employers who do not have workers' compensation insurance coverage; and (3) adds that unless an employee has waived coverage in connection with an agreement with the employer, the employee who elects to retain a right of action for damages for injuries sustained in the course and scope of the employment may bring a cause of action, which will be subject to all defenses available under common law and the statutes of this state. Click [here](#) for a copy of SB 1714.

Administrative Changes:

- ◆ **General Medical Provisions (Ch.133) & Benefits--Guidelines for Medical Services, Charges, and Payments (Ch. 134)** – Changes made to: (1) harmonize these rules with other Division rules, Labor Code Chapter 504, and Insurance Code Chapters 1305 and 4201; (2) make

other changes necessary to clarify the implementation and application of these rules; and (3) clarify the Division's requirements for explanations of benefits submitted in paper format. Changes to these rules were adopted on March 26, 2011 and became effective on July 1, 2012. Click [here](#) for a copy of Ch.133. Click [here](#) for a copy of Ch.134.

- ◆ **General Provisions Applicable to All Benefits (Ch.126) & Benefits--Calculation of Average Weekly Wage (Ch.128)** – Changes made to implement HB 2089 (see above) to address resolution of the overpayment or under payment of income benefits (IB). The new form Notice of Underpayment of Income Benefits was revised to conform with the rules and was posted with adoption 12/19/2011. The form is optional and submission of the form is not be required by rule or process. Changes to these rules were adopted December 12, 2011 and became effective January 1, 2012. Click [here](#) for a copy of Ch. 126. Click [here](#) for a copy of Ch.128.
- ◆ **Dispute Resolution – Benefit Review Conference (Ch.141)** – Changes made to amend the rule pursuant to HB 2605 (see above). The rule was amended to: (1) define good cause for rescheduling a benefit review conference and good cause for failing to attend a benefit review conference; and (2) clarify procedures for rescheduling before a scheduled benefit review conference and after failing to attend a benefit review conference. Changes to this rule were adopted October 31, 2011 and became effective November 18, 2011. Click [here](#) for a copy of Ch.141.



- ◆ **Dispute Resolution Review by the Appeals Panel (Ch.143)** – Changes made to amend rule pursuant to HB 2605 (see above) to implement amended Labor Code §410.203 and §410.204. These legislative changes authorize the Appeals Panel (AP) to affirm the decision of a hearing officer in a case described by Labor Code §410.204(a-1). Labor Code §410.204(a-1) authorizes the AP to issue a written decision affirming the decision of a hearing officer if the case is: (1) a case of first impression; (2) involves a recent change in law; or (3) involves errors at the contested case hearing that require correction, but do not affect the outcome of the hearing. Changes to this rule were adopted October 31, 2011, and became effective November 18, 2011. Click [here](#) for a copy of Ch.143.

- ◆ **Benefits -- Guidelines for Medical Services, Charges, and Payments SUBCHAPTER F - Pharmaceutical Benefit (Ch.134)** – Changes made to implement legislative changes made by HB 528 (see above). Changes to this rule were adopted on September 30, 2011 and became effective on October 23, 2011. Click [here](#) for a copy of Ch.134.

- ◆ **Medical Bill Reporting (Ch.134)** – Changes made to amend existing rule and add new rules to clarify data element requirements for medical data interchange to the Division. Changes to this rule were adopted on June 20, 2011 and became effective on September 1, 2011. Click [here](#) for a copy of Ch.134.

UTAH

– No Changes
Made in 2011



Legislation: None.

Administrative Changes: None.

VERMONT

– Amended Statute



Legislation:

- **SB 96** was signed by Vermont Governor Peter Shumlin on May 26, 2011. The bill: (1) provides for the confidentiality and nondisclosure of employment and unemployment information to support or facilitate an investigation by a public agency of the State of Vermont or other state or the federal government, except as otherwise provided; (2) provides for the disclosure of information from unemployment records to any public officer or public agency of the State of Vermont or other state or the federal government to investigate the misclassification or miscoding of workers, subject to regulation restrictions; and (3) provides that a base-period employer's experience-rating account will not be charged for benefits paid to an individual who was paid \$1,000 or less in wages by the individual's base-period employer (repealed on July 1, 2012). Click [here](#) for a copy of SB 96.

Administrative Changes: None.



VIRGINIA

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

■ **HB 1475** was signed by Virginia Governor Robert F. McDonnell on March 18, 2011 (effective on July 1, 2011). The bill creates a presumption, in the absence of a preponderance of evidence to the contrary, that an injury is work related. The presumption arises in a claim for compensation under the Workers' Compensation Act where an employee is physically or mentally unable to testify and there is un rebutted prima facie evidence that the injury was work related. Click [here](#) for a copy of HB 1475.

■ **HB 1812** was signed by Virginia Governor Robert F. McDonnell on March 16, 2011 (effective on July 1, 2011). The bill adds police officers of the Metropolitan Washington Airports Authority and the Norfolk Airport Authority to the list of public safety employees who are entitled to the presumption that certain infectious diseases are occupational diseases compensable under the Workers' Compensation Act. This presumption applies with respect to police officers of the Metropolitan Washington Airports Authority only for periods that the Authority voluntarily subjects itself to the provisions of the Workers' Compensation Act. Click [here](#) for a copy of HB 1812.

■ **HB 1705** was signed by Virginia Governor Robert F. McDonnell on March 26, 2011 (effective on July 1,

2011). The bill authorizes the Workers' Compensation Commission, in awards entered for incapacity for work, to require the employer to furnish and maintain modifications to or equipment for the injured employee's automobile. Such awards may be made upon the determination by the treating physician and the Commission that they are medically necessary. Such an award may be in addition to currently authorized awards for bedside lifts, adjustable beds, and home modifications. The measure also increases the maximum aggregate cost of all such items and modifications on account of any one accident from \$25,000 to \$42,000. Click [here](#) for a copy of HB 1705.

■ **HB 2170** was signed by Virginia Governor Robert F. McDonnell on March 14, 2011 The bill : (1) prohibits the Workers' Compensation Commission from awarding attorney fees incurred in opposing a claimant's admission to the Birth-Related Neurological Injury Compensation Program; and (2) prohibits the award of attorney's fees and expenses incurred by any physician, hospital, or nurse midwife that is a party to a proceeding regarding admission to the Program, or their medical malpractice carrier, in a proceeding involving a birth-related neurological injury claim. The prohibitions on paying expenses do not apply to certain photocopying costs or compensation of the Office of the Attorney General. Click [here](#) for a copy of HB 2170.

Administrative Changes:

The Virginia Workers' Compensation Commission changed the following rules.

◆ **Mileage Rate** – (effective October 1, 2011) established 55.5 cents per miles as

the new mileage reimbursement rate for claimants.

- ◆ **2011 Cost of Living Adjustment (COLA) Benefits**-Click [here](#) for a copy of the rate.
- ◆ **Minimum and Maximum Compensation Rate**-Click [here](#) for a copy of the rates.
- ◆ **Amendment to Commission Rule 11**-Amended to be consistent with the 2011 General Assembly's amended § 65.2-406 and §65.2-504 to replace references to the "1980" ILO classifications with "current" classifications.

VIRGIN ISLANDS

– *No Changes
Were Made in
2011*



Legislation: None.

Administrative Changes: None.

WASHINGTON

– *Amended Statute*



Legislation:

- **HB 1311** was signed by Washington Governor Christine Gregoire on May 11, 2011 (effective July 22, 2011). The bill: (1) establishes a collaborative to identify and review certain high-variation or high-utilization health care services and develop best practices guidelines related to those services and strategies to promote the use of those guidelines; and (2) L&I's medical director will participate as a member of the collaborative. Click [here](#) for a copy of **HB 1311**.

- **HB 1367** was signed by Washington Governor Christine Gregoire on April 29, 2011 (effective January 1, 2012 – except section 3, which becomes effective July 22, 2012). The bill requires mandatory industrial insurance coverage for certain for hire vehicle operators, and creates penalties for failure to pay premiums. Click [here](#) for a copy of **HB 1367**.

- **HB 1725** was signed by Washington Governor Christine Gregoire on May 10, 2011 (effective July 22, 2011). The bill: (1) clarifies that medical billing or payment policies associated with the fee schedule are not "rules"; (2) allows Washington State Department of Labor and Industries (L&I) to send notices electronically when requested by the worker, employer, or other person affected; (3) electronic correspondence is considered received on the date sent. Closing orders must also be sent via US Mail; (4) where registered or certified mail was required, allows the department to use another method for which receipt can be confirmed or tracked (similar to changes in SSB 5067 for other programs); and (5) requires L&I to report to the Legislature by December 1, 2011 on statutory changes needed to ensure an injured worker may receive care from a direct primary care provider and that the worker is not paying directly for medical services related to their claim. Ensures that employers that pay for direct care services for their employees can participate in the retrospective rating program. Click [here](#) for a copy of **HB 1725**.

- **HB 1726** was signed by Washington Governor Christine Gregoire on May 10, 2011 (effective July 22, 2011). The bill: (1) clarifies that workers suffering the loss of two major limbs or total eyesight

can receive vocational services, but are not eligible to select Option 2 benefits; (2) clarifies that vocational plan development or implementation does not begin until a determination is made following a vocational dispute. These dates begin the timeframe for the employer to make a valid job offer or for the worker to select an option; (3) allows L&I to extend the time by 10 days for a worker to select Option 2 vocational rehabilitation benefits and for an employer to make a valid return-to-work offer under certain circumstance; and (4) allows Option 2 benefits to be assessed as an overpayment when claim closure is not appropriate following the worker's selection. Click [here](#) for a copy of HB 1726.

- **HB 2123** was signed by Washington Governor Christine Gregoire on June 15, 2011. The bill: (1) creates the Stay-at-Work program, authorizing State Fund employers to receive a wage subsidy and reimbursements for employing an injured worker at light duty or transitional work; (2) eliminates the fiscal year 2012 cost-of-living adjustment with no catch-up, and delays the first cost-of-living adjustment; (3) authorizes claim resolution structured settlement agreements effective January 1, 2012 for workers age 55 or older, then age 53 or older beginning in 2015, and age 50 or older beginning in 2016. Agreements are only allowed on accepted claims that are at least 180 days old. Requires agreements to be approved by the Board of Industrial Insurance Appeals, and includes minimum and maximum periodic payments; (4) requires permanent total disability awards to be offset by prior permanent partial disability (PPD) awards and eliminates interest on unpaid PPD awards; (5) establishes in statute Safety

and Health Investment Projects grants; (6) creates an Industrial Insurance Rainy Day Fund; (7) requires L&I to apply certain best practices to address employer, worker, and provider fraud; (8) requires the Joint Legislative Audit and Review Committee to conduct a performance audit of the workers' compensation claims management system; and (9) requires L&I to contract for a study of occupational disease. Click [here](#) for a copy of HB 2123.

- **SB 5073** was signed by Washington Governor Christine Gregoire on April 29, 2011 with section vetoes (effective July 22, 2011). The bill concerns the medical use of cannabis and: (1) provides certain protections for patients and designated providers; (2) clarifies state purchased health care, health carrier or health plan authority including L&I for state fund and self-insured workers, can establish coverage/non-coverage decisions; (3) clarifies expectations for prescribers of medical marijuana; and (4) authorizes studies on medical cannabis. Click [here](#) for a copy of SB 5073.
- **SB 5278** was signed by Washington Governor Christine Gregoire on April 27, 2011 (effective July 22, 2011). The bill provides that rate notices must include an accounting that clearly identifies all programs and services that are financed in whole or in part by state fund premiums or self-insurers' administrative assessments. Click [here](#) for a copy of SB 5278.
- **SB 5801** was signed by Washington Governor Christine Gregoire on March 14, 2011 (effective July 1, 2011). The bill: (1) requires L&I to establish an industrial insurance health care provider network for state fund and self-insured



injured workers. Requires participating providers to meet network standards; (2) requires L&I to convene an advisory group of employer, worker, and medical provider representatives from the Industrial Insurance Medical and Chiropractic Advisory Committees to advise the department on implementation of the network; (3) requires workers to receive care from a network provider once a network is established in the worker's geographic area, except for the first visit; (4) requires L&I to establish additional best practice standards, and financial and nonfinancial incentives, for second tier providers; and (5) requires L&I to establish additional Centers for Occupational Health and Education (COHEs) so that all workers have access to a COHE provider by 2015. Click [here](#) for a copy of SB 5801.

Administrative Changes: None.

WEST VIRGINIA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 2517** was signed by Governor Earl Ray Tomblin on March 24, 2011 (effective June 9, 2011). The bill implements the federal Prison Industry Enhancement Certification Program by providing that individuals confined in a state correctional facility or juvenile services facility are eligible to receive workers' compensation benefits for injuries incurred while working in a program authorized by W. Va. Code § 25-7-14 or § 25-7-16. Click [here](#) for a copy of HB 2517.

- **HB 3163** was signed by Governor Earl Ray Tomblin on April 5, 2011 (effective from date of passage on March 12, 2011). The bill, which adds a new section to the Insurance Code (W. Va. Code § 33-2-21a), mandates that the Insurance Commissioner manage the workers' compensation programs of state agencies, including the coverage of agencies. Click [here](#) for a copy of HB 3163.

- **HB 3271** was signed by Governor Earl Ray Tomblin on April 4, 2011 (effective June 10, 2011). The bill provides that volunteer fire departments that experience increases in workers' compensation premiums after July 1, 2011, can receive money to cover the increases under a program to be administered by the State Auditor with funds approved by the Legislature. Click [here](#) for a copy of HB 3271.

Administrative Changes:

- ♦ **114 CSR 65 - Self Insurance Pools for Political Subdivisions** – The rule amendment sets for the criteria for establishing and maintaining self-insurance programs and pools for “political subdivisions” (e.g. counties and municipalities) to self-insure their workers' compensation risks. Click [here](#) for a copy of 114 CSR 65.

WISCONSIN

– No Changes
Made in 2011.



Legislation: None.

Administrative Changes: None.

WYOMING

– No Changes
Made in 2011.



Legislation: None.

Administrative Changes: None.

Legislative Session Information

There are twenty-six states that began new sessions in 2011 and carried over bills to 2012 (odd to even years), including AK, CA, DE, GA, HI, IL, IA, KS, ME, 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) do not carry over bills from 2011 and began new legislative sessions in 2012. These states will carry 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 2012. Most of the states have adjourned Sine Die for 2012. The following states remain in session as of July 31, 2012: CA, DC, IL, MA, MI, NJ, NY, OH, PA, SC, WI, and USVI. The 2012 legislative and administrative session activity will be published in the 2013 Workers' Compensation Research Bulletin.

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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Prepared by UWC – Strategic Services on Unemployment & Workers' Compensation
for the National Foundation for Unemployment Compensation & Workers' Compensation

