

2009 LEGISLATIVE UPDATE



Bills Affecting WSI

- **Three Categories**
 - Organizational→ bills that affect WSI operations
 - Injury Services→ bills that affect benefits
 - Employer Services→ bills that affect employer programs

HB 1464:

Response to Initiated Measure

- Requires WSI to use the Office of Administrative Hearings and the decisions of those Hearing Officers are final
- Requires the WSI Board of Directors to make formal recommendations to the Governor regarding premium rates, dividends, investment allocations and legislation
- Removes WSI's exemption from the state classified personnel system
- Repeals WSI's personnel statute

HB 1035:

Surplus Clarification

- Provides direction from the legislature regarding the balance of the WSI fund
- The level of reserves (the money necessary to pay out claims costs and expenses) plus available surplus must be between 120% and 140% of discounted reserve liabilities
- If level is below 120%→ may not issue dividend
- If level b/t 120% and 130%→ may not issue dividend
- If level b/t 130% and 140%→ may issue dividend
- If level above 140%→ shall issue dividend

HB 1101:

WSI's Injury Services Bill

- Increases the dependency allowance from \$10-\$15 per week per child
- Increases the maximum disability benefit from 110% to 125% of the state's average weekly wage
- Increases Death Benefits
 - lifetime benefit from \$250,000 to \$300,000
 - burial expenses from \$6,500 to \$10,000
 - one time payments increased:
 - for spouse: \$1,200 to \$2,500
 - dependent children: \$400 to \$800

HB 1455:

Surviving Spouse Benefit

- Provides a surviving spouse six months of the decedent's benefits if the decedent had been permanently disabled for at least 10 years, the couple had been married for 10 years and the surviving spouse had provided WSI approved home health care to the decedent.

HB 1061:

“But, why aren’t my glasses covered?”

- During a workplace injury, other devices are sometimes damaged
- Expands the benefit for “artificial members” which includes eyeglasses, orthopedic devices and dental work

* WCRC Initiative

HB 1062:

Retraining Benefit

- Allows a 20 week (a semester) extension for retraining programs
- Expands the pool for those eligible for two additional months of job search benefits
- Establishes pilot program to explore new rehabilitation opportunities

* WCRC Initiative

SB 2419:

Relocation and Travel Allowance

- Provides mileage allowance to injured workers who travel less than 50 miles round trip to attend a retraining program
- Increases the benefit for maintaining two households during a program of retraining from 25% to 30%
- Permits an injured worker to take the benefit and apply it towards travel expense in lieu of relocation.

SB 2056:

Mileage Reimbursement

- Mileage benefit for travel to medical appointments expanded from “city to city” to “door to door” travel

* WCRC Initiative

HB 1063:

Pre-existing Conditions

- IW is not liable for medical expenses for first 60 days when pre-existing condition was unknown at the time the treatment was provided
- An employer account may not be charged for these expenses

* WCRC Initiative

HB 1064:

Cost of Living Adjustment

- Shortens waiting period for supplementary benefits (a cost of living adjustment) for pre-2006 total disability claims from 7 to 3 years
- Expands the group of eligible workers to receive this benefit to include both permanently and temporary total disabled workers

* WCRC Initiative

SB 2055:

Presumption Law

- Makes clear that a firefighter or police officer's claim for benefits can be rebutted by WSI only if shown by clear and convincing evidence

* WCRC Initiative

SB 2057:

Permanent Partial Impairment

- Establishes a permanent partial impairment (ppi) benefit for the partial loss of vision

* WCRC Initiative

SB 2058:

Independent Medical Exams

- Clarifies the difference between an independent medical examination (IME) and an independent medical review (IMR)

* WCRC Initiative

SB 2431:

Independent Medical Exams

- Requires WSI to make a reasonable effort to designate a qualified doctor within the state of North Dakota to conduct an independent medical exam or locate a doctor within a 275 mile radius of the injured worker's residence to conduct the IME.

SB 2432:

Change of Doctor

- Permits an injured worker to request a change of doctor 30 days after the workplace injury rather than 60 days.

SB 2059:

Post OIR Attorney Fees

- Provides an injured worker the opportunity (up to \$500 in fees and \$150 in costs) to hire an attorney to review their claim file after successful completion of Office of Independent Review services.

* WCRC Initiative

HB 1201:

OIR Name Change

- The Office of Independent Review (OIR) will be known as the Decision Review Office (DRO).

HB 1561:

Treating Doctor Opinion

- Requires WSI to explain why it has chosen not to follow a treating physician's opinion. (Effectively codifies existing practice.)

HB 1151:

WSI Employer Services Bill

- Clarifies what wages must be reported to WSI on the annual payroll report
- Adds transparency to WSI Grant Programs: disclosure of the name of grant recipient and amount of the grant

HB 1073:

Emergency Healthcare Workers

- Provides ND workers compensation coverage to in-state emergency volunteer healthcare practitioners during times of emergency.

HB 1036:

Premium Rates

- Provides that premium rates are to be established actuarially
- The statewide average premium rate level may not deviate more than 5 percentage points above or below the rate indicated by the actuarial review

SB 2071:

Independent Contractors

- Permits a long haul trucker to rebut the presumption of employment by meeting the elements of a seven point test.
- Allows the owner operator to establish himself as an independent contractor rather than an employee

Financial Implications

- **Cumulative Impact of 2009 legislation:**
 - Existing claims: \$4.6 million increase in reserves for existing claims
 - Future claims (premiums): \$3.3 million per year

Implementation Overview

- Of the twenty-two bills reviewed
 - 18 bills have been completely implemented
 - 3 are currently in progress of full implementation
 - 1 in administrative rule processing

And, a Bit More Info



North Dakota
Workforce Safety
& Insurance

Putting Safety to Work





One System, Three Classes

There are three groups....

Pre-1995

1995-2006

Post-2006



Pre-1995

- No retirement presumption (benefits for life)
- No caps on duration of TTD
- No TPD Caps
- False claim statute had no teeth
- Vocational statute had little teeth
- Attorney fees paid win or lose, no caps



1995-2006

- Retirement Presumption and ABP benefits
- No cap TTD
- 2 strikes in Vocational Rehabilitation
- False statements closed claim for life
- Medical managed care implemented
- TPD capped at 5 years



Post 2006

- TTD shortened to 2 years
- Retraining now optional
- Due to TTD cap, Vocational Rehabilitation has more teeth
- Expanded benefits to the most severely injured
- Changed definition for PTD to objective standard

Thank You



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