

Workers' Compensation Legislative & Regulatory Update

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Workers' Compensation in Florida continues to be of high interest both from an administrative and legislative standpoint. The Florida Legislature has given particular attention to the Judiciary's interpretation of the Workers' Compensation Act. Many bills introduced in the legislative process have corresponding workers' compensation implications. In the meantime, administrative amendments are being proposed that likewise effect doing business in the workers' compensation system in Florida. The following is a summary of the actions taken since the previous e-mail newsletter.

Legislative Action

The Legislature continues in his fourth week of deliberations moving toward its May 1, 2009 adjournment date. Several bills as summarized in previous newsletters related to workers' compensation are being considered. The following are those which currently are being debated:

House Bill 903 filed by Representative Flores dealing with the Florida Supreme Court case of Emma Murray v. Mariner Health (Emma Murray) was favorably

considered by the General Government Policy Council (14 yeas, 4 nays), and is expected to be considered by the full House within the near future. This bill had previously been considered and passed by the Insurance Business and Financial Affairs Policy Committee. The purpose of this bill is to limit claimants' attorney fees to a percentage of benefits accruing to the injured worker as a result of the attorney's assistance. Emma Murray had permitted other considerations in determining such fees including time expended by the attorney in the prosecution of a claim for an injured worker. HB 903 has been placed on the House calendar, on second reading. Although other bills have been filed relating to claimants' attorneys' fees, this bill and its companion bill Senate Bill 2072 seem to be the primary vehicles that relate to Emma Murray issues. SB 2072, filed by Senator Richter, has been placed on the agenda for the Senate Banking and Insurance Committee for 3/25/09, 8:00 a.m.

House Bill 1489 sponsored by Representative Rivera and Senate Bill 2280 sponsored by Senator Gelber (relating to various aspects of the Workers' Compensation Act including procedures, benefits payable to injured workers, and attorneys' fees) were assigned to various committees within the House and Senate. No action taken by these committees.

House Bill 1191 sponsored by Representative Patterson and Senate Bill 2406 sponsored by Senator Oelrich (relating to the compensability of workers' compensation claims for firefighters, correctional officers, and law enforcement officials) have been referred to various committees within the House and Senate. No action taken.

Senate Bill 2486 sponsored by Senator Wise (relating to general fire safety and the adoption of safety rules and inspection procedures for educational properties in counties that do not employ or appoint certified firesafety inspectors) has been assigned to various committees. No action taken.

House Bill 1297 sponsored by Representative Schwartz (relating to general safety matters and exemptions to the Life Safety Code) was referred to various committees. No action taken.

House Bill 845 sponsored by Representative Drake and Committee Substitute Sponsors and Senate Bill 1138 sponsored by Senator Gaetz (relating to self insured electric cooperatives) have been considered. The House Bill was reported favorably with Committee Substitute by the Business and Financial Affairs Policy Committee (20 yeas, 0 nays). The Senate Bill is scheduled on the agenda for the Senate Communication, Energy, and Public Utilities Committee to be heard on 3/24/09.

House Bill 923 sponsored by Representative Evers and Senate Bill 1654 (relating to hoisting equipment safety) have been assigned to various committees. No action taken.

Senate Bill 1820 sponsored by Senator Fasano (relating to large deductible workers' compensation insurance policies) has been assigned to various committees. No action taken.

House Bill 117 sponsored by Representative Schwartz and Senate Bill 476 sponsored by Senator Sobel (relating to the Uniform Emergency Volunteers Health Providers Act) have been assigned to various committees. No action taken.

Senate Bill 1878 sponsored by Senator Lynn and Senator Fasano and House Bill 1029 sponsored by Representative Gibson (relating to public employer workplace safety) have been assigned to various committees. No action taken.

Senate Bill 1422 sponsored by Senator Baker (relating to owners of property acting as their own contractors) has been assigned to various committees. No action taken.

Workers' Compensation Insurers Standards and Practices- Rule 69L-24 Florida Administrative Code (FAC)

The Division of Workers' Compensation has issued its Notice of Proposed Rule Development in regards to establishing guidelines under which the Division

will monitor, audit, and investigate insurance carriers, third party administrators, managing general agents, and self insureds to ensure compliance with their statutory obligations under the Florida Workers' Compensation Act. Strict monitoring procedures with penalty provisions for failure to comply are being proposed to ensure the timely payment of workers' compensation benefits to injured workers, the timely payment of medical bills to providers, and the timely reporting of workers' compensation information or data to the state. A second workshop on these newly proposed rules will be held on April 15, 2009 in Tallahassee. This rule proposal has been revised since the initial notice of rule development was posted and previously summarized in this newsletter.

Office of Insurance Regulation- Workers' Compensation Application and Audit Procedures

The Office of Insurance Regulation (OIR) is proposing to amend Rule 69L-189.003 FAC to allow for electronic signatures in the application for workers' compensation coverage. Allowance for such electronic signature filing is not mandatory but is permissive. In addition, electronic notarizations in satisfaction of the application notarization requirements are permitted but not mandatory. Revisions are being proposed to the final audit process for new and renewal policies in the voluntary market, incorporating by reference NCCI publications. If request in writing is made and not deemed unnecessary by

OIR, a rule development workshop will be held in regards to these proposals on March 31, 2009 at 9:30 a.m. in Tallahassee.

Electronic Data Interchange (EDI) Status Update

The Division of Workers' Compensation has commended its Release 3 Claims EDI trading partners in the achievement of 90% of all First Reports of Injury or Illness, Claim Cost Reports, and Notices of Denial having been electronically filed with the Division during the month of February, 2009. Almost 70% of all Notices of Action/Change forms were also filed with the Division via EDI during February, 2009. Only 33% of the First Reports of Injury or Illness and Claim Cost Report forms were electronically filed last year for the same time period. The Division anticipates the continued progression of the use of EDI processes related to claims data with hopeful full implementation by July, 2009. As of July, 2009, all insurers and claim administrators must comply with the claims EDI mandate schedules set out in Rule 69L-56, Florida Administrative Code.