

March 22, 2024

## What's New In Our Industry Florida

### LEGISLATIVE

The Florida Legislature timely adjourned its 2024 session. Several bills of Workers' Compensation significance primarily related to medical costs did pass which are summarized below. Administrative matters that primarily relate to regulatory issues for self-insureds and governmental state agencies are not included. Except for these medical costs issues, workers' compensation did not play a major role in discussions at this year's session.

1. **CS/SB 362** – Effective date of bill: 1/1/2025. Amends Section 440.13(10), Florida Statutes, which allows for up to a \$300 per hour for witness fees charged by health care providers that testify in depositions. Medical testimony given from a health care provider is allowed to charge this hourly sum even if no professional services are provided to the injured worker but the testifying physician must have reviewed medical records and provided an expert opinion or has provided only direct professional services that were unrelated to the workers' compensation case. Previously, expert medical opinions pursuant to this statutory section were payable at \$200 per hour.

Amended Section 440.13(12)(f), F.S., to increase fees chargeable by physicians licensed under Chapter 458 and 459, F.S., to 175 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater. The previous reimbursement amount was 110 percent of the reimbursement allowed by Medicare.

Amended Section 440.13(12)(g), F.S., to increase maximum reimbursement for surgical procedures to 210 percent (previously 140 percent) of the reimbursement amount allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

2. **CS/CS/SB 808** – Effective date of bill: 10/1/2024. Adds Section 112.18(3), F.S., as related to firefighters, law enforcement officers, correctional officers, or correctional probation officers requiring medical treatment for a presumptive compensable condition (tuberculosis, heart disease or hypertension). This amendment allows an injured worker to select his or her treating medical specialist if:

- a) Written notice of his or her selection of a medical specialist to provide treatment is given to the workers' compensation carrier, self-insured employer, or third party administration (hereinafter referred to as employer/carrier).
- b) The employer/carrier must authorize the injured worker's selection of the treating medical specialist or provide alternate medical care chosen by the employer if:
  - 1) The employer/carrier notifies the injured worker in these employment classifications of alternate medical care chosen by the employer/carrier within 5 business days after receipt of the chosen medical care provider made by the injured worker;
  - 2) The actual appointment with the employer/carrier chosen medical care provider is held within 30 days after receipt of the written notice of the injured worker's selection of the treating medical specialist or the alternative medical specialist selected by the employer/carrier;
  - 3) Continuing care and treatment by the selected medical specialist must be reasonable, necessary and related to tuberculosis, heart disease or hypertension.
- c) The selected medical specialist means a physician licensed under Chapter 458 or Chapter 459 who has board certification in a medical specialty inclusive of care and treatment for the presumptively compensable medical condition as above noted.
- d) The medical care specialist is reimbursed at no more than 200% of the Medicare rate for a selected medical specialist.

3. **CS/CS/CS/HB 989** – Effective date of bill: when signed by Governor. This bill relates to the payment of emergency services and care as defined by Section 395.002, F.S., which does not include a maximum reimbursement allowance (MRA). Such MRA is 250 percent of Medicare, unless there is a contract for the provision of such services, in which case the contract governs the reimbursement amount. This provision providing for emergency service MRAs will expire on June 30, 2026. Prior to expiration, the department is charged with the responsibility to engage an actuary service firm to develop MRA allowances for such services.