

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 464
Finance

(Senator Klausmeier, *et al.*)

Workers' Compensation Act - Frivolous Proceedings - Required Finding

This bill specifies circumstances under which the Workers' Compensation Commission (WCC) must find that a proceeding has been brought without any reasonable ground for the purposes of Workers' Compensation Law.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations. WCC already penalizes employers and insurers for the violations specified in the bill, as discussed below.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: The bill does not directly affect Chesapeake finances or operations.

Local Effect: The bill does not directly affect local governmental finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires WCC to find that a proceeding has been brought without any reasonable ground in the following four situations:

- The proceeding is brought by an insurer or self-insurer that terminated the payment of temporary total benefits in a manner that violated the notice requirements of Workers' Compensation Law.

- The proceeding is brought by an insurer or self-insurer that terminated payment for medical benefits in a manner that violated the notice requirements of Workers' Compensation Law. This includes failing to attach a copy of a medical record or report to the termination notice.
- The proceeding is brought by an insurer or self-insurer that terminated the payment of medical benefits or refused to authorize a medical treatment or service without obtaining an admissible medical report or record that recommended the termination or refusal.
- The proceeding is brought by a party that caused the scheduling of a hearing before WCC without a reasonable legal or evidentiary basis for the position being asserted.

Current Law/Background: Maryland Workers' Compensation Law requires WCC to assess the whole cost of a proceeding, including reasonable attorney's fees, against a person who is found to have brought the proceeding to WCC without any reasonable ground to do so. Current law gives WCC broad authority to decide what is and what is not considered a reasonable ground.

Before terminating the payment of temporary total disability benefits or medical benefits, an insurer or self-insurer must give the covered employee a written notice. Both notices must contain (1) the termination date for the benefits; (2) the reason for termination; (3) a statement explaining that the covered employee has a right to request a hearing before WCC related to the termination; and (4) the procedure and time for requesting a hearing. If the termination notice is for the payment of temporary total disability benefits, it must include the final payment of the benefits to the covered employee, and if the notice is for medical benefits, it must include a copy of any medical record or report used by the insurer or self-insurer in the termination decision.

State Fiscal Effect: WCC advises that it frequently fines employers and their insurers for terminating benefits without meeting the notice requirements established by Workers' Compensation Law, although the fine amount varies depending on circumstances of the case and may be greater or less than the cost of a proceeding. Therefore, the bill is not expected to materially affect WCC operations or finances.

Additional Information

Prior Introductions: None.

Cross File: HB 830 (Delgates Lisanti and Waldstreicher) – Economic Matters.

Information Source(s): Workers' Compensation Commission, Chesapeake Employers' Insurance Company, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2015
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