



February 11, 2020

Senate Finance Committee

Testimony of Chesapeake Employers' on SB 438 Oppose

SB 438 proposes to require the Workers' Compensation Commission (WCC) to establish a procedure whereby a dependent of a covered employee may agree to a final settlement of a claim and the release of any future dependency (death) benefits as part of the final settlement of a claim.

The bill would require the WCC to establish procedures whereby a dependent of a covered employee would be entitled to settle a speculative claim leaving the Courts to decide if the settlement was based on adequate consideration years, sometimes, decades after such a settlement. No such settlement would be free from judicial scrutiny and review.

Moreover, and most importantly there is a Maryland case dealing with this exact issue currently making its way through the Maryland Appellate Courts. Specifically, In the Matter of Bernard Collins, No. 591, Sept. Term, 2018, Filed August 2, 2019. In this case, the Court of Special Appeals was called on to determine whether an injured worker who settles his claim during his lifetime may unilaterally, on behalf of his dependents, release their independent contingent right to claim death benefits. The Court held that a dependent's claim for death benefits is not derivative of the injured worker's claim for compensation and that a release the injured worker signed as part of his settlement agreement did not bar his dependent wife's claim for death benefits. As a result of the Maryland Court of Special Appeals' ruling, the case was again appealed. The case was scheduled for oral arguments before the Maryland Court of Appeals, yesterday, on Monday, February 10, 2020.

Chesapeake Employers contends that this body should await the final interpretation of the statute prior to considering a legislative modification to existing law.

For the foregoing reasons, Chesapeake Employers' opposes SB 438.

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