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Uninsured Employers' Fund
Testimony
House Economic Matters Committee
March 26, 2025
SB0227 – Workers' Compensation – Payment from Uninsured Employers' Fund -
Revisions
Position – Favorable without Senate Amendments
Unfavorable with Senate Amendments

Please accept the following as the written testimony of the Maryland Uninsured Employers' Fund (UEF/Fund/Agency) requesting a Favorable report on SB0227 – Workers' Compensation – Payment from Uninsured Employers' Fund – Revisions:

The Uninsured Employer's Fund exists to protect workers who are injured on the job and whose employers fail to obtain Worker's Compensation Insurance. We ensure that benefits and medical expenses are properly paid to injured workers, and that uninsured employers are held accountable with penalties and sanctions for their failure to comply with Maryland law to ensure and protect their employees. We are not an insurance company; we are a payer of last resort.

This legislation, in its original form, ensures that the rights of the State are protected and that injured workers get paid their benefits faster, simpler and easier.

The original legislation is a Departmental Bill.

This bill, as drafted originally, achieves several important improvements:

- First, it changes the law to finally match the reality of how Awards have actually been paid by the UEF for years. The current statute requires several administrative steps to be done by the Workers Compensation Commission before the UEF can be lawfully triggered to pay an Award. For instance, the current statute calls for written default notices that are to be issued generated by the WCC. To our knowledge and experience this has never occurred and

had the UEF waited for them to be prepared and for notices to be issued, injured workers would never get paid. The new law removes these unnecessary hurdles and requirements which are unnecessary for the payment process to work.

-Second, the proposed bill further clarifies and streamlines the process to make the payment of awards and benefits quicker and more efficient. Benefits under the new statute will be paid sooner (from the current 60 days to 30 days) while still maintaining and protecting the full due process rights of uninsured employers and the Fund.

The Department's bill, however, has now been amended and the changes presents numerous issues. The original bill included a section L and section M that are intended to work hand-in-hand. All workers compensation awards are made against the employer. Only after an uninsured employer defaults does the UEF become legally obligated to pay those awards. Currently, the UEF requires demands for payment on all awards of compensation, which includes a certification that the employer has, in fact, defaulted. This acts as an important safeguard against double payment. However, the UEF also recognizes that it is unlikely that an employer that has defaulted once would pay ordered benefits on subsequent awards. For these reasons, the Administration's bill included the proposed Section L which advises that, once triggered, a Claimant does not need to make additional demands payment of the UEF on subsequent awards. By removing this requirement, the UEF has made payments quicker for Claimants but it has also increased the risk of double payment. For that reason, section M was also included which stated that, if an employer AND the UEF were both to make payment, the Claimant would be required to reimburse the UEF. Keep in mind, these claimants are not entitled to receive double payment on awards. The UEF exists to pay awards where the employer has NOT paid...not to pay awards where the employer DOES pay.

In other situations where people receive money from the government that they were not entitled to, it is not unusual or unreasonable for them to be required to pay the money back. In fact, we can think of no other situation where people are allowed to keep such an overpayment. The Senate committee, however, appeared to be uncomfortable with having Claimants reimburse such payments and have amended the bill to remove section L and, instead, have included language granting the UEF a credit on any future payments. Of course, not all cases have future payments so it is very possible the UEF would never be able to recover this unjust enrichment from the Claimant.

For that reason, the UEF believes that if L is to be removed, section M must to be removed as well.

The agency opposes the entire amendment structure submitted in this revised bill and had no involvement in the drafting or submission of the amendments. The original bill was simpler and more focused on getting injured workers paid faster and easier. We urge rejection of the Senate amendments.

If current amendments stand, however, we strongly emphasize that either sections L and M both remain in the bill or that neither is in the bill.

Thank you.

Sincerely,

Michael W. Burns

Michael W. Burns, Esquire
Director
Uninsured Employers' Fund