

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 843
Finance

(Senator Klausmeier)

Economic Matters

Workers' Compensation - Benefits - Hearing Loss

This bill modifies the way occupational deafness and hearing loss must be calculated and determined for purposes of workers' compensation benefits by (1) requiring hearing loss to be calculated at an additional frequency when determining occupational deafness; (2) specifying that an employer must provide compensation to a covered employee for hearing loss due to industrial noise in the additional frequency except under specified circumstances; and (3) altering how age-related nonoccupational deafness is calculated.

Fiscal Summary

State Effect: State expenditures (all funds) increase minimally due to the bill's modifications to the way occupational deafness and hearing loss must be calculated and determined, as discussed below. Revenues are not affected.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: Chesapeake expenditures increase minimally due to the bill's modifications to the way occupational deafness and hearing loss must be calculated and determined, as discussed below. Chesapeake revenues increase correspondingly to cover any additional liabilities.

Local Effect: Local expenditures increase minimally due to the bill's modifications to the way occupational deafness and hearing loss must be calculated and determined, as discussed below. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: If an employee covered under workers' compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to compensation benefits paid by the employer, its insurer, the Subsequent Injury Fund, or the Uninsured Employers' Fund, as appropriate. Workers' compensation benefits include wage replacement, medical treatment, and vocational rehabilitation expenses. Any workers' compensation claim for hearing loss must be measured using audiometric instruments that meet the technical requirements specified by Workers' Compensation Law.

Under current law, the percentage of hearing loss for purposes of compensation for occupational deafness must be calculated based on average hearing loss at four frequency thresholds ranging from 500 to 3,000 hertz and including an offset based on the average amount of hearing loss from nonoccupational causes found in the population at any given age. Specifically, the average decibel loss calculated for an individual must subtract one-half of a decibel for each year of the covered employee's age over 50 at the time of the last exposure to industrial noise.

An employer must provide compensation to a covered employee for hearing loss due to industrial noise in the four frequency thresholds; however, an employer is not liable for compensation for an occupational deafness claim unless the covered employee has worked for the employer in the employment that exposed the employee to harmful noise for at least 90 days.

The bill modifies this calculation and requirement to pay compensation by:

- requiring hearing loss at a frequency of 4,000 hertz to be included in the calculation and average, in addition to the four existing frequency thresholds;
- including the 4,000 hertz threshold in the general requirement that an employer provide compensation for hearing loss due to industrial noise and exception from liability when a covered employee has not worked in the employment that exposed the employee to harmful noise for at least 90 days; and
- requiring, for the nonoccupational hearing loss offset, that the average decibel loss calculated for an individual subtract the lesser of one-half of a decibel for (1) each year of the covered employee's age over 50 or (2) for each year subsequent to the date of the covered employee's last injurious exposure to industrial noise.

State/Chesapeake/Local/Small Business Fiscal Effect: Chesapeake advises that, from 2018 through 2023, it experienced 142 occupational deafness and hearing loss claims. A preliminary analysis conducted by Chesapeake indicates that, based on these claims, the

bill's modification to how nonoccupational deafness must be calculated would have only increased each claim by an average of \$12,620, paid out over multiple years. While not an insubstantial sum, these claims are relatively rare (as this was only 142 claims over about six years across the State, local governments, and Chesapeake's other insureds). Additional claims may also be filed for occupational deafness because hearing loss at a frequency between 3,000 hertz and 4,000 hertz must be included in the occupational deafness calculation under the bill, but not under current law.

Thus, State, Chesapeake, local government, and small business expenditures increase minimally beginning in fiscal 2025 due to the bill's changes. Nonbudgeted revenues for Chesapeake increase corresponding to its increased costs to as it raises its premiums to account for any additional liabilities.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 669 (Delegate Pruski) - Economic Matters.

Information Source(s): Chesapeake Employers' Insurance Company; Subsequent Injury Fund; Uninsured Employers' Fund; Workers' Compensation Commission; Department of Legislative Services

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