

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 41 (Senator Boozer)

Judicial Proceedings

**Workers' Compensation - Appeal Proceedings - Admissibility of
Medical, Dental, or Hospital Writings or Records**

This bill authorizes a party who has filed a de novo appeal from a decision by the Workers' Compensation Commission to introduce certain medical, dental, or hospital writings or records, including medical bills, without the support of the testimony of a physician, dentist, or hospital employee as the maker or the custodian of the writing or record. In order to be considered on appeal, the writing or record must have been previously introduced in the proceeding before the commission that is the subject of the appeal.

Fiscal Summary

State Effect: Potential minimal increase in expenditures for the State, as an employer, due to increase in number of workers' compensation appeals and claim amounts, partially offset by reduced administrative expenses for appeals.

Local Effect: Potential minimal increase in expenditures for local governments, as employers, due to increase in number of workers' compensation appeals and claim amounts, partially offset by reduced administrative expenses for appeals.

Small Business Effect: Potential minimal increase in expenditures for employers, including small businesses, due to increase in number of workers' compensation appeals and claim amounts, partially offset by reduced administrative expenses for appeals.

Fiscal Analysis

State Expenditures: This bill would reduce the costs for a party to file an appeal from a Workers' Compensation Commission decision by eliminating the requirement that medical records presented at the de novo appeal be accompanied by live medical testimony. This could result in the filing of additional appeals by both insurers and claimants. The greater increase, however, would likely come from claimants, who might otherwise not pursue an appeal because of the cost.

The Injured Workers' Insurance Fund, which administers the State's workers' compensation program, handles approximately 5,500 to 6,000 cases per year (including cases on behalf of both the State and organizations that purchase insurance from IWIF), of which between 350 and 400 are currently appealed. Easing the evidence requirements on appeal could significantly increase the number of appeals by claimants. These additional claims costs will be partially offset by lower administrative costs for each individual appeal, because IWIF will not be required to provide live medical testimony.

IWIF estimates that each appealed claim costs approximately \$2,000 in additional claim payments as well as administrative costs. For illustrative purposes, if the number of claims increased by 100%, or 400 claims per year, IWIF's costs could increase by \$800,000. Approximately 90% of appeals are settled before the de novo trial; however, the appeals process increases the cost of each claim even in the case of settlement because of increased claims and administrative costs.

It cannot be determined at this time how much of the additional claims would be attributable to State workers' compensation claims and how much would be attributable to IWIF's other insureds. The State incurred approximately \$34 million in workers' compensation claims and administrative costs in 1996, constituting approximately 24% of IWIF's total premium revenue and claim volume.

IWIF's market share for workers' compensation coverage is approximately 20%. Assuming appeals increase proportional to market share, and further assuming 400 new IWIF claims per year, then total appeals could increase by 2,000 per year. As mentioned above, however, approximately 90% of appeals are settled. The additional appeals to the circuit courts would be less than 1% of the courts' current workload of 270,000 new cases per year and would not require any additional resources for the Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Injured Workers' Insurance Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Workers'

Compensation Commission

Fiscal Note History:

First Reader - January 23, 1998

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