

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 541 (Senator Derr)
(Workers' Compensation Benefit and Insurance Oversight
Committee)

Finance

**Workers' Compensation - Jurisdiction of Workers' Compensation Commission
Pending an Appeal**

This bill provides that the Workers' Compensation Commission shall retain jurisdiction of a determination pending an appeal to consider a request for additional temporary total disability benefits and vocational rehabilitation services. In such circumstances, if the commission finds that a covered employee needs additional temporary total disability benefits or vocational rehabilitation services pending an appeal, the commission would have the authority to pass a supplemental order requiring the employer to provide the additional temporary total disability benefits and vocational rehabilitation services. Currently, the commission has such jurisdiction pending appeal to order additional medical treatment and attention only.

Fiscal Summary

State Effect: Indeterminate increase in State workers' compensation expenditures for the payment of additional temporary total disability benefits and vocational rehabilitation services while the commission's determination is appealed.

Local Effect: Indeterminate increase in local governments' workers' compensation expenditures for the payment of additional temporary total disability benefits and vocational rehabilitation services while the commission's determination is appealed.

Small Business Effect: Indeterminate increase in workers' compensation expenditures for employers, including small businesses, for the payment of additional temporary total disability benefits and vocational rehabilitation services while the commission's determination is appealed.

Fiscal Analysis

State Expenditures: Any impact on the State's workers' compensation expenditures would depend on how frequently the commission awarded additional interim benefits to covered State employees and whether the appeal was ultimately determined in the employee's favor. If the appeal is decided in the employee's favor, then no new costs would result, because the benefits would have been paid anyway. The only change is in the timing of the benefits.

If, however, the appeal is decided in the insurer's favor and if the additional interim benefits are awarded and are not repaid, the cost would flow through to the employer's claim experience and ultimately its workers' compensation costs. These would be new costs not currently payable under workers' compensation law.

The Injured Workers' Insurance Fund (IWIF), which administers the State's workers' compensation coverage, advises that it has no mechanism by which it could recoup interim benefits that were erroneously paid. The potential increase in IWIF's costs cannot be precisely estimated. For illustrative purposes, however, if there are 25 such cases of interim benefit payments each year, and 10 of those cases are resolved in IWIF's favor, IWIF could incur losses of \$229,200 annually. This figure is calculated by multiplying the maximum weekly temporary total payment of \$573 by up to 40 weeks before payments can be shut off, for an additional cost of \$22,920 per case. Legislative Services advises that if any of these payments can be recouped, then losses would be reduced accordingly. There may also be an indeterminate increase in costs because the interim benefit payments may create less incentive for the claimant to settle the case before the hearing date. It cannot be determined what portion of IWIF's additional claims costs would be attributable to State employees (and therefore increase State workers' compensation expenditures) and how much would be attributable to IWIF's other insureds.

The Workers' Compensation Commission advises that the proposal could result in the commission's retention of jurisdiction in 2,600 determinations. The commission advises that these cases could be handled with existing resources.

Information Source(s): Injured Workers' Insurance Fund, Uninsured Employers' Fund,

Workers' Compensation Commission, National Council on Compensation Insurance,
Department of Legislative Services

Fiscal Note History: First Reader - February 13, 1998

Inc

Analysis by: Matthew D. Riven

Reviewed by: John Rixey

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 841-3710

(301) 858-3710