

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 375 (Delegates Exum and Pendergrass)

Economic Matters

Workers' Compensation - Personal Responsibility Act of 1998

This bill provides that a covered employee or dependent of a covered employee is not entitled to workers' compensation benefits, except for medical services and treatment and payment of wages (if the loss of temporary benefits would cause a substantial hardship), if intoxication or controlled dangerous substance abuse was the primary cause of the on-the-job injury. An exception is made if the use of certain drugs is prescribed by a physician.

The provisions only apply to employers that offer an alcohol-free and drug-free workplace program approved by the Workers' Compensation Commission. Each covered employee of such an employer would be required to sign an agreement, after completion of a drug and alcohol education program, that reflects the employee's understanding that compensation or benefits will be denied if alcohol or controlled substance abuse was the primary cause of the on-the-job injury.

In addition, the bill provides that a covered employee may bring an action for damages (in addition to workers' compensation) against the employer if: (1) the employee has a permanent partial disability resulting from an on-the-job injury; (2) the disability equals 25% or greater loss of a body part or life; and (3) the injury was the result of a violation of federal safety standards or failure to comply with a State safety citation, violation, or injunction.

Fiscal Summary

State Effect: Indeterminate effect on State workers' compensation expenditures due to decline in the number of workers' compensation claims and/or minimally reduced benefits, offset by potential increased litigation costs. Potential administrative expenditure increase for the Workers' Compensation Commission. Revenues would not be affected.

Local Effect: Indeterminate effect on local government workers' compensation expenditures due to decline in the number of workers' compensation claims and/or minimally reduced benefits, offset by program compliance costs and potentially increased litigation

costs.

Small Business Effect: Indeterminate effect on workers' compensation expenditures for employers, including small businesses, due to decline in the number of workers' compensation claims and/or minimally reduced benefits, offset by program compliance costs and potentially increased litigation costs.

Fiscal Analysis

State Expenditures: The average workers' compensation claim cost is approximately \$21,000, including medical services and treatment. The Injured Workers' Insurance Fund (IWIF) reports that alcohol- and drug-related claims tend to be more than twice as high as the average claim, or approximately \$50,000 per claim. Assuming that \$10,000 must still be spent for medical services and treatment, workers' compensation costs would be reduced by \$40,000 per claim. The State as an employer has relatively few alcohol- and drug-related accidents annually. If the number of these claims were reduced from five to one annually, the State's workers' compensation costs would decrease by \$160,000 per year.

The Workers' Compensation Commission would be required to hear disputes arising from whether or not alcohol or drug abuse was the primary cause of the on-the-job accident. While workers' compensation law is primarily strict liability -- i.e., covered employees who are injured on the job normally receive benefits as provided by law regardless of the cause of the accident -- there are occasions in which the employer or insurer refuses payment due to the circumstances of the injury. The commission currently hears such disputes, and advises that any alcohol- or drug-related cases that would arise under this proposal could be heard using existing budgeted resources.

The commission would also be required to approve drug-free workplace programs. Implementing such an approval process could require additional personnel and expenditures for the commission depending on the number of employers that choose to participate in the program. The commission estimates no fiscal impact, either in staff or operating expenses, from the creation of a drug-free workplace program approval process.

The availability of civil damages in addition to workers' compensation in the event of a permanent injury and an employer's violation of a federal or State safety determination may result in additional expenditures to the employer. The Injured Workers' Insurance Fund, which administers the State's workers' compensation program, advises that such claims would not be covered by workers' compensation insurance.

Information Source(s): Injured Workers' Insurance Fund, Workers' Compensation Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 9, 1998
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