

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE

Senate Bill 654 (Senator Green)

Judicial Proceedings

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**Workers' Compensation - Appeal Proceedings - Admissibility of Health Care  
Writings or Records**

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This bill authorizes a party who has filed a de novo appeal from a decision by the Workers' Compensation Commission to introduce certain writings or records of a health care provider in order to document a medical condition, opinion, or provision of care, without the support of the testimony of the health care provider 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, notice must be given to all other parties, and the award being appealed cannot exceed \$25,000.

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**Fiscal Summary**

**State Effect:** 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:** 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:** 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.

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## **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 (IWIF), 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 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 50%, or 200 claims per year, IWIF's costs could increase by \$400,000. 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. These additional costs would be partially offset by an indeterminate savings from reduced witness costs for IWIF.

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 \$31 million in workers' compensation claims and administrative costs in 1997, constituting approximately 21% of IWIF's total premium revenue and claim volume.

IWIF's market share for workers' compensation coverage is approximately 22%. Assuming appeals increase proportional to market share, and further assuming 200 new IWIF claims per year, then total appeals could increase by 910 per year. As mentioned above, however, approximately 90% of appeals are settled. The additional appeals to the circuit courts would be less than 0.5% of the courts' current workload of 270,000 new cases per year and would not require any additional resources for the Judiciary.

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

Compensation Commission, Department of Legislative Services

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