

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE

House Bill 795 (Delegate McHale)

Economic Matters

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**Workers' Compensation - Temporary Total Benefits -  
Jurisdiction of Commission**

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

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**Fiscal Summary**

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

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

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## **Fiscal Analysis**

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

If additional interim benefits are awarded, however, and the appeal is decided in the insurer's favor, 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 20 such cases of interim benefit payments each year, and ten of those cases are resolved in IWIF's favor, IWIF could incur losses of \$180,600 annually due to paid interim benefits that cannot be recovered. This figure is calculated by multiplying the maximum weekly temporary total payment of \$602 by up to 30 weeks before payments can be shut off, for an additional cost of \$18,060 per case. 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 up to 2,600 determinations. The commission advises that these cases could be handled with existing resources.

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

**Fiscal Note History:** First Reader - February 23, 1999  
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