

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1141 (Delegate McHale)

Economic Matters

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

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.

Fiscal Summary

State Effect: State workers' compensation expenditures could increase to the extent that the commission grants payment of temporary total disability benefits pending appeal. Any increase is assumed to be minimal.

Local Effect: Local workers' compensation expenditures could increase to the extent that the commission grants payment of temporary total disability benefits pending appeal. Any increase is assumed to be minimal.

Small Business Effect: Potential minimal.

Analysis

Current Law: If an employee's claim is denied by the commission, the employee may appeal to the circuit court, provided that the appeal is filed within 30 days of the date of the commission's order. The employee does not receive benefits pending the outcome of the appeal. The commission retains jurisdiction pending an appeal only to consider a request for

additional medical treatment and attention for those already awarded benefits.

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.

However, if additional interim benefits are awarded 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 \$189,000 annually due to paid interim benefits that cannot be recovered. This figure is calculated by multiplying the maximum weekly temporary total payment of \$631 by up to 30 weeks before payments can be shut off, for an additional cost of \$18,930 per case. There may also be a minimal 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.

Additional Information

Prior Introductions: Identical bills were introduced in the 1999 session as SB 315 and HB 795, and in the 1998 session as HB 899. In 1999, SB 315 received an unfavorable report from the Senate Finance Committee, and HB 795 received an unfavorable report from the House Economic Matters Committee. HB 899 of 1998 also received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

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

Workers' Compensation Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2000

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