

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 324 (Senators Green and Miller)

Judicial Proceedings

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

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 and prove a medical condition, a medical opinion, the provision of care, or the necessity of the care provided 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.

The bill applies only to appeals filed on or after the bill's effective date.

Fiscal Summary

State Effect: Minimal increase in expenditures for the State, as an employer, due to an increase in the number of workers' compensation appeals and claim amounts, partially offset by a potential reduction in administrative expenses for appeals.

Local Effect: Minimal increase in expenditures for local governments, as employers, due to an increase in the number of workers' compensation appeals and claim amounts, partially offset by a potential reduction in administrative expenses for appeals. Any increase in the circuit courts' workload would be minimal and would not materially affect expenditures.

Small Business Effect: Minimal.

Analysis

Current Law: A party in a de novo appeal of a workers' compensation case is required to produce expert testimony in support of a claim. Expert testimony may be provided by live testimony or, if the parties stipulate, by a written report.

Background: In most cases, parties do not stipulate to admitting a written report without live medical testimony.

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. The additional cost of these claims could be partially offset by lower administrative costs for each individual appeal, because IWIF may not need 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 could be partially offset by savings from reduced witness costs for IWIF, which could range up to \$1,500 per hour of testimony.

It cannot be determined at this time how many of the additional claims would be attributable to State workers' compensation claims and how many would be attributable to IWIF's other insureds. The State incurred approximately \$30.4 million in workers' compensation claims and administrative costs in 1999, constituting approximately 22% of IWIF's total premium revenue and claim volume.

Additional Information

Prior Introductions: Substantially similar bills were introduced in the 1998 and 1999 sessions. In 1999, SB 654 received an unfavorable report from the Senate Judicial Proceedings Committee. In 1998, a conference committee failed to resolve differences between the House and Senate on SB 41.

Cross File: None.

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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cm/jr

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