

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

Senate Bill 116 (Senators Dorman and Roesser)

Finance

**Workers' Compensation Commission - Offsets and Credits for Overpayment
of Certain Benefits**

This bill authorizes the Workers' Compensation Commission to order an offset or credit against an award for permanent partial disability benefits for temporary total disability benefits previously paid, or vocational rehabilitation benefits previously provided, to a covered employee.

The bill is effective June 1, 2000.

Fiscal Summary

State Effect: Decrease in State workers' compensation expenditures for the payment of partial permanent benefits to the extent that the State receives an offset for overpayment of total temporary benefits. Any such decrease is assumed to be minimal.

Local Effect: Local jurisdictions that self-insure would experience a decrease in workers' compensation expenditures for the payment of partial permanent benefits to the extent that the jurisdiction receives an offset for overpayment of total temporary benefits. Any such decrease is assumed to be minimal. Local governments that do not self-insure would experience a minimal decrease in workers' compensation insurance premiums.

Small Business Effect: Potential minimal. Small businesses may experience a minimal decrease in workers' compensation insurance premiums.

Analysis

Current Law: The Workers' Compensation Commission may order reimbursement to an employer from an individual who knowingly obtains benefits to which the individual was not entitled. No provision of law authorizes offsets or credits for vocational rehabilitation previously provided or temporary total disability benefits previously paid in other instances.

Background: In *Sealy Furniture of Maryland v. Miller*, 356 Md. 462 (1999), the Court of Appeals held that, without authorization by the General Assembly, an employer could not receive a credit for overpayment of a total temporary award, either directly or as an offset against a partial permanent disability award.

Overpayments of temporary total disability occur in the handling of workers' compensation claims for various reasons, including an injured worker returning to work without notifying the employer or insurer, authorization by a treating physician to return to work without notifying the insurer of the authorization, and discovering an injured worker working "under the table" during a period of authorized absence from work. The Injured Workers' Insurance Fund, which administers the State's workers' compensation program, has discovered approximately \$62,500 in overpayments since June 1, 1999, of which approximately \$17,600 is from State claims.

Additional Information

Prior Introductions: None.

Cross File: HB 183 (Delegates Mitchell and Fulton) - Economic Matters.

Information Source(s): Injured Workers' Insurance Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2000
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Analysis by: Ryan Wilson

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510