

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 369
Economic Matters

(Delegate Kach, *et al.*)

Workers' Compensation - Benefits for Partial Dependency

This bill requires employers or insurers to continue payments to surviving spouses who are wholly dependent at the time of death and who, after becoming partially dependent, continue to be partially dependent after \$60,000 in benefits has been paid.

The bill takes effect October 1, 2004 and applies only to those wholly dependent spouses who become partly dependent on or after October 1, 2003.

Fiscal Summary

State Effect: Potential minimal increase in workers' compensation claims payments due to the removal of the \$60,000 cap on benefits paid to wholly dependent spouses who become partially dependent.

Injured Workers' Insurance Fund (IWIF): To the extent that claims payments increase, IWIF premiums could also increase minimally.

Local Effect: To the extent that local jurisdictions are self-insured, this bill could minimally increase claims payments. To the extent that local jurisdictions have third-party workers' compensation coverage, this bill could minimally increase premium costs.

Small Business Effect: To the extent that small businesses have third-party workers' compensation coverage, this bill could minimally increase premium costs.

Analysis

Bill Summary: Under the bill, weekly payments would be calculated as two-thirds of the average weekly wage of the deceased covered employee, not to exceed two-thirds of the State average weekly wage. A reduction factor would be applied to that amount based on the percentage of weekly earnings the surviving spouse contributed to the household prior to the death of the covered employee.

The retroactive provision will serve to link the effective date of this bill with the enactment of Chapter 319 of 2003.

Current Law: Surviving spouses who were partially dependent on a covered employee at the time of the covered employee's death are entitled to a death benefit for the period of partial dependency or until \$60,000 has been paid. The maximum death benefit for a surviving spouse who was partially dependent on a covered employee at the time of death is up to two-thirds of the average weekly wage of the deceased covered employee not to exceed two-thirds of the State average weekly wage. The weekly death benefit payable is calculated as the percentage of the maximum weekly death benefit that the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partially dependent surviving spouse.

For example, if a deceased covered employee earned \$650 per week, and a partly dependent spouse earned \$350 per week for combined earnings of \$1,000, the deceased earned 65% of the combined earnings. Thus, the benefit would be 65% of \$650, or \$423. If the deceased earned \$800 and the spouse \$200, the benefit would be two-thirds of the State average weekly wage of \$722, or \$481, because 80% of \$800 (\$640) exceeds the maximum allowable benefit.

The National Council on Compensation Insurance (NCCI) estimates that the bill could have an impact of 0.1% on the statewide cost of workers' compensation insurance. For individual claims resulting from fatalities, NCCI estimates that the increase in claims costs could reach 20%.

Background: Chapter 319 of 2003 altered the calculation of benefits for survivors who were wholly dependent at the time of death and became partially dependent. Prior to the enactment of Chapter 319, wholly dependent survivors were entitled to benefits up to \$45,000 or until the period of total dependency ended. If a wholly dependent survivor became partially dependent, benefits would be paid under the wholly dependent benefit formula with a \$60,000 cap. Once the cap was reached, benefits were terminated.

State Expenditures: The State is self-insured for workers' compensation claims. IWIF is the State's third-party administrator. Claims payments from all funds could increase

due to the removal of the \$60,000 cap on partially dependent surviving spouse benefit payments.

Injured Workers' Insurance Fund: IWIF indicates that policyholders of the fund average 10 fatalities per year. In the past three years, IWIF has had 49 death cases, of which 24 claimants are currently receiving benefits as a wholly dependent spouse or child. Removal of the cap could increase payments made by IWIF to partially dependent surviving spouses of deceased covered employees.

Small Business Effect: To the extent that small businesses have claims filed, workers' compensation insurance premiums could increase.

Additional Comments: The Department of Legislative Services notes that wholly dependent survivors could: (1) become partially dependent; (2) have their benefit formula reduced to account for the new income; (3) lose their job and return to a wholly dependent state; but (4) not have their benefits recalculated to wholly dependent. In that instance, the provisions of this bill, in concert with Chapter 319 of 2003, may act as a disincentive for wholly dependent survivors to attempt to find gainful employment of any kind.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 25, 2004
mh/mdr

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