

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 1150 (Delegates Manno and Schuler)
 Economic Matters

Workers' Compensation - Permanent Partial Disability - Compensation

This bill requires that if a covered employee receives additional compensation for a certain award for permanent partial disability, an employer or insurer must pay the entire amount of the additional compensation for the total number of weeks of the combined awards, subject to a credit for amounts previously paid under the initial award. The bill is prospective and would not affect claims from events arising before October 1, 2008.

Fiscal Summary

State Effect: The bill could result in increased State workers' compensation claims paid by an estimated \$152,500 in FY 2009. Future year expenditure increases reflect annualization and increases in average wages. No effect on revenues.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF/FF Exp.	152,500	212,100	221,300	230,900	241,000
Net Effect	(\$152,500)	(\$212,100)	(\$221,300)	(\$230,900)	(\$241,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in local government workers' compensation costs.

Small Business Effect: Potential minimal.

Analysis

Current Law: Compensation for permanent partial disability is divided into three tiers, depending on the severity of the injury.

- Compensation for a period of less than 75 weeks is generally available for the loss of a finger or a toe. Claims arising from events occurring on or after January 1, 2000 are entitled to compensation equal to one-third of the average weekly wage of the covered employee, not to exceed \$114. The maximum benefit is reduced for claims arising prior to 2000. Exceptions to maximum awards exist for certain disabilities and for specified public safety employees.
- Compensation for a period equal to or greater than 75 weeks but less than 250 weeks is generally available for the loss of a thumb, partial hearing loss, or disfigurement. These claims are entitled to compensation equal to two-thirds of the average weekly wage of the covered employee, not to exceed one-third of the State average weekly wage (currently equivalent to \$292).
- Compensation for a period of 250 weeks or more is generally available for loss of a hand, arm, foot, leg, eye, or total loss of hearing. These claims are entitled to compensation equal to two-thirds of the average weekly wage of the covered employee, not to exceed 75% of the State average weekly wage (currently equivalent to \$658).

Background: Until *Del Marr v. Montgomery County*, 397 Md. 308 (2007), a worker whose disability worsens and is moved through the reopening of the case from the minor tier to the higher compensated middle tier could, in some cases, receive previously awarded compensation at the new, higher rate. However, the Court of Appeals held in *Del Marr* that if the Workers' Compensation Commission reopens a case and enters a new award to reflect a change in an employee's condition, the new award will not affect the compensation amount paid prior to the entry of the new award. The insurer or employer is entitled to a credit for the number of weeks for which compensation was previously paid, rather than the dollar amount of previous payments. Current law already specifies that the amount of compensation previously awarded and paid may not increase in a case where an employee is moved from the middle tier to the serious tier.

State Fiscal Effect: IWIF is the administrator of Maryland's self-insured workers' compensation program. In fiscal 2007, IWIF paid \$40.7 million in benefits on behalf of Maryland. Under this bill, these costs would increase by the National Council on Compensation Insurance's factor of 0.5%, for an additional cost to the State of \$152,500

in fiscal 2009, which reflects the bill's October 1, 2008 effective date. Future year costs reflect annualization and annual increases in average wages.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 7, 2008
mll/ljm

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