

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1256
Economic Matters

(Delegates Manno and Schuler)

Workers' Compensation - Death Benefits - Partially Dependent Individuals

This bill increases the total death benefit a partially dependent individual may receive from a cap of \$60,000, to the State average weekly wage at the time of a covered employee's death multiplied by 68.4. The bill effectively increases the cap each year and operates as a cost-of-living increase equivalent to the increase in the State average weekly wage. Any payments made during a period of total disability are included in the balance of the death benefit.

The bill applies prospectively to any claims filed on or after October 1, 2009.

Fiscal Summary

State Effect: Minimal increase in expenditures (all funds) in the first several years due to the difference between the new death benefit cap created by the bill and the current cap, and the limited number of cases reaching the maximum benefit. In the long term, expenditures may increase significantly due to the cumulative impact from the cost-of-living adjustment (COLA) included in the bill and the number of applicable cases. No effect on revenues.

Injured Workers' Insurance Fund (IWIF) Effect: Minimal short-term expenditure increase to the Injured Workers' Insurance Fund (IWIF) due to the bill's changes in the death benefit cap. In the long term, expenditures may increase significantly due to the cumulative impact from the new formula for determining the maximum payout and the number of applicable cases.

Local Effect: Minimal increase in local government expenditures in the short term. In the long term, expenditures may increase significantly due to the cumulative impact from the increase in the number of cases that reach maximum benefit.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The Workers' Compensation Commission determines partial or total dependency on a case-by-case basis. Judgments on the extent of dependency are made on the circumstances at the time of the accidental personal injury or disablement from occupational disease that caused the death of the covered employee.

The maximum weekly death benefit paid to partially dependent individuals is two-thirds of the average weekly wage of the deceased employee, but may not exceed two-thirds of the State average weekly wage.

To calculate the payout amount, the commission determines the combined weekly earnings of the partially dependent individual and the covered employee at the time his or her (ultimately) fatal disability occurred. The weekly benefit is equal to the covered employee's contribution or the maximum weekly death benefit, whichever is lower.

The employer or its insurer pays this benefit through the period of partial dependency, or until \$60,000 is reached. The \$60,000 limit includes any payments made during a period of total dependency.

If a partially dependent surviving spouse remarries and does not have dependent children, the employer or insurer pays the spouse (up to a total of \$60,000) for two years after the date of remarriage.

The employer or insurer makes payments to, or for the benefit of, a surviving child until the child reaches age 18. The payments may continue for five additional years if the child is a full-time student at a school that offers an educational or vocational program accredited by the State Department of Education.

State/IWIF/Local/Small Business Effect: The Department of Labor, Licensing, and Regulation sets the State average weekly wage at the beginning of each calendar year based on changes in wages in the State. The percentage increase in the State average weekly wage depends on the economic growth and cost-of-living adjustments in the State. **Exhibit 1** displays the State average weekly wages over the past six years.

Exhibit 1
State Average Weekly Wages Between 2004 and 2009

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Average Annual % Change</u>
State Average Weekly Wage	\$740	\$770	\$801	\$848	\$877	\$906	
Annual Percent Change		4.1%	4.0%	5.9%	3.4%	3.3%	4.1%

For illustrative purposes only, IWIF advises that over the past several years, the State has averaged two death cases per year where a spouse is considered partially dependent and had reached the cap. IWIF has also experienced an average of two such cases per year. Applying these averages to the future, together with increases in the State average weekly wage (which are assumed to be an average 3.5% due to current economic conditions), results in additional costs to the State of approximately \$308,834 over the next 10 years. Other employers or insurers in the State, including local governments, may also experience increases in death benefit costs – especially if a rise in the number of cases reaching maximum benefit occurs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Department of Budget and Management; Injured Workers' Insurance Fund; National Council on Compensation Insurance; Subsequent Injury Fund; Uninsured Employers' Fund; Workers' Compensation Commission; Department of Legislative Services

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ncs/rhh

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