

OVERVIEW OF RECENT WORKERS' COMPENSATION BENEFIT CHANGES

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Labor Management Advisory Council

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COURSE & SCOPE OF EMPLOYMENT

Must arise out of employment

Occurs on the employer's premises and during working hours

For dates of injury/OD on or after 7-1-2011:

HB334 specifically excluded from course and scope:

- Injuries on a paid or unpaid break
- Not on the employer's worksite
- Not performing any specific tasks for the employer

Injuries during a social or recreational activity sponsored or paid by the employer, unless:

- Employee is paid while participating or
- Whose presence is required or requested by employer

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CHOICE OF TREATING PHYSICIAN

- HB334:
 - Allows injured worker to choose initial treating physician
 - Allows insurer to approve choice or designate a different treating physician
 - Details treating physician requirements
 - Explains fee schedule reimbursement for medical treatment
 - Prior to designation by insurer = 100%
 - After designation by insurer = 110%
 - Referrals by designated = 90%

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MEDICAL CARE

- Provides payment of reasonable medical care related to the injury/OD
- HB334: Rebuttable presumption that adopted U & T Guidelines establish compensable medical treatment for an injured worker
- Medical treatments not recommended by the U & T Guidelines require prior authorization from the insurer
- Parties may request an Independent Medical Review by the Department Medical Director for treatments not recommended in the U & T Guidelines
- Insurer reimburses at amounts in Department fee schedules in effect on date of service - cost containment

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Medical Care - Continued

HB334:

- Medical benefits (except PTD) terminate 60 months from the date of injury
- Medical benefits may be reopened within 5 years of termination
 - Request to Department Medical Provider/2 member panel
 - Medical condition direct result of injury/OD
 - Medical treatment needed to allow continuation of work or return to work
- If reopened:
 - Remain reopened 2 yrs or reevaluated every 2 yrs

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WAGE LOSS COMPENSATION Indemnity Benefits Cash Payments

- Waiting period - No wage loss paid for 1st 32 hours or 4 days
- Compensation begins on 5th day

HB334:

- Provides for retroactive payment of 4 day waiting period if disability goes beyond 21 days

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Permanent Partial Disability Benefits (PPD)

- Reached maximum medical improvement (MMI)
- HB334:
- Has a whole person (WP) permanent impairment rating >0%, able to return to work in some capacity, and has an actual wage loss, or
 - Has a Class 2 or greater (WP) permanent impairment and no wage loss
 - Requires use of the 6th Edition of the AMA Guides to Evaluation of Permanent Impairment
 - Increases the number of weeks in the PPD calculation from 375 to 400 weeks

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PPD Benefits - Continued

- 66 2/3% of time of injury (TOI) average weekly wage (AWW)
- Capped at ½ SAWW or \$349 per week FY14
- Class 2 or greater Impairment rating and no actual wage loss
 - % is multiplied by 400 wks and paid at PPD rate
- Impairment rating >0% with actual wage loss
- Add percentages for following factors:
 - Impairment Rating
 - Age
 - Education
 - Restrictions
 - Wage Loss
- Multiply total % x 400 weeks for number of weeks at PPD rate

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Stay At Work/Return to Work Assistance Benefits

HB334: Effective July 1, 2012 - Makes assistance for SAW/RTW available by request unless :

- The worker has been determined to be a disabled worker
- The worker has refused a job that the worker is:
 - Physically capable of
 - Qualified to do, and
 - Wages are at least equal to time of injury job
- The worker has actually returned to work
- The worker's claim has been denied, closed or settled

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Compromise Settlements & Lump Sum Payments

Biweekly payments are the rule

Lump sum payments are the exception

Certain settlements and lump sum payments are allowed

All settlements must be approved by the Department or the Workers' Comp Court

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Department May Approve

- All benefits if insurer disputes initial compensability of a claim
- PPD benefits
- PTD benefits only if worker demonstrates financial need
- Future medical benefits if an insurer disputes continued liability for medical benefits and there is a reasonable dispute over the medical treatment or compensability

HB334:

- Allows settlement of future medical benefits on accepted claims if mutual agreement
 - Requires rationale for settlement
 - Statement of best interest of parties
 - Signed acknowledgment of worker
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- All settlements must be converted to present value

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THE END
QUESTIONS?

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