

HB 1698 -Bradley (Raoul)
Workers' Compensation Reform

Summary of Key Components

1. Imposes a 30% reduction in the Medical Fee Schedule to address health care costs that are the second highest in the United States. Among states with fee schedules, Illinois will continue to have the second highest fee schedule in the country. Effective January 1, 2012, there will be four regions for non-hospital fee schedule and fourteen regions for hospitals. Reduces services reimbursed at 76% of charges to 53.2% of charges and fees. Reimburses implants at 25% above manufacturer's invoice less rebates, plus shipping.
2. Requires physicians to use American Medical Association standards to determine impairment for the first time in Illinois history. Arbitrators will use AMA impairment ratings when determining disability. However, there is significant flexibility in the language that will allow the Commission to weigh other factors into its decisions including occupation, age and future earning capacity.
3. Allows an employer to utilize a preferred provider organization (PPO) approved by the Department of Insurance to provide workers compensation medical services and requires an employee to use providers that are part of the network. However, an injured employee may choose in writing at any time to decline the preferred provider program. Also, an employee will be allowed a third choice of doctor outside of the network.
4. Strengthens the 2005 Utilization Review provisions. "An admissible utilization review shall be considered by the Commission, along with all other evidence and in the same manner as all other evidence, and must be addressed along with all other evidence in the determination of the reasonableness and necessity of the medical bills or treatment." The medical professional responsible for review in the final state of utilization review or appeal must be available for interview or deposition; or must be available for deposition by telephone, video conference, or other remote electronic means.
5. Eliminates lifetime wage differential payments. Employees will now receive wage differential payments during their work career to the age of 67 or five years, whichever is later.
6. Reduces carpal tunnel syndrome payments from an average 40 weeks award to a maximum of 28 weeks.
7. Allows for the appointment of new Workers' Compensation arbitrators, who must be approved by the Senate and all new appointees must be lawyers. There are a number of provisions pertaining to the Workers' Compensation Commission including new ethical standards, training requirements, operations and personnel appointments. Also, there are a number of fraud provisions including the establishment of criminal penalties based on severity of crime starting with misdemeanor to Class 1 felony.

8. Changes the rebuttable presumption for workers injured while under the influence of illegal drugs or alcohol. No compensation shall be payable if the employee's intoxication is the sole proximate cause of the employee's accidental injury or at the time the employee incurred the accidental injury, the employee was so intoxicated, the intoxication constituted a departure from the employment.

9. The NCCI is required to recalculate the worker's compensation advisory premium rates and assigned risk pool premium rates so that those premiums incorporate the provisions of this legislation and to publish such rates on or before September 1, 2011.

10. The Department of Insurance is required to submit an annual report to the Governor and key legislators on the state of the Illinois workers' compensation market. To generate this report, significant additional data may be required from NCCI and from workers' compensation insurers.

11. Requires the Department of Insurance to adopt rules for the submission of electronic medical bills. Note there is no requirement for electronic payment of claims.

12. For employee leasing companies, the language provides that client-specific information must be reported by the insurer to the Commission. Also provides that a "certificate of coverage" be issued by the insurer for each client, outlining its rights and obligations under the master policy and clearly establishing both the identity and status of the client and the inception and termination date of coverage.

13. The Department of Labor shall adopt a selection process to designate two labor organizations to participate in the collective bargaining pilot program. To have a valid ADR agreement, the workers compensation insurer must agree to any contractual agreements.