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*Protecting the Rights of Working People Since 1954*

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## Illinois Workers' Compensation Reform: HB 1698 Passes

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Late last night, the Illinois House brought the Workers' Compensation reform bill back up for a vote. This time, the votes were there to pass the legislation. Since this bill had previously passed the Senate vote, the bill goes to the Governor's desk for his signature. Governor Quinn has indicated that he will sign this bill into law and the majority of its provisions will be effective July 1, 2011. For working men and women injured on the job and the medical providers who help them get well, the bill is a bitter pill to swallow. No rights were gained and many were lost. The following synopsis of the changes embodied by HB 1698 is intended as a guide. For particular questions, call our office. Please note this summary is very abbreviated and is intended to inform the injured worker of changes relevant to her/his circumstances.

The definition of accident/injury is codified. The employee bears the burden of proving the accidental injury arises out of and in the course of employment. Of course, this was always the case and I am not sure what impact this provision will have on claims before the Commission.

An employer may provide its workers with a preferred provider network of medical professionals for treatment of work related injuries. If this is done, the employee has only one other choice of a physician and subsequent chain of referral. We expect many employers to utilize this option to control the course of medical treatment for the injured worker.

For injuries sustained on or after 9/1/11, where the injury prevents the worker from returning to his usual and customary employment, the wage differential payment is limited to age 67 or 5 years from the date the Award of the is final, whichever is later.

If the employee's injury is carpal tunnel syndrome caused by repetitive trauma, the permanency award shall not exceed 15% loss of use to the hand, except where for cause shown by clear, convincing evidence, the Commission may award up to a maximum of 30% loss of the hand. The total loss of the hand in this instance is limited to 190 weeks of compensation.

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For injuries that occur on or after September 1, 2011, the determination of permanent partial disability shall be established by using the following criteria: The American Medical Association Guides to permanent impairment, the occupation of the employee, the age of the employee, the employee's future earning capacity, and evidence of disability corroborated in the medical records.

Payment of medical, hospital, and surgical expenses will be reduced by 30% from the current fee schedule.

The employer/insurance company may use Utilization Review of the injured worker's medical treatment and if the denies or does not authorize the treatment recommended by the treating doctor, the employee has the burden of proof to show a variance from the standards of care used in the UR and that the variance is reasonably required to cure or relieve the effects of the injury.

Intoxication by alcohol or controlled substances creates a statutory defense with presumptions and mandates testing procedures.

All the Arbitrators are terminated effective July 1, 2011 and will be replaced by the Governor's appointees.