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What's New In Our Workers' Compensation Industry Florida

Legislative Branch of Government

Workers' Compensation Legislative bills filed in the Florida House of Representatives are often referred first to the House Insurance & Banking Subcommittee and then sent to the Commerce Committee. Representative James Buchanan has recently been appointed Chair of the Commerce Committee. He recently stated: "As a small business owner who grew up in Florida, I understand the issues that are most important not only to folks in our state that run businesses but also to the people who work hard every day. Our state's prosperity depends on maintaining a robust economy." Representative Buchanan represents the people of House District 74. He was recently re-elected to his fourth consecutive term. The Commerce Committee includes the Economic Infrastructure Subcommittee, the Housing, Agriculture & Tourism Subcommittee, the Industries & Professions Activities Subcommittee and the Insurance & Banking Subcommittee.

Senate Chairs for Committees and Subcommittees have not been announced.

Executive/Administrative Branch of Government

Workers' Compensation Insurance Rates Effective January 1, 2025

The Florida Office of Insurance Regulation (OIR) approved a 1% decrease in workers' compensation insurance rates for the State of Florida, effective January 1, 2025. This is the eighth consecutive year of rate reductions for Florida employers. The National Council on Compensation Insurance had recommended the 1% reduction in rates based upon data from 2021 and 2022 policy years including the following factors: decreased claim frequency consistent with findings in other states; moderate claim severity consistent with other states; technological advancements contributing to fewer workplace injuries; quicker return to work processes; and employer commitment to safety. The 1% decrease is one of the smallest in years but it contributes to a cumulative reduction of almost 78% since 2003. The original recommendation of NCCI was for a 6% reduction in rates but because of increased medical fee schedules approved by the Legislature and signed into law by the Governor in 2024, the 1% reduction was approved. (The 2024 increases in medical fee schedules created at 5% increase in rates according to NCCI, the net effect resulting in the approved 1% rate decrease.) The rate decrease applies to both new and renewal policies issued in 2025. For Federal class employers, a more substantial 13.9% rate cut was approved.

Depositional Fees for Expert Medical Advisors

The Florida Division of Workers' Compensation submitted a notice in the Florida Administrative Register regarding changes in Rule 69L-30.008, FAC relating to billing and reimbursement amounts for Expert Medical Advisor services. See Chapter 2024-241 Laws of Florida (Senate Bill 362-2024 legislative session). This proposed rule development amends Rule 69L-30.008 FAC increasing EMA depositional testimony to \$300 per hour. Effective January 1, 2025.

DFS Updates Provider Reimbursement Manual and Increased Payments to Physicians

The Department of Financial Services, Division of Workers' Compensation (DFS/DWC) has begun rulemaking to revise the Florida Workers' Compensation Health Care Provider Reimbursement Manual, by amending Rule 69L-7.020, FAC. We anticipate that DFS will adopt the new 2024 Edition of the Provider Manual, and it will be scheduled to take effect on January 1, 2025.

The 2024 Provider Manual will take effect simultaneously with the newly increased Maximum Reimbursement Allowances (MRAs), a/k/a "fee schedules" for Physicians and Practitioners. Such fees were increased by the Legislature in 2024, and will be tied directly to a multiple of whatever Medicare Reimburses for each service. Beginning January 1, 2025:

1. Non-surgical, outpatient physician fees shall be 175 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers; and
2. Physician surgical fees shall be 210 percent of the reimbursement allowed by Medicare.

These new fee schedules represent a substantial increase in any non-contract based payments to physicians and other practitioners. Fee Schedules will now be updated administratively every year by DFS/DWC, as they no longer require approval by the Three Member Panel, and they are now exempt from the previous requirement of Legislative ratification. The new law requires DFS/DWC, by July 1 of each year, to publish the updated Medicare-based fee schedules for the next year without exception. Physicians relying on the Fee Schedules for reimbursement will find this to be a large raise and a massive improvement in updating Fee Schedule amounts. The previous physician fee schedule was based on a lower percentage of Medicare, and updating of the Fee Schedules required Legislative ratification, a process that had not been utilized for updating in over a decade. The expected financial impact of these new changes is reflected in the premium rates approved for new and renewed workers' compensation policies for 2025.

The current revisions to the Provider Manual recognize these legislative changes for updating physician MRAs, and removes the physician fee schedule from the Manual altogether. The new physician fee schedules can be accessed on the DWC website at: <https://myfloridacfo.com/division/wc/manuals>. Once adopted, the New Health Care Provider Reimbursement Manual will be accessible via the same link.

For questions regarding the updated Manuals, Fee Schedules or provider reimbursement processes, please contact Attorney Ralph Douglas in our Tallahassee Office at (850) 222-8121.

Judicial Branch of Government

Miami Donuts Payroll d/b/a Dunkin Donuts v. Villarreal

49 FLW D2232

11/6/2024

Section 440.25(4)(b), F.S., provides that continuances of hearings may be granted only if the requesting party demonstrates to the Judge of Compensation Claims that the reason for requesting the continuance arose from circumstances beyond the requesting party's control. In this case, the court determined that the judge abused his discretion in denying a Motion to Continue. The treating physician providing care to the claimant had originally reported that the condition for which treatment was being claimed was not related to the accident. However, when the doctor testified by deposition he opined to the contrary and indicated a work accident was the cause of the diagnosed medical condition. The attorney representing the employer/carrier attempted to employ the services of an Independent Medical Examiner to rebut the doctor's changed testimony but was unable to obtain such prior to the time of the scheduled final hearing. Court determined based on the facts in this case that the judge erred in not granting a continuance. The circumstances necessitating the continuance were not within the control of the employer/carrier.