

October 24, 2024

What’s New In Our Workers’ Compensation Industry Florida

Legislative Branch of Government 2025 Legislative Session Key Dates

November 19, 2024 Organization Session

December 2-6, 2024	
December 9-13, 2024	Committee Week 1 (Senate Only)
January 13-17, 2025	Committee Week 2
January 21-24, 2025	Committee Week 3
February 3-7, 2025	Committee Week 4
by February 2, 2025	At least 30 days prior to the scheduled annual regular session, the Governor shall furnish each senator and representative a copy of his recommended budget and revenues
February 17-21, 2025	Committee Week 6
March 4, 2025	Regular Session Begins
March 4, 2025	12:00 noon, deadline for filing bills for introduction
April 22, 2025	50th Day rule (Senate) - last day for regularly scheduled committee meetings
May 2, 2025	Regular Session Ends

Judicial Branch of Government

1. Bouayad, Petitioner(s) v. Normandy Insurance Company et al, Respondent(s)
SC 2023-1576 (Fla. Supreme Court dated October 9, 2024)

One of the most significant cases in Florida workers' compensation was decided by the First District Court of Appeal in the case of Normandy Insurance Company v. Bouayad and Value Car Rental, LLC, 372 So.3d 671(Fla 1st DCA 2023). This case involved a claimant who was shot at close range while at work on the premises of the employer. The parties stipulated that the shooting occurred in the course and scope of employment of the claimant. However, there was no determination made that the shooting arose out of work performed by the claimant for his employer. At the time the claimant was shot, he was walking between two of the employer's facilities but the walking did not cause the claimant to suffer injuries from a shooting, i.e., there was no occupational causation for the claimant's injuries. The identity of the shooter was unestablished, his motives were unknown, and there was no evidence connecting the shooter to the work the claimant performed for the employer. The question was whether at the time of the shooting it arose out of the work performed for the employer. Since there was no evidence that the shooting arose out of work the claimant performed for his employer, benefits were denied.

Based on this decision, numerous cases were decided by the courts and positions taken by employer/carriers that injuries with similar fact patterns were not compensable under the workers' compensation law. The importance of this decision was recognized by the District Court of Appeals when it certified this case to the Supreme Court of Florida for final decision as a case "of great public importance." Even with this certification, the Supreme Court does not have the obligation to review the lower court's decision. There was a dissenting opinion in the District Court's original decision denying benefits; on Motion for Rehearing en banc (the entire District Court voting on the issue of compensability), the Court denied a rehearing with several additional judges dissenting; and after additional briefing before the Supreme Court, the Supreme Court finally determined that it would accept jurisdiction as a case of "Great Public Importance."

Initial briefs must be served on or before November 13, 2024 with Answer Briefs served thirty days thereafter. Petitioner's Reply Brief on the merits must be served thirty days after service of Respondent's Answer Brief on the merits. If authorized, Respondent's Cross Reply Brief must be served thirty days after Service of Petitioner's Reply Brief on the merits. Oral Argument will be set by separate Order. Counsel for the parties will be notified of the Oral Argument date approximately sixty days prior to Oral Argument.

2. Normandy Insurance Company et al, Appellants, v. Department of Financial Services, Division of Workers' Compensation, Fla. 1st DCA Numbers: 1D2023-0830 and 0834

The First District Court of Appeals determined that an Administrative Law Judge's determination that the Per Diem Fee Schedule for hospital inpatient medical care as contained in the 2020 Workers' Compensation Reimbursement Manual was valid. The Appellate Court did not issue a written opinion but rather issued a "Per Curiam Affirmed" order simply upholding the decision by the Administrative Law Judge.

The 2020 edition of the Hospital Reimbursement Manual has been in effect since May 25, 2023. Carriers and self-insured payors have now had a little over a year of experience and payment data to assess the preliminary impact of the new per diem price determinations. The Department will no doubt be reviewing their EDI data to determine the impact of the per diem changes and at some point suggest new per diem rates based on that data. Any changes would require rule making under the Administrative Procedure Act, Chapter 120, Florida Statutes. For now, payors should continue to reimburse inpatient hospital care pursuant to the 2020 Hospital Manual and other rules of the Department.

Executive/Administrative Branch of Government

Notice of Hearing – 2025 Workers' Compensation Rates

The Department of Financial Services, Office of Insurance Regulation held a hearing on October 15, 2024 to consider the workers' compensation rate filing made by the National Council on Compensation Insurance ("NCCI"). The Filing was received by the Office of Insurance Regulation on August 23, 2024. In this filing, the NCCI requested an overall average decrease in rate levels of 1.0 percent for the voluntary market for all new and renewal workers' compensation insurance policies written in Florida, effective January 1, 2025. Copies of the rate approvals will be provided once a final decision has been made.