



Research BULLETIN



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STATE WORKERS' COMPENSATION LEGISLATION AND RELATED CHANGES ADOPTED IN 2010

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SEPTEMBER 2011

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Executive Summary

This report details significant changes in 2010 to state workers' compensation laws and administrative rules. Medical exams, medical costs, employer rates and adjudication continue to be the primary areas of concern. The extended list of changes categorized by issue and state is provided below as a handy reference. A detailed summary of the legislative and administrative changes in the 50 states, District of Columbia, Puerto Rico and the U.S. Virgin Islands follows.

Claim Procedures, Adjudication, Appeals, Mediation and Attorney Fees

AK, CO, GA, ID, LA, ME, MD, MA, NE, NH, NY, ND, OK, TN, VT, VA, WA, and WI

Classification of Workers and Exemptions

CO, CT, LA, ME, MD, MT, NH, OK, PA, VT, WA, and WI

Confidentiality of Information

AK, CA, CO, ME, NH, and RI

Death Benefits

AK, AR, CA, CO, TX, WV, and WI

Employer Rates, Notices, Filings and Rating Programs

CO, KY, LA, MD, NE, NH, ND, OH, OK, TN, UT, VT, and WV

Medical Exams, Authorization, Information, Costs, Examiners, Providers

AK, CA, CO, DE, FL, GA, ID, KY, LA, MD, MN, MS, NE, NH, NM, NY, ND, OH, OK, OR, RI, TN, TX, UT, and WI

Penalties

CO, CT, FL, KY, LA, ME, MD, MA, NH, PA, UT, and VT

Self Insurance

AK, FL, GA, ID, LA, NH, NY, OK, PA, WA, and WI

Settlements

CO, GA, ID, NE, NY, OK, RI, and TN

Temporary and Permanent Total Disability, Compensation Offsets

AR, CO, LA, ME, MN, MT, NV, ND, OK, OR, RI, TN, UT, VT, and WI

Third-Party Administrators and Professional Employer Organizations

FL, NE, NY and OK

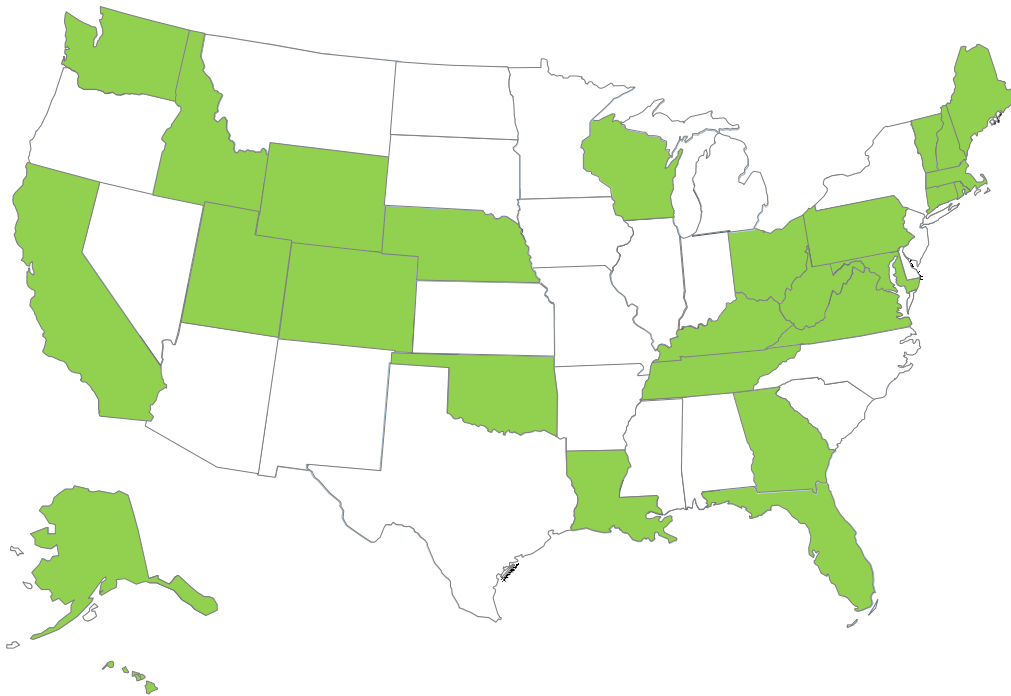
Vocational Rehabilitation and Return-to-Work

AK, FL, GA, HI, MD, NE, ND, OK, OR, and TX

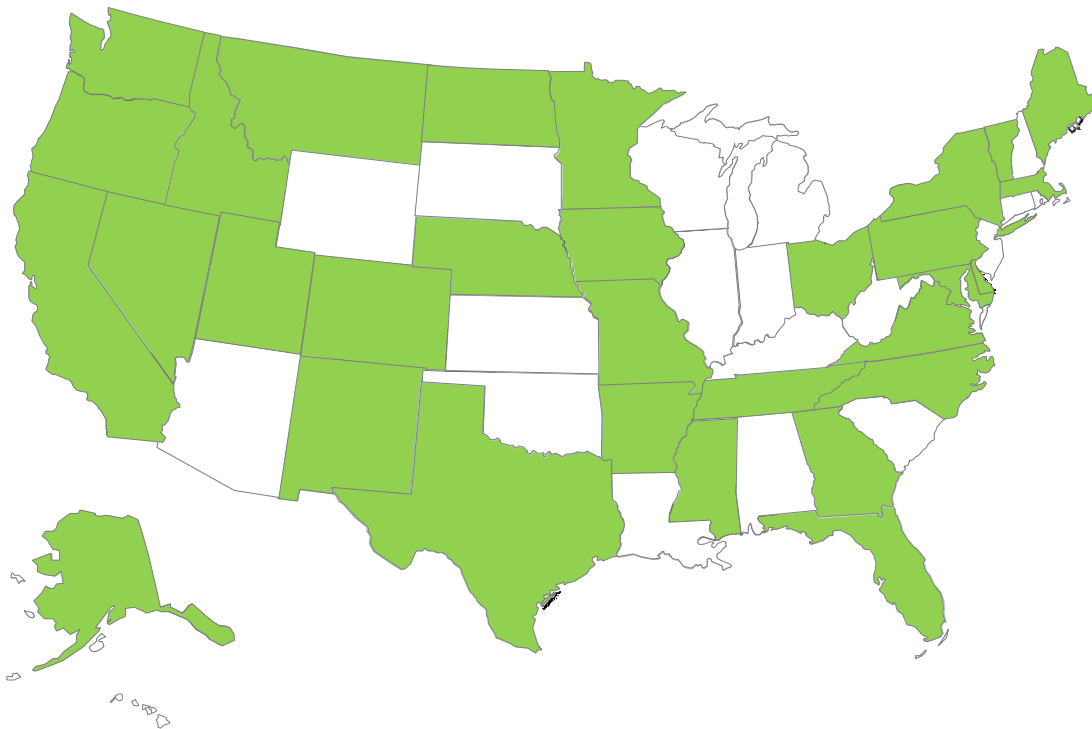
Volunteer and Public Employee Benefits

CA, CO, CT, MD, NE, WV, WI and WY

States that enacted statutory workers' compensation changes in 2010



States that made administrative rule changes in 2010



ALABAMA

– No Changes Were
Made in 2010

**Legislation:**

- None

Administrative Changes:

- ◆ None.

ALASKA

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **SB 159** was signed by Alaska Governor Sean Parnell on July 9, 2010. The bill: (1) increases funeral expenses for workers' compensation cases from \$5,000 to \$10,000; and (2) sets procedure for a claimant's recovery of medical and rehabilitation information provided but is not related to the employee's injury.
- **SB 163** was signed by Alaska Governor Sean Parnell on July 9, 2010 (retroactively effective June 26, 2010). The bill: (1) amends the duties of the Commissioner of Labor and Workforce Development and the Fishermen's Fund Advisory and Appeals Council with respect to the Fishermen's Fund; (2) increases the allowances for injury, disability, or heart attack payable from the fund; and (3) allows a vessel owner

to recover a portion of the deductible under a protection and indemnity insurance policy following a claim by an injured fisherman. Click [here](#) for a copy of SB 163.

Administrative Changes:

- ◆ **Register Rule 193** – This rule amended regulations regarding Second Independent Medical Evaluations, issuance of subpoenas, assessment of civil penalties, claims against the Benefits Guaranty Fund, and changes to definitions and became effective on February 28, 2010. Click [here](#) for a copy of Register Rule 193.
- ◆ **Register Rule 194** – This rule amended regulations regarding reemployment and rehabilitation of injured workers and became effective on April 16, 2010. Click [here](#) for a copy of Register Rule 194.
- ◆ **Register Rule 194 (Part 2)** – This rule amended regulations regarding self-insured employers and became effective on June 20, 2010. Click [here](#) for a copy of Register Rule 194 (Part 2).
- ◆ **Register Rule 195** – This rule amended regulations regarding dispensing of name-brand and generic prescription drugs and became effective on July 31, 2010. Click [here](#) for a copy of Register Rule 195.
- ◆ **Register Rule 196** – This rule amended regulations regarding fees and other changes for medical treatment and service and became effective on December 31, 2010. Click [here](#) for a copy of Register Rule 196.

ARIZONA

– No Changes Were Made in 2010



Legislation: None.

Administrative Changes: None.

ARKANSAS

– Made Administrative Changes



Legislation:

■ None.

Administrative Changes:

There were two Advisory notices published by the Arkansas Workers' Compensation Commission on October 15, 2010.

- ◆ The first advisory was titled "AWCC ADVISORY 2000-1 Update". This Advisory set the weekly maximum workers' compensation rates for 2011. The maximums in 2011 are \$575.00 for Total Disability (TD) and \$431.00 for Permanent Partial Disability (PPD). For injury or death on and after January 1, 2011, through December 31, 2011, the *maximum* for workers' compensation weekly indemnity benefits is based on 85% of the state Average Weekly Wage (AWW) of \$676.49. The AWW is determined every June 1st by the Department of Workforce Services and is used by the Arkansas Workers'

Compensation Commission to calculate compensation rates for injured workers. For TD in 2011, workers get 66 2/3% of their individual AWW, rounded to the nearest whole dollar, up to a *maximum* of \$575.00 (85% of \$676.49 = \$575.02, rounded to \$575.00). For PPD in 2011, *if TD is \$205.35 or greater*, the PPD maximum is 75% of TD, rounded to the nearest whole dollar, up to \$431.00 (75% x \$575.00 = \$431.25, which is rounded to \$422). *If TD is less than \$205.35*, PPD is 66 2/3% of the worker's AWW, up to a \$154.00 maximum. The *minimum* weekly PPD and TD rate is \$20. The PPD rate for amputation or permanent total loss of use of a member is the same as the employee's TD rate. Click [here](#) for a copy of 2000-1 Update.

- ◆ The second advisory was titled "AWCC ADVISORY 2007 - 1 Update". This advisory increases the Death and Permanent Disability threshold. In 2007, the threshold was raised to seventy-five thousand dollars (\$75,000) at which the Death and Permanent Disability Trust Fund assumes payments of benefits for injuries resulting in permanent disability or death. The act eliminated the \$75,000 cap on weekly benefits paid by the employer or its insurance carrier for injuries occurring on or after January 1, 2008. For injuries occurring prior to January 1, 2008, the \$75,000 limit on employer/carrier liability still applies. For injuries occurring on or after January 1, 2008, the employer or its carrier is required to pay weekly benefits for death or permanent total disability not to exceed three hundred twenty-five (325) times the maximum total disability rate at the time of the injury. The maximum total disability rate for 2011 has been determined to be \$575.00. Thus, the threshold at which the Death and

Permanent Disability Trust Fund will assume payments of benefits for injuries resulting in permanent disability or death for 2011 (1/1 through 12/31) will be \$186,875 ($\$575 \times 325 = \$186,875$). Click [here](#) for a copy of 2007-1.

CALIFORNIA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **AB 1696** was signed by California Governor Arnold Schwarzenegger on September 25, 2010. The bill extends death benefits until the youngest child attains 19 years of age if the child is still attending high school and is receiving the benefits as a child of certain public employees killed in the performance of duty. Click [here](#) for a copy of **AB 1696**.
- **AB 2253** was signed by California Governor Arnold Schwarzenegger on September 30, 2010. The bill extends a cancer presumption to an active firefighter following termination of service for a period of 3 calendar months, but not to exceed 120 months in any circumstance, commencing with the last date actually worked in the specified capacity. Click [here](#) for a copy of **AB 2253**.
- **AB 2780** was signed by California Governor Arnold Schwarzenegger on September 30, 2010. The bill would, until January 1, 2017, authorize the State Department of Health Care Services to obtain and use individually identifiable information for the purposes of seeking recovery of Medi-Cal costs incurred by the state for treatment provided to

injured workers that should have been incurred by employers and insurance carriers pursuant to the authority of the Director of Health Care Services to recover the value of the benefits for which another person or carrier is liable. Click [here](#) for a copy of **AB 2780**.

Administrative Changes:

- ◆ **Ambulance Fee Schedule** – A group of air ambulance providers threatened to sue the Division of Workers' Compensation and Department of Industrial Relations, seeking declaratory relief that section 9789.70 is preempted by the Airline Deregulation Act, and an injunction prohibiting the Division of Workers' Compensation from enforcing this section as applied to air ambulance services. The Division has determined that application of section 9789.70 to air carriers as defined in the Airline Deregulation Act may likely be preempted by the supremacy clause of the United States Constitution. This rule change became effective on July 13, 2010. Click [here](#) for a copy of the **ambulance fee schedule**.
- ◆ **Medical provider network, employee information and workers' compensation claim form (DWC 1) and notice of potential eligibility (NOPE)** - The regulations amended concern the Medical Provider Network (MPN) application process, the treatment and change of physician within a MPN, the employer notification requirements, and the notice requirements when terminating, ceasing to use, or changing to a different MPN. In addition, the regulations amended concern the information that is required to be included on the workers' compensation poster, the information given to new employees, as well as the

workers' compensation claim form (DWC 1) and notice of potential eligibility. This rule change became effective on October 8, 2010. Click [here](#) for a copy of the MPN, form DWC 1 and NOPE Rules.

- ◆ **Workers' compensation information system (WCIS)** – The proposed regulations seek to refine WCIS reporting by eliminating unnecessary data elements, adding relevant data elements, correcting errors in the text of the regulation, adding lien payment data elements for medical bill payment reporting, and updating the two California-specific implementation guides. The California EDI Implementation Guide for First and Subsequent Reports of Injury and the California EDI Implementation Guide for Medical Bill Payment Records, in conjunction with the more comprehensive guides issued by the IAIABC, explain how the data transmission is accomplished, explain how to edit data transactions, provide the required codes for transmitting data, and set forth the system specifications. These proposed regulations implement, interpret, and make specific Labor Code section 138.6, which mandates the development of the WCIS, requires data to be collected electronically to be compatible with the IAIABC EDI system, and requires data elements to be collected through EDI to be set forth in regulations. Click [here](#) for a copy of the WCIS Rule.

COLORADO

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 1038** was signed by Colorado Governor Bill Ritter on May 26, 2010. The bill: (1) requires an employer or insurer to provide an informational brochure to the injured worker at the same time an admission or denial is provided; (2) states that the brochure will describe the claims process and inform the claimant of his or her rights; and (3) mandates that the language and content of the brochure must be developed by the Director after consultation with employers, insurers and representatives of injured workers. Click [here](#) for a copy of HB 1038.
- **HB 1076** was signed by Colorado Governor Bill Ritter on April 28, 2010. The bill expands the definition of “employee” to include elderly or disabled persons working under the Property Tax Work-Off Program” for purposes of workers’ compensation and applies to dates of injury on or after August 11, 2010. Click [here](#) for a copy of HB 1076.
- **HB 1108** was signed by Colorado Governor Bill Ritter on April 15, 2010. The bill: (1) excludes sports coaches claiming independent contractor status from the definition of “employee” for purposes of workers’ compensation coverage; (2) specifies application to non-profit youth sports organizations and requires a written agreement between the coach and the organization specifying that the coach is an

independent contractor and the nonprofit “is not obligated to secure compensation for the coach”; (3) sets forth the requirements of the written agreement between the parties; and (4) applies to all injuries on or after April 15, 2010. Click [here](#) for a copy of HB 1108.

- **HB 1109** was signed by Colorado Governor Bill Ritter on April 29, 2010. The bill: (1) creates an exception to the inmate statute which excludes individuals confined to a city or county jail or any department of corrections facility, from the definition of “employee” for purposes of workers’ compensation coverage; (2) specifies the exception specifically include inmates participating in a program certified by the federal Prison Industry Enhancement Certification Program (PIECP); (3) states that such inmates are excluded from the limitation on payments to prisoners; (4) requires that public entities participating in this program obtain and maintain workers’ compensation insurance for these employees; and (5) applies to all injuries occurring on or after August 11, 2010. Click [here](#) for a copy of HB 1109.

- **SB 11** was signed by Colorado Governor Bill Ritter on May 27, 2010. The bill: (1) permits parties to a Division Independent Medical Evaluation (DIME) the opportunity to request a potential evaluating physician to disclose any business, employment, financial or advisory relationships between the physician or any entity affiliated with the physician and the parties to the claim in order to decide which physician to strike (effective July 1, 2010); (2) adds a provision to prohibit insurers, their contractors, healthcare providers or their employees from receiving financial incentives based on: a) claims admission

or denial rates; b) number of days to reach maximum medical improvement; c) number of medical or diagnostic procedures or treatments approved; or d) any other criteria that is intended to encourage violation of the Act; (3) subjects violators to sanctions and/or fines; (4) prohibits a treating physician from communicating with the employer or insurer regarding the injured worker unless the injured worker is present or the treating physician makes an accurate record of the communication and provides the injured worker access to the writing in the same manner as medical records disclosures are required to be provided by rule; and (5) renders unenforceable any provision to an insurance contract that establishes a reversionary interest in the insurer for the indemnity benefits including and specific to, an annuity. Click [here](#) for a copy of SB 11.

- **SB 12** was signed by Colorado Governor Bill Ritter on May 26, 2010 (effective August 11, 2010). The bill: (1) increases the penalty for violation of the workers’ compensation laws from \$500 to \$1000 per day, and requires it be apportioned between the aggrieved party (minimum 50%) and the workers’ compensation cash fund at the discretion of the Director or Administrative Law Judge; (2) changes the mental standard for delaying payment of medical benefits by insurers from “willfully” to “knowingly” to address cases where the insurer knowingly delays or stops payment of medical benefits for more than 30 days; (3) states that no penalty is due if the insurer can prove that the delay was the result of “excusable neglect”; and (4) states penalties (limited to 8% of the wrongly withheld benefits), are to be apportioned, in whole or part, among the aggrieved party, the medical



provider and the workers' compensation cash fund. Click [here](#) for a copy of SB 12.

- **SB 13** was signed by Colorado Governor Bill Ritter on May 27, 2010 (effective July 1, 2010). The bill: (1) requires that insurers conduct an exit survey of injured workers or, if deceased, the decedent's dependents upon closure of a claim; (2) requires the Director to develop the form and manner of the survey with input from insurers with the least administrative burden possible; (3) states that the survey must include questions regarding courtesy, promptness of medical care, timeliness in handling the claim, resolution of issues, and general satisfaction with the insurer experience; (4) prohibits the employer or the insurer from retaliating against the injured worker or dependents for completing the survey; (5) requires the survey results to be reported to the Division annually and posted on the Division website; (6) mandates the Division include on its website a procedure that injured workers may follow in order to file a complaint on any issue in which the Director has authority to pursue, settle or enforce; and (7) requires that Pinnacol Assurance submit a report to the legislature of its business operations, resources, and liabilities on an annual basis that includes, but is not limited to: (a) total assets, (b) total surplus, (c) number of claims admitted or denied within the 20 day period, (d) number of medical procedures denied; (e) amount of total compensation each executive or staff member receives including bonuses or deferred compensation; and (f) any other information the chief executive officer deems relevant to the report. Click [here](#) for a copy of SB 13.

- **SB 163** was signed by Colorado Governor Bill Ritter on March 31, 2010. The bill clarifies that the following statutory provisions enacted in 2009, were procedural in nature and intended to apply to all claims regardless of the date of filing: (1) prohibits the Independent Medical Examiner (IME) from contacting any of the authorized treating, examining or reviewing physicians or requesting that a claimant undergo repeat testing when the results are valid and any disparity has been resolved; (2) limits the recovery of an overpayment to one year after knowledge of the overpayment following the filing of a Final Admission, and is excepted in cases of fraud; (3) requires the party that seeks to modify an issue determined by admission or order, bear the burden of proof for any such modification; (4) states that an Application for Hearing on issues set forth in a Final Admission need not be re-filed, if the IME process is terminated; (5) requires all Independent Medical Examinations requested by the employer be reduced to writing and audio-recorded in their entirety, the audio recordings are to be retained by the examining physician until requested by any party, and the Director must promulgate rules that include provisions for the protection and privacy of the information contained in the recordings; (6) requires the Director review mortality tables from the U.S. government and private industry for the purpose of aiding settlements and to issue rules establishing a single life expectancy table on July 1 of every even-numbered year beginning on July 1, 2010; (7) states that any full or partial settlement payable in a lump sum shall be paid within 15 calendar days after the settlement order has been executed; and

(8) adds a provision requiring that all documents required to be exchanged under the workers' compensation statute be transmitted or served in the same manner or by the same means to all required recipients. Click [here](#) for a copy of SB 163.

- **SB 178** was signed by Colorado Governor Bill Ritter on May 26, 2010 (effective July 1, 2010). The bill: (1) creates the "Provider Review and Disclosure Act" requiring insurers to disclose performance program data and methodologies used in the selection of authorized health care providers for their policy holders; (2) states that in order "to avoid improper profiling, all performance programs must be fair, objective, consistently applied and accord providers due process"; (3) discusses the need to align "incentives" with efficiency and quality care; (4) amends a definitions section; (4) requires elements of performance programs that are used to evaluate a medical provider or to characterize its performance to the public; (5) outlines the due process procedure that affords providers the opportunity to challenge the performance program results prior to release; (6) states a requirement that an insurer file a detailed description of any new or amended program with the director at least 30 days prior to implementation; and (7) adds language subjecting violators to sanctions under Title 10 insurance regulations for unfair or deceptive acts or practices. Click [here](#) for a copy of SB 178.

- **SB 187** was signed by Colorado Governor Bill Ritter on May 27, 2010 (effective July 1, 2010). The bill: (1) excludes indigent health care programs such as Medicaid from being factored into the calculation of "wages"; (2)

awards the injured worker all reasonable costs incurred pursuing medical maintenance benefits recommended by an authorized treating physician if such benefits are admitted less than twenty days before a hearing or ordered after an application for hearing is filed (not including attorney fees); (3) clarifies that the phrase "at the time of injury" refers to the wage on the date of accident for purposes of determining the worker's average weekly wage, but does not alter the discretion of the Division or Director to fairly determine a worker's average weekly wage; (4) eliminates offset of permanent partial disability benefits by receipt of federal old age, survivors and disability insurance and repeals the requirement that injured workers make application for retirement or survivor's benefits upon request of the insurer and respond to requests for a status of the application; (5) eliminates corresponding language that failure to comply is cause for suspension of benefits; (6) establishes that refusal to accept an offer of modified employment by the claimant will not constitute responsibility for the termination in cases where: (a) the offer would require the claimant travel more than 50 miles in one direction greater than the claimant's pre-injury travel, and (b) a judge determines that the claimant's rejection of the offer was reasonable considering the totality of the claimant's circumstances; (7) removes from the schedule of injuries the loss of an eye by enucleation, and replaces it with the loss of a tooth and assigns it a 6 week value; (8) adjusts the cap for combined temporary and permanent partial disability payments beginning on July 1, 2011, and each July 1 every year thereafter, by the percentage of adjustment to the state average weekly wage for injuries sustained on or after



January 1, 2012; and (9) prohibits the Director or Administrative Law Judge from conditioning a lump sum payment on the claimant waiving the right to pursue permanent total disability benefits. Click [here](#) for a copy of SB 187.

Administrative Changes:

- ◆ Amended Rule 2-5 (Workers' Compensation Premium Surcharges) Effective July 1, 2010. Click [here](#) for a copy of Rule 2-5.
- ◆ Amended Rule 5-10 (Lump Sum Payment of an Award) Adopted June 30, 2010 and Effective September 1, 2010. Click [here](#) for a copy of Rule 5-10.
- ◆ Amended Rule 16 (Utilization Standards) Adopted September 16, 2010 and Effective January 1, 2011. Click [here](#) for a copy of Rule 16.
- ◆ Amended Rule 17 (Exhibit 5 - Cumulative Trauma Conditions) Adopted September 16, 2010 and Effective October 30, 2010. Click [here](#) for a copy of Rule 17.
- ◆ Amended Rule 18 (Medical Fee Schedule) Adopted September 16, 2010 and Effective January 1, 2011. Click [here](#) for a copy of Rule 18.
- ◆ Amended Rule 5-14 (Claimant Surveys) Adopted June 18, 2010 and Effective September 1, 2010. Click [here](#) for a copy of Rule 5-14.
- ◆ Amended Rule 7-4 (Single Life Expectancy Table) Permanent Rule Adopted June 18, 2010 and Effective September 1, 2010. Click [here](#) for a copy of Rule 7-4.

- ◆ Amended Rule 8-8 (Independent Medical Examinations) Adopted June 17, 2010 and Effective August 1, 2010. Click [here](#) for a copy of Rule 8-8.
- ◆ Amended Rule 11-3 (Requests for an IME) Adopted June 23, 2010 and Effective September 1, 2010. Click [here](#) for a copy of Rule 11-3.

CONNECTICUT

– Amended Statute



Legislation:

- HB 5204 (Public Act 10-12) was signed by Connecticut Governor M. Jodi Rell on May 5, 2010 (effective October 1, 2010). The bill implements the Recommendations of the Joint Enforcement Commission on Employee Misclassification by extending the workers' compensation criminal penalties to include intent to defraud the State of Connecticut (in addition to insurance companies) when knowingly misclassifying workers. Click [here](#) for a copy of HB 5204.
- HB 5282 (Public Act 10-37) was signed by Connecticut Governor M. Jodi Rell on May 18, 2010 (effective October 1, 2010). The bill: (1) provides that a paid municipal firefighter, volunteer firefighter, municipal police officer, constable, or volunteer ambulance service member is eligible for workers' compensation benefits for the following diseases if they arise out of and are in the course of employment: (a) hepatitis, (b) meningococcal meningitis, (c) tuberculosis, (d) Kahler's Disease (multiple myeloma), (e) non-Hodgkin's

lymphoma, (f) prostate cancer, or (g) testicular cancer; provided the disease results in death or temporary or permanent total or partial disability. Click [here](#) for a copy of HB 5282.

Administrative Changes: None.

DELAWARE

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

- ◆ Amended **Rule 19 DE Admin. Code 1341** (Introduction and Fee Schedule Guidelines) Effective June 11, 2010 – The rule: (1) clarified definitions; (2) removed language that redundantly repeated the statute; and (3) removed reference to usual and customary fees, as well as base/time rates, primarily in Anesthesia. Click [here](#) for a copy of Rule 19 DE Admin. Code 1341.
- ◆ Amended **Rule 19 DE Admin. Code 1342, Part D** (Low Back Health Care Practice Guidelines) Effective June 11, 2010 – The rule updated the general selection criteria and surgical indications within section 6.9 “Artificial Lumbar Disc Replacement.” Click [here](#) for a copy of Rule 19 DE Admin. Code 1342, Part D.

DISTRICT OF COLUMBIA

– No Changes Were
Made in 2010



Legislation: None.

Administrative Changes: None.

FLORIDA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 5201** was signed by Florida Governor Charlie Crist on May 28, 2010. The bill is a higher education appropriations bill that contained one provision in reference to the Workers' Compensation Law. The workers' compensation provision allows an injured worker to attend a non-public program if recommended by a vocational evaluator and no public college program is available. Click [here](#) for a copy of HB 5201.

Administrative Changes:

The Florida Division of Workers' Compensation enacted the following administrative code changed and amended rules in 2010. Note that these changes may not be up to date because additional changes may have been made in 2011.

- ◆ **Workers' Compensation Medical Services, Billing, Filing and Reporting Rule** (69L-7.602, F.A.C.), became effective on 1/12/10. The Rule, as



amended reflects changes and updates to forms, reference materials, EDI requirements, and billing instructions for providers and insurers associated with the Florida Workers' Compensation Medical Services Billing, Filing, and Reporting Rule. Click [here](#) for a copy of 69L-7.602.

- ◆ **Workers' Compensation Insurers' Standards and Practices Rule** (69L-24, F.A.C.), became effective 1/12/10. The Rule provides guidance to regulated entities regarding requirements to provide timely payment of workers' compensation benefits to injured workers, to timely pay medical bills to providers, and to timely report workers' compensation data to the Department. Regulated entities include but are not limited to insurers, service companies, third-party administrators, self-serviced self-insured employers or funds, managing general agents, and data submitters that are responsible for adjusting workers' compensation claims or submitting information and data regarding those claims to the Department. The purpose and effect is also to establish uniform guidelines to penalize regulated entities for failure to provide timely payment of workers' compensation benefits to injured workers, for failure to timely pay medical bills to providers, and for failure to timely report workers' compensation information or data to the Department, based on findings made during the process of monitoring, auditing and investigating those regulated entities. Click [here](#) for a copy of 69L-24.
- ◆ **Self-Insurers Rules** (69L-5, F.A.C.) have been amended to concurrently repeal and replace all existing rules with new rules which have been restructured and renumbered to promote clarity and

efficiencies to the process by which self-insured employers comply with the duties and obligations associated with the privilege of self-insuring pursuant to Chapter 440, Florida Statutes. The final adopted version of this rule was effective March 9, 2010. Click [here](#) for a copy of 69L-5.

- ◆ **Notice of Election to be Exempt Rule** (69L-6.012, F.A.C.) was adopted on July 5, 2010. The rule, as amended, authorizes the immediate revocation of a Certificate of Election to be Exempt for any corporation engaged in the non-construction industry that becomes dissolved or inactive. The amendment also provides for the immediate revocation of Certificates issued to persons engaged in the non-construction industry that are no longer meeting the exemption eligibility requirements. Click [here](#) for a copy of 69L-6.012.
- ◆ **Periodic Reports Rule** (69L-6.026, F.A.C.) was effective on September 15, 2010. The adopted rule establishes procedures for filing periodic reports by employers issued Stop-Work Orders for failing to comply with the coverage requirements of Chapter 440, F.S., where assessed penalties exceed \$50,000.00. As a condition of release from a Stop-Work Order, subject employers must submit quarterly reports to the Department using new form DFS-F4-2018, "Bureau of Compliance Quarterly Report Form," or in an electronic format via the Division's website to document their continuing compliance with the coverage requirements of Chapter 440, F.S. Click [here](#) for a copy of 69L-6.026.



GEORGIA

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **HB 1101** was signed by Georgia Governor Sonny Perdue on May 20, 2010. The bill: (1) provides for the publication of decisions of the Workers' Compensation Board; (2) provides for the entry and execution of judgment upon final orders and decisions regarding the Self-insurers Guaranty Trust Fund; (3) modifies the notification period for revocation of a certificate of self-insurance; (4) revises provisions relative to the Self-insurers Guaranty Trust Fund; and (5) provides immunity from liability for members of the board of trustees of the Self-insurers Guaranty Trust Fund. Click [here](#) for a copy of **HB 1101**.

Administrative Changes:

The 2010 Rules adopted by the Georgia State Board of Workers' Compensation became effective on July 1, 2010. Click [here](#) for a copy of the 2010 rules.

- ◆ **Publication of Board Decisions (Rule 12)** – This rule allows the board to publish decisions of the appellate division and the administrative law judges as long as the identity and privacy of the parties are protected.
- ◆ **Stipulated Settlements (Rule 15)** – This rule: (1) allows the projected cost of an MSA to be in the settlement as an alternative to the actual cost; (2) clarifies the requirement that if the

employer/insurer are funding settlement with an annuity from a third party, the employer/insurer remain liable to pay if third party defaults on payment; (3) recognizes the Board's on-going jurisdiction over medical treatment included in the MSA when a settlement contains an MSA that has not yet been approved by CMS; (4) provides that the parties shall acknowledge and agree that the State Board of Workers' Compensation shall retain jurisdiction of those medical issues covered by the MSA until such time as the medical portion of the claim is resolved in accordance with the Workers' Compensation Act; (5) prohibits assignments of the proceeds of a workers' compensation claim; and (6) requires an employee to stipulate that there are no outstanding child support liens that prohibit full disbursement of the settlement proceeds.

- ◆ **State Board offices (Rule 40)** – This rule deletes the State Board offices that have closed in Rome, Gainesville and Augusta.
- ◆ **Removal of requirement of prior approval of Board before faxing documents; Filing in paper and faxes of documents permitted when there is ICMS outage [Rule 60(f); Rule 61(b)61; Rule 82(c); Rule 103(b) (10); Rule 105(g); Rule 102.1(i)]** – This rule: (1) allows for the filing of a document in paper or by fax in the event of an outage that prevents electronic submission and time for filing is at issue; (2) eliminates the requirement that prior approval of the Board must be obtained before faxing documents to the board; and (3) stipulates documents filed by facsimile transmission must be clearly labeled with the name of the claimant, claim number, and Board division or employee

to whom the facsimile transmission is directed.

- ◆ **Filing of Form WC-4 [Rule 61(b)(5)(A)]** – This rule changes the timeframe that a WC-4 must be filed from 180 days to one year of first date of disability.
- ◆ **Notice of Claim/Request for Hearing or Mediation [Rule 61(b)(10)]** – This rule requires an employee to provide a social security number on the Form WC-14 if available, but if the social security number is not available, the Board will assign a tracking number.
- ◆ **Filing of WC-20 and alternative forms [Rule 61(b) (13)]** – This rule updates specific form numbers to ensure consistency with the statute.
- ◆ **Filing of Form WC-262 [Rule 61(b) (40), Rule 262(c)]** – This rule states that Form WC-262 has to be filed only if there is an actual return to work.
- ◆ **Prohibition against assignment of workers compensation benefits [Rules 84, 108(a)]** – This rule: (1) reiterates the prohibition of workers compensation claims from being assigned; (2) clarifies that no party or party's attorney shall execute any loan or assignment that requires repayment from any workers' compensation benefits of assigning; and (3) provides that workers' compensation benefits shall be exempt from all claims of creditors.
- ◆ **Practice before the Appellate Division [Rule 103(b) (6)]** – This rule requires 48 hour notice to Appellate Division of non-appearance at oral argument.
- ◆ **Changes to Rehab rules [Rule 200.1 (a) (3) (iv) and (a) (5) (vii)]** – This rule:

(1) increases the time to file objections to the appointment of a rehabilitation supplier or a proposed rehabilitation plan from 15 days to 20 days; (2) adds a new rule relating to requests to reopen rehabilitation; and (3) specifies the form to be used for request for closure of rehabilitation services.

- ◆ **Changes to Rule 203** – This rule deletes a statement that could be interpreted to permit peer review procedure to be utilized when future medical treatment is in dispute.
- ◆ **Electronic Billing [Rule 205(a)]** – This rule: (1) addresses the supporting reports and information medical providers are required to submit with their bills to insurers or self-insurers in order to obtain timely payment of bills for medical services provided to injured workers; and (2) provides for electronic billing and payment of medical bills pursuant to procedures outlined in the Georgia Fee Schedule.

Guam

– *No Changes Were Made in 2010*



Legislation: None.

Administrative Changes: None.



HAWAII

– Amended Statute

**Legislation:**

- **SB 2050** (Act 18) was signed by Hawaii Governor Linda Lingle on April 13, 2010. The bill requires a provider in its rehabilitation plan to determine if modified or other work with the same employer represents suitable gainful employment. Click [here](#) for a copy of **SB 2050**.

Administrative Changes: None.

IDAHO

– Amended Statute
and Made
Administrative
Changes

**Legislation:**

- **HB 527** was signed by Idaho Governor C.L. “Butch” Otter on March 29, 2010 (effective on July 1, 2010). The bill: (1) requires claimant's counsel to submit attorney cost and fee information with all proposed Lump Sum Settlements to the Industrial Commission; (2) requires the claimant's counsel and defense counsel to submit attorney cost and fee information on Forms 1022 and 1023 if the claim was litigated; and (3) only requires Forms 1022 and 1023 be submitted upon request of the Commission eliminating the redundancy of information, reduce paperwork, and reduce the costs associated with mailing

these forms to the attorneys. Click [here](#) for a copy of **HB 527**.

- **HB 508** was signed by Idaho Governor C.L. “Butch” Otter on March 29, 2010 (effective on July 1, 2010). The bill: (1) provides statutory authority to the Industrial Commission to utilize and/or develop a fee for service schedule for benefits paid on behalf of crime victims that is consistent with fair market value and other government and private benefit programs; (2) includes a provision that prohibits service providers from billing victims for any covered expense that is in excess of the charge allowable under the fee schedule and allows service providers to bill for those costs that are not covered by CVCP due to reductions in benefit eligibility related to statutory and rule requirements; and (3) gives the Industrial Commission authority to adopt or develop a fee schedule to administer benefits. Click [here](#) for a copy of **HB 508**.

- **SB 1330** was signed by Idaho Governor C.L. “Butch” Otter on April 6, 2010 (effective on July 1, 2010). The bill replaces terminology that is consistent with contemporary usage and diagnostic manuals in the workers' compensation statute, including replacing: (a) "mentally retarded" with "intellectually disabled"; (b) "mental deficiency" with "mental disability"; (c) "handicapped" with "disabled"; (d) "lunatic" with "person with a mental disability"; and (e) "idiot" with "person without understanding." Click [here](#) for a copy of **SB 1330**.

Administrative Changes:

- ◆ **Rule 17-0208-0902:** The Commission asked for this change in the information they receive from client's counsel in

regard to lump sum settlements. The information is required in the Attorney Fee Memorandum that is currently submitted with every lump sum settlement. The Commission stated it needs the full disclosure of the information to make a determination as to whether the settlement is in the best interest of all parties. This rule became effective on March 29, 2010. Click [here](#) for a copy of [Rule 17-0208-0902](#).

- ◆ **Rule 17-0208-0903**: Section 72-803, Idaho Code, requires fees for physician services to be based on the Resource Based Relative Value System (RBRVS) reimbursement method used by Medicare and various other payers. The fees are adjusted each year using the same update method used by the Department of Health and Welfare as set forth in Section 56-136, Idaho Code. The Commission stated this rule ensures that the conversion factors in effect by temporary rule since July 1, 2008, will remain in effect until such time that an annual adjustment is approved and that there was no annual increase for 2010. The Commission communicated with family physicians regarding the disparity in the conversion factors and that a possible solution may be a phased approach toward a reduction in the number of conversion factors. This rule became effective on March 29, 2010. Click [here](#) for a copy of [Rule 17-0208-0902](#).
- ◆ **Rule 17-0203-0901**: There are substantive changes the Commission addressed in this rule change. The changes: (1) require self-insured employers to maintain licensed resident claims adjuster. In cases where insurance companies are domiciled in Idaho and have their own claims adjusters those adjusters do not have to be licensed. If

insurance companies are from out of state and contract with a TPA they may adjust both sides. Those adjusters, who are not employees of the insurance company, must be licensed by the Department of Insurance. Self-insured employers are able to designate any employee to adjust those claims. This rule change is to insure in the future any self-insured must have a licensed adjuster; (2) state that any report received by the adjusting office needs to be date stamped when it is received at any office authorized by the adjusting office. Medical reports are often mailed out-of-state for scanning and for medical review purposes; (3) require sureties, upon approval, designate one in-state adjuster to service their claims. Sureties usually have more than one adjuster or later assign additional adjusters and often change adjusters for certain employers without the changes being reported to the Commission. This creates a problem of identification of the correct adjuster for the claimant and the Commission. This change in the rule would require prompt and accurate reporting of each adjuster for each policyholder of the surety; and (4) mandate that every authorized self-insurer, and every surety authorized to transact workers' compensation insurance in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. The rule became effective on March 29, 2010. Click [here](#) for a copy of [Rule 17-0203-0901](#).



ILLINOIS

– No Changes Were Made in 2010



Legislation: None.

Administrative Changes: None.

INDIANA

– No Changes Were Made in 2010



Legislation: None.

Administrative Changes: None.

IOWA

– Made Administrative Changes



Legislation: None.

Administrative Changes:

- ◆ There were several administrative rule changes related to moving toward a paperless computer docketing system called the PERFECT System or paperless electronic record filing and electronic claim submission system. Click [here](#) to see a copy of the rule changes.

KANSAS

– No Changes Were Made in 2010



Legislation: None.

Administrative Changes: None.

KENTUCKY

– Amended Statute and Made Administrative Changes



Legislation:

- **HB 38** was signed by Kentucky Governor Steven L. Beshear on April 8, 2010. The bill changed the definition of the AMA Guides to be use in determining permanent partial disability and identifying appropriate impairment ratings from the “Latest Edition Available” to the “Fifth Edition”. This resulted from two separate studies performed by the Commissioner of the Department of Workers Claims the first in January 2009 and the second January 2010. Kentucky has used the Latest Edition available approach since 1996. The bill also prescribed how future edition changes would be analyzed and recommendations made to the legislature on the need to adopt a later version. Click [here](#) for a copy of **HB 38**.
- **HB 284** was signed by Kentucky Governor Steven L. Beshear on April 26, 2010. The bill: (1) requires the Kentucky Employers Mutual Insurance Authority to identify rates for the

voluntary market and market of last resort by individually filing those rates on forms prescribed by the Department of Insurance; (2) clarifies that the statute does apply to exempt commercial insurance policyholders; (3) repeals obsolete provisions regarding mandated workers' compensation rate adjustments; (4) clarifies that all forms, not just applications, can be filed in a language other than English; (5) clarifies that group policies that are individually marketed are subject to return of unearned premiums; (6) adds the inadvertently omitted word "costs" in the disclosure requirements; (7) clarifies that an antifraud plan is required, rather than permitted, to be filed with the Department of Insurance; (8) deletes provisions regarding the dissolved Kentucky Health Purchasing Alliance which are now obsolete; (9) removes the requirement to file a no-fault rejection form with each policy offered to a prospective applicant; (10) requires requests for medical malpractice premium reimbursements to be submitted no later than one year from the expiration of the policy for which the reimbursement is being requested; and (11) raises the felony amount for insurance fraud from \$300 to \$500. Click [here](#) for a copy of HB 284.

Administrative Changes:

- ◆ No significant rules modifications took place in 2010.

LOUISIANA

– Amended Statute



Legislation:

- **HB 364** was signed by Louisiana Governor Bobby Jindal on June 21, 2010. The bill retains the existing requirement of the Horsemen's Workers' Compensation Insurance Program to file an annual audited financial statement with the Commissioner of Insurance, but requires the financial statement to be filed by July 31 of each year for the immediately preceding year ending Dec. 31. Click [here](#) for a copy of HB 364.
- **HB 873** was signed by Louisiana Governor Bobby Jindal on June 17, 2010. The bill: (1) provides for an increase in criminal penalties of \$250 per day or up to \$10,000 for a first offense for employers who fail to secure workers' compensation coverage for their employees and those who willfully misrepresent that compensation has been provided; and (2) requires that all fines collected be deposited into the Office of Workers' Compensation Administrative Fund. Click [here](#) for a copy of HB 873.
- **HB 1045** was signed by Louisiana Governor Bobby Jindal on June 25, 2010. The bill provides for furnishing of tax record information to the Louisiana Workforce Commission for the purposes of determining, investigating, and prosecuting fraud, including workers' compensation. Click [here](#) for a copy of HB 1045.

- **HB 1088** was signed by Louisiana Governor Bobby Jindal on May 26, 2010. The bill provides several changes in the timeframes and communication methods used relative to mediation in a claim for workers' compensation benefits. Click [here](#) for a copy of **HB 1088**.
- **HB 1129** was signed by Louisiana Governor Bobby Jindal on June 17, 2010. The bill: (1) allows for the disclosure of an employer's name, his insurer's name or membership in a group self-insurance fund as of a specific date; (2) provides that the office of worker's compensation is prohibited from providing information that would reveal the identity of all members or insured employees of a particular carrier or group self-insurance fund; (3) provides the office of workers' compensation administration shall not provide the effective dates of coverage for a specific employer, or groups of employers either through individual requests or multiple requests; (4) provides information which is part of employer records may be communicated if requested by a federal or state prosecuting attorney, state police, public safety services, DPS&C, relative to an insurance fraud investigation or by the attorney general. Click [here](#) for a copy of **HB 1129**.
- **HB 1138** was signed by Louisiana Governor Bobby Jindal on June 25, 2010. The bill: (1) provides that an examination of an injured employee shall be performed when certain disputes arise; (2) provides for the prompt reporting of certain information relative to payment of workers' compensation premiums which may be considered false, fraudulent, or misleading; (3) provides payors and insurers may make weekly indemnity payments by electronic funds transfer and repeals provisions requiring workers' compensation indemnity payments be mailed. Click [here](#) for a copy of **HB 1138**.
- **HCSR 13** was approved by the Louisiana House and Senate on June 21, 2010. The House Concurrent Resolution requested the House Committee on Labor and Industrial Relations and Senate Committee on Labor and Industrial Relations to meet and study alternative ways of funding the Second Injury Fund and report of the findings of the committee to the legislature prior to the convening of the 2011 Regular Session. Click [here](#) for a copy of **HCSR 13**.
- **SB 42** passed the Louisiana Senate and House and was transmitted to the Secretary of State on June 21, 2010. This bill was a constitutional amendment to provide that when an administrative agency determination in a worker's compensation claim is to be modified or reversed and one judge dissents, the case shall be reargued before a panel of at least five judges prior to rendition of judgment, and a majority must concur to render judgment and specified submission of the amendment to the voters at the statewide election to be held on November 2, 2010. Click [here](#) for a copy of **SB 42**.
- **SB 106** was signed by Louisiana Governor Bobby Jindal on May 11, 2010. The bill: (1) requires the director, upon application of any party, to order an independent medical examination when a dispute arises as to the injured employee's capacity to work or his current medical treatment; (2) places an affirmative burden on any person, insurer, or members of self-insurance

fund who believes that a false, fraudulent, or misleading statement has been knowingly made or has been knowingly omitted with the purpose of affecting the payment of any workers' compensation premium; (3) requires that such an entity shall report such statement or omission within 60 days to the office of workers' compensation administration, at which time the office shall review such reports and determine which reports merit further investigation; (4) requires the office to provide an independent examination of the facts surrounding the report and any alleged violations of law disclosed by an independent examination of the facts shall be reported to the appropriate licensing agency and the proper prosecuting authority; (5) allows the electronic transfer of funds by methods including but not limited to direct deposit and debit cards; (6) provides that if the payer or insurer elects to issue debit cards, the injured worker may opt to have his weekly indemnity payment paid directly into his attorney's trust account; (7) provides that if such an election is made, the payer or insurer shall notify the attorney of the deposit and shall list all claims and amounts included in the deposit within 48 hours of each deposit. Click [here](#) for a copy of SB 106.

- **SB 107** was signed by Louisiana Governor Bobby Jindal on June 8, 2010. Current law provides that the workers compensation coverage shall apply to every person performing services arising out of and incidental to his employment in the course of his own trade, business, or occupation, or in the course of his employer's trade, business, or occupation, but provides an exception for the bona fide president, vice president, secretary, or treasurer of a

corporation who owns not less than 10% of the stock therein, or a partner with respect to a partnership employing him, or a member of a limited liability company who owns not less than a 10% membership interest therein, or a sole proprietor with respect to such sole proprietorship. The bill allows such persons to elect not to be covered by written agreement, but specifies that the written agreement be between the officer, member, or sole proprietor and his insurer or group self-insurance fund. Click [here](#) for a copy of SB 107.

- **SB 255** was signed by Louisiana Governor Bobby Jindal on May 11, 2010. The bill: (1) states that the director of the office of workers' compensation shall adopt rules and regulations regarding an electronic system of submission, processing, and payment of workers' compensation-related medical bills; (2) provides that insurance carriers shall accept electronic medical bills and health care providers shall accept electronic payment of such bills; (3) provides that on or after January 1, 2012, the director may promulgate additional rules and regulations regarding the electronic medical billing system; and (4) makes such provisions effective on August 15, 2010. Click [here](#) for a copy of SB 255.

- **SB 639** was signed by Louisiana Governor Bobby Jindal on June 30, 2010. The bill: (1) specifically changes the purpose of the Workers' Compensation Second Injury Fund from encouraging the employment of physically handicapped employees who have permanent partial disability to encouraging the reemployment or retention of employees who have a permanent, partial disability; (2) provides that the Second Injury Fund



law applies when the employer has been required to pay and has paid additional medical or indemnity benefits for the greater disability of the worker; (3) sunsets the fund and states that no claim shall be submitted for the board approval with a date of accident after December 31, 2014, and all submissions of documentation to support pending claims shall be presented on or before December 31, 2016 and requires the board to render a decision on all pending claims on or before December 31, 2017; (4) provides that the board may meet monthly, but shall in no event meet less than once every three months; (5) requires that any interest earned by the fund shall accrue to the fund; (6) provides that an employer who re-employs an employee who has a permanent partial disability shall qualify for reimbursement from the fund. Click [here](#) for a copy of SB 639.

Administrative Changes:

- ◆ No changes found or reported.

MAINE

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SP 586/LD 1528** (Public Law 520) became effective on July 12, 2010. The bill: (1) clarifies that an abuse investigation unit can share information with other state agencies; and (2) ensures that limited liability companies are treated like other entities with respect to

penalties for not having coverage. Click [here](#) for a copy of SP 586/LD 1528.

- **SP 587/LD 1529** (Public Law 521) became effective on July 12, 2010. The bill establishes that compensation payments cannot be reduced based on life insurance policy with disability feature if plan established by collective bargaining. Click [here](#) for a copy of SP 587/LD 1529.
- **HP 1212/LD 1711** (Public Law 529) became effective on July 12, 2010. The bill clarifies the status of prisoners regarding workers' compensation coverage. Click [here](#) for a copy of HP 1212/LD 1711.
- **HP 1299/LD 1815** (Public Law 569) became effective on March 30, 2010. The bill simplifies predetermination process for construction subcontractors. Click [here](#) for a copy of HP 1299/LD 1815.
- **HP 1103/LD 1566** (Public Law 640) became effective on July 12, 2010. The bill eliminates term limits for the Workers' Compensation Board members and clarifies conflict of interest rules for Board members. Click [here](#) for a copy of HP 1103/LD 1566.
- **HP 1102/LD 1565** (Public Law 649) became effective on July 12, 2010. The bill establishes a process to stop business from operating if they do not have required workers' compensation coverage. Click [here](#) for a copy of HP 1102/LD 1565.

Administrative Changes:

The following rules were adopted in 2010 by the Maine Workers' Compensation Board.

- ◆ **Chapter 3(1) Definition of a FROI (First Report of Injury); Chapter 8(11), (15) & (18) - Discontinuance/Reduction/Modification** – These rules: (1) change the standard for defining of a day of lost time for purposes of filing First Reports of Injury from one that is based on lost hours to one that is based on lost wages; (2) state that unilateral reductions of benefits pursuant to § 205(9)(A) must be based on actual earnings unless the employee returns to work with no restrictions imposed by the employee's treating health care provider; (3) define when and how offsets may be taken pursuant to § 205(9)(B) when an employee returns to work for a different employer; and (4) prohibit the use of the Consent Between Employee and Employer form to discontinue or reduce benefits on a date subsequent to the date the form is signed. These rules became effective on December 27, 2010. Click [here](#) for a copy of these rules.

MARYLAND

– Amended Statute
and Mad
Administrative
Changes



Legislation:

- **HB 405** was signed by Maryland Governor Martin O'Malley on May 20, 2010. The bill: (1) authorizes an officer of a close corporation, as defined under the laws of the jurisdiction where the corporation is incorporated, to elect to be exempt from workers' compensation coverage; (2) authorizes an officer of a corporation, other than a close corporation, to elect to be exempt from workers' compensation coverage; (3) clarifies that members of specified limited liability companies may elect to be exempt; and (4) requires the State Workers' Compensation Commission to adopt regulations. Click [here](#) for a copy of HB 405.
- **HB 618** (companion SB 482) was signed by Maryland Governor Martin O'Malley on April 13, 2010. The bill: (1) provides that an Allegany County deputy sheriff who suffers from heart disease or hypertension is presumed under specified circumstances to have an occupational disease suffered in the line of duty; and (2) provides for enhanced workers' compensation benefits for specified Allegany County deputy sheriffs for a compensable permanent partial disability of less than a specified number of weeks. Click [here](#) for a copy of SB 482.
- **HB 1295** (companion SB 955) was signed by Maryland Governor Martin O'Malley on May 20, 2010. The bill increases the amount of assessments that the Workers' Compensation Commission imposes against uninsured employers and directs as payment into the Uninsured Employers' Fund. Click [here](#) for a copy of HB 1295.
- **SB 53** was signed by Maryland Governor Martin O'Malley on May 4, 2010. The bill authorizes the use of
- **HB 249** (companion SB 236) was signed by Maryland Governor Martin O'Malley on May 20, 2010. The bill requires an insurer to provide a specific type of notice to an independent insurance producer of a premium increase for commercial and workers' compensation insurance. Click [here](#) for a copy of HB 249.

actual wages earned by the member in the member's civilian employment at the time of entry into State active duty for the purpose of computing the average weekly wage for workers' compensation benefits for specified members of the organized militia. Click [here](#) for a copy of SB 53.

- **SB 58** was signed by Maryland Governor Martin O'Malley on May 4, 2010. The bill: (1) provides that an individual in an unpaid work-based learning experience provided by the Division of Rehabilitation Services in the State Department of Education is a covered employee for the purpose of the State workers' compensation laws; (2) requires a participating employer to secure workers' compensation coverage for the individual; and (3) requires the State Department of Education to reimburse a participating employer for specified costs. Click [here](#) for a copy of SB 58.

Administrative Changes:

The Maryland Workers' Compensation Commission adopted the following rules in 2010. Click [here](#) to access the Commission website.

- ◆ **Amendment to 14.09.01.19** – emergency regulations to ensure immediate compliance with the guidelines issued by the Centers for Medicare and Medicaid Services (“CMS”) involving the settlement of future medical benefits.
- ◆ **Amendment to 14.09.01.25** – adopted amendments to the calculation of attorney's fees in certain cases.
- ◆ **Amendment to 14.09.05** – adopted substantial amendments to clarify the

procedures to be utilized in the selection of vocational rehabilitation practitioners, formulation of vocational rehabilitation plans and the resolution of disputes regarding same.

MASSACHUSETTS

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **SB 2375** (Ch. 285) was signed by Massachusetts Governor Deval Patrick on August 9, 2010. The bill: (1) permits any three persons to bring a civil action deemed a private attorney's general action whenever facts exist showing an employer has failed to comply with the workers' compensation law; (2) states that an employer shall be liable for all amounts which should have been paid by the employer; (3) states that plaintiffs are collectively entitled to recover the lessor of 25 percent of the amount not paid or \$25,000 plus costs and reasonable attorneys' fees, and an additional amount as compensatory and liquidated damages equal to the lessor of 25 per cent of the amount that should have been paid or \$25,000; (4) states that any action filed shall be filed only after 90 days following the expiration of a workers' compensation policy affected by the action; and (5) requires such actions to be commenced within 6 years after the cause of action accrues. Click [here](#) for a copy of SB 2375.

Administrative Changes:

The Massachusetts Department of Industrial Accidents adopted changes to the following rule(s) in 2010. Click [here](#) to view the Department's website.



- ◆ **Third Party Liability** (Rule 1.21) was updated in July 2010.

MICHIGAN

– *No Changes Were Made in 2010*



Legislation: None.

Administrative Changes:

- ◆ Note for 2011: There were two Executive Orders adopted by Michigan Governor Rick Snyder in 2011 that significantly changed the structure of the Michigan Workers' Compensation Agency and completely restructured its litigation and appellate system. They are Executive Order 2011-4 and 2011-6.

MINNESOTA

– *Made Administrative Changes*



Legislation: None.

Administrative Changes:

The following rule changes were made by the Minnesota Workers' Compensation Division in 2010.

- ◆ **Permanent partial disability schedule** – The Notice of Adoption of amendments to the permanent partial disability schedule was published in the *State Register* August 2, 2010. The final rule amendments as adopted became effective August 9, 2010. Click [here](#) for a copy of the permanent partial disability schedule.

- ◆ **Treatment parameter amendments** – The Notice of Adoption of amendments to the permanent treatment parameter rules was published in the *State Register* August 2, 2010. These amendments were also effective August 9, 2010. Click [here](#) for a copy of the treatment parameter amendments.

- ◆ **Workers' compensation medical fee schedule; independent medical examination fees** – There are three updates to the workers' compensation medical fee schedule, effective for medical services provided on or after October 1, 2010. These changes are: (1) a Notice of Incorporation of Relative Value Tables was published in the *State Register* July 26, 2010 and incorporates specified 2009 relative value tables established by the Centers for Medicare and Medicaid Services for its national physician fee schedule; (2) approval of the Relative Value Tables for workers' compensation have been approved by the Office of Administrative Hearings; and (3) the adjustments to the workers' compensation fee schedule conversion factors as well as adjustments to the independent medical examination maximum fees. The two adjustments to the workers' compensation medical fee schedule conversion factors were: (a) **Conversion factor adjustment based on updated relative value units (RVUs) and rules** – The fee schedule in effect until October 1, 2010 used 1998 Medicare RVUs. The Department of Labor and Industry (DLI) updated the workers' compensation medical fee schedule by incorporating by reference the 2009 Medicare RVUs. The Notice of Incorporation by Reference of Relative Value Tables was published in the *State Register* on July 26, 2010. The rules to implement the relative value tables were

published in the *State Register* on August 16, 2010. DLI adjusted the conversion factors so that overall payment for services covered under both the old and new RVUs will be the same under both sets of RVUs. Also, DLI did this separately for each of the four categories of service. Since the 2009 Medicare RVUs are generally higher than the 1998 RVUs for all four categories of service, the conversion factors were reduced for all four categories to maintain the same overall payment for services covered by both sets of RVUs; and (b) **Conversion factor annual adjustment** – State law provided for annual adjustment of the medical fee schedule conversion factors by no more than the percent change in the SAWW, the conversion factors for the new fee schedule as described above are being decreased by 1.14 percent. As a result of both adjustments, subject to approval by an administrative law judge at the Office of Administrative Hearings, effective October 1, 2010, the new conversion factors were: (i) medical/surgical services at \$67.23; (ii) pathology/laboratory services at \$39.60; (iii) physical medicine/rehabilitation services at \$52.35; and (iv) chiropractic services at \$53.48. Click [here](#) for more information on these rule changes.

MISSISSIPPI

– Made
Administrative
Changes



Legislation: None

Administrative Changes:

- ◆ The Mississippi Workers' Compensation

Commission adopted a new medical fee schedule in 2010. Click [here](#) for a copy of the new fee schedule.

MISSOURI

– Made
Administrative
Changes



Legislation: None

Administrative Changes:

- ◆ **Regulation 8 CSR 50-1.010** – Titled *Organization of Division of Workers' Compensation* - effective April 30, 2010 - sets forth the purposes and functions of the Division of Workers' Compensation and includes the address location of the Division's main office in Jefferson City, Missouri and the addresses for the various branch offices. Click [here](#) for a copy of Regulation 8 CSR 50-1.010.

MONTANA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

The Montana Workers' Compensation Court adopted the following rules in 2010. Click on the subchapter number for a copy of each rule.

- ◆ **Chapter 29 – Workers' Compensation and Occupational Disease**
 - [Subchapter 26](#) – Subsequent Injury Fund Rules

- [Subchapter 27](#) – Silicosis Benefits
- ◆ **Chapter 35 – Independent Contractors**
 - [Subchapter 1](#) – Independent Contractor Exemption Certificate
 - [Subchapter 2](#) – Central Unit for Status Determinations
 - [Subchapter 3](#) – Definitions Related to Independent Contractors

NEBRASKA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **LB 579** was signed by Nebraska Governor Dave Heineman. The bill was dubbed the Professional Employer Organization (PEO) Registration Act. *The following provisions of the bill became effective on July 15, 2010:* (1) set forth requirements for executive officers of corporations and for individual employers, partners and limited liability company members who elect to bring themselves under the Act when insurance is provided through a master policy or multiple coordinated policy pursuant to the Professional Employer Organization Registration Act; (2) provides that a PEO shall not be eligible to self-insure its workers' compensation liability; (3) allows a workers' compensation policy or an agreement providing group self-insurance to cover fewer than all employees within the scope of the Act, including potential new or unknown employees, when the PEO Registration

Act allows coverage to be limited to co-employees as specified in a PEO agreement; and (4) defines the following terms: client, professional employer organization, multiple coordinated policies, master policy. *The following provisions of the bill become effective January 1, 2012:* (1) defines PEO, client, co-employer, co-employment relationship, covered employee, professional employer agreement, and other terms; (2) requires PEOs to register with the Department of Labor and sets forth information to be provided; (3) requires a professional employer agreement between the client and the PEO stating the agreement must allocate rights and obligations between the client and the PEO and must specify whether the client, the PEO, or both, will have the responsibility to obtain workers' compensation insurance; (4) states that if the PEO agreement allocates responsibility to the PEO to obtain workers' compensation coverage only for co-employees, the PEO shall provide certain information to the administrator of the Workers' Compensation Court; (5) states that both the client and the PEO shall be considered the employer for purposes of coverage under the Workers' Compensation Act; (6) states that the exclusive remedy provision of the Act shall apply to the PEO, to the client, and to all covered employees and other employees of the client regardless of which co-employer obtains workers' compensation coverage; (7) states that an employer shall not be relieved of its obligations under the Act to provide workers' compensation coverage in the event that the PEO fails to obtain such coverage for which it has assumed responsibility; (8) provides notice requirements and effective dates for master policies and multiple coordinated

policies obtained by a PEO that are cancelled within the policy period, or terminate coverage for any employees of the client during the policy period, or that expire or lapse at the end of the policy period. Click [here](#) for a copy of [LB 579](#).

- **LB 780** was signed by Nebraska Governor Dave Heineman. The bill creates a new section under the Workers' Compensation Act in which personal injury is defined to include mental injuries and mental illness unaccompanied by physical injury for an employee who is a first responder. To be covered by the Act, the first responder must show by a preponderance of the evidence that the mental injury was a result of extraordinary and unusual conditions as compared to the normal conditions of the particular employment. The first responder must establish medical causation between the mental injury and the employment conditions. Mental injuries suffered as a result of events which are incidental to normal employer-employee relations are not compensable. Such events include, but are not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations. A first responder is defined as a sheriff, deputy sheriff, police officer, Nebraska State Patrol officer, volunteer or paid firefighter, or a volunteer or paid individual licensed who provides immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. The changes made by [LB 780](#) apply only to personal injuries that occurred on or after July 15, 2010 and before June 30, 2014. Click [here](#) for a copy of [LB 780](#).

- **LB 829** was signed by Nebraska Governor Dave Heineman (effective April 13, 2010). The bill provides that an exempt employer's failure to give notice to unrelated agricultural employees that they will not be covered by the Act will subject the employer to liability for *any unrelated employee to whom such notice was not given*. Previously, the employer was subject to liability for all unrelated employees. Click [here](#) for a copy of [LB 829](#).
- **LB 872** was signed by Nebraska Governor Dave Heineman (effective July 15, 2010). The bill provides that claims for inpatient trauma services shall not be reimbursed under the DRG inpatient hospital fee schedule until January 1, 2012, rather than January 1, 2011. Click [here](#) for a copy of [LB 872](#).
- **LB 908** was signed by Nebraska Governor Dave Heineman (effective July 15, 2010). The bill allows a claim or agreement for legal services to be approved by any judge of the Workers' Compensation Court. Previous language required that such lien be approved by the judge presiding at the trial. Click [here](#) for a copy of [LB 908](#).

Administrative Changes

All of the rule changes summarized below were adopted by the judges of the court. Click [here](#) for a copy of the following rules.

The following rules were adopted on April 28, 2010:

- a) Adopt a revised medical fee schedule to include: 2010 AMA CPT codes; revised Instructions and section Ground Rules; 2010 ASA relative values; 2010 GPCI (Geographic Practice Cost Index) adjusted for Nebraska RBRVS relative value units; recalculated conversion factors; and a new conversion factor for Emergency Department procedures.



- b) Amend Rule 3, Pleadings, to provide that the signature block on any document *submitted for the pending case* may designate an e-mail address to which documents addressed to the signer may be sent electronically, and to update the term “paper” to “document” throughout the rule.
- c) Amend Rule 26, Schedules of Fees for Medical, Surgical, and Hospital Services, to adopt the revised Schedule of Fees for Medical Services with an effective date of June 1, 2010.
- d) Amend Rule 14, Bill of Exceptions, in accordance with Neb.Rev.Stat. §48-182 to provide that appellant shall file a request to prepare a bill of exceptions within 14 days from the date of a final order, to eliminate language requiring that the request to prepare a bill of exceptions be filed at the same time the Application for Review is filed, and to provide that the bill of exceptions must be filed within two months from the date of the filing of the praecipe.
- e) Amend Rule 37, Vocational Rehabilitation – Reporting, to provide that the vocational rehabilitation counselor shall submit the employee’s grade report or transcript and class schedule to the court rather than allowing either the employee or the vocational rehabilitation counselor to submit such information, and to require that the employee provide the vocational rehabilitation counselor with a signed release form authorizing the training provider to release the employee’s grade report, transcript, and class schedule to the counselor.
- Rule setting forth the per-page fee for court reporters.
- b) Amend Rule 26, Schedules of Fees for Medical, Surgical, and Hospital Services, to identify Medicare Diagnostic Related Groups to be included in the Diagnostic Related Group inpatient hospital fee schedule effective January 1, 2011, to adopt a revised Schedule of Fees for Hospitals and Ambulatory Surgical Centers including a new multiple surgical procedures rule for ambulatory surgical centers and other changes effective January 1, 2011, and to revise the date before which claims for inpatient trauma services submitted by hospitals must be reimbursed under the court’s Schedule of Fees for Hospitals and Ambulatory Surgical Centers from January 1, 2011 to January 1, 2012.
- c) Amend Rule 47, Lump Sum Settlement, to provide that in lump sum settlements the U.S. Life Table, 2006, rather than 2004, shall be the minimum life expectancy table used, and to adopt a revised Addendum 2, U.S. Life Table: 2006.

NEVADA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

- ◆ **LCB File No. R108-09** (effective June 30, 2010) – makes “stress”, as defined by NRS 616C.180, a ratable permanent partial disability. Click [here](#) for a copy of R108-09.

The following rules were adopted on December 14, 2010:

- a) Amend Rule 14, Bill of Exceptions, to update a citation to a Supreme Court



NEW HAMPSHIRE*– Amended Statute***Legislation:**

- **HB 216** was signed by New Hampshire Governor John Lynch on May 7, 2010. The bill clarifies the fees for legal services rendered to workers' compensation claimants. Click [here](#) for a copy of HB 216.
- **HB 271** was signed by New Hampshire Governor John Lynch on May 25, 2010. The bill: (1) requires medical providers to send only relevant documents of injured workers; and (2) authorizes the New Hampshire Department of Labor Commissioner to assess a civil penalty up to \$2,500 on any insurance carrier, self-insurer, or payor acting on behalf of such insurance carrier or self-insurer if any recipient of medical records receives a medical record which is clearly irrelevant to the workers' compensation claim and sends such record, or a copy of it, to another party not authorized to receive such record. Click [here](#) for a copy of HB 271.
- **HB 1163** was signed by New Hampshire Governor John Lynch on June 14, 2010. The bill includes railroads as an employer for the purposes of safety provisions under the workers' compensation law. Click [here](#) for a copy of HB 1163.
- **HB 1368** was signed by New Hampshire Governor John Lynch on June 14, 2010. The bill: (1) clarifies provisions related to misrepresentation of employees as

independent contractors, and (2) provides penalties for an employer that misrepresents the relationship between the employer and the person providing services. Click [here](#) for a copy of HB 1368.

- **SB 420** was signed by New Hampshire Governor John Lynch on July 13, 2010. The bill establishes a committee to study pharmacy benefits management for injured workers covered by the workers' compensation law. Click [here](#) for a copy of SB 420.

Administrative Changes: None.

NEW JERSEY*– No Changes Were Made in 2010*

Legislation: None.

Administrative Changes: None.

NEW MEXICO*– Made Administrative Changes*

Legislation: None.

Administrative Changes:

- ◆ One administrative rule was amended in 2010. The rule, related to medical authorization: (1) requires that authorization shall be approved or denied within three business days of the request, if the worker is not hospitalized,

or the procedure will be deemed approved; (2) states that if the worker is in the hospital, authorization shall be approved or denied within twenty-four hours or the procedure will be deemed approved; (3) requires authorization within 72 hours for outpatient services and 24 hours for hospitalized workers for DME (durable medical equipment) authorization requests and that authorization shall be presumed if there is no response to the request; (4) requires that all requests for authorization and subsequent approvals or denials be documented; and (5) states that any disputes about authorization can be brought before the Medical Cost Containment Bureau Chief for resolution.

NEW YORK

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

The New York Workers' Compensation Board adopted the following rules in 2010.

- ◆ **Fee Schedules** - updated Medical, Podiatry, Chiropractic, and Psychology Fee Schedules to be effective for services provided on and after December 1, 2010. The updated fee schedules: (1) increase the fees for Evaluation and Management (E&M) services by 30% in the Medical Fee Schedule; (2) change the Chiropractic fee schedule to allow for separate billing of treatment modalities rather treating such treatment as part of E&M services; (3) modify ground rules to be consistent with the

Medical Treatment Guidelines that will be in effect as of December 1, 2010; (4) adjust for new, modified, and deleted Current Procedural Terminology (CPT) codes; and (5) minor typographical clarifications to the previous fee schedules. Click [here](#) for a copy of these rule changes.

- ◆ **Medical Treatment Guidelines** – Several regulations and guidelines for all treatment for the mid and low back, neck, knee, and shoulder became effective on December 1, 2010. Click [here](#) for a copy of the guidelines.

NORTH CAROLINA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

- ◆ There were several rule changes finalized on October 14, 2010 (effective January 1, 2011) adopting new and amended North Carolina Industrial Commission rules. The rule changes: (1) allow electronic submission of information until 11:59p.m. of the date due; (2) eliminate certain forms from dentists and physicians; (3) creates Form 26A regarding an employer's admission of an employee's right to permanent partial disability; (4) creates Form MSC8 regarding mediated settlement agreements; (5) authorizes electronic payment of fees or costs owed to the North Carolina Industrial Commission; (6) stipulates required contact information from all insurance carriers, third-party administrators and self-insured employers; (7) amends required information to be filed for death benefit

claims; (8) provides the Commission with discretion to award a fee for services of an attorney serving as a *Guardian Ad Litem*; (9) amends discovery rule; (10) establishes rules governing medical motions and emergency medical motions; (11) amends pre-trial and pre-trial order rules; (12) requires parties to submit a request for removal and/or dismissal and proposed order upon settlement of a case or approval of a form agreement; and (13) makes other substantive changes regarding administrative proceedings. Click [here](#) for a copy of the rule.

NORTH DAKOTA

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

The North Dakota Workforce Safety & Insurance Department made the following proposed amendments and repeals to the North Dakota Administrative Code in 2009 and became effective in 2010. All proposed amendments were not expected to have an impact on the regulated community in excess of \$50,000. Click [here](#) for a copy of Title 92 rule changes.

- (1) Rule change to 92-01-02-11.1 relating to attorney fees is to increase fees paid in connection with disputes regarding an administrative order;
- (2) Rule change to 92-01-02-12 relating to mileage and per diem travel changes intracity mileage;
- (3) Rule change to 92-01-02-13 relating to transfers of businesses is to merge experience rates on employer accounts;
- (4) Rule change to 92-01-02-14 relating to employer payroll reports changes the time frame of a past due premium billing statement;
- (5) Rule change to 92-01-02-15 relating to payroll periods authorized WSI to change payroll reporting periods to coincide with regular quarter endings;
- (6) Rule change to 92-01-02-16 relating to expiration dates authorizes WSI to change expirations dates;
- (7) Rule change to 92-01-02-18 relating to the experience rating system changes the experience ratings period from five years to three years and reduces the ratable manual premium;
- (8) Rule change to 92-01-02-24 relating to rehabilitation services increases the rehabilitation allowances;
- (9) Rule change to 92-01-02-25 relating to permanent partial impairment awards addresses impairment award and ratings;
- (10) Rule change to 92-01-02-29.1 relating to medical necessity and treatment that the organization will or will not pay;
- (11) Rule change to 92-01-02-31 relating to who may be reimbursed for medical treatment that the organization will or will not pay;
- (12) Rule change to 92-01-02-34 relates to treatment requiring authorization, preservice review, and retrospective review that the organization will or will not pay;
- (13) Rule change to 92-01-02-41 relates to independent medical examinations defines duly qualified;

- (14) Rule change to 92-01-02-45.1 relations to provider responsibilities and billings changes;
- (15) Rule change to 92-01-02-50 relating to other states coverage clarifies incidental operations and significant contacts;
- (16) Rule change to 92-01-02-55 relates to dividend programs and who declares dividends;
- (17) Rule change to 92-01-03 changes the name of Office of Independent Review to Decision Review Office;
- (18) Rule change to 92-01-03-01 changes the name of Office of Independent Review to Decision Review Office;
- (19) Rule change to 92-01-03-02 relating to the Decision Review Office changes "advocate" to "decision review specialist" and "program" to "office";
- (20) Rule change to 92-01-03-03 relating to the Decision Review Office changes "program" to "office";
- (21) Rule change to 92-01-03-04 relating to the Decision Review Office changes "advocate" to "decision review specialist" and "program" to "office";
- (22) Rule change to 92-02-01-01 relates to industrial safety codes and adoption of federal safety codes;
- (23) Rule change to 92-05-02-01 relating to risk management program definitions;
- (24) Rule change to 92-05-02-03 relates to eligibility to risk management programs;
- (25) Rule change to 92-05-02-04 is to repeal this section relating risk management plus;
- (26) Rule change to 92-05-02-05 is to repeal this section relating risk management plus;

- (27) Rule change to 92-05-02-06 is to repeal the hazard elimination learning program; and
- (28) Rule change to 92-05-02-07 relates to alternative risk management programs is to clarify programs.

OHIO

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **SB 181** was signed by Ohio Governor Ted Strickland on June 13, 2010. The bill was primarily to provide immunity from liability for eligible landowners who provide access to abandoned mine lands located on the landowner's land for purposes of reclamation. However, the bill included the following provisions: (1) beginning July 1, 2010, and ending December 31, 2010, the Administrator of the Bureau of Workers' Compensation shall transfer a portion of the investment earnings credited to the Coal-Workers Pneumoconiosis Fund in an amount not to exceed \$2.28 million to the Strip Mining Administration Fund; and (2) states that transfers from the Coal-Workers Pneumoconiosis Fund to the Strip Mining Administration Fund are prohibited after December 31, 2010. Click [here](#) for a copy of **SB 181**.

Administrative Changes:

The following summarizes Ohio Bureau of Workers' Compensation rules that were amended in 2010. All rules can be found on the Register of Ohio by entering the rule number [here](#).

◆ **Revisions to Provider fee schedules:**

- Bureau fee schedule
- Payment of hospital bills
- Payment of hospital inpatient services
- Payment of hospital outpatient services
- Payment of ambulatory surgical center services
- Payment for transcutaneous electrical nerve stimulators and neuromuscular electrical stimulators
- Vocational rehabilitation provider fee schedule

◆ **Revisions to various medical or rate program rules:**

- Claim procedures subsequent to allowance
- Drug-free safety program (DFSP) and comparable program
- Fifteen thousand dollar medical-only program
- Deductible rule
- Group retrospective rating program

◆ **Five year rule review and update of Safety rules:**

- Elevators
- Construction Safety Rules
- Workshops & Factories
- Metal Casting
- Steel Making
- Laundering
- Rubber and Plastic
- Window Cleaning
- Firefighter Rules

◆ **Five year rule review and update of Health Partnership Program (HPP) rule.**

OKLAHOMA

– Amended Statute



Legislation:

- **HB 1611** was signed by Oklahoma Governor Brad Henry on June 7, 2010 (effective 11/1/10). The bill: (1) requires claims adjusters for insurers duly authorized to transact workers' compensation insurance in Oklahoma to be licensed under the Insurance Adjusters Licensing Act; and (2) requires claims adjusters to complete 6 hours of continuing education relating to the Workers' Compensation Act as part of the required 24 hours of continuing education. Click [here](#) for a copy of **HB 1611**.
- **HB 2650** was signed by Oklahoma Governor Brad Henry on June 10, 2010 (effective 8/27/10). The bill: (1) amends the definition of: (a) "employee" to exclude individuals who are a party to a franchise agreement, (b) "major cause" to mean more than fifty percent (50%) of the resulting injury, disease or illness. A finding that the workplace was not a major cause of the injury shall not adversely affect exclusive remedy or create a separate cause of action outside of Title 85, Oklahoma Statutes; and (c) "objective medical evidence" to include objective findings which are those that cannot come under the voluntary control of the patient; (2) states tests and criteria pertaining to determinations of permanent impairment; (3) defines "continuing medical maintenance," "surgery" (excludes an injection, or the forcing of fluids beneath the skin, for treatment or diagnosis), "evidence-

based,” “nationally recognized,” “scientifically based,” “peer review,” and “state-developed”; (4) restricts the compensability of injuries that occur to and from work; (5) excepts intentional torts from exclusive remedy; (6) identifies what constitutes an intentional tort; (7) precludes an injured employee from maintaining an action in both the Workers’ Compensation Court and another court, when the employer has failed to secure its workers’ compensation obligations as required by law or in the case of an intentional tort; (8) modifies entitlement to temporary total disability; (9) specifies that if the treating physician releases a claimant to light duty work with written restrictions, the employer makes a good faith offer in writing to provide a light duty position at the claimant’s same rate of pay, and the claimant rejects the light duty assignment, the claimant is not entitled to temporary total disability; (10) prohibits Court ordered continuing medical maintenance, unless recommended by the treating physician when the claimant reaches maximum medical improvement, or unless there is clear and convincing evidence to the contrary. Authorizes the Court to appoint an independent medical examiner at any time to determine the nature and extent of continuing medical maintenance; (11) limits the duration of permanent total disability benefits to 15 years or until the employee reaches the age of 100% Social Security retirement, whichever is longer; (12) provides that if the employee dies from causes unrelated to the work-related injury or illness, any person entitled to revive the action shall receive benefits only until the benefits would have terminated had the employee lived; (13) provides that if the Court awards both permanent partial and

permanent total disability, the permanent total disability award shall not be due until after the permanent partial disability award is paid in full; (14) establishes a new compensation schedule for permanent partial disability for injuries occurring on or after August 27, 2010: (a) the minimum weekly benefit payable for permanent partial disability is \$150, (b) the maximum weekly benefit payable for permanent partial disability for injuries occurring on or after August 27, 2010 through August 26, 2015 is 70% of the employee’s average weekly wage, not to exceed \$323; and (c) for injuries occurring on or after August 27, 2015, the maximum weekly benefit payable for permanent partial disability is 70% of the employee’s average weekly wage, not to exceed 50% of the state’s average weekly wage; (15) prohibits an award for permanent disfigurement for a part of the body for which permanent partial disability is awarded; (16) modifies compensation for soft tissue injuries by stating that in case of a nonsurgical soft tissue injury in which the employer has promptly provided medical care, temporary total disability shall not exceed 8 weeks with a Court ordered extension of up to an additional 8 weeks authorized if the treating physician recommends one or more injections, but if the treating physician recommends surgery, the Court may order up to an additional 16 weeks of temporary total disability if the treating physician indicates the extension is appropriate or the parties agree and the Court shall terminate the extension benefits if surgery is not performed within 120 days of approval or authorization of the surgery by the respondent or Court, unless the delay is beyond the claimant’s control, but also provides that if surgery

is performed, temporary total disability is subject to limitations; (17) expands exclusions from the definition of "soft tissue injury" to include all joint replacements; (18) makes the Physician Advisory Committee's findings and recommendations regarding reasonable and necessary medical treatment, duration of treatment, continuing medical maintenance, and development of a prescription formulary binding upon the Workers' Compensation Court, unless there is clear and convincing evidence to the contrary, but states that Court ordered medical care that deviates from the Committee's findings and recommendations must be supported by specific findings; (19) eliminates the Committee's duty to consider certain standards when developing treatment guidelines; and (20) creates the Task Force on Vocational Rehabilitation for Injured Workers until November 30, 2010 to study methods and procedures to improve vocational rehabilitation for injured workers and requires a report of findings and recommendations to legislative leaders before termination of the Task Force. Click [here](#) for a copy of HB 2650.

- **HB 2652** was signed by Oklahoma Governor Brad Henry on June 10, 2010 (effective 11/1/10). The bill: (1) provides that the first two judicial vacancies occurring on or after November 1, 2010 will operate to reduce the number of judges comprising the Court from ten to eight; (2) directs that three judges be permanently assigned to the Court's Tulsa location and five be permanently assigned to the Court's Oklahoma City location; (3) prohibits closure of the Court's Tulsa location without legislative approval; (4) reduces the existing six year judicial term from July to February of the year of expiration

of the term - current incumbent judges who are not reappointed are presumed to have served a full six year term without reduction in salary, benefits or time for judicial service and subsequent judicial terms shall be for eight years; (5) states that judges serving an unexpired term on November 1, 2010 are eligible upon expiration of their respective terms for appointment to one, eight year term; (6) states that judges may seek an additional eight year term after a three year waiting period; (7) states that judicial appointments are made by the Governor with the advice and consent of the Senate; (8) subjects incumbent judges to the Judicial Nominating Commission process; and (9) requires the Court's judges to be licensed to practice law in Oklahoma for not less than five years and have not less than five years of workers' compensation experience prior to appointment. Click [here](#) for a copy of HB 2652.

- **HB 2911** was signed by Oklahoma Governor Brad Henry on May 10, 2010 (effective 5/10/10). The bill prohibits creation of a new business entity for the purpose of avoiding payment of a workers' compensation judgment. Click [here](#) for a copy of HB 2911.
- **HB 3169** was signed by Oklahoma Governor Brad Henry on April 12, 2010 (effective 11/1/10). The bill expands the exemption from the Workers' Compensation Act for an employer with five or less total employees, all of whom are related by blood or marriage, to include the spouse of the exempt employer. Click [here](#) for a copy of HB 3169.
- **HJR 1056** passed the Oklahoma House and Senate and submitted to the Secretary of State on May 25, 2010. The



joint resolution was passed to submit State Question No. 755, Legislative Referendum No. 355 to a vote of the people at the next general election of the state. The ballot measure was to amend the Oklahoma Constitution to require Oklahoma courts, including the Workers' Compensation Court, to rely on federal and state laws when deciding cases and to forbid courts from looking at international law or Sharia Law when deciding cases. Click [here](#) for a copy of [HJR 1056](#).

- **SB 1973** was signed by Oklahoma Governor Brad Henry on June 8, 2010 (effective 11/1/10). The bill: (1) requires all Workers' Compensation Court en banc proceedings to be recorded by a court reporter; (2) requires Court en banc orders that reverse a decision of the trial judge to contain specific findings explaining the reversal; (3) enumerates the grounds upon which an order or award of the Workers' Compensation Court may be modified, reversed for rehearing or set aside by the Supreme Court on appeal; (4) requires the Court Administrator to mail a certain notice to an injured worker upon the filing of an Employer's First Notice of Injury (Form 2), rather than upon the filing of a claim for compensation (Form 3) by the worker; (5) requires the claimant to be in attendance at the time of a mediation, unless all parties agree; (6) requires all parties to be represented during the entire mediation session by a person with full settlement authority; (7) permits the assigned trial judge to impose sanctions, costs and attorney fees, for good cause, against a party that does not have full settlement authority; (8) modifies fees payable to the Workers' Compensation Court's revolving fund, effective 11/1/10; (9) increases the Court en banc appeal fee

from \$125 to \$175; (10) establishes a new \$100 fee per appeal to the Supreme Court for preparing, assembling, indexing and transmitting the record for appellate review; (11) increases the fee paid by the party against whom an award becomes final from \$75 to \$140. Increases the reopen fee from \$75 to \$130; (12) increases the application fee paid by group self-insureds, individual own risk employers and servicing companies for a permit from the Court Administrator to operate in Oklahoma from \$500 to \$1,000; and (13) establishes a new self-insurance related fee that pertains to review by Workers' Compensation Court personnel of interim financial statements and/or loss runs submitted by a self-insured employer – the fee is \$500 per review, not to exceed \$1,000 per employer/fiscal year of the state. Click [here](#) for a copy of [SB 1973](#).

- **SB 2054** was signed by Oklahoma Governor Brad Henry on June 8, 2010 (effective 11/1/10). The bill: (1) eliminates the Insurance Commissioner's duty to mail a form Affidavit of Exempt Status to requesters since posted on the Insurance Department's web site; and (2) makes changes related to regulation of Professional Employer Organizations. Click here for a copy of [SB 2054](#).
- **SJR 66** passed the Oklahoma House and Senate and submitted to the Secretary of State on May 6, 2010. The joint resolution: (1) directs the Secretary of State to remove Enrolled HJR 1041 of the 1st Session of the 52nd Oklahoma Legislature from the ballot at the next general election of the state in view of enactment of HB 2652 of the 2nd Session of the 52nd Oklahoma Legislature; (2) HJR 1041 was a proposed legislative



referendum for a vote by the people to require Senate approval of a person chosen by the Governor to fill a position on the Workers' Compensation Court. HB 2652 includes Senate confirmation of judicial appointments to the Workers' Compensation Court. Click [here](#) for a copy of [SJR 66](#).

Administrative Changes: None.

OREGON

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

The following rules were adopted by the Oregon Workers' Compensation Division in 2010. Click on the rule number for a copy of the rule.

- ◆ Preferred Worker Program [[Chapter 436, Division 110](#)] – temporary rules adopted on 4/15/10 and effective on 4/15/10: Clarified time frames for requesting preferred worker program incentives.
- ◆ Disability Rating Standards [[Chapter 436, Division 035](#)] – adopted 5/5/10 and effective on 6/1/10: Removed references to the *AMA Guides to the Evaluation of Permanent Impairment, 3rd Ed., Rev. 1990*, while providing more instructions on how to measure permanent impairment. These rules also clarified requirements and limitations affecting apportionment and offset of permanent disability, and revised rating standards affecting numerous body parts and systems.
- ◆ Oregon Medical Fee and Payment Rules [[Chapter 436, Division 009](#)] – adopted 5/27/10 and effective on 7/1/10: Included new fee schedules showing maximum allowable payments for CPT[®] and Oregon Specific Codes – thus eliminating the need to calculate the maximum allowable payment (using the Medicare Resource-Based Relative Value Scale and the Oregon Conversion Factors). The rules also established a new fee schedule and procedures for language interpreters who assist at medical examinations.
- ◆ Medical Services [[Chapter 436, Division 010](#)] – adopted 5/27/10 and effective on 7/1/10: Provided that a worker has the right to choose an interpreter to assist at a medical examination.
- ◆ Managed Care Organizations [[Chapter 436, Division 015](#)] – adopted 5/27/10 and effective on 7/1/10: Corrected a statutory reference (numbering error).
- ◆ Preferred Worker Program [[Chapter 436, Division 110](#)] – adopted on 9/15/10 and effective on 10/12/10: Clarified time frames for requesting preferred worker program incentives, making permanent some of the changes adopted by temporary rules on 4/15/10, but with additional amendments.
- ◆ Vocational Assistance to Injured Workers [[Chapter 436, Division 120](#)] – adopted 9/15/10 and effective on 11/15/10: Amended and clarified required notices to workers and revised certain training requirements for vocational professionals.
- ◆ Electronic Data Interchange; Medical Bill Data [[Chapter 436, Division 160](#)] – adopted 10/1/10 and effective 1/1/11: Provided time frames for moving from

testing to production of medical bill data reporting, as well as timeliness and accuracy expectations and penalties for non-compliance.

- ◆ Electronic Data Interchange; Proof of Coverage [[Chapter 436, Division 162](#)] – adopted 10/1/10 and effective 1/1/11: Copied or moved in rules from OAR 436-160, so requirements for proof of coverage and medical bill data reporting will be in separate rule divisions.
- ◆ Oregon Medical Fee and Payment Rules [[Chapter 436, Division 009](#)] – adopted 10/1/10 and effective on 1/1/11: Removed medical bill data reporting procedures, reflecting the completion of the transition to the ANSI X12 837 medical bill reporting requirements described in OAR 436-160.

PENNSYLVANIA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 400** was signed by Pennsylvania Governor Ed Rendell on October 13, 2010. The bill, called the Construction Workplace Misclassification Act (effective February 10, 2011): (1) provides for a narrow definition of “independent contractor”; (2) makes it illegal to misclassify employees as independent contractors for all commercial and residential construction in Pennsylvania; (3) prohibits certain activities; (4) sets penalties for violations; and (5) establishes procedures for enforcement of the act. Click [here](#) for a copy of **HB 400**.

Administrative Changes:

The Pennsylvania Department of Labor & Industry Bureau of Workers' Compensation amended the following rule(s) in 2010.

- ◆ **Rule amending Chapter 25, Subchapter A** (amended on September 11, 2010). The rule clarifies the standards and procedures which govern the processing of applications for and the administration of self-insurance for individual employers under the Workers' Compensation Act. Click [here](#) for a copy of this rule.

PUERTO RICO

– No Changes
Were Made in
2010



Legislation: None.

Administrative Changes:

- ◆ No changes found or reported.

RHODE ISLAND

– Amended Statute



Legislation:

- **SB 2083** became law without Rhode Island Governor Donald Carcieri signature on June 19, 2010 (effective January 1, 2011). The bill: (1) requires using the American Medical Association (AMA) Guidelines 6th Ed. instead of the 5th Ed. to determine functional impairment; (2) clarifies that conflicting provisions will be void if they restrict or

limit a health care provider's ability to make referrals, restricts an injured worker's first choice of physician, substitutes or overrules treatment protocols or attempts to evade or limit the jurisdiction of the workers' compensation court; (3) extends the required reporting from the health care provider to the insurer from every 6 weeks to every 12 weeks; (4) eliminates information required on itemized medical bill affidavits; (5) requires the treating physician to furnish, upon request, a medical report to the employee within 10 days of the request stating the diagnosis, disability, loss of use, end result and/or causal relationship of the employee's condition associated with the work related injury; (6) limits the physician to charge only services enunciated in the medical fee schedule; (7) increases the minimum and maximum of weekly earnings eligible for specific injuries from no more than \$90 nor less than \$45 to no more than \$180 nor less than \$90; (8) amends benefits related to partial loss of use and total loss by severance; (9) eliminates mandatory independent medical review 26 weeks after the date of a compensable injury; (10) requires the legislature to fund the Uninsured Employer Fund for an additional year; (11) makes all workers' compensation information except for coverage verification confidential; and (12) clarifies that benefits shall not be denied to injured workers who receive a lump sum settlement for a separate unrelated injury. Click [here](#) for a copy of SB 2083.

Administrative Changes: None.

SOUTH CAROLINA

– *No Changes
Were Made in
2010*



Legislation: None.

Administrative Changes: None.

SOUTH DAKOTA

– *No Changes
Were Made in
2010*



Legislation: None.

Administrative Changes: None.

TENNESSEE

– *Amended Statute
and Made
Administrative
Changes*



Legislation:

- **SB 3591** (Public Chapter 1149) was signed by Tennessee Governor Phil Bredesen on June 30, 2010. The bill creates a procedure for sole proprietors, partners, officers of corporations, and members of limited liability companies engaged in the construction industry to file for an exemption from obtaining workers compensation insurance to cover them. Construction industry employers must still provide insurance coverage to statutory employees, even if the employer has only one such

employee. The exemption registry became effective on March 1, 2011. Click [here](#) for a copy of SB 3591.

- **SB 2943** (Public Chapter 1034) was signed by Tennessee Governor Phil Bredesen on June 11, 2010. The bill prohibits reconsideration of a prior permanent partial disability award/settlement pursuant to T.C.A. §50-6-241 in those instances where the employee continues in his/her employment after a reduction in pay or a reduction in hours due to economic conditions if the reduction in pay or hours affected at least fifty percent (50%) of all hourly employees operating at or out of the same location. This applies to reconsideration of claims approved or adjudicated on or after July 1, 2010. Click [here](#) for a copy of SB 2943.
- **SB 2928** (Public Chapter 920) was signed by Tennessee Governor Phil Bredesen on May 26, 2010. The bill authorizes treating physicians of patients being treated under workers' compensation law to refer such patients for pain management if pain is persisting beyond the expected period of healing. It establishes a presumption that a patient who is referred to pain management is at maximum medical improvement for workers' compensation purposes upon the earlier of the date that the treating physician determines the patient to be at maximum medical improvement or 104 weeks after the commencement of pain management. This applies to injuries occurring on or after July 1, 2010. Click [here](#) for a copy of SB 2928.
- **SB 3731** (Public Chapter 858) was signed by Tennessee Governor Phil Bredesen on May 26, 2010. The bill establishes a procedure for handling

disputes involving future medicals in a workers' compensation case after judgment or settlement. Workers' Compensation Specialists may hear requests for assistance and order medical treatment that has been denied by the employer. If the Specialist finds that the employer failed to furnish appropriate medical care, then the Specialist may also order attorney fees and reasonable costs, including reasonable and necessary court reporter expenses and expert witness fees for depositions, when conducting a hearing on such an issue. This bill became effective on April 30, 2010. Click [here](#) for a copy of SB 3731.

- **SB 3162** (Public Chapter 792) was signed by Tennessee Governor Phil Bredesen on April 19, 2010. The bill enacts the Rental and Assignment of Preferred Provider Organization (PPO) Network Rights for workers' compensation medical provider payments. This bill was effective for medical payments made on or after January 1, 2011. Click [here](#) for a copy of SB 3162.
- **HB 2456** (Public Chapter 1087) was signed by Tennessee Governor Phil Bredesen on June 23, 2010. The bill provides that the Workers' Compensation Advisory Council is attached to the Department of Treasury for administrative purposes. Members shall not be registered lobbyists. This bill became effective July 1, 2010. Click [here](#) for a copy of HB 2456.

Administrative Changes:

- ◆ Maximum & minimum benefit changes - *Temporary Benefits* – The maximum weekly benefit rate for injuries occurring July 1, 2010 through June 30, 2011 is \$841.50 or 110% of the state's average



weekly wage. *Permanent Benefits* – The maximum weekly benefit rate for injuries occurring July 1, 2010 through June 30, 2011 is \$765.00 or 100% of the state's average weekly wage. *Minimum Weekly Benefit* – The minimum weekly benefit rate for injuries occurring July 1, 2010 through June 30, 2011 for both temporary and permanent benefits is \$114.75.

TEXAS

– Made
Administrative
Changes



Legislation: None.

Administrative Changes:

- ◆ **Monitoring and Enforcement Rule (Ch.180)** – Changes made to amend and repeal rules to recognize: (1) provisions that delete the Approved Doctors List, specify certain requirements for doctors, expand the sanctions that the Division may impose or recommend, and that require the Commissioner to adopt rules regarding the process to file complaints with the Division; (2) provisions regarding workers' compensation payments and inducements; (3) requirements regarding independent review doctor licensing requirements; (4) requirements regarding doctor licensing requirements; (5) certification requirements for reviewing doctors; and (6) utilization review amendments and additions. Changes to this rule were adopted on December 20, 2010 and became effective on January 9, 2011. Click [here](#) for a copy of the monitoring and enforcement rule.
- ◆ **Designated Doctor Requests and General Procedures Rule (Ch. 127)** – Changes made to address revisions to DD requests and procedures. This rule was adopted on December 3, 2010 and became effective on February 11, 2011. Click [here](#) for a copy of the designated doctor requests and general procedures rule.
- ◆ **Case Management Rule (Ch. 137)** – Changes made to set up criteria for what constitutes "appropriate licensure and/or certification" for case managers dealing with non-network claims. This rule was adopted on December 3, 2010 and is effective on September 1, 2011. Click [here](#) for a copy of the case management rule.
- ◆ **Pharmacy Closed Formulary (Ch. 134)** – Changes made to adopt a pharmacy closed formulary for workers' compensation claims. This rule was adopted on December 3, 2010 and is effective on September 1, 2011. Click [here](#) for a copy of the pharmacy closed formulary rule.
- ◆ **Benefit Review Conference (Ch. 141)** – Changes made to provide guidelines regarding the type of information a requesting party needs to provide to the Division and the documented efforts the parties need to make to resolve the disputed issues before a BRC request is submitted to the Division. This rule was adopted on August 6, 2010 and became effective on October 1, 2010. Click [here](#) for a copy of the benefit review conference rule.
- ◆ **Return-to-work Reimbursement (Ch. 137)** – Changes made to the Return-to-Work "Pilot" Program becoming a permanent program pursuant to SB 1814 of the 81st Legislature. This rule was

adopted on April 5, 2010 and became effective on April 25, 2010. Click [here](#) for a copy of the [return-to-work reimbursement rule](#).

- ◆ **Injured Employee Rights and Responsibilities** (Ch. 120) – Changes made to: (1) to address statutory amendments enacted by [HB 673](#); and (2) clarifies the notice of injured employee rights and responsibilities is adopted by the Office of the Injured Employee Counsel (OIEC). This rule was adopted on February 26, 2010 and became effective on March 22, 2010. Click [here](#) for a copy of the [injured employee rights and responsibilities rule](#).
- ◆ **Death Benefits** (Ch. 122 & 132) – Changes made to: (1) address statutory amendments to Labor Code §408.182 enacted by HB 1058; (2) amend the definition of “eligible parent”; (3) provide a “good cause” standard for an eligible parent’s failure to timely file a claim; and (4) provide that total payment of death benefits to all eligible parents may not exceed 104 weeks. This rule was adopted on February 26, 2010 and became effective on March 22, 2010. Click [here](#) for a copy of the [death benefits rule](#).

UTAH

–Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 188** was signed by Utah Governor Gary Herbert on March 22, 2010 (effective May 11, 2010). The bill modifies the Workers’ Compensation

Act to remove a reduction in workers’ compensation benefits on the basis of the receipt of Social Security retirement benefits. Click [here](#) for a copy of [HB 188](#).

- **HJR 10** passed the Utah House and Senate and was sent to the Utah Governor Gary Herbert on February 23, 2010. The joint resolution of the Legislature: (1) supports the state-based workers’ compensation system; (2) proposed federal legislation that would lead to broadening the federal role in that system; and (3) opposes H.R. 635 of the 111th United States Congress, which would establish a National Commission on State Workers’ Compensation Laws, because the Commission’s evaluation could lead to recommendations that would erode the independence of the state-based workers’ compensation benefit delivery system, would seek to impose federal benefit delivery system rules, which Congress would be expected to approve, that inherently interfere with state benefit systems, would increase system costs nationwide, and would frustrate efforts of the states to contain costs. Click [here](#) for a copy of [HJR 10](#).
- **SB 231** was signed by Utah Governor Gary Herbert on March 25, 2010 (effective May 11, 2010). The bill modifies the Workers’ Compensation Act to address issues related to the payment of medical benefits in the case of an industrial accident. Click [here](#) for a copy of [SB 231](#).

Administrative Changes:

The following rules were amended or were continued in 2010 by the Utah Department of Labor & Industry Industrial Accidents Division.



- ◆ **Rule R612-2 – Health Care Providers** – Amendments made and enacted on November 22, 2010. Click [here](#) for a copy of R612-2.
- ◆ **Rule R612-4 – Premium Rates** – Amendments made and enacted on December 31, 2010. Click [here](#) for a copy of R612-4.
- ◆ **Rule R612-6 – Notification of Workers' Compensation Insurance** – No substantive amendments, but a notice of continuation was published on September 3, 2010. Click [here](#) for a copy of R612-6.
- ◆ **Rule R612-10 – HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers** – No substantive amendments, but a notice of continuation was published on November 4, 2010. Click [here](#) for a copy of R612-10.
- ◆ **Rule R612-13 – Proceedings to Impose Non-Reporting Penalties Against Employers** – Amendments made and enacted on January 10, 2010. Click [here](#) for a copy of R612-13.

Emergency Stop Work Orders for employers operating without required workers' compensation insurance, with civil and criminal penalties for violating a Stop Work Order, and debarment from contracting with the State of Vermont for up to three years; (2) increased the per-day penalties possible for an employer operating without required workers' compensation insurance; (3) substantially increased penalties possible for intentional misrepresentation to obtain a benefit/premium reduction; (4) provided for a consolidated online reporting system for complaints of misclassification of employees in both the workers' compensation and unemployment insurance contexts; (5) confidentiality for tipsters who report suspected violations of workers' compensation requirements; (6) modified requirements to discontinue benefits being paid to a claimant; (7) require employer/insurer to designate the particular weekday by which weekly benefits will be paid; and (8) sets standards permitting claimants to video or audio record any examination performed by the insured's doctor. Click [here](#) for a copy of HB 647.

Administrative Changes:

- ◆ Rule 09P-44, proposed by the Vermont Department of Labor, amended Rule 10 regarding attorney's fees by increasing fees permitted for award and/or lien and expands criteria under which fees can be awarded. Click [here](#) for a copy of Rule 09P-44.

VERMONT

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 647** (Act No. 142) was signed by Vermont Governor Jim Douglas on June 1, 2010 (effective July 1, 2010). The bill: (1) established a new feature of



VIRGINIA

– Amended Statute
and Made
Administrative
Changes



Legislation:

- **HB 603** (companion SB 611) was signed by Virginia Governor Robert F. McDonnell on April 8, 2010 (effective July 1, 2010). The bill authorizes the Workers' Compensation Commission to satisfy its obligations to provide copies of notices, opinions, orders, and awards by sending them by electronic communications in the manner prescribed by the Commission. Click [here](#) for a copy of HB 603.
- **HB 705** (companion SB 612) was signed by Virginia Governor Robert F. McDonnell on April 11, 2010 (effective July 1, 2010). The bill: (1) repeals provisions that require the Workers' Compensation Commission to send copies of awards by priority mail with delivery confirmation or equivalent mailing option; and (2) increases the period in which an application for review of an award may be made from 20 to 30 days. Click [here](#) for a copy of HB 705.
- **HB 761** (companion SB 610) was signed by Virginia Governor Robert F. McDonnell on April 8, 2010 (effective July 1, 2010). The bill expands the options for filing materials with the Workers' Compensation Commission to include means of electronic transmission that have been approved by the Commission. Click [here](#) for a copy of HB 761.

- **HB 807** (companion SB 597) was signed by Virginia Governor Robert F. McDonnell on April 8, 2010 (effective July 1, 2010). The bill: (1) authorizes workers' compensation insurance carriers to file proof of coverage within 30 days of an insurance policy's inception; and (2) states that such filings shall be made electronically in the form prescribed by, and to the agent designated by, the Workers' Compensation Commission. Click [here](#) for a copy of HB 807.
- **SB 88** was signed by Virginia Governor Robert F. McDonnell on April 21, 2010 (effective July 1, 2010). The bill: (1) requires health care providers who provide services under the Criminal Injuries Compensation Fund to negotiate with the Virginia Worker's Compensation Commission, which administers the Fund, to establish agreements relating to rates for payment of claims; and (2) states that the rates will discharge the obligation to the provider in full except where the provider is an agency of the Commonwealth and the claimant receives a third party recovery in addition to the payment from the Fund. Click [here](#) for a copy of SB 88.

Administrative Changes:

The Virginia Workers' Compensation Commission changed the following rules in 2010.

- ◆ **Rules of the Virginia Workers' Compensation Commission** (effective July 13, 2010). Click [here](#) for a copy of these rules.
- ◆ **Maximum and Minimum Benefit Amounts** (effective July 1, 2010). Click [here](#) for a copy of this rule.

facility; and make minor housekeeping changes.

- ◆ [WAC 263-12-020](#) – The rule revisions add language regarding lay representation; amend language to a more clear and concise format; and make minor housekeeping changes.
- ◆ [WAC 263-12-117](#) – The rule revisions add language indicating that depositions must be submitted in a written format as well as an electronic portable document format (PDF); indicate the address for submitting electronic depositions; and make minor housekeeping changes.
- ◆ [WAC 263-12-116](#) – The rule adds a section regarding exhibits.

WEST VIRGINIA

– Amended Statute



Legislation:

- [HB 4459](#) was signed by Governor Joe Manchin on March 26, 2010 and became effective June 10, 2010. The bill: (1) increased the time in which a dependent may apply for Workers' Compensation death benefits where occupational pneumoconiosis is determined to be a cause of death from one year to two years; and (2) requires notice to be given to dependents of a person receiving permanent total disability benefits who dies from causes other than the disabling injury that benefits will stop as of a date certain and that the dependent may be eligible for additional benefits and the method for application for said benefits. Click [here](#) for a copy of [HB 4459](#).

- [HB 4155](#) was signed by Governor Joe Manchin on March 25, 2010 and became effective June 13, 2010. The bill expanded permitted uses for revenues allocated to volunteer and part-time fire departments to include payments for workers compensation premiums. Click [here](#) for a copy of [HB 4155](#).
- [HB 4615](#) was signed by Governor Joe Manchin on April 1, 2010 and became effective upon passage on March 12, 2010. The bill authorized any group of two or more political subdivisions, beginning July 1, 2010, to establish risk pools to insure their workers' compensation risks upon approval of the Insurance Commissioner. Click [here](#) for a copy of [HB 4615](#).

Administrative Changes: None.

WISCONSIN

– Amended Statute



Legislation:

- [SB 522](#) was signed by Wisconsin Governor Jim Doyle on April 21, 2010. The bill: (1) specifies that any volunteer fire fighter, first responder, emergency medical technician, rescue squad member, or diving team member while responding to a call for assistance, from the time of the call for assistance to the time of his or her return from responding to that call, including traveling to and from any place to respond to and return from that call, but excluding any deviations for private or personal purposes, is performing service growing out of and incidental to employment; (2) increases the maximum weekly

compensation rate from \$282 to \$292 for injuries occurring before January 1, 2011, and to \$302 for injuries occurring on or after that date; (3) makes an employee who is injured prior to January 1, 2001, eligible for those supplemental benefits beginning on the effective date of the bill; (4) increases the maximum supplemental benefit amount for a week of disability occurring after the effective date of the bill to an amount that, when added to the employee's regular benefits, equals \$582; (5) provides that no social security offset may be made on temporary disability benefits payable under the worker's compensation law during a period in which an injured employee is receiving vocational rehabilitation services; (6) requires the employer or insurer to pay the *actual* cost of burial, not exceeding \$10,000 (up from \$6,000); (7) eliminates an employer's liability for the actual loss of wages sustained by an illegally employed minor; (8) provides that an employer is not liable for temporary disability benefits during an employee's healing period when the employee has been convicted of a crime, is incarcerated, and is not available to return to a restricted type of work during that period; (9) provides that for a case of occupational deafness in which the date of injury is before April 1, 2008, an employer is not liable for the expense of any examination or test for hearing loss, any evaluation of such an examination or test, any medical treatment for improving or restoring hearing, or any hearing aid to relieve the effects of hearing loss beginning on January 1, 2012, unless it is determined that permanent partial disability benefits or benefits from the WISB fund are payable; (10) provides that interest shall accrue on annual assessments that are

not paid within 30 days after the date prescribed for payment; (11) requires a party that claims that the employer or insurer has suspended, terminated, or failed to make payments, including payments for future treatment ordered under an interlocutory award, or has failed to report an injury, as a result of malice or bad faith, to provide written notice stating with reasonable specificity the basis for the claim to the employer, the insurer, and Department of Workforce Development (DWD) before DWD may schedule a hearing on the claim of malice or bad faith; (12) requires a notice of dispute to be in writing; (13) amends the notice of policy cancellation or termination provisions; (14) permits DWD to waive the reimbursement required of an uninsured employer; (15) requires insurance carriers and self-insured employers to provide notice in writing to pharmacists or practitioners that the reasonableness of charge is in dispute. Click [here](#) for a copy of SB 522.

Administrative Changes: None.

WYOMING

– *Amended Statute*



Legislation:

- **SF 59** (Act SEA40) was signed by Wyoming Governor Dave Freudenthal on March 11, 2010 (effective July 1, 2010). The bill clarifies that firefighters (both full-time and volunteer) are covered by workers' compensation if an injury occurs while performing under the direction of a duly authorized officer and while engaged in: (a) competition at

employer sanctioned training events; (b) construction, maintenance or improvement of equipment or facilities utilized in fire protection activities; or (c) fundraising, civic affairs or other similar authorized activities. Click [here](#) for a copy of SF 59.

Administrative Changes: None.

Legislative Session Information

There are twenty-six states that ended their legislative sessions in 2010 (odd to even years), including AK, CA, DE, GA, HI, IL, IA, KS, ME, MA, MI, MN, NE, NH, NY, NC, OH, OK, PA, RI, SC, TN, VT, WA, WV and WI. Two states (NJ and VA) will carry over legislation from 2010 to 2011 (even years to odd years). The remaining eighteen states do not carry over legislation, including AL, AZ, AR, CO, CT, FL, ID, IN, KY, LA, MD, MS, MO, NM, OR, SD, UT and WY. Four states hold biennial legislative sessions in odd years, including MT, NV, ND and TX where all bills died in 2009 as well for the 2011 legislative session and 2011 bulletin published next year.

UWC wishes to acknowledge that many of the legislative summaries were derived or excerpted from analyses prepared by various state agencies or research bureaus and the states.

