



Colorado Division of Workers' Compensation

2014

Legislative Advisory

Legislation enacted by the 2014 General Assembly contained amendments to the Colorado Workers' Compensation Act of importance to practitioners. There are also a number of significant procedural changes of which claims handlers will want to take notice. The following reiteration will highlight changes that should be fully considered and implemented to ensure compliance. This is not intended to be an exhaustive summary.

Senate Bill 14-125

Signed June 5, 2014: Effective July 1, 2014

- Creates the "Transportation Network Company Act" to define and provide regulation of services that use a digital network to connect riders to drivers for the purpose of providing transportation. C.R.S. § 40-10.1-602(3)
- Defines a transportation network company "driver" as an individual who uses his or her personal vehicle to provide services for riders matched through a transportation network company's digital network. A driver need not be an employee of the transportation network company. C.R.S. § 40-10.1-602(4)
- Affords the Director of the Division of Workers' Compensation ("Director") authority to determine by rule, whether transportation network companies have an obligation to provide or offer workers' compensation insurance coverage for purchase, to transportation network company drivers. Any determination must take existing Colorado statute and case law into consideration. C.R.S. § 8-41-211

Applicability: The bill takes effect July 1, 2014, and applies to those individuals or entities defined under the new Part 6 of article 10.1, title 40; except that it reserves for determination by the Director, the question of whether to require or make available workers' compensation insurance for network drivers.

Implementation: Rule making by the Division of Workers' Compensation ("Division") may be indicated at a later date.

Senate Bill 14-172

Signed June 5, 2014: Effective January 1, 2015

- Provides employer-paid benefits for eligible firefighters who suffer cardiac or circulatory illness as the result of a strenuous work event. The newly created *Firefighter Heart and Circulatory Malfunction Benefits* under title 29, is defined to include a diagnosis of sudden and serious coronary thrombosis, a cerebral vascular accident, a myocardial infarction or cardiac arrest. It does not include hypertension or angina. C.R.S. § 29-5-301(3)
- Offsets benefits paid pursuant to this section, by benefits awarded under the Workers' Compensation Act of Colorado. C.R.S. § 29-5-302(7)(a)(I)

- Assigns to the Director or administrative law judge jurisdiction to resolve disputes as to whether discharge from medical care or refusal to treat was for medical or nonmedical reasons. C.R.S. § 8-43-404(10)(a)
- Directs the insurer to designate a new authorized physician within 15 (calendar) days receipt of a notice from the authorized physician or the injured worker, of a discharge or refusal to treat for nonmedical reasons, where:
 - Further treatment is necessary, and;
 - There is no other authorized physician willing to provide treatment.
 The right of selection of a new authorized physician shifts to the claimant where the insurer fails to designate a new physician in conformity with the requirements of this section. C.R.S. § 8-43-404(10)(b)
- Section 9.
 - Limits the aggregate of all lump sums granted to a claimant or a sole dependent in a compensable claim, to \$80,868.10. If a claimant is one of multiple dependents of a deceased worker, the aggregate of all lump sums granted that claimant must be the proportionate share, as determined by the Director or administrative law judge, of an amount not to exceed \$161,734.15. These amounts are applicable to dates of injury occurring prior to January 1, 2014. C.R.S. § 8-43-406(2),(3)
 - Requires the Director adjust lump sum limits on July 1 of every year, by the percentage increase or decrease of the state average weekly wage. A claimant who has received the maximum lump sum is not entitled to additional lump sum benefits resulting from any subsequent annual increases to the lump sum maximum effective July 1. Claimants injured on or after January 1, 2014, may receive an aggregate of \$81,435.67 in lump sum disbursements. C.R.S. § 8-43-406(4)

Applicability: It is the Division's position that Sections 1, 2, and 6 are procedural in nature and apply to all claims regardless of date of injury. Sections 3, 4, 5, 7 and 8 apply to actions occurring on or after July 1, 2014. Paragraph 3 of Section 9 applies to dates of injury prior to January 1, 2014; and paragraph 4 of Section 9 applies to dates of injury on or after January 1, 2014.

Implementation: At a minimum, rulemaking will address settlement practices under Section 2, and lump sum awards under Section 9.

House Bill 14-1278

Signed May 31, 2014: Effective July 1, 2014

- Continues the program accrediting health care providers (both Level I and Level II) until September 1, 2025, as administered by the Division of Workers' Compensation (division). C.R.S. § 8-42-101(3.6)(r)(I)
- Allows the division to set physician registration fees sufficient to cover all Level I and Level II accreditation program costs including all course work and materials. C.R.S. § 8-42-101(3.6)(d)

Applicability: The bill takes effect July 1, 2014, and applies to program activities on and after that date.

Implementation: No rule making by the Division of Workers' Compensation is anticipated.