



## Colorado Division of Workers' Compensation

### *Advisory*

Legislation enacted by the 2008 General Assembly contained a few critical amendments to the Colorado Workers' Compensation Act which are of immediate importance for practitioners. 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 08-241

Effective July 1, 2008 (applies to injuries occurring on or after 7/1/08)

- Removes limitations to the number of external prosthetic devices including glasses hearing aids, braces and dentures, reasonably required to replace or improve the function of the affected body part. The claimant may request replacement on the basis of an anatomical change or for *other good cause shown*.
- Disallows reduction of temporary total, temporary partial or medical benefits to an injured worker based on a previous injury.
- Allows for the reduction of a permanent medical impairment award where there has been a previous work-related injury to the same body part which resulted in an award or settlement under the Workers' Compensation Act of Colorado (or a similar act from another state.) The medical impairment rating for the injury may be reduced by the previous *impairment rating* to the same body part as established by the award or settlement.
- Allows for the reduction of a permanent medical impairment award based on a *non-work related medical impairment* to the same body part, only where the previous non-work-related injury has been identified, treated, and at the time of the work-place injury, was independently disabling. If all these factors apply, the non-work related medical impairment percentage existing at the time of the work injury may be subtracted from the medical impairment rating for the work-related injury by the percentage of the non-work related medical impairment.
- Disallows apportionment of permanent total disability benefits when the disability is the result of work-related injury or work-related injury combined with genetic, congenital or similar conditions. Permanent total disability benefits *may be* apportioned in cases where an occupational disease results from contributing factors both within and outside the workplace as set out in Anderson v. Brinkhoff, 859 P.2d 819, (Colo.1993).
- Does not restrict employers or insurers from seeking reimbursement or contribution by other employers or insurers for benefits paid to or for an injured worker, as long as the claimant's benefits are not reduced or affected by such contribution or reimbursement.

Applicability: For dates of injury on or after July 1, 2008

Implementation: A notice of rule hearing will be filed to amend Rule 12-3 (Apportionment of Permanent Impairment Rating), and 5-5 (Admissions of Liability) of the Workers' Compensation Rules of Procedure, 7 CCR 1101-3.