



Colorado Division of Workers' Compensation 2012 *Legislative Advisory*

Legislation enacted by the 2012 General Assembly was fairly minimal but contained amendments to the Colorado Workers' Compensation Act which are of importance for practitioners. There are also several 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 12-110](#)

[Signed 5/3/12: Effective July 1, 2012](#)

- Directs the Commissioner of Insurance to establish a two-tiered surcharge on insurers to finance the Insurance Fraud Cash Fund. Appropriations from the fund are made to the Department of Law for the investigation and prosecution of insurance fraud. The two-tiered fee schedule is to be based on the prior year's written premiums, gross contract funds and charges received in Colorado. Entities collecting more than one million dollars will pay one fee; and those collecting one million dollars or less will pay a lesser fee. The fee is not to exceed three thousand dollars and is payable on March 1 of each year. The intent is to provide greater parity to insurers in the investigation and prosecution of fraud by the Office of the Attorney General. C.R.S. §§8-43-401(1) and 8-45-117(1) (c); and C.R.S. § 24-31-104.5.

[Applicability:](#) Applies to all entities regulated by the Colorado Division of Insurance and takes effect on July 1, 2012.

[Implementation:](#) No rule making is anticipated.

[House Bill 12-1033](#)

[Signed 3/22/12: Effective August 8, 2012](#)

- Precludes the imposition of penalties by the Director when the Division determines, as part of a compliance audit, that an insurer failed to timely report an injury, occupational disease or death because the insurer did not have notice or knowledge which would have allowed reporting within the time specified by statute.
- Imposition of penalties is not precluded where, as part of a compliance audit, the Director determines that late reporting did not result from a lack of notice or knowledge of an injury by the insurer, but instead, constituted a knowing or repeated pattern of non-compliance with statutory reporting requirements. C.R.S. § 8-43-304(1.5)(a)

[Applicability:](#) Applies to fines resulting from compliance audits of workers' compensation insurers and self-insured pools on or after August 8, 2012.

[Implementation:](#) No rule making is anticipated.

House Bill 12-1120

Signed 3/19/12: Effective August 8, 2012

- Substitutes statutory references to the Division of Employment and Training in the Workers' Compensation Act, to reflect activities re-assigned to the newly created Division of Unemployment Insurance (UI). The legislation transfers administration of all unemployment insurance programs to a new UI Division, distinguishing it from workforce development programs located within the Division of Employment and Training. C.R.S. § 8-47-111(2)

Applicability: Applies solely to the administration of programs within the Unemployment Insurance and Employment and Training Divisions occurring on or after August 8, 2012. No additional processes or requirements are imposed on workers' compensation practitioners as the result of this legislation.

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

House Bill 12-1311

Signed 6/8/12: Effective July 1, 2012

- Updates the statutory reference on controlled substances that was re-codified under the laws governing manufacture, distribution and dispensing of prescription drugs and controlled substances. Although the reference was re-codified, the definition of "controlled substance" under C.R.S. § 18-18-102(5), remains the same. § C.R.S. § 8-42-112.5(1)

Applicability: Applies to Section 8-42-112.5(1) *Limitations on payments – use of controlled substances* which forms the basis for a fifty percent reduction in compensation benefits "where the injury results from the presence in the worker's system, during working hours, of not medically prescribed controlled substances..."

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