



Colorado Division of Workers' Compensation **2017**
LEGISLATIVE UPDATE

This year the General Assembly adopted three bills that impact workers' compensation in Colorado. This summary briefly highlights some of the key substantive and procedural changes.

Attention Claims Representatives

Are you prepared for the 2% cost of living adjustment (COLA) increase on your permanent total disability (PTD) claims with dates of injury between 7/1/91 and 6/30/94? These claims require a new final admission of liability reflecting a 2% PTD rate increase every July 1.

Surcharge Rates for 2017

Workers' Compensation Cash Fund: **0.7%**
Premium Cost Containment Program: **0.03%**
Subsequent Injury Fund/Major Medical Fund: **0.3%**
CALCULATE, FILE & PAY SURCHARGE ONLINE

Rule Updates

If you've missed any of our updated rules, you can find them easily on our website at colorado.gov/cdle/dwc. Be sure to sign up for our mailing list to receive notifications on rulemaking.

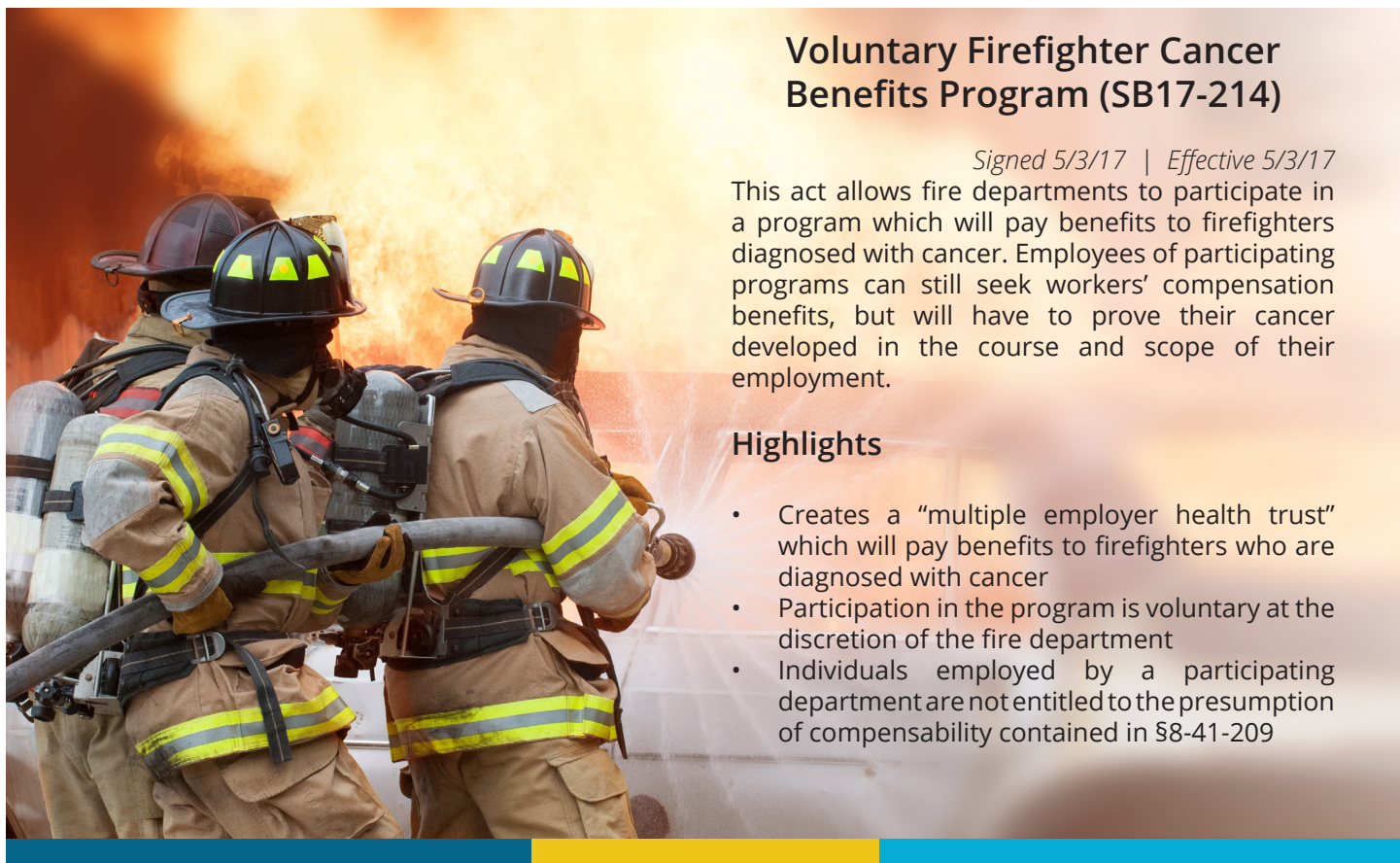
Voluntary Firefighter Cancer Benefits Program (SB17-214)

Signed 5/3/17 | Effective 5/3/17

This act allows fire departments to participate in a program which will pay benefits to firefighters diagnosed with cancer. Employees of participating programs can still seek workers' compensation benefits, but will have to prove their cancer developed in the course and scope of their employment.

Highlights

- Creates a "multiple employer health trust" which will pay benefits to firefighters who are diagnosed with cancer
- Participation in the program is voluntary at the discretion of the fire department
- Individuals employed by a participating department are not entitled to the presumption of compensability contained in §8-41-209



Colorado Uninsured Employers Act (HB17-1119)

Signed 6/5/17 | Effective 7/1/17

This act will use penalty money collected by the division to fund payment of benefits to workers injured while employed by an uninsured employer. Penalties will be paid into the fund starting in 2017 and claims for benefits will be accepted in 2020. It will also give the Director more authority to settle penalties for failure to insure and raises the payment for fatal claims with no dependents to \$20,000.

Highlights

- Redirects penalty revenue for all offenses that previously went to the Division of Workers' Compensation and general fund into the newly created Colorado Uninsured Employers (CUE) Fund
- Eliminates 50% increase in benefits on non-insured claims
 - Creates a 25% penalty (payable to the CUE Fund) for all uninsured cases
 - Creates a 25% penalty (payable to the CUE Fund) for failure to pay all benefits as ordered in uninsured cases
- Raises the amount paid in fatal cases with no dependents to \$20,000 in 2017 and requires adjustment each year based on the state AWW
- Allows the Director to settle coverage enforcement penalties for less than the minimum amount imposed by statute and limits those penalties to three years

Workers Compensation for Mental Impairment (HB17-1229)

Signed 6/5/17 | Effective 7/1/18

This act will allow a claim for mental impairment benefits in cases with no physical injury even if the source of the trauma is something within the worker's usual experience if certain conditions are met.

Highlights

- Expands the definition of "psychologically traumatic event" to include the following:
- Cases where the worker is subject to an attempt to cause serious bodily injury or death through the use of deadly force
- Cases where the worker visually witnesses the death or immediate aftermath of one or more people due to a violent event
- Cases where the worker repeatedly witnesses the serious bodily injury of one or more people as a result of an intentional act or accident
- Only applies to a diagnosis of PTSD

2017

JULY 1, 2017

CUE FUND ESTABLISHED

Colorado Uninsured Employers Fund initially established through some penalties and payments:



- Penalties imposed under the general penalty statute and failure to insure in specific claims paid to fund
- Payment for fatal claims with no dependents increase to \$20,000 paid to fund

JULY 1, 2018

REMAINING PENALTIES & FINES ADDED



- Colorado Uninsured Employers Fund adds additional penalties and fines:
- Fines imposed for failure to comply with coverage requirements in construction
 - Penalties for repeated violations
 - Fines imposed for failure to carry insurance

JANUARY 1, 2020

FUND MAY PAY CLAIMS



- Non-insured claims with injuries after January 1, 2020 are eligible to receive benefits from the fund.

2020

Division of Workers' Compensation Quick Reference Guide

| EFFECTIVE 7/1 | MAX PPD WEEKLY RATE | MAX TTD WEEKLY RATE | SCHEDULED IMPAIRMENT WEEKLY RATE | DISFIGUREMENT MAXIMUM | LUMP SUM MAXIMUM 1 DEPENDENT/ MULTIPLE DEPENDENTS | BENEFIT CAPS 25%- WP / 25%+ WP |
|---------------|---------------------|---------------------|----------------------------------|-----------------------|---|--------------------------------|
| 2002 | \$362.16 | \$659.12 | \$207.45 | \$2000 | \$80,868.10 / \$161,734.15 | \$60,000/\$120,000 |
| 2003 | 361.99 | 658.84 | 207.35 | \$2000 | 80,868.10 / 161,734.15 | 60,000 / 120,000 |
| 2004 | 370.66 | 674.59 | 212.32 | \$2000 | 80,868.10 / 161,734.15 | 60,000 / 120,000 |
| 2005 | 383.07 | 697.20 | 219.42 | \$2000 | 80,868.10 / 161,734.15 | 60,000 / 120,000 |
| 2006 | 395.47 | 719.74 | 226.52 | \$2000 | 80,868.10 / 161,734.15 | 75,000 / 150,000 |
| 2007 | 413.95 | 753.41 | 237.11 | 4,000.00 / 8,000.00 | 80,868.10 / 161,734.15 | 75,000 / 150,000 |
| 2008 | 431.96 | 786.17 | 247.42 | 4,174.00 / 8,348.00 | 80,868.10 / 161,734.15 | 75,000 / 150,000 |
| 2009 | 443.55 | 807.24 | 254.06 | 4,286.00 / 8,572.00 | 80,868.10 / 161,734.15 | 75,000 / 150,000 |
| 2010 | 445.42 | 810.16 | 255.13 | 4,304.00 / 8,608.00 | 80,868.10 / 161,734.15 | 75,000 / 150,000 |
| 2011 | 454.98 | 828.03 | 260.59 | 4,396.00 / 8,792.00 | 80,868.10 / 161,734.15 | 75,000 / 150,000 |
| 1/1/12 | 466.41 | 848.82 | 266.98 | 4,396.00 / 8,792.00 | 80,868.10 / 161,734.15 | 76,605 / 153,210 |
| 7/1/12 | 466.41 | 848.82 | 266.98 | 4,504.00 / 9,007.00 | 80,868.10 / 161,734.15 | 78,482/ 156,962 |
| 2013 | 481.04 | 875.52 | 275.10 | 4,640.90 / 9,280.84 | 80,868.10 / 161,734.15 | 80,868.10 / 161,734.15 |
| 2014 | 484.44 | 881.65 | 277.03 | 4,673.47 / 9,345.38 | 81,435.67 / 162,869.28 | 81,435.67/ 162,869.28 |
| 2015 | 502.53 | 914.27 | 286.91 | 4,840.14 / 9,678.66 | 84,339.86 / 168,677.59 | 84,339.86 / 168,677.59 |
| 2016 | 516.39 | 939.82 | 294.93 | 4,975.46 / 9,949.17 | 86,697.04 / 173,391.90 | 86,697.04 / 173,391.90 |
| 2017 | 521.00 | 948.15 | 297.56 | 5,018.83 / 10,037.89 | 87,470.18 / 174,938.15 | 87,470.18 / 174,938.15 |

| AGE FACTOR | | | |
|----------------|---------------|---------------|----------------|
| -21 1.80 | 31 1.58 | 42 1.36 | 52 1.16 |
| 21 1.78 | 32 1.56 | 43 1.34 | 53 1.14 |
| 22 1.76 | 33 1.54 | 44 1.32 | 54 1.12 |
| 23 1.74 | 34 1.52 | 45 1.30 | 55 1.10 |
| 24 1.72 | 35 1.50 | 46 1.28 | 56 1.08 |
| 25 1.70 | 36 1.48 | 47 1.26 | 57 1.06 |
| 26 1.68 | 37 1.46 | 48 1.24 | 48 1.04 |
| 27 1.66 | 38 1.44 | 49 1.22 | 49 1.02 |
| 28 1.64 | 39 1.42 | 49 1.22 | 60+ 1.00 |
| 29 1.62 | 40 1.40 | 50 1.20 | |
| 30 1.60 | 41 1.38 | 51 1.18 | |

USEFUL STATUTORY REFERENCES

WHOLE PERSON IMPAIRMENT FORMULA

§ 8-42-107(8)(d)

TTD Rate × 400 × Age factor × Impairment %

APPORTIONMENT § 8-42-104(3)

No apportionment of Meds or Temporary Disability for injuries on or after 7/1/2008.

GENERAL PENALTY MAXIMUM §8-43-304

Up to \$1,000/day

Penalty Statute of Limitations

A request for penalties shall be filed with the director or administrative law judge within one year after the date that the requesting party first knew or reasonably should have known the facts giving rise to a possible penalty.

MENTAL IMPAIRMENT RATING § 8-41-301(2)(b)

Percentage included for determining cap for injuries on or after 7/1/09.

MEDICARE SET ASIDE AMOUNT (MSA)

Formal submission is needed:

- 1) If claimant is a Medicare recipient & settlement payout exceeds \$25,000, **OR**
- 2) If there is a reasonable expectation for Medicare within 30 months & settlement payout exceeds \$250,000.

MINOR § 8-40-202(1)(B)(III)

Anyone under age 21. Whole person PPD and PTD is calculated using the maximum TTD rate at MMI.

RETIREMENT & SOCIAL SECURITY BENEFIT OFFSETS § 8-42-103(1)(c) & § 8-42-113.5(1)(a)

SSD not offset v. PPD for injuries on or after 7/1/2010 but 50% is still offset against temporary and permanent total disability.

Social Security or employer-paid **retirement benefits are not offset** against permanent total disability if the claimant was under age 45 at time of injury.

Employer-paid retirement benefits are offset against permanent total disability benefits unless paid by the employer pursuant to a union contract.

Claimant must notify respondent in writing within 20 days upon knowledge that claimant will be receiving SSD or any other payment which is offset against WC benefits, otherwise WC benefits may be unilaterally suspended during overpayment recovery.

UNEMPLOYMENT § 8-73-112

Claimant must apply for UI benefits w/in 28 days after termination of temporary benefits.