



Colorado Division of Workers' Compensation

2018

# 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.

## SB18-178 - Similar Coverage Independent Commercial Vehicles

*Signed: 5/4/18 | Effective: 8/8/18*

This act allows operators of commercial vehicles weighing in excess of 16,001 pounds to obtain "occupational accident" coverage in lieu of workers' compensation. Any such policy must comply with regulations set forth by the Division of Insurance.

### Highlights:

- Benefits offered under the occupational accident policy must be "at least comparable" to workers' compensation benefits.
- Will require rule making by the Division of Insurance to set minimum standards for coverage.



## HB18-1429 Workers' Compensation Cash Fund Maximum Reserve Exemption

*Signed: 6/6/18 | Effective: 6/6/18*

This act exempts the Workers' Compensation Cash Fund from the statutory cap on uncommitted reserves. This restores a previous exemption which was removed in 2017. The exemption will allow the Division of Workers' Compensation to avoid the need to dramatically readjust the surcharge amount paid by insurers and self-insured employers.



## HB18-1308 Workers' Compensation Out-of-state Workers Temporarily In Colorado

*Signed: 4/30/18 | Effective: 4/30/218*

This act exempts out of state employers from the requirement to obtain workers' compensation coverage for employees temporarily in Colorado if certain conditions are met. The exemption only applies to contiguous states (Wyoming, Kansas, Oklahoma, New Mexico, Arizona, and Utah) and only if the employer's home state offers similar reciprocity.

### Highlights:

- Defines "temporarily working" as a period of sustain work less than six months or interstate movement of goods.
- Requires the employee to be covered under workers' compensation coverage in their home state.

## Colorado Uninsured Employer Fund:



The portion of penalties and fines owed to the Division of Workers' Compensation shall be made payable to the Colorado Uninsured Employers Fund.

## 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% AWW increase every July 1.

## Surcharge Rates for 2018

Workers' Compensation Cash Fund: **0.9%**

Premium Cost Containment Program: **0.3%**

Subsequent Injury Fund/Major Medical Fund: **0.1%**

**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](http://colorado.gov/cdle/dwc). Be sure to sign up for our mailing list to receive notifications on rulemaking.

### Changes That Impact Self-Insured Employers

- Self-insured employers will now be required to report their semiannual payroll, under oath, in a flat file format utilizing the Division's online surcharge application.
- The experience rating factor as calculated by NCCI will no longer be required. Instead, an experience rating factor of 1.0 will be used.
- In addition to the previously required payroll information, Rule 2 now requires self-insured employers to include job titles of all employees.
- For the semiannual assessment period July 1, 2018 through December 31, 2018, self-insured employers must report total payroll no later than January 10, 2019 and pay no later than January 31, 2019. For the semiannual assessment period January 1, 2019 through June 30, 2019, self-insured employers must report total payroll no later than July 10, 2019 and pay no later than July 31, 2019.

## 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 Max 1 Dependent / Multiple Dependents	Benefit Caps 25%- WP / 25%+ WP
2003	361.99	658.84	207.35	2000.00	80,868.10 / 161,734.15	60,000 / 120,000
2004	370.66	674.59	212.32	2000.00	80,868.10 / 161,734.15	60,000 / 120,000
2005	383.07	697.20	219.42	2000.00	80,868.10 / 161,734.15	60,000 / 120,000
2006	395.47	719.74	226.52	2000.00	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
2018	542.78	987.84	310.00	5,229.68 / 10,457.52	91,126.84 / 182,251.37	91,126.84 / 182,251.37

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

Non - Dependent Fatal Claims	
2016 & Prior	15,000.00
2017	20,000.00
2018	20,836.09

### FREQUENT STATUTORY REFERENCES

#### **Whole Person Impairment Formula:**

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**

Acts before 8/11/2010 \$500/day  
Acts on or after 8/11/2010 \$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 Account (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.