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2018 Legislative Changes to the Minnesota Workers’ Compensation Statute

The 2018 Minnesota Legislature passed a bill making substantive changes to the Minnesota Workers’ Compensation Statute. The bill was signed into law by the Governor on May 20, 2018. These changes are summarized in more detail below.

How will these changes affect you?

1. PTSD Presumed to be Occupational Disease for Certain Occupations

In cases involving claims for post-traumatic stress disorder (PTSD) under certain occupations, the diagnosis of PTSD is *presumed* to be an occupational disease that is the result of the nature of the employment. This may make defending against claims for PTSD more difficult in some scenarios. This is effective for injuries on or after January 1, 2019.

- a) What occupations are affected?
 - A worker employed on active duty as a: licensed police officer; firefighter; paramedic; emergency medical technician; licensed nurse employed to provide emergency medical services outside of a medical facility; public safety dispatcher; officers employed by the state or a political subdivision at a corrections, detention, or secure treatment facility; sheriff or full-time deputy sheriff; or member of the Minnesota State Patrol.
- b) Is the presumption rebuttable?
 - Yes, the presumption is rebuttable by the employer or insurer by presenting “substantial factors.” However, substantial factors are not defined by the statute.
 - Any substantial factors used to rebut this presumption and are known to the employer or insurer at the time of denial of liability must be communicated to the employee on the denial of liability.
- c) What is not considered a traumatic event giving rise to PTSD?
 - PTSD as a result of disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer is not considered to be an occupational disease.

2. Benefit Changes

Exposure for TPD, PPD, and PTD will be increasing for injuries occurring on or after October 1, 2018.

- a) The 225-week cap on Temporary Partial Disability (TPD) benefits increases to 275-weeks.
- b) The dollar values in the compensation schedule for Permanent Partial Disability (PPD) benefits increases by 5%.
- c) Permanent Total Disability (PTD) is now payable until age 72; the rebuttable presumption of retirement at 67 has been repealed. If an employee is injured after age 67, the employee will receive PTD benefits for five years.
 - o The presumption of retirement in Minn. Stat. § 176.101, Subd. 8 is unchanged, as is the statutory classification of retirement for MSRS employees under Minn. Stat. § 352.113, Sub. 12.

3. Fee Schedule Changes

The following changes are effective for services provided on or after October 1, 2018. These are still being finalized by the DOLI Commissioner. One significant change is that smaller hospitals will now be subject to the fee schedule, which may decrease exposure for medical services.

- a) Hospitals with fewer than 100 beds will be subject to the fee schedule but will have a separate conversion factor from hospitals with more than 100 beds.
- b) Payment for covered surgical procedures and ancillary services at ambulatory surgical centers (ASC) is the lesser of the usual and customary charge of the ASC or the Medicare ambulatory surgical center payment multiplied by 3.2.
- c) A new hospital outpatient fee schedule and conversion factors are required to be established by the DOLI Commissioner for services on or after October 1, 2018. Our office will continue to monitor the pending fee schedule changes and provide updates as needed.

4. Filing Changes

There are a number of changes to filings for administrative conferences, objections to penalties, and requests for medical/rehabilitation dispute certifications that lawyers should be aware of going forward.

As always, if you have any questions regarding any of the changes above, please feel free to contact our office.