

Workers' compensation legislation enacted in 1997

New or revised legislation focused on dealing with fraud and providing premium discounts for employers who maintain a drug-free workplace

Glenn Whittington

In workers' compensation legislation enacted last year, Georgia increased maximum weekly benefits for total disability from \$300 to \$325 and minimum weekly rates from \$25 to \$32, effective July 1, 1997. Also, maximum weekly benefits for temporary partial disability were increased from \$192.50 to \$216.67.

In North Dakota, the maximum weekly benefit for survivors was changed from \$210 to the State average weekly wage at the time of death. The minimum weekly death benefit was changed from \$105 to 60 percent of the State average weekly wage. Also, lump sums paid in addition to weekly death benefits were increased from \$300 to \$600 for a surviving spouse and from \$100 to \$200 for each dependent child.

In Oklahoma, benefits for a surviving spouse were increased from 50 percent to 70 percent of the wages the deceased was earning, while benefits for children, if there is no surviving spouse, were increased from 35 percent to 50 percent. The maximum weekly income benefits payable to all beneficiaries in case of death was increased from 75 per-

cent to 100 percent of the average weekly wage the deceased was earning. In addition, the length of time benefits will be received for loss of an eye was increased from 200 weeks to 250 weeks.

Maximum burial allowances were increased to \$4,300 in Kansas, to \$6,000 in Nebraska, and to \$5,000 in North Dakota.

Mississippi, South Carolina, and Virginia now provide premium discounts for employers who maintain a drug-free workplace, while Georgia increased the size of its premium discount.

Provisions for dealing with fraud were established or expanded in Arkansas, Georgia, Louisiana, Montana, North Carolina, and North Dakota.

Workers' compensation coverage was extended to students engaged in a school-to-work program in Iowa and Montana, while Montana and New Hampshire expanded the definition of an employee to include a person working as a result of a public assistance program.

Following is a summary of significant workers' compensation enacted during 1997 by each State.

Alaska

Conditions for denying benefits to an employee making a false statement were clarified to require that the statement must have been made in writing in response to a medical inquiry or examination after a conditional offer of employment. Previously, benefits could be denied for false statements made on the employment application or preemployment questionnaire.

Participants in the Alaska temporary assistance program who are engaged in cer-

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tain work activities are excluded from workers' compensation coverage.

Arizona

Employers may now secure workers' compensation coverage for their employees through self-insurance pools approved by the State Industrial Commission. Criteria for establishing such pools were formulated and enacted.

Arkansas

A dollar-for-dollar offset provision for retirement and pension payments against permanent total disability benefits for claim-

ants aged 65 and older was repealed, while the same provision for those receiving permanent partial disability benefits was reduced to 50 percent. Compensation payments for certain scheduled permanent injuries were increased.

The sunset provision that was to have become effective March 1, 1997, for the impairment rating guide adopted by the Workers' Compensation Commission was repealed and made subject to review by the General Assembly before April 1 of every odd-numbered year, beginning with the regular 1999 session.

A qualified real estate agent or "licensee" is now exempt from workers' compensation coverage.

All 2-year and 4-year public institutions of higher education are now required to provide workers' compensation coverage for their employees, according to specific methods and criteria.

The fraud provision was expanded to make it a felony for any person to willfully and knowingly omit or conceal any material information or employ any device, scheme, or artifice with regard to workers' compensation benefits or coverage. Fifty percent of any criminal fine imposed and collected for any fraudulent act shall be paid to the Death and Permanent Total Disability Trust Fund. Fraudulent matters will now be referred to the prosecuting attorney having criminal jurisdiction, instead of the place where the original hearing was held. The duties and powers of the Workers' Compensation Fraud Investigation Unit were delineated.

The insurance commissioner is now required to promote competition in the Workers' Compensation Insurance Plan, promote and secure courteous and timely service, and discourage unreasonable or unfair actions by carriers.

California

Until January 1, 1999, the term "physician" will include acupuncturists within its scope. Workers' compensation coverage was extended to registered student apprentices.

Colorado

Receipt of benefit payments under Social Security or an employer-paid retirement benefit plan while receiving workers' compensation benefits constitutes an overpayment and subjects an award to reopening and recovery of such overpayment.

A requirement, which expired on July 1, 1996, that self-insured employers must report closed-claim data to the commissioner of insurance was reinstated.

The Colorado Compensation Insurance Authority may establish different workers' compensation rates for employers, as long as those rates are not excessive, inadequate, or unfairly discriminatory. The Authority may also impose a premium surcharge for those employers or their successors whose coverage was terminated because of fraud or material misrepresentation.

The director of the Division of Workers' Compensation may permit access to claim files by other governmental entities only as required for the performance of their official duties and only if those duties relate to workers' compensation.

Connecticut

When liability or the extent of a disability is contested through a formal hearing before the commissioner, the prevailing claimant shall be entitled to payment for costs of testimony rendered on his or her behalf in connection with the claim, and the reasonableness of such costs shall be determined by the commissioner.

Workers' compensation coverage was extended to employees of local or regional boards of education for injuries or death resulting from participation in a school-sponsored activity, but not from going to or from such an activity. Cost-of-living adjustments are to be computed and paid, in a lump sum, no later than December 1, 1997, to dependents receiving compensation benefits for injuries occurring on or after July 1, 1993, and before October 1, 1997. The employer or insurer shall be reimbursed by the Second Injury Fund for such payments. Similar cost-of-living adjustments are also to be made for employees receiving permanent total disability benefits.

Delaware

The makeup and salary of the Industrial Accident Board were elaborated upon. The positions of hearing officer and workers' compensation specialist were created within the Department of Labor and their respective duties and powers outlined. Domestic servants and farm laborers are not covered under workers' compensation if they earn less than \$750 (formerly \$300) in any 3-month period. Attorneys' fees, not to exceed 30 percent of the award or \$2,250, whichever is smaller, shall be awarded by the board. The payment of benefits by the Second Injury and Contingency Fund for total disability as a result of a subsequent injury now applies only to employers insured by insurance carriers, and not to self-insured employers. Procedures for, and responsibilities of, all parties in a hearing were clarified.

Florida

A notice of claim for reimbursement from the Special Disability Trust Fund on file as of June 30, 1997, must be accompanied by a proof of claim, or the right to reimbursement will be barred. Reimbursement of claims filed before June 30 may be withdrawn and the claim required to be refiled with proof if the claim remains within the 2-year limitation period for filing notice of a claim for reimbursement. A notification fee needs to accompany each notice of claim for reimbursement filed on or after July 1, 1997; however, the fee may be waived if both the notice and proof are submitted together as a single filing. The annual assessment on insurance companies is not to exceed 4.52 percent and will be supplemented by a \$250 notification fee on each notice of claim filed or refiled after July 1, 1997, and a \$500 fee on each proof of claim filed. The Special Disability Trust Fund shall not be liable for reimbursement of claims in which the accident causing the subsequent injury occurred on or after January 1, 1998, or prior to July 1, 1955.

Georgia

A "sports official," as defined under the Workers' Compensation Act, is now deemed to be an independent contractor and not an employee.

The workers' compensation premium discount for implementing a certified drug-free workplace program was increased from 5 percent to 7½ percent, and the discount period was extended from 4 years to 8 years.

The maximum weekly temporary total disability benefit rate was increased from \$300 to \$325 and the minimum weekly rate from \$25 to \$32, effective July 1, 1997. Also, the maximum weekly temporary partial disability benefit rate was increased from \$192.50 to \$216.67. Fraud investigators now have the authority to execute search warrants and make arrests if warrants were issued as the result of a criminal investigation into alleged violations of the workers' compensation law. No person who furnishes information in suspected workers' compensation fraud shall be liable for damages in a civil action or criminal prosecution.

The insurance commissioner is now required to investigate each complaint against an insurer or group self-insurance fund for

alleged use of an improper rate, classification, or experience modification in issuing a workers' compensation insurance contract. If the cost of the investigation is found to be justified, it may be assessed against the insurer or group self-insurance fund.

Idaho

"Manifestation" is defined as the time when an injured worker knows that he or she probably has an occupational disease, or whenever a qualified physician informs the injured worker that he or she probably has an occupational disease. If intoxication is the cause of an employee's injury, no workers' compensation benefits shall be paid (previously, compensation was reduced by 50 percent), except if intoxicants were furnished by the employer or if the employer allowed the employee to remain at work even though the employer was aware that the employee was intoxicated. The injured employee shall not be entitled to "temporary total benefits" instead of not being entitled to "any benefits" in any period during which he or she refuses or fails to seek physically or mentally suitable work. A rebuttable presumption now exists that the employee's earning capacity is no less than the wages the employee would have earned had the employee accepted such work. For certain injuries, if the employer disputes that the claimant is totally and permanently disabled, the burden of proof shall be on the employer to prove the contrary by a preponderance of the evidence. Weekly income benefits for unscheduled permanent disabilities are to be paid at 55 percent of the State average weekly wage. In determining the degree of permanent disability, the Industrial Commission shall consider reasonable relocation proposals.

The employer is not responsible for medical care prior to receiving notice of an accident, unless the claimant is unable to give such notice or the care is of an emergency nature. An employer is required to render a decision on a claimant's written request for a change of physician within 14 days of receipt of the request, and the Industrial Commission is to conduct an expedited hearing on the issue within the same time frame. An injured employee is entitled to expenses for necessary travel in obtaining medical care.

The procedures for the calculation of assessments for the Industrial Special Indemnity Fund and the procedures for the collection of delinquent assessments were revised.

Any claimant, employee, or surety making a claim for benefits from the Industrial Special Fund must file a notice of claim with the manager of the fund at least 60 days prior to filing a complaint.

Exempted from workers' compensation coverage are members of an employer's family not dwelling in his or her household if the employer is the owner of a sole proprietorship, provided that the family member has filed a written declaration to the effect that he or she elects not to be covered.

Illinois

Regardless of an employer's State of domicile or principal place of business, the employer is to make payments to his or her insurance carrier or group self-insurance fund on the basis of the premium rates of the site where the work or project is located in Illinois if the employer is engaged primarily in the building and construction industry.

Iowa

If an employer denies liability for medical services received by an employee with a disability, and the employee is covered for nonoccupational illness, injury, or disability, the nonoccupational plan shall not deny payment for medical services received by the employee on the basis that the employer's liability for medical services is unresolved.

Other occupations and employment are to be considered in determining the degree of permanent disability and basis of compensation for a professional athlete.

The threshold for covering an employee engaged in any type of service in or about a private dwelling, or persons whose employment is purely casual, was changed from \$200 earned during the 13 consecutive weeks prior to the injury to \$1,500 earned during the 12 consecutive months prior to the injury.

The exclusive rights and remedies under workers' compensation were extended to students participating in a school-to-work program.

Kansas

The maximum burial allowance was increased from \$3,300 to \$4,300. A self-employed subcontractor performing work for a contractor is covered under workers' compensation. No reimbursement from the Workers' Compensation Fund will be made, unless a request is submitted by the employer or insurance carrier within 1 year of the final award.

Louisiana

Interest on late payments of compensation awarded is now calculated from the date the compensation was due, rather than from the date it was ordered to be paid by the workers' compensation judge.

When recovery of damages from a third party is made without filing a lawsuit, the employer is responsible for the employee's legal expenses in pursuing the third-party matter, not to exceed one-third of the employer's recovery on precompromise payments.

Insurers must credit an employer's account for amounts recovered on a lien in a third-party matter.

If the parties to a compromise settlement agree, the 6-month waiting period after termination of temporary total disability benefits may be waived.

The terms "special employer" and "general employer" were defined and the responsibilities of each for the payment of workers' compensation benefits to an injured employee clarified.

References to "hearing officer" or "administrative hearing officer" were changed to "workers' compensation judge."

Any person obtaining benefits fraudulently may be ordered to make restitution.

If State fire marshals so elect, volunteer firefighters may be provided with workers' compensation coverage governed by special rules. For example, permanent total disability benefits are limited to 520 weeks instead of the duration of the disability, and, for purposes of computing benefits, the volunteer's wages are considered to be the Federal minimum wage.

Medical care, services, and treatment may be provided by out-of-State providers or at out-of-State facilities when such care, services, and treatment are not reasonably available within the State.

Maine

The exemption from workers' compensation coverage does not apply to an employer employing more than six agricultural or aquacultural laborers, not including seasonal or casual laborers.

Nonresident employers with employees working in the State are now required to obtain workers' compensation coverage, unless they have a special exemption.

An advocate program to provide assistance to qualified employees who proceed to mediation and a formal hearing was established and the term "qualified employee" defined. The Workers' Compensation Board is required to appoint a staff attorney to advise the advocates in their program.

Maryland

As part of a collective bargaining agreement, an employer and a recognized or certified exclusive bargaining representative of employees under the purview of the Building and Construction Trade Council may agree to an alternative dispute resolution system. The system may include, but is not limited to, mediation and binding arbitration for certain specified issues. All settlements and resolutions are subject to approval by the Workers' Compensation Commission, as are all arbitration decisions under the alternative system. Also, the change specifies actions that are not allowed under the collective bargaining agreement.

For an injured employee who has suffered a serious permanent partial or permanent total disability and was concurrently employed by more than one employer, the average weekly wage is to be based on the weekly wage of the job wherein the employee earned the highest wages. The employer or insurer in whose employ the injury occurred shall pay the injured employee compensation based on the highest wages earned by the employee in all of the jobs and shall seek reimbursement for the difference from the Subsequent Injury Fund.

Minnesota

"State correctional officer" was added to the list of occupations for which a presumption of occupational disease exists. The procedures to be followed when two or more

employers or insurers dispute liability in a claim were elaborated upon.

Mississippi

The Drug-Free Workplace Workers' Compensation Premium Reduction Act was enacted. Under this legislation, an employer can qualify for a 5-percent discount in the premium paid if the employer implements a drug-free workplace program as specified in the Act.

Montana

The rate for services provided at a hospital for treating injured workers for the fiscal year beginning July 1, 1997, must be the greater of 69 percent of the hospital's usual and customary charges as of January 1, 1997, and the discount factor in effect on June 30, 1997.

The minimum assessment that may be made against an employer or insurer for funding the Boiler Inspection Program was increased from \$200 to \$500, and the assessment for the Workers' Compensation Administration Fund was increased from 2.15 percent to 2.6 percent.

If the Department of Labor and Industry fails to approve or disapprove a claimant's compromise or lump-sum payment in writing within 14 days of the filing of the claim, the agreement is automatically approved.

A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or a business partner is the employee of the entity that pays the student, for workers' compensation purposes. A student who is not paid wages is a volunteer, but is still covered by workers' compensation.

The definition of "primary medical services" was changed to refer to the treating "provider" instead of "physician." Added to the list of treating providers was an advanced-practice registered nurse licensed by the State and recognized by the Board of Nursing as a nurse practitioner or a clinical nurse specialist.

A disabled worker injured on or after July 1, 1997, is entitled to receive payment for tuition, fees, books, and other reasonable and necessary retraining expenses, exclud-

ing travel and living expenses, as specified in the rehabilitation plan.

The terms "employee" and "worker" were modified to include a person placed at the employer's work site as a participant in a public assistance program, but not a foster parent or someone licensed as a foster care provider.

The Uninsured Employers' Fund now pays for the cost of investigating and prosecuting workers' compensation fraud cases. A worker is not eligible for temporary partial or temporary total disability benefits if the worker has been released to return to a modified or alternative position that the individual is able to perform with the same employer, or if the wages payable in the modified or alternative position, when combined with the temporary partial disability benefits, would result in a higher wage, or if the worker refuses to accept the modified or alternative position.

Nebraska

The maximum burial allowance was increased from \$2,000 to \$6,000.

An employer who is a lessor of one or more commercial motor vehicles and is not a party to an agreement to provide workers' compensation coverage loses the right to a defense on the grounds of negligence in any action for an injury or death of an employee.

The provision asserting that the findings of an agreed-to medical examiner are binding was repealed. In order to restore an injured employee to gainful and suitable employment, the compensation court or judge may modify a previous finding or award.

Nevada

Limits were placed on the circumstances under which an insurer, employer, managed care organization, or third-party administrator may communicate with an injured employee's physician or chiropractor regarding a claim. Coverage is provided to pupils and teachers participating in a program to provide pupils with the skills to make the transition from school to work. Coverage is also provided to students who are performing certain types of volunteer work. A modified program of workers' compensation coverage may be furnished to prisoners if requested by the jail administrator.

New Hampshire

Participation in athletic or recreational activities is exempt from workers' compensation coverage, unless such participation was a condition of employment.

An employee who becomes incarcerated forfeits workers' compensation benefits beginning 30 days after incarceration and lasting for the remaining period of imprisonment.

Any company knowingly doing business with an unlicensed third-party administrator may be fined up to \$1,000 per day as long as the violation continues. If an employee fails to accept temporary alternative work, the employer may petition the commissioner to reduce or end compensation payments.

The medical fee schedule was abolished, and it is now expected that the employer or insurance carrier will pay the full amount of the health care bill, unless the full amount cannot be justified. Jurisdiction over disputes as to the value of medical care received was given to the commissioner. The provision permitting the commissioner to investigate health care providers and facilities and rehabilitation providers was repealed.

The term "employee" now includes a person participating in a local welfare work program, unless voted otherwise by the local governing body. A contractor, subcontractor, or independent contractor engaged in nonresidential building is required to submit a workers' compensation compliance statement within 30 days of request from the commissioner. Failure to do so will result in a fine of up to \$1,000 for each week of noncompliance.

New Jersey

Workers' compensation coverage was extended to anyone doing volunteer work for the Division of Parks and Forestry; the Division of Fish, Game and Wildlife; the New Jersey Natural Lands Trust; or the New Jersey Historic Trust.

North Carolina

A new reimbursement methodology for hospital charges under the workers' compensation act was adopted.

Criminal penalties were increased for misrepresentation by any person in a

workers' compensation claim and for failure by an employer to secure compensation coverage.

An employer paying medical compensation to a provider rendering treatment under the workers' compensation act may obtain records of the treatment without the express authorization of the employee.

North Dakota

A newly established Workers' Compensation Board of Directors replaced the Governor in appointing the director of the Workers' Compensation Bureau, who now serves at the board's pleasure.

Notwithstanding an assertion of the statute of limitations, a claimant bears the burden of proving any entitlement to benefits. If the Workers' Compensation Bureau is stopped from applying the statute of limitations because an employer's willful conduct prevented an injured employee from filing a claim in a timely manner, that employer shall reimburse the bureau for the full amount of all benefits paid during the first 5 years of the claim.

If the State fund chooses not to participate in a health care malpractice action, it has no subrogation interest and no obligation to pay fees or costs as a result of such action.

The requirement that disfigurement be considered only if it has diminished the ability of the employee to obtain employment was removed.

Criteria, in the form of periodic medical examinations, were established with respect to the presumption that certain conditions are related to a firefighter's or a law enforcement officer's work.

For purposes of determining whether the Workers' Compensation Bureau should pay attorneys' fees, clarification is provided as to what is meant by an injured employee "prevailing" in an administrative hearing.

A formula for determining the average weekly wage for seasonal employment was developed. Injuries due to heart attack or other heart-related disease, stroke, and physical injury are considered compensable only when it is determined with reasonable medical certainty that unusual stress is at least 50 percent of the cause of the injury or disease, compared with all other contributing causes combined; a similar test applies

to a mental or psychological condition caused by a physical injury. Criteria for determining when a claimant has a permanent total disability have been established, as has a presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.

The maximum amount the Workers' Compensation Bureau may determine that is necessary to provide for permanent additions, remodeling, or adaptations to real estate to those workers who sustain a catastrophic injury was increased from \$10,000 to \$20,000.

The scope of investigations by the fraud unit has been broadened.

The provision in which the first 5 days of disability could be paid only if the employee was scheduled to work was eliminated. Reporting requirements while receiving disability benefits were clarified, and a \$10 dependency allowance for each child of the injured employee is now provided. While gathering more information needed to process a claim, the Workers' Compensation Bureau may pay preacceptance disability benefits equal to the minimum weekly benefits allowed.

A modified workers' compensation program is now provided for inmates engaged in work programs through roughrider industries.

The maximum allowance for burial expenses was increased from \$2,500 to \$5,000. The maximum weekly benefit for survivor's benefits was changed from \$210 to the State average weekly wage at the time of death. The minimum weekly death benefit was changed from \$105 to 60 percent of the State average weekly wage. Lump-sum payments, which are paid in addition to weekly death benefits, were increased from \$300 to \$600 for a surviving spouse and from \$100 to \$200 for each dependent child. A scholarship fund of up to \$1,500 per year for 5 years may be established for the spouse and dependent children of a deceased worker. The total amount awarded annually from the fund may not exceed \$100,000.

Oklahoma

Drive-away owner-operators of towing vehicles, operating independently for hire, are excluded from workers' compensation coverage unless they elect to be covered.

Unless otherwise provided, the burden

of proof in occupational disease cases shall be on the party requesting benefits. An employer with five or fewer employees, all of whom are related by blood or marriage, is exempt from workers' compensation coverage.

"Cumulative trauma" was added to the list of terms denoting compensable injuries. The term means an injury resulting from employment activities that are repetitive in nature and engaged in over a period of time. Mental injury in the case of rape that arises out of, and in the course of, employment is covered as a "personal injury."

A mediation program was established for parties who consent to it. A new medical fee-and-treatment schedule needs to be established by January 1, 1998, that includes maximum allowable reimbursement levels for testimony at a deposition or a court appearance and evaluation services. Medical opinions addressing compensability and permanent impairment must be stated to within a "reasonable degree of medical certainty." For injuries occurring on or after November 1, 1997, temporary total and temporary partial disability payments may not exceed a maximum of 156 weeks in the aggregate, except for good cause, as determined by the Workers' Compensation Court.

The schedule award for loss of an eye was increased from 200 weeks to 250 weeks. Benefits for a surviving spouse were increased from 50 percent to 70 percent of the wages the deceased was earning, while benefits for children, if there is no surviving spouse, were increased from 35 percent to 50 percent. The maximum weekly income benefits payable to all beneficiaries in case of death was increased from 75 percent to 100 percent of the average weekly wage the deceased was earning.

Instead of barring a claim for injury if an employee fails to notify an employer within 60 days, a presumption now exists that an injury is not work related if notice is not provided within 30 days. The presumption may be overcome by a preponderance of evidence.

Oregon

Effective January 1, 1998, the amount paid for each degree of permanent partial disability under a scheduled award was increased from \$420 to \$454. For purposes of workers' compensation coverage, the client of a temporary-service provider is not the em-

ployer of temporary workers provided by the temporary-service provider.

South Carolina

A credit of at least 5 percent is now available for an insured who participates in a qualified drug prevention program under the workers' compensation insurance merit rating system.

South Dakota

Workers' compensation coverage was extended to volunteers of ambulance services and rescue squads.

If an employer denies coverage of a claim, any other insurer covering bodily injury or disease of the injured employee shall pay according to policy provisions, subject to reimbursement by the employer if the injury is later determined to be compensable.

Tennessee

All subcontractors and all those engaged in the construction industry shall be required to carry workers' compensation insurance, even if they have five or fewer employees.

The requirement to notify an employer within 30 days of the manifestation of an occupational disease does not apply to claims for total disability due to an asbestos-related disease.

Texas

The Texas Workers' Compensation Insurance Facility, established as an assigned risk pool, was converted into a stock insurance company.

The responsibilities of the Texas Workers' Compensation Insurance Fund for providing insurance in the marketplace were detailed.

The use of settlement agreements, as well as judgments based on default or on an agreement between the parties to overturn appeals panel decisions, is now prohibited. Using these types of judgments and settlements to seek reimbursement from the Subsequent Injury Fund for benefits paid to a claimant is also prohibited. A judgment entered by a court on judicial review of an appeals panel decision must comply with the provisions of the workers' compensation law, and the Workers' Compensation Commission must receive notice and have an opportunity to intervene in a workers' compensation lawsuit

to explain why a judgment or settlement should not be approved by a court.

The maximum 104-week period for receiving temporary total disability benefits may be extended by the Workers' Compensation Commission for a claimant undergoing spinal surgery.

Vermont

An employee who receives an on-the-job injury while working for an uninsured employer can either file a workers' compensation claim or bring a civil action against the employer. If an employee prevails at a hearing, the commissioner's findings are to include the date on which the employer's obligation to pay compensation began and shall also include interest on the total amount of unpaid compensation.

Virginia

The presumption that a death or disability from respiratory disease, hypertension, or heart disease was work related is extended to Department of Emergency Services hazardous materials officers.

A premium discount of up to 5 percent is now available to every employer who institutes a drug-free workplace program.

Hearing loss and carpal tunnel syndrome are considered to be not occupational diseases, but ordinary diseases of life.

When the Workers' Compensation Commission finds that an employer or insurer has filed an application for a hearing in bad faith, it shall assess up to 10 percent of the total amount of the benefits accrued from the date an award should have been paid through the date of the award.

Upon finding that an employer is uninsured or that a self-insured employer cannot satisfy an award, benefits will be paid from the Uninsured Employer's Fund after the claimant has made demands upon his employer or other uninsured entity.

Wyoming

Workers' compensation coverage is now authorized for game and fish department volunteers, as well as industry groups in the amusement and recreation services.

Companies with limited liability were authorized to elect workers' compensation coverage for their members. □