

Key workers' compensation laws enacted by States in 1985

A number of States made major revisions in benefit provisions and 16 established some form of coverage for police officers, firefighters, and emergency service aides

LAVERNE C. TINSLEY

All State legislatures convened in 1985, except for the Kentucky body.¹ As in the past, a myriad of workers' compensation proposals was introduced; 195 were enacted into law.²

Sixteen States amended their laws by establishing some form of coverage for police officers, firefighters, emergency service personnel, sole proprietors, and inmates.

Focus on increases in compensation for workers and their dependents brought about major revisions in benefit provisions. Alabama increased maximum weekly benefits for total disability and death to 100 percent (formerly 66²/₃ percent) of the State average weekly wage and the minimum to 27¹/₂ percent (previously 25 percent) of the State average weekly wage for all disability and death. Compensation for permanent partial disability was capped at \$220. The 300-week maximum on payments for temporary total disability was removed. Benefits will now be payable for duration of disability. Tennessee established an escalation of maximum weekly compensation for disability and death from July 1, 1985, through June 30, 1990. North Dakota changed its minimum weekly compensation for death from \$10 weekly to 50 percent of the maximum

weekly benefit. Georgia and North Dakota extended the compensable period for death benefits for dependent children beyond age 18 until age 22 if they are full-time students.

In contrast to these changes and increases, Louisiana froze maximum weekly benefits for 3 years. A similar action occurred in Oklahoma, which will limit benefit increases to every 3 years. The compensable periods for loss of hearing, loss of vision in one eye, and for disability to the body as a whole were extended in Georgia. The burial allowances were raised in four States.

The waiting period for temporary total disability was changed from 2 to 3 days in Hawaii.

Significant revisions were made in the rehabilitation provisions in Connecticut and Maine.

The cap was removed on awards for disfigurement, and compensation will be equal to an amount based on a percentage of the State average weekly wage in Maine.

Claims for compensation from inhalation of asbestos dust are permitted up to 20 years after exposure in Indiana.

A Competitive State Fund was newly established in Hawaii to provide coverage for employers. Alabama and Maine added provisions which prohibit termination of an employee solely because the employee has filed a compensation claim.

Following is a summary of legislation enacted by individual States.

LaVerne C. Tinsley is a State standards adviser in the Division of State Workers' Compensation Programs, Office of State Liaison and Legislative Analysis, Employment Standards Administration, U.S. Department of Labor.

Alabama

Maximum weekly benefits for total disability and death were changed from 66 2/3 percent to 100 percent of the State average weekly wage. Minimum compensation increased from 25 to 27 1/2 percent of the State average weekly wage for all disability and death claims. Weekly compensation for permanent partial disability was capped at \$220. The compensable period for temporary total disability was changed from a maximum of 300 weeks to duration of the disability.

A second physician or surgeon may be selected from a list approved by the employer if the employee is dissatisfied with the initial selection.

A statute of limitations for claim filing was extended from 1 to 2 years.

Fellow employee lawsuits are now restricted to cases of willful misconduct only.

Employers are prohibited from terminating employees solely for filing compensation claims or filing safety violations against the employer.

Upon an employee request, employers must establish a safety committee for advising the employer on safety matters in the workplace, which include suggestions from employees.

Alaska

A south central panel was added to the Workers' Compensation Board, thereby increasing the membership to 12 (previously 9).

Arizona

Volunteers of a sheriff's posse are now covered while on a search and rescue mission the same as participants in emergency management training. Sole proprietors and partners are permitted coverage at the discretion of the insurance carrier.

Illegally employed minors are newly entitled to an additional 50 percent of compensation when a work-related accident occurs.

The fine was increased to \$500 (previously \$100) against employers who refuse to submit books, records, and payrolls for inspection by the Industrial Commission.

Arkansas

All municipal and county officials and employees must now be covered for workers' compensation by their respective employers. Formerly, coverage of such persons was the responsibility of the State.

Funeral expenses were raised from \$750 to \$1,500.

The City-County Employees' Workers' Compensation Study Commission is authorized to study long-term financing of

workers' compensation for city and county employees. A report must be submitted to the General Assembly by July 1, 1986.

California

Burial expenses were increased to \$2,000 (previously \$1,500).

Employees may now be treated by their personal chiropractor after proper notification has been given to the employer for a change of doctor.

Authority was given the Workers' Compensation Appeals Board to act on or enforce awards involving determination of disability, length, and benefit amount for specified public safety officers.

The custodian of the Uninsured Employers' Fund now has authority to recover benefits paid employees for injuries caused by third parties while working for uninsured employers.

References to "referee" have been substituted with "workers' compensation judge" throughout the act.

Colorado

Participants in Department of Social Services rehabilitation programs, and employees of the State or a political subdivision are now covered under the law. A person performing as a firefighter during an emergency only is also covered. However, several other groups were eliminated from coverage.

Permanent partial disability cases can only be reopened if there has been fraud or mutual mistake of material fact in cases in which the employee has waived all rights for reopening.

A pilot self-insurance program must be established by the Department of Institutions and the Department of Labor and Employment, for the Department of Institutions.

The executive director of the Department of Labor and Employment is authorized to review and analyze possible application of various medical cost containment models and strategies for developing a medical cost containment program for workers' compensation, if feasible.

Connecticut

Costs of medical rehabilitation services for injured workers must be borne by the employer.

Employers' proof of solvency and financial ability to pay workers' compensation claims and injury reports must be submitted to the Board of Compensation Commissioners, instead of to a single Compensation Commissioner.

Any certified self-insured employer who fails or is unable to make compensation

payments as required by law will be restricted from self-insuring for a period of 10 years from the due date of the payments. The employer will then be required to insure his or her full liability with any authorized stock or mutual insurance company or association. In such cases, payments will be made from the Second Injury Fund and Compensation Assurance Fund. Failure to insure may result in permanent loss of privileges to do business in the State. Anyone who submits false statements or fails to disclose certain facts in order to obtain, increase, prevent or decrease any workers' compensation benefits or payments is guilty of a class A misdemeanor.

A sum of \$75,000 was appropriated to the Workers' Compensation Commission for workers' compensation purposes.

Georgia

Maximum weekly benefits for disability and death were raised from \$135 to \$155. On July 1, 1986, compensation will again increase, to a maximum of \$175. The compensable period for death benefits is up to 400 weeks, or age 65 years, whichever is greater. Total maximum compensation for a spouse, when there are no other dependents, increased to \$65,000 (formerly \$32,500). Full-time students are entitled to death benefits beyond age 18, or until age 22.

The compensable period for loss of hearing in one ear was extended from 60 to 75 weeks, and for loss of vision in one eye from 125 to 150 weeks. Simultaneously, the compensation period for disability to the whole body was reduced from 350 to 300 weeks.

Compensation for burial was increased from \$1,500 to \$5,000. Expenses paid for rehabilitation may be recovered from the Subsequent Injury Trust Fund.

Hawaii

The waiting period for temporary total disability compensation was changed from 2 to 3 days. Guidelines must be issued by the director concerning frequency of treatment and reasonable utilization of medical care and services provided by health care providers. Authority was given the Director of Labor and Industrial Relations to approve vocational rehabilitation plans for injured workers and to periodically review progress in each case.

A Competitive State Fund was newly established.

Indiana

A new maximum was enacted (\$267, formerly \$249) upon which average weekly wages are determined for total disability and temporary partial disability on July 1,

1985, until July 1, 1986, creating a maximum weekly benefit of \$178. On July 1, 1986, based on average weekly wages of \$285, a maximum weekly benefit of \$190 will become effective.

Total aggregate benefits, exclusive of medical benefits, have been set at \$89,000, previously, \$83,000. On July 1, 1986, and thereafter benefits are limited to \$95,000.

Cases of occupational disease from inhalation of asbestos dust after July 1, 1985, are compensable within 20 years, after last exposure (formerly 3 years). The Residual Asbestos Injury Fund is created to compensate employees who are permanently and totally disabled from asbestos exposure on or after July 1, 1985.

Iowa

Coverage is established for inmates performing unpaid community services under a work assignment of value to the State or public; and for volunteer firefighters who sustain injuries during the course of employment.

Rules must be adopted by the insurance commissioner concerning review and approval of group self-insurance plans.

Kansas

Employer liability for coverage is established for certain construction design professionals who perform services at construction project sites.

Louisiana

The modified American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment were amended to indicate an increase in the percentage of disability used for qualifying certain permanent partial disabilities.

Criteria were established for use in determining compensation benefits of part-time employees who work two or more successive jobs. A new formula was enacted for determining supplemental compensation. New time limitations were enacted applicable to claims for medical benefits.

The definition of "injury" was broadened to include an injury to the auditory system as a compensable permanent partial disability.

Employers and insurers are entitled to reimbursement from the Second Injury Fund for all compensation payments made after the first 104 weeks. Formerly, recovery was permissible after 60 percent of all benefit payments had been made. Similarly, the employer or insurer is entitled to recover 50 percent of all reasonable and necessary medical expense payments exceeding \$5,000, but less than \$10,000. Formerly, recovery payments were allowed

up to 50 percent of the first \$10,000.

Recovery of compensation by an employer or carrier against a third party, based on the worker's compensation liability, will be the same percentage of recovery by an employee against the third party.

Maine

An employer who discriminates against an employee for testifying, or filing a compensation claim, may be subject to award of back wages, reasonable attorney fees, reestablishment of employee benefits, and reinstatement of the employee's previous job.

Employers who secure their compensation liabilities are exempt from civil actions in cases of personal injury or occupational disease. Previously, employers were only protected against civil actions by employees for personal injury. Agricultural or aquacultural employers with seasonal or casual labor are not liable for securing compensation, nor will they be deprived of common law defenses, if their liability insurance policy is not less than \$25,000, with medical coverage of at least \$1,000. Additionally, employers of 6 (formerly 4) or fewer agricultural or aquacultural laborers who maintain a liability insurance policy with total limits of at least \$100,000, multiplied by the number of employees employed by that employer, and medical coverage of at least \$1,000, are excluded from liability for securing compensation payments.

Maximum weekly benefits for disability and death were frozen at \$447.92, beginning July 1, 1985, for 3 years; however, on July 1, 1988, the maximum benefit will be adjusted annually to bear the same percentage relationship as the State average weekly wage. Annual cost-of-living increases may not exceed 5 percent or the actual percentage increase in the State average weekly wage for the previous year, whichever is less.

Handicapped individuals employed by a sheltered workshop are exempt from the weekly minimum applicable for total disability compensation (\$25).

The cap of \$7,500 on compensation awards for disfigurement was removed and replaced with a maximum equal to 66-2/3 percent of the State average weekly wage, multiplied by 50.

Payments for total and partial disability under the workers' compensation law will be reduced by any disability benefit payments received pursuant to the Social Security Act or payments received under an employer benefit plan.

New rehabilitation provisions were added to the law. The Employment Rehabilitation Fund was established primarily to

make payments to employees who have completed rehabilitation and who sustain a subsequent work-related injury which results in a reduction in earning capacity substantially greater in duration or degree, or both, than that which would have resulted from the subsequent injury alone.

An office of Employment Rehabilitation was created under the direction of a rehabilitation administrator who is primarily required to monitor rehabilitation cases and approve rehabilitation agreements and develop fee schedules of services. Rehabilitation services will be provided by private and public rehabilitation counselors, governmental agencies, in-house counselors, and others approved by the administrator.

Rehabilitation benefits may include physical rehabilitation, weekly travel costs not exceeding 25 percent of the State average weekly wage, reasonable moving and relocation expenses up to \$3,000, and compensation up to an amount payable for total incapacity, during the course of rehabilitation. A Unit of Abuse Investigation was created to review and investigate allegations of fraud or illegal or improper conduct or violations of the workers' compensation program by employers, employees, or insurers.

Maryland

New legislation extends the presumption of compensability regarding lung and heart disease of firefighters, and fire fighting instructors, to include throat, prostate, rectal, leukemia, or pancreatic cancer caused by contact with toxic substances encountered in the line of duty. To be eligible for such compensation, these employees must have served at least 5 years and be unable to perform their normal duties because of the cancer disability.

Corporate officers owning 20 percent or more of the outstanding capital stock of a corporation are allowed an exemption from coverage. Previously, any officer could be exempt.

The Uninsured Employers' Fund is now authorized to seek recovery of payments made to claimants from liable third parties.

Insurers who fail to comply with insurance certification requirements may be assessed additional fines of \$300, for each offense.

Michigan

Payment of death benefits to dependent children will cease at age 18, formerly 21, unless the child is incapacitated.

Coordination of workers' compensation benefits was extended to include employer contributions in other profit-sharing plans.

Injured workers who are unable to obtain or perform work because of imprisonment

or commission of a crime are not entitled to compensation.

Definitions of hand and arm were modified by establishing that an amputation between the elbow and wrist of 6 or more inches (formerly 7) below the elbow is considered a hand.

The fine charged an employer for not securing liability for workers' compensation was increased to \$1,000; previously the fine ranged between \$10 and \$100.

Employees injured on the job are permitted to recover damages for their injuries in civil actions when the employer has failed to secure liabilities for benefits required by law. Attorney fees for claims filed after March 31, 1986, will be limited to 2 years of benefits when claims are on appeal before the Appellate Commission.

Employers of workers who are certified as vocationally handicapped will be liable for benefits 52 weeks after date of injury (previously 104 weeks).

Minnesota

Voluntary participation of employees in recreation programs sponsored by the employer is no longer the responsibility of the employer when injury occurs. Coverage is only required when the employee is ordered to participate in such activity.

Authorization for receipt of permanent partial disability benefits, in conjunction with compensation for temporary partial disability, may be granted after the employee has returned to work for at least six months.

Minimum compensation during the monitoring period is 66-2/3 percent of the weekly wage for permanent partial disability, subject to the maximum stated in the law.

Montana

Coverage will now be provided by the Department of Commerce for unsalaried air search and rescue volunteers for whom the Department employs. Officials, such as a timer, referee, or judge at a school amateur athletic event and a direct seller engaged in the sale of consumer products for use primarily in the home are exempted from coverage.

Lump-sum payment for permanent total disability is authorized only if a claimant demonstrates that ability to sustain himself or herself is more probable with a lump-sum payment. A 7-percent discount, compounded annually, will be applied to lump-sum payments. Advance lump-sum settlements payments are permitted for permanent partial indemnity benefits while a claimant is receiving temporary total disability benefits.

Temporary total disability payments are limited during retraining periods. Such payments were previously allowed until the employee was released through certification by the Department of Social and Rehabilitation Services. Compensation for schedule injury, disfigurement, and temporary total disability may now be paid concurrently, instead of consecutively.

Permission is authorized for employees to have a physician of their own choice present at medical examinations at no cost to the employee. A medical fee schedule must be adopted as a relative value fee schedule (RVS) upon which payment is determined for medical, chiropractic, and paramedical services. Insurers are solely responsible for furnishing reasonable medical services, medicines, and any other treatment approved by the Division.

The filing time for occupational disease claims is extended from 1 to 2 years, after the claimant knew or should have known that his or her condition resulted from an occupational disease.

A new provision allows a group of individual employers to operate as self-insurers and requires that each individual employer in a self-insured group is jointly and severally liable for all obligations of the group.

A new limit of \$50,000, formerly \$30,000, is placed on withdrawals from the uninsured employers' fund by employees.

Nebraska

Maximum weekly benefits for disability and death were increased from \$200 to \$225.

Nevada

A 20 percent cost-of-living increase was enacted for recipients of permanent total disability and death benefits where injury, disablement, or death from an occupational disease occurred prior to July 1, 1973. Employees are permitted to report tips for purposes of calculating workers' compensation benefits.

Occupational disease coverage was extended to include a chief or inspector of the Nevada highway patrol, a chief, investigator, or agent of the Investigation Division of the Department of Motor Vehicles. Coverage of the clergy, a rabbi, or a lay reader in the service of a church has been eliminated. Trainees in training programs approved by the Job Training Partnership Act may be covered under certain conditions.

Services of chiropractors may be utilized for treatment by injured workers. Health care providers who accept patients for treatment of industrial injury or occupational disease care only have authority to charge the insurer for payment of any services rendered. However, the health care provider is

able to charge the patient for any services provided that are unrelated to the work-related accident.

Regulations were established which insurers must follow when rehabilitation services are prescribed for injured workers.

Local governments have authority to enter into cooperative agreements to purchase workers' compensation insurance or to establish self-insurance. Assessments will be made against self-insured employers to cover claims against insolvent self-insured employers. The filing time in which certain appeals must be made was changed.

New Hampshire

Coverage was broadened to include call firefighters and special police officers.

New York

Emergency medical service personnel, without expectation of monetary compensation who are injured while rendering volunteer assistance at the scene of an accident, or other emergency services, are newly covered for compensation.

Self-employed persons and certain partners of a partnership are allowed an election for coverage. Corporate executives covered under the act must now be paid officers in order to maintain their covered status.

Employers must provide additional medical services for injured employees, including orthotics and functional assistance and adaptive devices. The Workers' Compensation Board Chairman is required to follow certain procedures in preparation of occupational therapy fee schedules.

A portion of the law was repealed concerning the Board's authority to commute all compensation for nonresident alien dependents in death cases. The fine assessed against employers who fail to make provision for payment of benefits was increased.

North Carolina

Agricultural extension service employees who are not employed as Federal employees of the U.S. Department of Agriculture, but who are field faculty with professional rank, and for those who are paid from State or county funds are newly included for coverage.

Minimum weekly benefits were established for volunteer firefighters, members of organized rescue squads, sworn members of auxiliary police departments, and for senior members of the State Civil Air Patrol, at 66 2/3 percent of maximum weekly benefit rate in effect at the time of injury.

A reduction in total disability benefits will be applied by the amount of any simul-

taneous unemployment insurance benefits received.

The statute of limitations was extended, from 6 months to 1 year, for actions involving protection of claimants from discharge or demotion for filing compensation claims.

Regulation of self-insurance is under the authority of the Insurance Department, formerly under the Industrial Commission.

North Dakota

Elective coverage for inmates is authorized for any county or city by resolution of the governing body. Definition of "child" has been modified to include a child under age 18 and residing in the employee's household to whom the employee has a legal obligation for support; or a child age 18 or over and physically or mentally incapable of self-support, who is actually dependent upon the employee for support; or any child age 18 to 22 who is enrolled as a full-time student in any accredited educational institution who is actually dependent upon the employee for support.

Compensation for death was changed from a weekly minimum of \$10 to 50 percent of the maximum weekly benefit for death (\$210). The new minimum is now

\$105. Supplementary compensation has been authorized for certain recipients of temporary total disability, permanent total disability, and for death.

An information program was set up to instruct employers concerning the use of hazardous substances in the workplace. The Workers' Compensation Bureau is required to inspect and enforce safety rules and regulations as required by law.

Ohio

A provision was enacted which gives the court authority to order a certain portion of workers' compensation payments be withheld for child support.

Oklahoma

Farmers whose payroll for the preceding calendar year did not exceed \$100,000 are not liable for work-related injuries sustained by an employee of an independent contractor or subcontractor. Previously, employer payroll had to exceed \$100,000.

Effective July 1, 1984, and every 3 years thereafter, the State average weekly wage (SAWW) used for establishing maximum weekly benefits for injuries and death will be increased. Formerly, the State average

weekly wage and compensation benefits were changed every 12 months.

The term "permanent impairment" was modified by requiring any examining physician to evaluate impairment only in accordance with "Guides to the Evaluation of Permanent Disability" published by the American Medical Association (AMA); formerly, more flexible guidelines were utilized.

Oregon

The statute of limitations for filing claims for occupational disease was extended from 1 to 2 years.

The coverage exclusion was broadened with the addition of certified amateur sports officials and volunteer ski patrolers who receive noncash remuneration for services rendered.

Monthly benefits for a surviving spouse with no children is 4.35 times 66 2/3 percent of the State average weekly wage. However, the maximum monthly benefit payable for dependency may not exceed 4.35 times 133 1/3 percent, formerly 100 percent, of the State average weekly wage. Lump-sum payments to a surviving spouse upon remarriage is equal to 24 times the

Table 1. Jurisdictions which increased maximum weekly temporary total disability benefits during 1985

Jurisdiction	Former maximum	New maximum	Jurisdiction	Former maximum	New maximum
Alabama	\$290.00	\$303.00	New Hampshire	\$440.00	\$462.00
Alaska	\$1,080.00	\$1,114.00	New Jersey	\$255.00	\$269.00
Colorado	\$315.98	\$336.00	New Mexico	\$289.20	\$298.63
Connecticut	\$381.00	\$397.00	New York	\$275.00	\$300.00
	plus \$10 for each dependent under 18 years of age, not to exceed 75 percent of employee's wage	plus \$10 for each dependent under 18 years of age not to exceed 75 percent of employee's wage	North Carolina	\$262.00	\$280.00
Delaware	\$231.64	\$235.69	North Dakota	\$285.00, plus \$5 for each dependent child; aggregate not to exceed worker's net wages	\$291.00, plus \$5 for each dependent child; aggregate not to exceed worker's net wages
District of Columbia	\$396.78	\$413.26	Ohio	\$335.00	\$354.00
Florida	\$288.00	\$307.00	Oklahoma	\$212.00	\$217.00
Georgia	\$135.00	\$155.00	Oregon	\$324.13	\$334.58
Hawaii	\$281.00	\$291.00	Pennsylvania	\$320.00	\$336.00
Idaho	\$249.30 to \$346.25, according to number of dependents, plus 7 percent of State's average weekly wage for each child up to 5 children	\$260.00 to \$361.23, according to number of dependents, plus 7 percent of State's average weekly wage for each child up to 5 children	Rhode Island	\$292.00, plus \$9 for each dependent; aggregate not to exceed 80 percent of worker's average weekly wage	\$307.00, plus \$9 for each dependent; aggregate not to exceed 80 percent of worker's average weekly wage
Illinois	\$491.65	\$502.36	South Carolina	\$268.99	\$287.02
Indiana	\$166.00	\$178.00	South Dakota	\$247.00	\$254.00
Iowa	\$580.00	\$598.00	Tennessee	\$136.00	\$168.00
Kansas	\$227.00	\$239.00	Texas	\$203.00	\$217.00
Kentucky	\$294.87	\$304.80	Utah	\$310.00, plus \$5 for dependent spouse and each dependent child up to 4 children, but not to exceed 100 percent of State's average weekly wage	\$323.00, plus \$5 for dependent spouse and each dependent child up to 4 children, but not to exceed 100 percent of State's average weekly wage
Louisiana	\$248.00	\$254.00	Vermont	\$278.00, plus \$10 for each dependent under age 21	\$293.00, plus \$10 for each dependent under age 21
Maine	\$426.43	\$447.92	Virgin Islands	\$173.00	\$183.00
Maryland	\$311.00	\$327.00	Virginia	\$295.00	\$311.00
Massachusetts	\$341.06, plus \$6 for each dependent, if weekly benefits are below \$150	\$360.50, plus \$6 for each dependent, if weekly benefits are below \$150	Washington	\$256.31	\$260.94
Michigan	\$334.00	\$358.00	West Virginia	\$321.30	\$332.83
Minnesota	\$329.00	\$342.00	Wisconsin	\$305.00	\$321.00
Mississippi	\$126.00	\$133.00	Wyoming	\$339.67	\$359.86
Missouri	\$222.73	\$233.84			
Montana	\$286.00	\$292.00			
Nebraska	\$200.00	\$225.00			
Nevada	\$325.99	\$332.46			

NOTE: Most benefit increases are based on the applicable jurisdiction's average weekly or monthly wage. However, nine States (Arizona, Arkansas, California, Georgia, Indiana, Mississippi, Nebraska, New York, and Tennessee) and Puerto Rico prescribe

statutory amounts. Four States (Arizona, Arkansas, California, and Maine) and Puerto Rico are not listed because no changes for temporary total disability were legislated during 1985.

monthly compensation benefit; formerly, payments were limited to \$5,000.

Permanent partial disability benefits were increased from \$100 to \$125 for each degree of disability. Employees who are released by a physician to return to work may refuse to return if a labor dispute is in progress, without loss of any vocational assistance benefits or services.

Abolishes provisions concerning the authority of the Director of the Workers' Compensation Department to establish and operate a physical rehabilitation center. Services formerly provided for injuries at the centers will be handled by government or private sources and in the most economical manner. The director is authorized to order insurers and self-insurers to provide disability prevention services for workers such as physical restoration and psychological, psychiatric, and vocational evaluation and counseling. Costs for rehabilitation will come from the Administrative Fund, in lieu of the Rehabilitation Reserve Fund.

The director has authority to develop a medical fee schedule based on general descriptions of medical services, considering the primary health care providers in a certain geographic area. The percentile used by the director in determining usual and customary fees for health care services was decreased from the 90th to the 75th percentile.

Pennsylvania

Appropriates \$11,213,000, from the Workmen's Compensation Administration Fund to the Department of Labor and Industry to cover expenses for administering the Workmen's Compensation and Occupational Diseases Act.

Rhode Island

Continuation of employee health benefit insurance payments must be made by the employer for 1 year after the employer has filed a memorandum of agreement or notice of direct payment with the Division of Workers' Compensation.

Compensation payments for impairment will not be made until the employee reaches maximum medical improvement. Within 90 days after the employer is notified of the employee's attainment of maximum medical improvement, compensation payments become due and payable.

Unless a memorandum of agreement has been made by the employer and claimant, or a notice of controversy has been filed, first payment of compensation for incapac-

ity or death is due and payable within 14 days after the employer has knowledge of injury or death.

New procedural provisions were added to the law concerning benefits to workers in controverted cases.

Employers are entitled to recovery of payments made to claimants who aggravate a preexisting condition, or for a subsequent injury resulting in death from the Second Injury/Indemnity Fund in excess of the first 52 weeks, formerly 104 weeks.

South Carolina

Coverage is extended to members of the State and national guard while performing work-related duties for the State.

South Dakota

The burial allowance was increased from \$2,500 to \$3,000.

Tennessee

Ten employers or more of the same trade or professional association are permitted to pool their compensation liabilities for purposes of qualifying as group self-insurers for workers' compensation. Maximum and minimum weekly compensation and total maximum compensation for disability and death were increased in steps, on July 1, 1985, through June 30, 1990.

No change was established for minimum benefits as of July 1, 1989. Presently, maximum and minimum weekly benefits are \$168 and \$20, respectively; on July 1, 1986, amounts will increase to \$189 and \$25; to \$210 and \$30, on July 1, 1987; to \$231 and \$35 on July 1, 1988; and the weekly maximum will increase to \$252, on July 1, 1989. Total maximum compensation for disability and death was raised from \$54,000 to \$67,200, on July 1, 1985. From July 1, 1986, through July 1, 1989, total maximum benefits will increase from \$75,600 to \$100,800.

Physicians are required to use the American Medical Association "Guides to the Evaluation of Permanent Impairment," in determining degree of impairment of an injured employee.

The Second Injury Fund is responsible for making compensation payments to injured employees for awards or a combination of awards exceeding 100 percent of disability to the body as a whole. Recovery of permanent disability benefits for disablement or death resulting from an epileptic seizure is compensated solely from the Second Injury Fund.

Totally disabled employees from coal workers' pneumoconiosis are entitled to workers' compensation benefits equal to those provided for under the Federal Coal Mine Health and Safety Act of 1969 (FCMHSA). In case of the employee's subsequent death, the surviving dependents will receive the same benefit payments to which the employee was entitled, except that minimum benefits will be paid according to the FCMHSA.

Texas

A method was established by which a claimant may enforce a compromise settlement approved by the Industrial Accident Board or an agreed judgment approved by the court. Reasonable attorney fees are available for claimants in such instances.

Utah

Weekly benefits for permanent total disability payable from the Second Injury Fund were increased from \$100 to \$120. The interest rate charged employers who default in their assessments to the State Fund was changed from 12 percent to the current interest rate charged by the U.S. Internal Revenue Service for delinquent taxes.

Virginia

State-designated mine rescue team members are covered during service as employees of the mine's operator in an emergency.

Washington

The Department of Labor and Industries must pay all fees and medical charges billed to the Department, within 60 days after receipt, or within 60 days from the time a claim is authorized by a final order or judgment.

An employer is not permitted to discharge or discriminate against an employee because the employee has filed or communicated his or her intention to file a claim for compensation or exercise any other rights under the law.

Various fines were set for employers who fail to file certain reports.

Wyoming

Interfund interest free loans from the budget reserve account not exceeding \$15,000,000, are permitted from the budget reserve account if the State treasurer determines that the reserves to pay workers' compensation are inadequate. □

—FOOTNOTES—

¹The legislatures of Delaware, Florida, Idaho, Illinois, Massachusetts, Mississippi, Missouri, New Jersey, New Mexico, Vermont, West Virginia, Wisconsin, the District of Columbia, and Puerto Rico convened in 1985, however, workers' compensation enactments were insignificant and

are not discussed in the State-by-State summary or none were received. Kentucky was the only State that did not meet in 1985.

²Legislative enactments received as of our reporting date.