

# Unanimously Approved NYS Workers' Comp Reform

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# Process

- Few changes to WCL (since 1992)...virtually all procedurally related due mainly to poor functioning pork barrel legislature.
- Part of Gov. Spitzer's overall reform plan.
- 71 page bill signed into law 3/13/07...most to take effect by July 1, 2007.
- Imagine the AFL-CIO, the Business Council, the Assembly and the Senate all agreed.
- There are still huge issues.

# Summary of Reforms

- The minimum weekly benefit will increase from \$40 to \$100.
- The maximum will increase from \$400/wk to \$500/wk for accident or disablement occurring on or after 7/1/07, to \$550 after 7/1/08, to \$600 after 7/1/09, and to 2/3 of the state average weekly wage after 7/1/10.
- Weekly death benefits would also significantly increase.
- **THE CAP** - Sets the maximum benefits at 225 weeks if the disability is 15% or less and grows to 525 weeks where loss of wage-earning capacity is 95% or more.
- Workers with >80% lost capacity can petition the WCLJ to extend benefits beyond the limits.
- Bill also creates a presumption that medical services will continue well beyond the caps.
- The cap is also effective from the date worker is certified as disabled rather than date of injury. That gap is usually 2-5 years.

# Reforms (Continued)

- The bill directs the SWCB to create the first pharmacy fee schedule.
- It doubles the threshold at which doctor's need to get permission for testing from carriers from \$500 to \$1000.
- Mandates the development of "Best Practice Guidelines" and indicates that Doctor's accepted into the program would not need prior permission for treatment.
- The Department of Labor is charged with developing a return-to-work program.
- The bill abolishes the Special Disability Fund (Second Injury Fund) for claims after 7/1/07 and restricts reimbursement to 1 year after the medical bill was dated and paged.
- The bill toughens civil and criminal penalties for fraud.
- The bill calls for a series of "safety nets"

# Reforms (Continued)

- The bill gives the Chair of the WCB stop work authority at any location in or out of the state involving firms that do not have WC coverage...Fiscal Policy Institute Report.
- Task Forces are being formed by the governor's staff to address "safety net" issues of alternative work programs, drug and alcohol abuse prevention programs and employer safety training to help get injured workers back to work.
- The bill mandates data sharing between the SWCB, SDOL and the Department of Taxation and Finance...one hand does not know what the other is doing at present.