

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
REVISED FISCAL IMPACT**

(replaces fiscal note dated April 24, 2013)

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| <b>Drafting Number:</b> LLS 13-0992                     | <b>Date:</b> April 26, 2013                                |
| <b>Prime Sponsor(s):</b> Sen. Tochtrop<br>Rep. Williams | <b>Bill Status:</b> Senate Business, Labor, and Technology |
|   | <b>Fiscal Analyst:</b> Kirk Mlinek (303-866-2756)          |

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**TITLE:** CONCERNING THE PROCEDURES IN WORKERS' COMPENSATION CLAIMS FOR THE RESOLUTION OF DISPUTES.

| <b>Fiscal Impact Summary</b>   | <b>FY 2013-2014</b> | <b>FY 2014-2015</b> |
|--|---------------------|---------------------|
| <b>State Revenue</b>   |                     |                     |
| <b>State Expenditures</b>  |                     |                     |
| Cash Funds   |                     |                     |
| Risk Management Fund   | \$100,000           | \$100,000           |
| <b>FTE Position Change</b>   |                     |                     |
| <b>Effective Date:</b> August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed. |                     |                     |
| <b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.   |                     |                     |
| <b>Local Government Impact:</b> See Local Government Impact section.   |                     |                     |

**Summary of Legislation**

The bill makes the following changes to workers' compensation law regarding the resolution of disputes:

- requires a claimant to be reimbursed if an employer, after notice of an injury, fails to provide medical treatment;
- requires the employer, carrier, or third-party workers' compensation administrator to recalculate the average weekly wage, and begin payment of the wages based on the recalculated amount, after notice of termination of a fringe benefit;
- requires temporary partial disability to be paid at least once every 2 weeks and requires an employer, carrier, or third-party administrator to provide a claimant a complete copy of the claim file within 15 days after the mailing of a written request;
- clarifies when attorney fees and related costs may be awarded when unripe issues (issues brought prior to the exhaustion of available administrative remedies) are listed for hearing by an opposing attorney; and
- extends from 18 to 24 months the amount of time that must lapse before an employer or insurer may request that an independent medical examiner determine maximum medical improvement (MMI) if the treating physician has not made such determination. This provision is referred to as the Division Independent Medical Exam (DIME).

## **Background**

The bill extends the period before a DIME can be requested. A DIME is a review done by an independent physician that is requested by the third-party administrator when the injured worker appears to be, but the treating physician has not placed them, at MMI. When an injured worker is determined to be at MMI, disability and medical payments, other than those necessary to keep the worker at MMI, are terminated.

## **State Expenditures**

**State expenditures for workers' compensation claims will increase by \$100,000 for FY 2013-14 and into the future.** These costs are detailed below.

***Department of Personnel and Administration (DPA).*** Expenditures in DPA for workers' compensation claims will increase by an estimated \$100,000 for FY 2013-14 and future fiscal years under the bill. This increase is attributed to the six-month extension before a DIME can be requested. Based on the last three years, an average of 10 workers were deemed to be at MMI as a result of a DIME request. The average cost of the disability and medical payments paid during the 6 months prior to the MMI was \$10,100. The state is responsible for covering these costs during the 6-month extension provided by the bill, resulting in increased costs of \$101,000 (10 cases \* \$10,100/case). The fund balance in the Workers' Compensation Account in the Risk Management Fund will be used to pay the increase in claim costs in FY 2013-14. For FY 2014-15, the increase will be charged back to agencies through an increase in the common policy allocation.

The costs identified above are partially offset by the provision in the bill that allows an independent physician conducting the DIME to complete the impairment rating rather than the treating physician, a practice not allowed under current law. This practice will have the effect of closing claims sooner, thereby saving the Risk Management program the cost of one appointment, or about \$100, for total estimated savings of \$1,000 based on the 10 cases discussed above. This offset means that net expenditures are expected to increase by \$100,000 per year.

***Department of Labor and Employment.*** The Division of Workers' Compensation in the Department of Labor and Employment will promulgate rules and update its policies to reflect the bill's provisions. These activities do not require any additional appropriations.

## **Local Government Impact**

As employers who purchase or self-insure for workers' compensation insurance, local governments will be subject to payment of increased benefits. The amount of this increase cannot be determined.

**State Appropriations**

For FY 2013-14, the Department of Personnel and Administration requires an appropriation of \$100,000 from the Risk Management Fund.

**Departments Contacted**

Labor and Employment

Personnel and Administration