



CHANGES TO OHIO WORKERS' COMPENSATION LAW COMING SEPTEMBER 14, 2020

With the signing of House Bill 81 by Governor Mike DeWine several changes to Ohio's workers' compensation act will take effect on September 14, 2020.

Introduced on February 19, 2019, House Bill 81 sought to provide workers' compensation coverage to corrections officers after exposure to another person's blood or bodily fluids. According to the Ohio Legislative Services Commission's Bill Analysis, House Bill 81, as introduced, "expands the current post-exposure testing law, which covers diagnostic testing for specified safety officers under certain conditions, to include detention facility employees."

Through the legislative process, the scope of House Bill 81 expanded. As passed by the legislature, and signed by Governor DeWine on June 16, 2020, House Bill 81 makes the following changes to Ohio workers' compensation law:

1. Creates workers' compensation coverage for corrections employees who suffer exposure to another person's bodily fluids;
2. Prohibits employers from requiring an applicant or employee from paying for any medical examinations that are required as a condition of employment or continued employment;
3. Prohibits injured workers from receiving compensation when the injured worker has suffered a wage loss as the direct result of reasons unrelated to an allowed injury or occupational disease;
4. Reduces the statute of limitations for filing applications for Violations of Specific Safety Requirements (VSSR) from two years to one year from the date of the industrial injury or occupational disease giving rise to the alleged VSSR;
5. Codifies the "voluntary abandonment" defense to applications for temporary total disability compensation and "supersede[s] any previous judicial decision that applied the doctrine of voluntary abandonment. This change applies to claims arising on or after July 1, 2020;
6. The Industrial Commission may exercise its continuing jurisdiction over claims within five years from the date medical services were provided, regardless of whether the medical service was paid under the claim;

7. An employer cannot deny or withdraw consent to a settlement application if the claim is no longer within the employer's rating "experience" or if the employee is no longer employed by the employer;
8. Increases the maximum allowable reasonable funeral expense to \$7,500 (previously, the maximum allowable funeral expense was \$5,500).

How should Employers respond to these legislative changes?

For Employers, the most significant changes to the workers' compensation law involve the codification of "voluntary abandonment," the reduction in the statute of limitations for VSSRs, and the prohibition on requiring applicants or employees pay for testing required to obtain or maintain employment.

As with any request for temporary total disability compensation, employers, together with their legal counsel, and third-party administrator, should carefully review the application. Documentation of an abandonment of employment remains critical to this potential defense. Where an employee's separation from employment is unrelated to the industrial injury, employers can defend requests for compensation accordingly. It is imperative that employers remember that the voluntary abandonment defense is fact-specific, and no two requests are the same.

For VSSR applications, employers must be aware of the reduced statute of limitations. Because of their technical nature, it is highly recommended that employers involve legal counsel to assist them in defending VSSR applications.

Employers may need to amend their policy and procedure manuals to conform with the new requirement that applicants and employees cannot be required to pay for medical examination/testing necessary to obtain or maintain employment.

Questions regarding these changes, or any workers' compensation concern? Contact:

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