



Bill Snapshot

CS/HB 7085: Workers' Compensation

Workers' compensation is the injured employee's remedy for "compensable" workplace injuries. Florida courts have recently found multiple parts of Florida's workers' compensation laws unconstitutional in the areas of attorney fees, time limits on temporary wage replacement benefits, and the right of an injured worker to pay for their own attorney. Subsequently, the Office of Insurance Regulation ordered a workers' compensation premium rate increase of 14.5 percent effective December 1, 2016.

CS/HB 7085 addresses the court rulings and would amend Florida's workers' compensation laws to uphold the Legislature's stated intent behind workers compensation: "to ensure the quick and efficient delivery of disability and medical benefits to injured workers and to facilitate their return to gainful reemployment at a reasonable cost to the employer."

Highlights of the CS/HB 7085 are below. Please refer to the bill text and analysis for more detailed information.

The bill addresses the right of an injured worker to pay for their own attorney (*Miles case*).

- Under the legislation, injured workers are now able to pay for their own attorney, when previously this was prohibited.

The bill addresses temporary wage replacement benefits (*Westphal and Jones cases*).

- The bill increases temporary wage replacement benefits from 104 weeks to 260 weeks combined, and fills the gap between temporary and permanent wage replacement benefits for certain injured workers.
- When merited, these changes will help injured workers receive continuous benefits, whereas before they did not.

The bill addresses issues involving attorney fees (*Castellanos case*).

- The current fee structure for attorneys is percentage based. That is, attorneys are paid by the insurer based on a percentage of the amount of award the attorney obtains for their client. In some cases; however, the potential for award is too low to fairly compensate an attorney for their time. In *Castellanos*, the court found this to cause an access to courts issue. In short, the fee structure was preventing injured workers from obtaining representation and getting their day in court. To correct this, the Supreme Court resurrected hourly attorney fees as an alternative to the current percentage based fee.

LAST SEEN:

Reported favorably out of Commerce Committee with Committee Substitute

Sponsor:
Chairman Burgess

CURRENT STATUS:

Special Order Calendar for Week 7

HEADED TO:

The House floor



HOUSE MAJORITY OFFICE

FLORIDA HOUSE OF REPRESENTATIVES



REPRESENTATIVE RAY RODRIGUES, MAJORITY LEADER

- The bill allows for hourly attorney fees only in certain instances. This ensures injured workers can find an attorney, but limits the cost impact on the system.

The bill increases opportunities for competition.

- The bill allows insurers to decrease premiums by a uniform percentage not to exceed 5 percent.
 - Giving insurers the opportunity to offer lower premiums creates competition that benefits the consumer. Previously this was not an option without burdensome regulatory filings.

The bill addresses system cost drivers.

- Controls incentives for attorney involvement.
 - The insurer would no longer pay fees on pre-litigation attorney services.
 - Gives more opportunity for insurers to accept claims without suffering attorney fees by attaching attorney fees after 45 days instead of 30 days.
 - Increases specificity of information necessary to establish the facts of a case in a petition.
- Collects additional data on the cost of attorneys for the plaintiff and the defense.
 - Retainer agreements have to be filed with the Judge of Compensation Claims.
 - More details will be collected on insurer defense fees. This includes total amount paid and attorney hours incurred on litigated claims, and total amount paid that is unrelated to litigation.
- Moves to Medicare based reimbursement for most outpatient medical procedures.
 - Having Medicare based reimbursement for most outpatient procedures eliminates the opportunity for providers to increase reimbursements by simply increasing charges.
- Enhances preauthorization requirements for recommended medical treatment.
 - Requires insurers to authorize or deny medical authorization requests, unless there are incomplete/missing forms or documentation.