



Legislative Activity Report

National Council on Compensation Insurance

The nation's most experienced provider of workers compensation information, tools, and services

Regulatory Services

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State Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

This report contains descriptions and/or excerpts of relevant bills that have passed the first chamber, passed the second chamber, or have been enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.

BILLS ENACTED

Connecticut

SB 1502 was:

- Passed by the first chamber on June 29, 2015
- Passed by the second chamber on June 29, 2015
- Enacted on June 30, 2015, with an effective date of July 1, 2015, for section 31-294d(a)(1), and an effective date of June 30, 2015, for section 31-294d(d)

SB 1502, in part, amends *section 31-294d. Medical and surgical aid; hospital and nursing service.* of the Connecticut General Statutes as follows:

Sec. 31-294d. Medical and surgical aid; hospital and nursing service.

(a) (1) The employer, as soon as the employer has knowledge of an injury, shall provide a competent physician or surgeon to attend the injured employee and, in addition, shall furnish any medical and surgical aid or hospital and nursing service, including medical rehabilitation services and prescription drugs, as the physician or surgeon deems reasonable or necessary. The employer, any insurer acting on behalf of the employer, or any other entity acting on behalf of the employer or insurer shall be responsible for paying the cost of such prescription drugs directly to the provider. If the employer utilizes an approved providers list, when an employee reports a work-related injury or condition to the employer the employer shall provide the employee with such approved providers list within two business days of such reporting.

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(d) (1) The pecuniary liability of the employer for the medical and surgical service required by this section shall be limited to the charges that prevail in the same community or similar communities for similar treatment of injured persons of a like standard of living when the similar treatment is paid for by the injured person. ~~Prior~~ Notwithstanding the provisions of chapter 368z, prior to the date the liability of the employer is established pursuant to subdivision (2) of this subsection, the liability of the employer for hospital service shall be determined exclusively by the provisions of this subdivision and shall remain the amount it actually costs the hospital to render the service, as determined by the commissioner, except in the case of state humane institutions, the liability of the employer shall be the per capita cost as determined by the Comptroller under the provisions of section 17b-223. All disputes concerning liability for hospital services in workers' compensation cases shall be filed not later than one year from the date the initial payment for services was remitted, regardless of the date such services were provided, unless any applicable law, rule or regulation establishes a shorter timeframe, and shall be settled by the commissioner in accordance with this chapter.

(2) Commencing ninety days after the formulas established by the chairman of the Workers' Compensation Commission have been published pursuant to subsection (e) of this section, unless the employer and hospital or ambulatory surgical center have otherwise negotiated to determine the liability of the employer for hospital or ambulatory surgical center services required by this section, the liability of the employer for hospital or ambulatory surgical center services shall be: (A) If such services are covered by Medicare, limited to the reimbursements listed in such formulas published pursuant to subsection (e) of this section, or (B) if such services are

not covered by Medicare, determined by the chairman, in consultation with employers and their insurance carriers, self-insured employers, hospitals, ambulatory surgical centers, third-party reimbursement organizations and other entities as deemed necessary by the Workers' Compensation Commission.

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Note: SB 1502 was not included in any previous version of NCCI's *Legislative Activity Report*.

BILLS PASSING SECOND CHAMBER

There were no bills that passed the second chamber within the one-week period ending July 31, 2015.

BILLS PASSING FIRST CHAMBER

There were no bills that passed the first chamber within the one-week period ending July 31, 2015.

The following section contains monthly updates on significant legislative activity, judicial decisions, and regulatory committee activity that may impact the workers compensation system and will be included in the report the first week of every month throughout the year.

FEDERAL ISSUES

Issue	Update
Congress	Congress begins its annual August recess early in the month. Prior to heading back to their respective states, lawmakers addressed the "must pass" transportation funding measure and began hearings on the nuclear agreement with Iran. Congress will not reconvene until after the Labor Day holiday.
TRIPRA of 2015 Implementation	<p>Significant work continues on the data reporting requirement of the Terrorism Risk Insurance Program Act (TRIPRA) of 2015. As required by Section 111 of the Act, the Department of the Treasury will begin collecting information on terrorism risk insurance beginning in January 2016 and will use the information to draft a report to Congress by June 30, 2016 (and annually thereafter) on the impact of TRIPRA on terrorism insurance markets. Prior to requesting information from individual carriers, the Treasury must first endeavor to obtain the information from state insurance regulators or through other publicly available sources.</p> <p>The National Association of Insurance Commissioners (NAIC) has developed and is in the process of adopting a supplement to its Annual Statement Blank that would capture some of the terrorism insurance information required in Section 111. Some stakeholders have raised concerns that the Annual Statement Blank supplement approach does not collect all the information the Treasury needs to draft its report. Those concerns could result in a dual reporting requirement from both the NAIC and the Treasury that could prove onerous and inefficient. The Federal Insurance Office has initiated a dialogue with key stakeholders to determine how best to implement the requirements of Section 111 of TRIPRA of 2015.</p>
Social Security Disability Insurance Reform	The House of Representatives Committee on Ways and Means held a hearing about the pending insolvency of the Social Security Disability Insurance (SSDI) Trust Fund. Without Congressional action, the Trust Fund will become insolvent in 2016. The public policy debate around the future of the SSDI program has included assertions by some academics that a driver of increased SSDI beneficiaries and related costs is a shift from the state-based workers compensation system to the program. Those assertions have not been supported by empirical data, but it remains likely that issues regarding the state-based workers compensation program will arise as Congress searches for public policy solutions to SSDI's impending insolvency.

STATE COMMITTEE ACTIVITY

State	Update
Virginia	The next HB 1820 Stakeholder Work Group Meeting will be held on August 19, 2015. HB 1820 tasked the Workers Compensation Commission to convene a working group to study all possible databases that contain workers compensation or healthcare data and provide findings on how that information may be used to establish fees in Virginia. A July 1, 2015 meeting included presentations from two database providers: FAIR Health, Inc. and Virginia Health Information.

The bill included in the following section has been filed, but has not yet passed the first chamber.

STATE LEGISLATIVE ACTIVITY

State	Update
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<p>Illinois</p>	<p>HB 4248 (SB 2154) is a compilation of provisions sought by Gov. Bruce Rauner in pursuit of workers compensation system reform in the state. Included are provisions:</p> <ul style="list-style-type: none"> • Tightening the causation standard • Defining “major contributing cause” • Regarding employees who are traveling or on a break • Providing for a reduction of an award by amounts an injured worker has previously received for prior injuries that resulted in permanency awards • Reducing certain medical fee schedule amounts • Establishing the Workers’ Compensation Ombudsman Program • Creating the Workers’ Compensation Edit, Alignment, and Reform Commission to develop a proposed recodification of the Workers’ Compensation Act • Providing for replacement of the Commission computer system <p><i>NCCI is analyzing the bill for potential impact on system costs.</i></p>
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OTHER ITEMS OF INTEREST

State	Update
<p>Colorado</p>	<p>A public rulemaking hearing will be held on August 31, 2015, before the Colorado Commissioner of Insurance regarding the proposed rule on Workers’ Compensation Form Filings, new and revised Policy Forms, and Annual Report Filings. Written comments will be available for public inspection at the Division of Insurance.</p>
<p>New Mexico</p>	<p>The New Mexico Workers’ Compensation Administration will conduct a public hearing on August 6 about its proposed rule that would reimburse injured workers for medical marijuana, but not for expenses related to paraphernalia or personal production. Medical marijuana could be added to the state’s healthcare provider fee schedule, which would set the maximum payment that injured workers could be reimbursed for the drug. It states that medical marijuana may be a “reasonable and necessary medical treatment only where an authorized health care provider certifies that other treatment methods have failed.” The proposed rule also states that injured workers would not be reimbursed for “paraphernalia” or “expenses related to personal production or cannabis acquired from sources other than a licensed producer.” The New Mexico Court of Appeals has ruled three times since May 2014 that medical marijuana should be classified as reasonable and necessary medical care for injured workers.</p>
<p>Oregon</p>	<p>The Workers Compensation Division is reviewing its regulations pertaining to attorney fees to determine whether changes are necessary to implement recently enacted HB 2764. The measure, signed into law by Gov. Kate Brown on June 22, allows attorneys to be paid up to \$4,000 for successfully arguing that a carrier or self-insured employer unreasonably delayed or denied payments. It also creates a new fee, allowing claimants’ attorneys to be paid for getting a claim reclassified from non-disabling to disabling. Additionally, it authorizes interest if an employer appeals an award of attorney fees and requires the Workers Compensation Board to review attorney fees every two years to ensure that payment is reasonable. The first meeting is scheduled for August 19.</p>
<p>South Dakota</p>	<p>In <i>Dakota Trailer Manufacturing, Inc. v. United Fire & Casualty Co.</i>, Dakota Trailer Manufacturing built trailers at its plant in Yankton and also manufactured radiator subassemblies for L&M Radiators in a portion of L&M Radiators’ shop it subleased. Prior to 2011, NCCI classified the L&M location as a “machine shop” for purposes of calculating Dakota Trailer’s insurance premium. In 2011 as a result of an inspection, NCCI reclassified the L&M location as “welding or cutting operations” and the insurance carrier adjusted its premium accordingly. The Workers’ Compensation Appeals Board and the South Dakota Department of Labor affirmed the change in classification, but the Circuit Court reversed and reinstated the machine shop classification. On appeal, the South Dakota Supreme Court affirmed the Circuit Court and held that operations at the L&M location fell within the description for “machine shop” since the work involved shaping, drilling, bending, forming, and welding work.</p>

Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
CT, ME, NH, RI ,VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005

AK, HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
ID, MT, OR	Mike Taylor	503-892-1858
MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.