



State or Federal 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 passed the first chamber, passed the second chamber, or were 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

There were no relevant workers compensation-related bills enacted within the one-week period ending August 25, 2017.

### BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending August 25, 2017.

### BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending August 25, 2017.

### BILLS VETOED BY GOVERNOR

The following workers compensation-related bill was vetoed by the governor within the one-week period ending August 25, 2017.

## Illinois

#### HB 2525 was:

- Passed by the first chamber on April 27, 2017
- Included in NCCI's May 5, 2017 **Legislative Activity Report** (RLA-2017-17)
- Amended and passed by the second chamber on May 26, 2017
- Included in NCCI's June 9, 2017 **Legislative Activity Report** (RLA-2017-21)
- Vetoed by the governor on August 25, 2017

#### HB 2525, in part, makes the following changes to the Illinois Compiled Statutes Annotated:

- Requires that every manual of classifications, every manual of rules and rates, every rating plan, and every modification of the foregoing must be prefiled with the director at least 30 days before they become effective.
- Provides that a company may satisfy its obligation to make such filings by adopting the filing of a licensed rating organization of which it is a member or subscriber, provided that if a company chooses to deviate from such filing, it must get approval from the director by submitting supporting information that specifies the basis and justification for the deviation.
- Provides that a filing must not be effective, nor used, unless approved by the director. A filing must be deemed approved if the director fails to disapprove within 30 days after the filing.
- Provides that the Illinois Workers' Compensation Commission, in consultation with the Workers' Compensation Medical Fee Advisory Board, must establish an evidence-based drug formulary.
- Requires an annual investigation of procedures covered for ambulatory surgical centers and the establishment of a fee schedule.
- Changes a waiting period for benefits for certain firefighters, emergency medical technicians, and paramedics.

- Changes compensation computations for subsequent injuries to the same part of the spine.
- Provides that accidental injuries sustained while traveling to or from work do not arise out of and in the course of employment.
- Defines “in the course of employment” and “arising out of the employment.”
- Permits an employer to file with the Illinois Workers’ Compensation Commission a workers compensation safety program or a workers compensation return-to-work program implemented by the employer.
- Provides that the Commission may certify any such safety program as a bona fide safety program after reviewing the program.
- Provides that, in a provision concerning compensation for the period of temporary total incapacity for work resulting from an accidental injury, (i) injuries to the shoulder must be considered injuries to part of the arm and (ii) injuries to the hip must be considered injuries to part of the leg.
- Contains, among other things, provisions concerning:
  - o Repetitive and cumulative injuries
  - o Permanent partial disability determinations
  - o Electronic claims
  - o Annual reports by the Commission concerning the state of self-insurance for workers compensation in Illinois
  - o Duties of the Workers’ Compensation Premium Rates Task Force

## FEDERAL ISSUES

Issue	Update
<b>US Senate Hearing on Insurance Fraud</b>	The Senate Subcommittee on Consumer Protection, Product Safety, Insurance and Data Security conducted a hearing prior to the August recess on the impacts of insurance fraud. The hearing, “Insurance Fraud in America: Current Issues Facing Industry and Consumers,” focused on educating the subcommittee on the types of insurance fraud and its effects on consumers specifically and the economy generally. Oklahoma Insurance Commissioner John Doak testified before the subcommittee and outlined common types of fraud (e.g., healthcare, post-catastrophe, automobile, life). Those testifying before the subcommittee briefly mentioned the types of fraud found in the workers compensation line. In addition to Commissioner Doak, the others offering testimony were: Dennis Jay, executive director, Coalition Against Insurance Fraud; Sean Kevelighan, chief executive officer, Insurance Information Institute; Tim Lynch, director of government affairs, National Insurance Crime Bureau; and Rachel Weintraub, general counsel, Consumer Federation of America.

## STATE COMMITTEE ACTIVITY

State	Update
<b>Montana</b>	On September 11, the Classification Review Committee will consider revisions to NCCI’s <i>Basic Manual</i> classifications for various industries and updates to the committee’s public participation guidelines.
<b>Nevada</b>	The Division of Industrial Relations is currently considering changes to the factors used to calculate lump-sum payments for permanent partial disability awards.
<b>Oregon</b>	The Department of Consumer and Business Services (DCBS) is considering administrative changes to the regulations concerning the Workers’ Compensation Statistical Plan and designation of NCCI’s most recent <i>Statistical Plan</i> as the prescribed plan. The DCBS is also considering changes to medical arbiters, medical payments, and attorney fees.

## OTHER ITEMS OF INTEREST

State	Update
<b>North Carolina</b>	On June 9, the North Carolina Supreme Court issued a decision in <i>Wilkes v. City of Greenville</i> , which included a finding that once an employee meets the initial burden of proving their compensable injury, a rebuttable presumption arises that additional medical treatment is directly related to the compensable injury.
<b>Oklahoma</b>	A challenge to the temporary total disability (TTD) cap in Oklahoma was appealed to the Supreme Court on August 2 in <i>Jesus Hidalgo v. Unit Drilling Company and the Workers Compensation Commission</i> . The state’s TTD maximum is 70% of the injured worker’s average weekly wage, not to exceed 70% of the state’s average weekly wage. In this case, 70% of Hidalgo’s average weekly wage comes to \$1,012, but the cap stops at \$571 which is 70% of the state’s average weekly wage. Hidalgo and his attorneys argue that the TTD cap under Title 85A, section 45(A)(1) of the Administrative Workers’ Compensation Act is an arbitrary limit that denies high-wage earners of their right under the state constitution to an adequate remedy from harms they have suffered, and

State	Update
	that it subjects workers to differential treatment based on their income, thus violating principles of equal protection. During the 2017 legislative session, an increase to the TTD cap was proposed but the legislation did not pass.

**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.

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