

WORKERS' COMPENSATION COMPLIANCE

Summary of legislative and regulatory changes

September 2024

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California

The following bills were signed by Gov. Gavin Newsom and become law effective Jan. 1, 2025.

Assembly Bill 1239

Gov. Newsom approved [Assembly Bill 1239](#) on Sept. 28, 2024. This bill extends the sunset date on an existing pilot program that allows workers' compensation indemnity payments due to employees to be deposited on a prepaid card or prepaid card account until Jan. 1, 2027. California lawmakers in 2018 enacted Senate Bill 880 that defined "prepaid card" or "prepaid card account" and permitted their use if specific requirements were met until Jan. 1, 2023. Subsequent bills extended the program until Jan. 1, 2025. The Commission on Health and Safety and Workers' Compensation (CHSWC) is currently analyzing the pilot project.

Employers continue to be able to make disability indemnity payments by check. Additionally, employers can deposit disability indemnity payments in an account in any bank, savings and loan association, or credit union:

- Chosen by the employee, provided the employee has voluntarily authorized the deposit.
- Account the employee authorized to receive electronic deposits of payroll unless the employee requested in writing that benefits are not to be electronically deposited in the account.

Assembly Bill 2337

[Assembly Bill 2337](#) was approved by Gov. Newsom on Sept. 22, 2024. This legislation had wide industry support. The bill allows documents that require a signature, including the signature of a notary on an acknowledgment, to be filed with an "electronic signature."

The [California Lawyers Association, Workers' Compensation Section](#), the sponsor of this measure, wrote in support:

"Electronic signatures were used effectively in workers' compensation proceedings for three years during the state of emergency. California explicitly authorizes electronic signatures in civil proceedings, where they are widely and effectively used. AB 2337 follows a long line of legislation in California permitting electronic signatures in various areas."

New York

Assembly Bill 1204

[New York Assembly Bill 1204](#) was signed by Gov. Kathy Hochul on Sept. 27, 2024. Click [here](#) to view the Senate version.

This bill authorizes treatment of workers' compensation injuries by an occupational therapist assistant under the direction and supervision of an authorized occupational therapist and a physical therapist assistant under the direction and supervision of an authorized physical therapist. The bill also requires the record of such care be maintained by the occupational therapist or physical therapist where the care is rendered and by the referring physician, physician assistant, podiatrist and nurse practitioner.

Assembly Bill 1204 becomes effective on the 30th day after it became law, or Oct. 27, 2024.

Board now indexing every complete case

Effective Sept. 26, 2024, the New York State Workers' Compensation Board (NYWCB) is indexing every complete case assembled upon receipt of the appropriate documents and reports as required in the regulations for [case file creation and indexing of claims that may be controverted](#).

This change is particularly important for claims denials as once the claim is indexed, "any denial of the claim must be filed with the Board within 25 days of the date of indexing or defenses listed in Workers' Compensation Law Section 25(2)(b) will be barred." The NYWCB provided advance notice of their intention to enforce this rule to allow stakeholders sufficient time to prepare.

Reportedly, this update by the NYWCB was prompted by two 2023 Appellate Division, Third Department decisions, [Matter of Williams v New York City Tr. Auth. 214 AD3d 1099 \(3d Dept 2023\)](#), and [Matter of Shakil v New York City Tr. Auth. 2023 NY Slip Op 06178](#). In both cases, the NYWCB issued a Notice of Assembly but did not index the claims. The carrier was allowed to maintain their defenses to deny the claims as indexing did not occur and the time limit to file the denial had not started.

Communication between employers, insurers and claims administration is more important than ever when notices are provided by the NYWCB to promote efficient resolution of workers' compensation claims.

Legislation to watch

Pennsylvania

House Bill 2490

[House Bill 2490](#) is currently pending before the House Committee on Labor and Industry. If passed as written, this bill prohibits an employer from requiring a claimant, as a condition of settlement, through a signed additional agreement or otherwise, to agree to any of the following:

- Refrain from reapplying for work.
- Sign a confidentiality agreement.
- Accept indemnification for a claim by Medicare.
- Resign from employment with the employer.

To date, there have been no actions related to this bill since its referral to the Committee.

House Bill 1632

House Bill 1632, if passed, will add that post-traumatic stress injuries suffered by first responders are compensable if those injuries are sustained in the course of an individual's employment as a first responder. This pending bill removes the requirement that it be demonstrated that the injury resulted from abnormal working conditions and establishes the following incidents or exposures as qualifying traumatic events for which first responders may file a claim for post-traumatic injury:

- Resulting in serious bodily injury or death to any person or persons.
- Involving a minor who has been injured, killed, abused or exploited.
- Involving an immediate threat to the life of the claimant or another individual.
- Involving mass casualties.
- Responding to crime scenes for investigations.

This legislation, as written, would define first responders to include peace officers, Pennsylvania State Police officers and active volunteers, employees or members of a fire company or an emergency medical services (EMS) company that:

- Is designated as a municipality's primary EMS provider; or,
- Is dispatched by a 911 dispatcher or pursuant to a mutual aid agreement.

This bill was re-referred to the Rules and Executive Nominations Committee on Oct. 7, 2024.

The information contained within this document is intended to provide summary level information on proposed or enacted laws related to family and medical leave. It is not intended to provide guidance on the application of these legal requirements or as an update to your company's attendance and/or leave policies. We recommend you consult with legal counsel to determine what changes, if any, should be applied to company policy.

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