

WORKERS' COMPENSATION COMPLIANCE

Summary of legislative and regulatory changes

May 2024

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Florida

House Bill 989

[House Bill 989](#) became effective upon the signature of Gov. Ron DeSantis on May 2, 2024. This measure amends sections of Florida statute pertaining to the Chief Financial Officer (CFO) and programs under his span of control, including the Department of Financial Services (DFS), Division of Workers' Compensation (DWC). This bill makes the following changes that impact workers' compensation:

- Establishes that the workers' compensation reimbursement for emergency services and care when a maximum reimbursement allowance (MRA) is unavailable must be 250% of Medicare rates, unless governed by a contract.
- Requires the DFS to collaborate with an actuarial services firm to develop maximum reimbursement allowances (MRA) that are not currently available and provides rulemaking authority to DFS. This provision will expire on June 30, 2026.
- Amends regulations concerning the Florida Self-Insurers Guaranty Association (FSIGA) to require starting July 1, 2024, that all contracts valued at \$100,000 or more, entered into by the association, must receive prior approval from the DFS, unless the contract is required by law.
- Mandates DFS to approve or deny the contract entered into by FSIGA within ten days; otherwise, it is considered approved.
- Clarifies that firefighters receiving cancer-related disability and death benefits are required to also receive leave time and employee retention benefits equal to those provided for other injuries or illnesses sustained while on duty.

Senate Bill 808

On May 29, 2024, Gov. Ron DeSantis approved [Senate Bill 808](#). This bill amends statutes related to the medical treatment of firefighters, law enforcement officers, correctional officers and correctional probation officers with the compensable presumptive conditions of tuberculosis, heart disease or hypertension as follows:

- Creates an exception to the usual provider selection process provided under workers' compensation by allowing these first responders the choice of the "medical specialist."
- Defines "medical specialist" as a Florida licensed physician who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease or hypertension.
- Requires written notice of the selected medical specialist be given to workers' compensation carrier, self-insured employer or third-party administrator before medical treatment begins, except in emergency situations.

- Requires the workers' compensation carrier, self-insured employer or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications and schedule an appointment within five business days after receipt of the written notice and schedule the appointment for treatment to be held within 30 days after receipt of the written notice.
- Authorizes the selected specialist, if after five days, an alternative medical specialist is not authorized.
- Requires reimbursement of a medical specialist at no more than 200% of the Medicare rate for continuing care and treatment that is reasonable, necessary and related to tuberculosis, heart disease or hypertension.

According to the [Florida Senate Bill Analysis and Fiscal Impact Statement](#) the state as well as local governments, may experience an increase in the cost of workers' compensation claims due to the increase in the maximum reimbursement rate.

This legislation is effective Oct. 1, 2024.

Maryland

House Bill 806

On May 16, 2024, Gov. Wes Moore approved [House Bill 806, the Physician Assistant Modernization Act of 2024](#).

This bill changes the requirements to practice as a physician assistant in the state as follows:

- Requires a physician assistant (PA) to have a “collaboration agreement” rather than a delegation agreement.
- Alters the scope of practice and the education required for licensure as a physician assistant.
- Authorizes physician assistants who are employees of the federal government to perform acts, tasks or functions as a physician assistant during a certain disaster.
- Requires that on or before Jan. 1, 2025, the State Board of Physicians — with representative from the Maryland Academy of Physician Assistants, the Physician Assistant Education Association and physician assistant education programs in the state — to review and update the list of advance duties for physician assistants.

House Bill 806 takes effect Oct. 1, 2024.

Minnesota

House File 4661

On May 8, 2024, Gov. Tim Walz approved [House File 4661](#), the technical and policy bill for the [Workers' Compensation Advisory Council \(WCAC\)](#) that adopts:

- Technical and rulemaking changes from the Office of Administrative Hearings (OAH) and the Workers' Compensation Court of Appeals (WCCA) to reflect long established and modern practices and to incorporate the use of CAMPUS, the Workers' Compensation Division technology system.
- Compliance provisions for the Department of Labor and Industry (DLI).
- Litigation procedures requested from the workers' compensation Bar.

Key provisions of the bill include:

- Revises the calculation of average weekly wage (AWW) for employees injured while engaged in agricultural employment fewer than 30 days in a calendar year and who are regularly employees by two or more employers.
- Increases the maximum permissible attorney fee not requiring approval by the commissioner to 20% of the first \$275,000 for dates of injury on or after Oct. 1, 2024, from \$130,000.
- Increases the temporary total disability maximum weekly compensation rate for workers injured on or after Oct. 1, 2024, from 102% of Statewide Average Weekly Wage (SAWW) to 108% of SAWW.
- Clarifies notice requirement to discontinue payment of rehabilitation services once the employer or insurer has accepted liability for a claim and a rehabilitation plan has been approved effective May 9, 2024.
- Describes when employees can be referred to DLI's vocational rehabilitation unit for certain disputes.
- Clarifies authority for DLI to assess a \$500 penalty against a health care provider or their agent for charging more than statutory allowances for electronic medical records.
- Clarifies attorney access to workers' compensation claim documents in DLI's CAMPUS, which will require programming to discontinue an attorney's access to claim data once specified conditions occur.
- Raises the allowable costs for home remodeling or alteration awards, including obtaining approval by a certified building official or accessibility specialist from \$75,000 to \$150,000.
- Adds that in addition to a penalty of \$1,000 imposed in the event a payment is not made or report is not submitted within six months of the due date, the commissioner of the DLI must refer the self-insured employer or insurer's file to the Department of Commerce for consideration of license or permit revocation.

Unless stated otherwise, this bill is effective Aug. 1, 2024.

New Hampshire

Senate Bill 367

[Senate Bill 367](#) became effective upon being signed by Gov. Chris Sununu on May 31, 2024. This legislation reestablishes the commission to study the incidence of post-traumatic stress disorder in first responders. This commission will study:

- Options for streamlining the workers' compensation process in order to avoid re-traumatization of first responders with PTSD.
- Comfort dog standards.
- The addition of "part-time volunteer first responder" to a funeral director's death certificate drop-down menu.
- Any other matter the commission deems appropriate for study.

This commission must submit an interim report of its findings and recommendations for proposed legislation to the president of the Senate, the speaker of the House of Representatives, the senate clerk, the house clerk, the governor and the state library on or before Nov. 1, 2024.

A final report is due on or before Nov. 1, 2025.

Oklahoma

House Joint Resolution 1035

On May 8, 2024, Gov. Kevin Stitt signed [Joint Resolution 1035](#), which approved the fee schedule for maximum rates paid for reimbursement to medical providers.

This resolution becomes effective July 1, 2024.

Senate Bill 1333

The governor approved [Senate Bill 1333](#) on May 1, 2024. This legislation:

- Provides that existing reserves remain with CompSource Mutual Insurance Company for workers' compensation claims for volunteer firefighters incurred prior to July 1, 2024.
- Transfers the Volunteer Firefighter Group Insurance Pool to the Office of Management and Enterprise Services (OMES) Comprehensive Professional Risk Management Program effective July 1, 2024.
- Permits OMES to contract with a third-party administrator or hire not more than two full-time personnel for administering the Pool.
- Allows OMES to collect a premium of \$120 per firefighter from state agencies, public trusts and other instrumentalities of the states.
- Requires OMES to annually report pool enrollment and financial status to designated officials and notify them of rate changes.
- Creates a revolving fund for OMES to be designated the "Volunteer Firefighter Group Insurance Pool Revolving Fund" that consists of all monies received by OMES from appropriations provided to administer the Volunteer Firefighter Group Insurance Pool if no other funds are available.

This bill becomes effective July 1, 2024.

Senate Bill 1456

Gov. Stitt approved [Senate Bill 1456](#) on May 6, 2024. This bill directs the Court of Civil Appeals to establish the Court of Existing Claims (CEC) division. The CEC will have jurisdiction over all workers' compensation claims filed before Feb. 1, 2014, and all judicial functions of the CEC will remain under the authority of the Supreme Court.

Effective July 1, 2024, the Chief Justice of the Supreme Court will appoint one judge from a list of retired judges on a rotational basis.

This measure terminates the position of the administrator of the CEC effective July 1, 2024, and transfers all administrative duties of the CEC to the Oklahoma Workers' Compensation Commission (OWCC) including docketing, filing, preparation of appellate records, preparation of orders and all other duties previously performed by the administrator and the court clerk of the CEC.

The CEC is required to contract with the OWCC to pay for the integration, maintenance and upgrade of its case management and records system.

Senate Bill 1457

Gov. Still also signed [Senate Bill 1457](#) on May 8, 2024. This bill excludes the limitation for mental injury or illness not caused by a physical injury for a law enforcement officer, paid or volunteer firefighter, or emergency medical technician employed on a full-time basis by a municipality, county or the state who suffers post-traumatic stress disorder (PTSD) while responding to an emergency.

This legislation specifies:

- If a physician deems a first responder temporarily unable to work, they will receive 70% of their average weekly wage up to the state average wage or the greater of the weekly benefit provided for in a collective bargaining agreement or the employer's policy.
- Allows the employer to elect to exercise payment of a temporary pension benefit, if available at no additional cost to the employee and the benefit is equal to or greater than the temporary award.
- If a first responder is unable to return to work after reaching maximum medical improvement, they may be given permanent disability benefits of up to \$50,000.
- Requires the employer to provide reasonable and necessary treatment for a period not longer than one year, if it is found that a first responder has suffered PTSD.
- Limits prescription medication for PTSD to \$10,000.
- Payments for volunteer firefighters will be made according to the Volunteer Firefighter Group Insurance Pool.

This bill becomes effective Jan. 1, 2025.

South Carolina

Senate Bill 1266

On May 13, 2024, Gov. Henry McMaster signed [Senate Bill 1266](#), a joint resolution to approve regulations of the South Carolina Workers' Compensation Commission (SWCC) relating to the periodic payments of temporary compensation and reimbursable travel expenses to injured employees. [Regulation Document Number 5266](#) made the following changes:

- Makes payment by electronic means the default method of payment for temporary disability and reimbursements.
- Require payers to provide injured employees with written or electronic notice of the method of electronic payment available and how to access it on or before the date compensation becomes due.
- Allows payers to send payments via a check accompanied by written instructions for the claimant to commence payment electronically if the injured employee does not respond to the aforementioned notice within seven days.
- Allows injured employees to opt into payments via checks by giving 30 days' written or electronic notice to the payer.
- Permits payers to petition the commission for the right to continue making payments to injured employees via check for up to two years from the effective date of the regulation.
- Sets forth requirements for payers who use an electronic payment method to ensure injured employees can immediately obtain their electronic payments and that the chosen electronic payment method is easily accessible.

Click [here](#) to view the advisory notice issued by the SWCC on May 31, 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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