Illinois Self-Insurers' Association

FEBRUARY 2022

FROM THE DIRECTOR'S DESK

By Keith Herman; Executive Director, Illinois Self-Insurers' Association

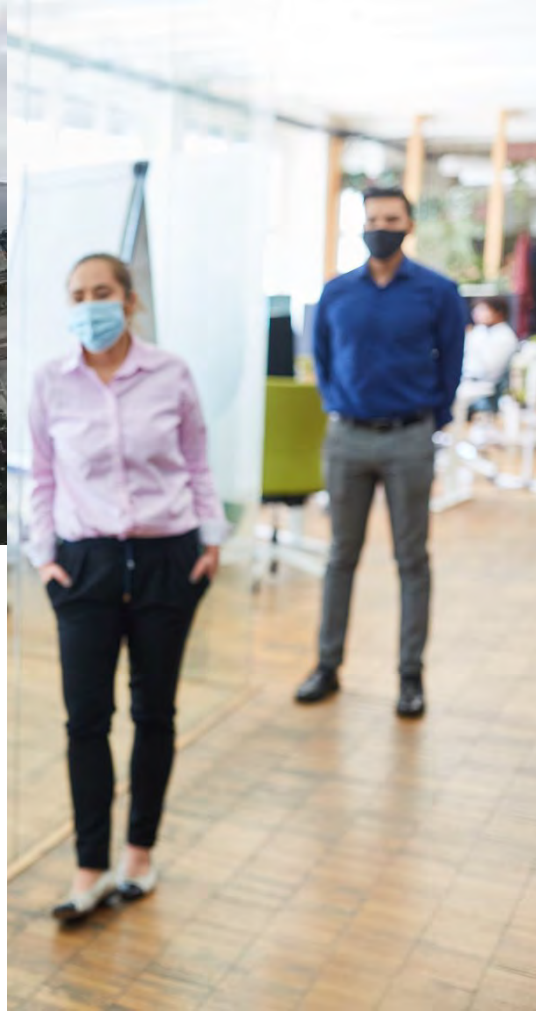
Welcome to the Illinois Self-Insurers' Association's Newsletter. The Illinois Self-Insurers' Association ("ISIA") is a not-for-profit association dedicated to representing and promoting the interests of self-insured and high-deductible employers.

The ISIA offers educational programs regarding workers' compensation. The ISIA provides its members with a forum for discussion and communication regarding issues relating to the regulation of self-insurance and the administration of the Illinois Workers' Compensation Act. The ISIA formulates legislative initiatives and analyzes and promotes statewide policy. We are committed to aggressively pursuing a workers' compensation system that provides both employers and employees an efficient and fair forum for processing and adjudicating workers' compensation claims. The ISIA is dedicated to fighting extensive and burdensome governmental regulation of self-insured and high-deductible employers. To ensure reasonable regulation and equitable administration of our workers' compensation system, the self-insured and high-deductible employers must be actively and forcefully involved in the development of these regulations, legislative initiatives, and policy decisions.The ISIA provides the self-insured and high-deductible employers with an opportunity to be so involved.

The ISIA was formed in 1978 and assisted in the development of the guidelines for determining the financial requirements to self-insure or workers' compensation liability in Illinois. The Illinois Workers' Compensation Commission subsequently adopted these guidelines. Through the Association's efforts, the Illinois Self-Insurers' Advisory Board was created. The ISIA has filed or joined in a number of amicus briefs supporting employers in significant cases that have been appealed to the Illinois Appellate Court, the Illinois Supreme Court, and to the United States Supreme Court.

The ISIA has some exciting plans for 2022, including introduction of our new website. We continue to provide our educational programs, including the "Nuts and Bolts of Illinois Workers' Compensation" and our Annual Educational Seminar. We are also providing webinars on various topics throughout the year.

The ISIA offers two membership levels. Self-insured and high-deductible (>$250,000.00) employers may join as "voting" members." We also offer an "associate" membership. If you are already a member, thank you! If you are not a member, please consider joining the ISIA. Membership information is provided in this newsletter.



TWO COVID-19 DECISIONS ISSUED BY THE ILLINOIS WORKERS' COMPENSATION COMMISSION

After much anticipation, two COVID-19 Decisions were recently handed down at the Illinois Workers' Compensation Commission; both favorable to the employee. Both cases discuss the rebuttable presumption in favor of essential workers, the applicability of the Workers' Compensation Act versus the Occupational Diseases Act, and the unique evidentiary issues for COVID-19 cases.

The Decision in Edgar Lucero v. Focal Point LLC (20 WC 18985) was issued on October 21, 2021 (over a year and a half after the beginning of the pandemic). At the outset of the decision, the Arbitrator noted that although the claim was filed under the Workers' Compensation Act, the claim would be more appropriately adjudicated under the Occupational Diseases Act.

In Lucero, Respondent was a lighting manufacturer and Petitioner's job duties included cutting aluminum and steel to make parts for lights. Petitioner was deemed to be an essential worker within the definition of the Governor's Executive Order. Petitioner was admitted to the hospital for symptoms of COVID-19 on April 20, 2020 and was hospitalized until June 23, 2020. On March 10, 2021, Petitioner was released to work without restrictions and indeed returned to work.

The Arbitrator addressed the rebuttable presumption favoring compensability of COVID-19 claims for essential workers. To recap, on May 21, 2020, the Illinois legislature amended the Illinois Workers' Occupational Diseases Act to provide a rebuttable presumption in favor of compensability for essential workers who contract COVID-19. In order to rebut the presumption of exposure, employers need to show "some" evidence that the employee contracted COVID-19 from somewhere other than work. At trial, the Respondent in Lucero presented extensive evidence regarding the implementation of safety measures and preventative measures within its facility since the beginning of the pandemic. The Arbitrator called the Respondent's evidence into question, stating multiple times in the Decision that the evidence was "too good to be true." Nevertheless, the Arbitrator agreed that Respondent successfully rebutted the presumption of exposure with the "some" evidence standard.

After determining that Respondent successfully rebutted the presumption of exposure, the Arbitrator concluded that Petitioner's exposure arose out of and in the course of his employment with Respondent. In support of this conclusion, the Arbitrator found Petitioner to be credible on the subject of his potential exposures at work versus his lack of exposures outside of work. Although Petitioner testified that he barely had any contact with the outside world in the relevant timeframe (he had little contact with his adult children, his wife did all the grocery shopping, and he only used an outside pump at the gas station) Petitioner's testimony was not deemed to be "too good to be true."

The Decision in Tonia Dalton v. Saline Care Nursing and Rehabilitation Center (21 WC 008010) was issued two weeks after the first decision, on November 3, 2021. Like in Lucero, the Arbitrator in Dalton concluded that the claim would be appropriately adjudicated under the Illinois Workers' Occupational Diseases Act, even though the claim was filed under the Illinois Workers' Compensation Act.

In Dalton, Respondent was a nursing home and Petitioner was a Certified Nursing Assistant who tested positive for COVID-19 on November 6, 2020.

Two COVID-19 Decisions Issued By The Illinois Workers' Compensation Commission

continued...

Petitioner lived alone with her fiancé and testified that neither her fiancé nor any other family members tested positive for COVID-19. Petitioner alleged at trial that she only went to the grocery store and the gas station and never came in contact with anyone outside of work in the relevant timeframe. Petitioner worked in the COVID-19 unit for the two weeks leading up to her exposure. Petitioner testified at trial that many masks were defective and that sometimes residents refused to wear masks. She further testified to sub-par policies on masking and hygiene on the part of the nursing facility. Petitioner's co-worker tested positive for COVID-19 three days earlier than Petitioner.The co-worker testified that she never stopped working after her positive diagnosis because Respondent never required her to do so.

Respondent's witness testified about training at Respondent's facility regarding COVID-19 safety measures and the protocols followed by the nursing home during the pandemic. Respondent's witness agreed that there was a significant outbreak of COVID-19 among residents at the facility to the extent of 50%.

After reviewing the evidence, the Arbitrator concluded that Respondent failed to rebut the presumption of exposure. The Arbitrator noted that Respondent's witness lacked firsthand knowledge of Petitioner's exposure (since she was unfamiliar with Petitioner's actual workstation), and highlighted Petitioner's testimony on the sub-par safety measures and unavailability (and defectiveness) of PPE on the premises.

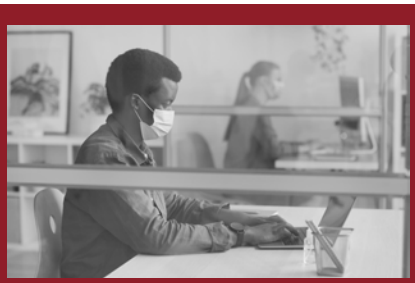
Regardless of the rebuttable presumption, the Arbitrator concluded that Petitioner's exposure arose out of and in the course of her employment with Respondent.

Respondent is not seeking a Commission review of the Dalton Decision. The Respondent in the Lucero case filed its Petition for Review. Once all briefs are filed, oral arguments will then be heard before the Illinois Workers' Compensation Commission.

Best Practices for Employers

The first two COVID-19 decisions may seem discouraging for employers at first glance. However, only two decisions have been handed down so far, almost two years after the beginning of the pandemic.This means that in large part, employers and employees are working together to achieve desirable results for both parties without litigation. Having said that, employers must remain vigilant about ensuring workplace safety while also investigating claims thoroughly. Employers should take the following steps when an employee files a workers' compensation claim for benefits due to COVID-19 exposure:

- Initiate efforts at contact tracing and determining alternative sources of exposure. For the safety of other employees, it is important to ask questions about sources of exposure and timeline of exposure.
- Make sure to document policies on PPE and have employees sign off on their understanding of safety measures in the workplace. Ideally, training sessions would be done periodically to address appropriate use of PPE.
- Check in on the employee and express a genuine support for the employee's recovery and return to work.
- If the workers' compensation case is being denied, make sure the employee understands what other benefits may be available during their recovery and time off work.



Whether the rebuttable presumption is applicable or not, employers should take steps to rebut work-relatedness where exposure cannot be pinpointed. The costs of the pandemic have already been heavy on Illinois employers, let alone the increase in workers' compensation claims. As always, employer groups should remain vigilant about opposing new rules and legislation that pose a threat to doing business in Illinois.

COVID-19 WORKPLACE POLICIES: ENFORCEMENT OF OSHA ETS STANDARD STAYED BY THE SUPREME COURT

Employers' obligations under OSHA's Emergency Temporary Standard (ETS) addressing COVID-19 vaccine, testing and masking requirements have been shifting since OSHA first issued the ETS on November 5, 2021. As a refresher, for those workplaces covered by the ETS, employers were required to:

- In a confidential manner, gather vaccine status information on employees to create the required vaccination roster.
- Develop the mandatory vaccine and/or testing/masking policies required by the ETS.
- Deliver information about ETS policies and OSHA notices to employees. The required notices included Workers' Rights under the COVID-19 Vaccination and Testing ETS and Information for Employees on Penalties for False Statements and Records.
- Provide paid leave for employees to get vaccinated (up to 4 hours per shot) and a reasonable amount of time to recover from any effects caused by receiving the vaccine (up to 2 days).
- Create a reporting and record keeping policy for COVID-19 related records.
- Develop programs that allow employers to conduct compliance training for their managers.

Enforcement of the ETS was initially stayed, giving employers some breathing room. Then, the stay was dissolved by the Sixth Circuit Court of Appeals, obligating employers to come into compliance by January 10, 2022.

The multiple rulings on the ETS have understandably left employers confused about their obligations regarding vaccines and testing.

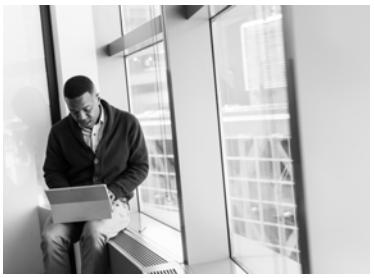
On January 7, 2022, the Supreme Court heard arguments on the ETS and the Sixth Circuit's decision to dissolve the stay of enforcement pending a decision on the merits. On January 13, 2022, the Supreme Court issued an order reinstating the earlier stay.

The multiple rulings on the ETS have understandably left employers confused about their obligations regarding vaccines and testing. Based on the Supreme Court's decision, employers are not presently obligated to comply with the OSHA ETS. While the expectation was that employers would need to wait on the Sixth Circuit's ruling on the merits to have finality on whether the ETS was enforceable, on January 25, 2022, OSHA announced it would withdraw the ETS and instead focus on drafting a permanent rule addressing COVID-19 workplace safety.

Although employers do not need to address the ETS' requirements in light its withdrawal, OSHA may release a rule addressing vaccines and testing in the workplace in the coming months.The Supreme Court's decision and OSHA's withdrawal also have no effect on vaccine, testing and masking requirements in place at the state or local level that govern an employer's operations.








Employers should also be aware of OSHA's statement in response to the Supreme Court's decision, which noted in part as follows:

> "We urge all employers to require workers to get vaccinated or tested weekly to most effectively fight this deadly virus in the workplace. Employers are responsible for the safety of their workers on the job, and OSHA has comprehensive **COVID-19 guidance** to help them uphold their obligation.
>
> "Regardless of the ultimate outcome of these proceedings, OSHA will do everything in its existing authority to hold businesses accountable for protecting workers, including under the **Covid-19 National Emphasis Program** and **General Duty Clause**."

Based on the statement, employers can expect OSHA to continue its enforcement efforts related to workplace safety and COVID-19.While employers will not be required to follow the detailed vaccine and testing requirements under the ETS, they should still formulate and enforce COVID-19 safety protocols consistent with state and local rules, as well as OSHA's guidance issued separately from the ETS.

We will continue to monitor this matter for any additional OSHA rules or commentary and provide updates for employers as needed.

WORKERS' COMPENSATION PATIENTS IMPROVE AFTER HIP ARTHROSCOPY FOR LABRAL TEARS

By: The American Hip Institute & Orthopedic Specialists

The acetabular labrum is a structural ring of cartilage that follows the outer part of the rim of the socket. Its main function is to provide the hip with a suction seal that secures the ball (femoral head) inside of the socket (acetabulum), thus preventing a vibrational movement that would cause cartilage damage, also known as osteoarthritis. A labral tear may have different causes, which include trauma (such as a direct blow or a fall, which may provoke extreme positions of the joint), constant repetitive movement and structural abnormalities. Hip arthroscopy has proven a successful procedure to treat labral tears. Recent publications show excellent results from short-term to long-term in Patient Reported Outcome Scores, as well as controlled pain and high patient satisfaction.

The American Hip Institute Research Foundation has dedicated much of its non-profit scientific research to understand the beneficial effects of conservative and surgical treatment of labral tears. In a recent study to be published in the American Journal of Sports Medicine, we have assessed outcomes after arthroscopic labral treatment in patients with Workers' Compensation claims, gathering scores preoperatively and up to minimum of 5-years postoperatively (average follow-up time: 80.3 months). These results were compared to a control group (non-WC) to determine if either group would have a better outcome. The WC group consisted of 105 patients that were matched to the same clinical characteristics as 221 control patients. Clinical outcomes, as well as patient reported outcomes were measured at both of the aforementioned timepoints, and patients' return-to-work rate was recorded. The results showed that WC patients had significant improvement in their scores at the latest follow-up, which reflected similar results to the control group. Furthermore, post-surgical patient satisfaction average at 5 years was 8.2/10, compared to 8.5/10 for the control group. Finally, WC patients returned to duty at an 82.9% rate, with an average clearance time of 4.7 months to light duty and 9.5 months for those working heavy duty.

The study concluded that hip arthroscopy has effectively treated patients who suffered a work-related injury, with lasting satisfactory results for over 5 years. Furthermore, these patients were able to return to their workplace at a high rate after surgery. These results help predict positive results for patients and to reasonably expect them to recover their lifestyle after the surgical intervention, regardless of how they got injured at work and the type of work they typically perform, demonstrating arthroscopic treatment of the labrum a successful procedure.

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APPELLATE COURT AFFIRMS IWCC PERMANENCY AWARD BUT REMANDS FOR VOCATIONAL REHABILITATION ASSESSMENT: WHAT NOW?

By: Suzanne Nyhan; General Counsel, Damien Corporation

CDW Corporation v. The Illinois Workers' Compensation Commission 2021 IL App(2d) 200562WC-U

A 41-year-old picker-packer sustained an undisputed, work-related aggravation of her pre-existing degenerative lumbar disc disease, underwent extensive treatment including fusion surgery 9 years after the accident and had a Functional Capacity Exam (FCE) that established an inability to return to claimant's former work; both parties agree with this conclusion. Claimant made a vocational rehabilitation demand, but no services were provided. Thereafter claimant and the employer each hired Certified Rehabilitation Counselors (CRC) to determine claimant's employability and earning ability.

Claimant was born in Kosovo and is a native Albanian speaker. She had taken 2 years of college classes and worked 18 years as a payroll clerk in Kosovo before emigrating to the United States. After emigrating to the U.S. as a war refugee 4 years prior to this work-related injury, she took 3 months of English as a Second Language (ESL) and obtained the picker-packer job with the help of a humanitarian organization. Both CRCs interviewed the claimant to determine her education and work history.

The employer's CRC opined claimant has transferrable skills based on her education, ability to speak and understand English and admitted use of a computer for email and social media. Although claimant brought a translator to all her meetings with the CRCs and to the Arbitration hearing, the employer's CRC testified that she and the claimant had a conversation and understood each other. After the interview, the CRC conducted a Labor Market Survey that returned 14 jobs within the light to sedentary work levels. The CRC testified this was merely a representative survey, but it established there are appropriate jobs for the claimant, although she testified that claimant may benefit from job search assistance.

Claimant's CRC opined that claimant's English and computer skills are insufficient for a sedentary position and that she requires extensive language and computer skills development, as well as job placement services. He was not initially aware of the college courses claimant had taken in Kosovo, but maintained her English skills were not sufficient for a customer-service job. Further, claimant had no computer software training, nor did she have keyboarding skills..

She had also never conducted a job search on her own. He further testified that, with the help of her daughter, claimant had called 12 employers from the employer's Labor Market Survey and did not receive any return calls; he agreed a job search requires more than 12 contacts.

The Arbitrator awarded total and permanent disability benefits from the date of the FCE, finding the claimant's CRC's opinion more credible and stated that the failure of the employer to provide any vocational rehabilitation services, which would have clearly established claimant's ability to return to work and earnings capacity, weighed in favor of a total and permanent "odd lot" disability finding. *(See: CDW¶27)*

The Commission vacated the total and permanent disability award, finding the employer's CRC's opinion more credible. Although claimant established an inability to return to their prior occupation,

Appellate Court Affirms IWCC Permanency Award But Remands For Vocational Rehabilitation Assessment: What Now?

continued...

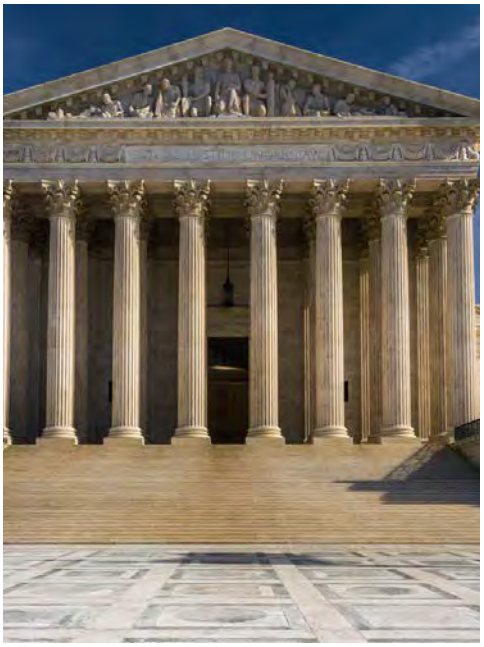
based on the employer's CRC's opinion as to claimant's transferrable skills and "positive factors for reemployment," the Commission concluded that claimant did not sustain an earnings loss. It awarded claimant 60% loss of use of the person as a whole (PAW) pursuant to Section 8(d)2. *(CDW ¶22-23)* The Circuit Court found the Commission's permanency decision was against the manifest weight of the evidence, vacated it and reinstated the Arbitrator's award of total and permanent disability benefits.

In this Rule 23 opinion the Appellate Court reversed the Circuit Court, finding the Commission's decision was not against the manifest weight of the evidence. It determined the Commission's reliance upon the employer's CRC's opinion was not clearly erroneous, although another trier of fact may have reasonably reached a different conclusion. *(CDW ¶26).* Accordingly, the Court affirmed the Commission's 60% PAW award. However, it also found that pursuant to Commission Rule 9110.10(a), a vocational rehabilitation assessment was mandatory and remanded to the Commission for an assessment. Rule 9110.10(a) requires a vocational rehabilitation assessment when, as here, a claimant cannot return to their prior work (or when the period of total incapacity for work exceeds 365 days). (See: 50 Ill. Adm. Code 9110.10(a) (2016))

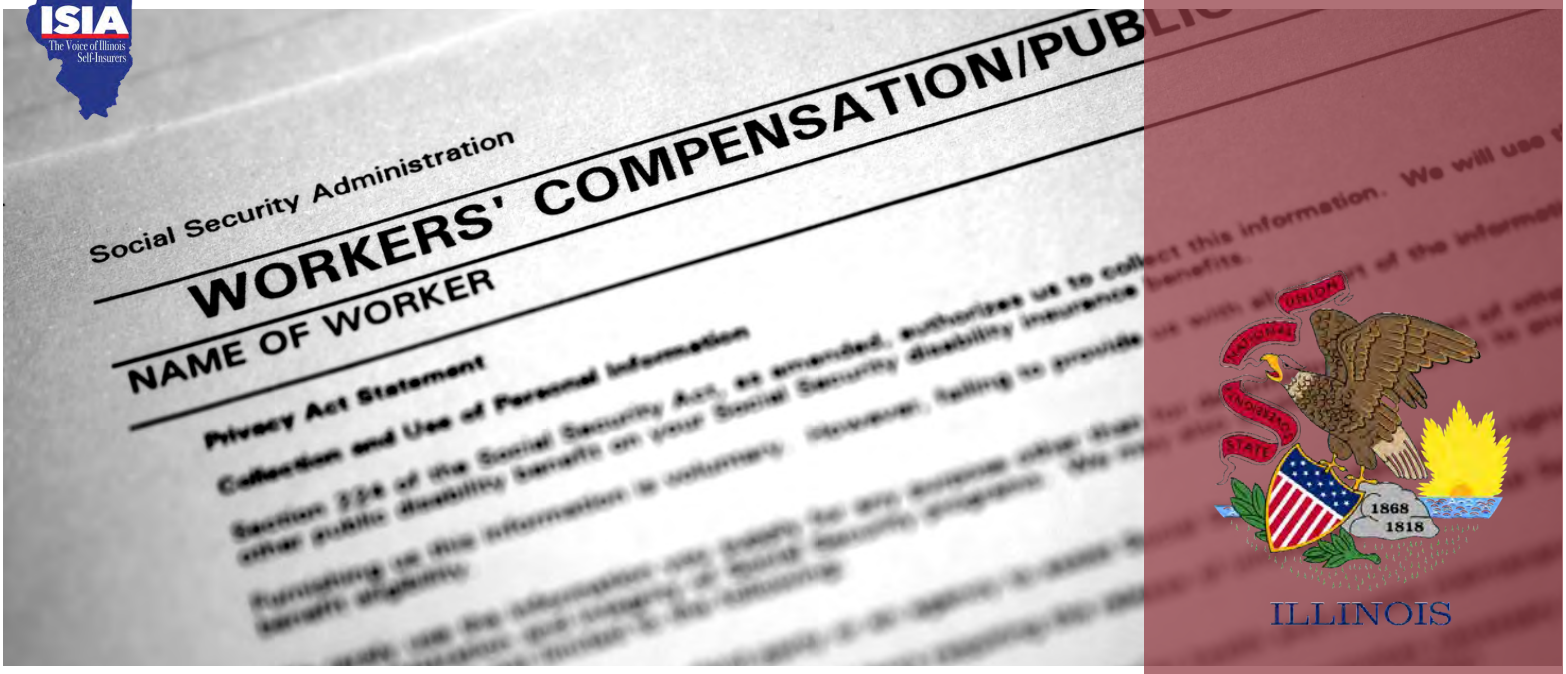
The Court's affirmance of a permanency award while also remanding for a vocational rehabilitation assessment is problematic. The decision contravenes the Illinois Supreme Court's decision *Hunter Corporation v. IIC, 86 Ill.2d 489, Qdex 1982-1-03*, which holds that permanency cannot be determined until rehabilitation, if warranted, is completed.

Additionally, if the claimant in this case is awarded vocational rehabilitation services but is unable to secure work, she may be without recourse to modify the permanency award. Section 19(h) allows either party to file a petition to modify a permanency award when there has been a material change in disability. However, "disability" under this section refers only to physical and mental disability, not economic. (See: *Murff v. IWCC, 2017 IL App(1st) 160005WC, Qdex 2017-2-02 ¶20).* In *Murff*, the employer accommodated claimant's significant work restrictions for over 3 years, at

which time claimant was awarded 50% person-as-a-whole. Six months later the employer terminated the accommodated work and told claimant to return to his prior job or leave. The claimant filed petitions under Sections 19(h) and 8(a) alleging a material increase in his disability due to his changed economic status and requesting vocational rehabilitation and maintenance. The Court found the Commission lacks jurisdiction to award vocational rehabilitation and maintenance under Section 8(a) after a final decision if the original award is not amenable to modification under Section 19(h). As no physical or mental status change was claimed, the award could not be modified under Section 19(h). Accordingly, the Sections 19(h) and 8(a) petitions were denied. The Court noted that though the result seemed harsh, "it is a concern better addressed to the legislature." *(Murff ¶32).*



Putting aside the contravention of the Supreme Court's finding that permanency cannot be determined until vocational rehabilitation is resolved, and the possible jurisdiction issue pertaining the Commission's authority to award vocational rehabilitation after a final award, there are other procedural hurdles. The permanency award is final as of the date of the Commission's decision, therefore the 30-month Statute of Limitations for filing a Section 19(h) petition to modify that award is running. (See: *Cuneo Press, Inc. v. IIC, 51 Ill.2d 548, Qdex 1972-1-02*) However, as Section 19(e) prohibits additional evidence on review at the Commission and a vocational rehabilitation assessment must be performed and entered in evidence, the case will need to be remanded to the Arbitrator. (See: *Honda of Lisle v. Indus. Comm'n, 269 Ill.App.3d 412 (2nd Dist. 1995)*) If vocational rehabilitation services are awarded but unsuccessful, the claimant's only recourse for an award modification is to timely file a Section 19(h) petition alleging a material change in her physical or mental health.



WHAT'S NEW AT THE ILLINOIS WORKERS' COMPENSATION COMMISSION?

In March, 2020 with the onset of the COVID-19 pandemic, the Illinois Workers' Compensation Commission made changes that kept the Commission operational. The ISIA recognizes the swift action taken by the Chairman, Michael Brennan, and his staff. The Commission remained operational throughout the crisis. As COVID-19 restrictions and guidance have evolved, the Commission continued to adjust. New protocols remain in place at the Commission. Arbitrators continue to conduct their monthly status call virtually. Cases that are properly motioned under Section 19(b) and motions for trial are set for a pre-trial conference during the same month as the status call. Pre-trials also continue to be held virtually. Arbitrators then schedule trial dates during the next calendar month following the status call. Trial dates are held in-person with appropriate health and safety policies in place.

Like the status calls, the Commission Review Calls are also proceeding virtually. Cases needing a hearing before a Commissioner are scheduled and are in-person. For now, oral arguments continue virtually. When appropriate, oral arguments will return to in-person.

In Summer, 2021, the Commission moved its Chicago administrative and hearing location from the 8th Floor of the Thompson Center to new office and hearing space. Hearings are now held in the lower level of the Daley Center. Administrative, Arbitrator and Commissioner offices are located at 69 West Washington Street, Suite 900, Chicago, 60602. The new hearing location offers updated technology and more efficient use of space.

The Commission moved quickly to a paperless environment by upgrading its hardware and software. Rolled out initially for settlement contract approval, the CompFile system now allows all filing to be by e-filing. The next roll-out will include application for, and management of, self-insurance.

There are many new Arbitrator appointments. The ISIA welcomes the new Arbitrators. All Arbitrator slots are filled, which should help move more cases through the system. In 2021, approximately 900 cases proceeded to trial and decision. With a full roster of Arbitrators and the current procedures in place, this number is expected to rise in 2022.

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Finally, the ISIA would like to acknowledge the announced retirement of Arbitrator Molly Mason. Arbitrator Mason has presided over cases assigned to the Chicago docket. The ISIA thanks Arbitrator Mason for her years of dedicated service and wishes her well in her new life chapter.

INSIDE SPRINGFIELD: UPDATE ON CURRENT LEGISLATION

By: Daniel J. Ugaste; St. Rep. 65th Dist.

Welcome to my introductory column for the ISIA Newsletter. For purposes of introducing myself to those who do not know me, I have an interesting perspective on this topic, as I approach it both as a practicing Workers' Compensation attorney with over 33 years of experience and a State Representative. I will do my best to keep you fully apprised of events in Springfield concerning workers' compensation matters, as well as other matters of general interest to the State.

As this is an election year, it is usually the quieter of the two years in Springfield. Both the House and the Senate were scheduled to begin on January 4, 2022 and go through early to mid-April. Normally, session runs from mid-January through the end of May but with the delayed census results and delayed redistricting, the schedule has been altered. Unfortunately, due to COVID concerns, the House and the Senate only met for one day in early January and will not meet again until February. Leaving an even shorter time frame in which to accomplish work; although committees have been meeting remotely.

Regarding workers' compensation, a few bills have recently been filed, moved to committee, or are awaiting hearing.

Two bills recently moved to the Senate Judiciary Committee were filed by Sen. Laura Murphy of Des Plaines. The first is SB 660. This bill would change the law concerning repetitive injury cases in workers' compensation. Specifically, the bill states that any workers' compensation claim resulting from repetitive trauma that occurs within six months after the employee begins his or her employment shall not be considered by the workers' compensation insurer in setting a premium rate. It also allows for any employer that has to pay an award for repetitive trauma to seek contribution or reimbursement from the employee's prior employers to the extent the Commission determines they are liable. This would be allowed potentially under a separate cause of action for contribution or reimbursement before the Commission between two employers.

The second bill filed by Sen. Murphy is SB 2234. This bill would allow the video recording of any examination of a Petitioner in either a Section 12 exam (Independent Medical Evaluation) or during an exam ordered by the Commission under Section 19(c) of the

Act for hearings held under Sections 19(e) or 19(h), when the Commission believes it needs to order its own exam. Please note this is an extremely little used Section of the Act. Under the bill, in order for a video recording to be made, both the employee and the physician conducting the exam would have to consent.

Both bills were filed in 2021 and did not advance through Committee. In fact, neither has yet had any witnesses file in support of the bill.

Recently, Rep. Jay Hoffman (Belleville) filed HB 4630. This bill would apply mainly to municipalities and fire protection districts throughout the State. It involves a section of the Act dealing with rebuttable presumptions for various injuries,

Inside Springfield: Update On Current Legislation

continued...

illnesses and diseases contracted by firefighters, emergency medical technicians or paramedics. It could also involve private fire services and or ambulance companies. Specifically, it would change the rebuttable presumption standard from an ordinary standard to a strong standard; thereby, requiring the employer to overcome the rebuttable presumption by proving through clear and convincing evidence that an independent and non-work-related cause for the condition exists and that no aspect of the employment contributed to the condition. Presently, under the ordinary standard, the employer need only submit some evidence that it did not occur at work to overcome the presumption. The bill further states that the rebuttable presumption relating to hearing loss can-not be overcome by showing the employee did not meet the minimum exposure thresholds set forth in other sections of the Workers' Compensation Act.

This bill has yet to be assigned to Committee and will be monitored closely.

Finally, it should be noted that I have filed eight workers' compensation reform bills myself. They would modify the Act in ways that would providing savings for employers, while still taking care of injured workers. These bills range from modifications to the Act for employee travel, credits for prior injuries, causation, returning the permanency rates for specific loss of use to pre-2005 levels, as well as creating a drug formulary.

To date, I have not been able to get a Committee hearing on these bills; however, I will continue to work towards this reasonable reform to help both employers and families in this State.

Other than the various bills which are passed yearly to ensure the State continues to function and operate, the only issue likely to get much attention in the Capitol will be public safety and violence prevention. Numerous committees and task forces are meeting to address this issue. It is still yet unclear what, if any, legislation will be passed.

ILLINOIS WORKERS' COMPENSATION COMMISSION ISSUES NEW BENEFIT RATES FOR 2022

As anticipated, the Illinois Workers' Compensation Commission issued the most recent statutory maximum permanent partial disability (PPD) rate in January of 2022. The rate increased by $65.38 to $937.11 for accidents occurring between July 1, 2021 and June 30, 2022. This is the biggest increase in recent history, largely if not entirely driven by the statewide increase in the average weekly wage. From July 2020 to July 2021, the statewide average weekly wage increased from $1,179.01 to $1,270.32, a difference of $91.31.

On January 1, 2022, the Illinois statewide minimum hourly rate increased to $12.00 for workers 18 years of age and older. Where an employee earns gratuities as part of their wages, the employer may pay 60% of the minimum rate, or $7.20. Currently the statewide minimum hourly rate is scheduled to increase $1.00 each year, ending in 2025 with a statewide minimum hourly rate of $15.00. The City of Chicago already mandates a minimum rate of $15.00 an hour.

Consistent with the maximum PPD rate increasing, the statutory minimum TTD and PPD rates also increased. For injuries occurring between January 15, 2021 through January 14, 2022, the statutory minimum PPD rate starts at $293.33 for an unmarried claimant with no dependents, $337.33 for one dependent, $381.33 for two dependents, $425.33 for three dependents, and $440.00 for four or more dependents.

Other recent changes to the benefit rates include an increase in the maximum and minimum rates for death, permanent total disability (PTD), and PPD involving amputation of a member or enucleation (removal) of an eye. For injuries occurring between July 15, 2021 and January 14, 2022, the maximum rate is $1,693.76, and the minimum rate is $635.16. The maximum TTD rate also increased to $1,693.76 for injuries occurring between July 15, 2021 and January 14, 2022.

To view current or past benefit rates, please go to: Benefit Rates - Resources (illinois.gov)

See also: Hourly Minimum Wage Rates by Year - Fair Labor Standards Division (illinois.gov)

ISIA NUTS & BOLTS SPRING EDUCATIONAL WORKSHOP

(currently, an in-person event)

Thursday, April 21, 2022 and Thursday, May 12 , 2022

9:00 am - 3:00 pm
(lunch will be provided)

Marriott in Oak Brook
1401 22nd St, Oak Brook, IL 60523

The ISIA is pleased to present its 2022 "Nuts & Bolts" program. This program is designed as an essential, entry-level introduction to Illinois Workers' Compensation. The material will emphasize the Illinois Workers' Compensation Act and its application by using both the "black letter" law and recent decisions from the IWCC and courts.

This program emphasizes a fundamental application of the law in the claims setting by providing you with an understanding of how the law developed and where it is heading. As a result, you will be better equipped to understand why your claims may or may not be found compensable and what remedies and defenses might apply.

We believe you will find this to be the best introduction and update on Illinois Workers' Compensation Law.

Registration Opening Soon

Stay tuned for more details as they are announced, and check out our website as we will continue to update these details as they become available.

CE credits will be offered.

IT'S TIME TO RENEW YOUR ISIA MEMBERSHIP

The Illinois Self-Insurers Association is dedicated to providing a forum for our state's self-insured and high-deductible companies to pursue common objectives, educate its members, and address both regulatory and statutory improvements in our workers' compensation laws. We are committed to aggressively pursuing a workers' compensation system that adequately compensates the employee for job-related disability and at the same time recognizes fair limitations of employer responsibility; a program that provides for an equitable distribution of the compensation dollar while reducing to a minimum litigation and other attendant costs.

Since its inception, the Illinois Self-Insurers Association has worked with members of the legislature and the administration to protect and promote the legitimate interests of its members. We have played a significant role in shaping workers' compensation legislation and continue to do so in 2022. We provide our members with regular updates via our website, our educational programs which include the Spring Nuts and Bolts of Workers' Compensation Workshops, as well as our Fall Annual Meeting.

We have two classes of members:

Voting Membership (companies qualified to self insure their workers' compensation liability in the State of Illinois as well as employers with deductibles over $250,000.00) Annual Dues - $500.

Non-Voting Associate Members (companies or organizations that are not self-insured or high-deductible but would like to participate in the Illinois Self-Insurers Association) Annual Dues - $700.

Recently, ISIA sent a reminder about renewing your ISIA membership to the email address you have on file. If you did not receive this email, please contact the ISIA office, at info@illinoisselfinsurance.org.

Here at ISIA, we wanted to let you know how much we appreciate you being a part of our community, and we hope you'll renew your membership today.

RENEW YOUR MEMBERSHIP

Here's a sample of what our membership has enjoyed about the benefits of membership:

"Through the Illinois Self-Insured Association's sponsors and members, we are kept abreast of trends within the Commission as well as significant recent rulings which might affect availability of benefits. Equally valuable is the insight the Association provides regarding "hot topics" within the state legislature which should be taken into account formulating one's workmen's program structure."

Gina Rossi, Marriott Claims Services

"The Nuts & Bolts seminar provided me with a comprehensive overview of Illinois workers' compensation after I had been away from claims handling for more than 10 years. I referred to the materials often afterwards."

Clare Fleming, Exelon Corporation

"The Annual ISIA Seminar provides excellent training and information, opportunities for networking, and valuable insight into the Workers' Compensation process in Illinois!"

John Traub, Albertson's/ Jewel Osco

"I never stop learning in my job as it is a changing environment. Not only do these seminars keep me current on trends and developments, but it has introduced me to others in the workers' compensation industry who I can call on throughout the year for more ideas."

Frank Totton, Caterpillar Human Resources

Not a member of ISIA?

DISCOVER THE VALUE OF MEMBERSHIP

Being a ISIA Member gives you access to a multitude of member benefits. You'll join a community of fellow like-minded colleagues from all areas, where there is a wide range of opportunities for you to engage with the people who "speak your language" and face the same challenges day-to-day that you do.

Please consider joining the Illinois Self-Insurers' Association. Since 1979, the ISIA has worked to insure that self-insured employers and high-deductible employers are treated fairly in Illinois. The ISIA monitors and advocates legislative change in Springfield, IL. In addition, our association provides excellent claims training and an annual forum to discuss and analyze our state's workers' compensation system, administration, and topical issues. Finally, our association provides you with an opportunity to network and exchange ideas with other employers.

The ISIA provides the following services so the self-insured employer opportunities can be so-involved:

- Advises its members on legislative matters and communicates to the Legislature the position of the ISIA membership
- Coordinates common-interest appearances before the General Assembly and other governmental committees
- Works in cooperation with, and provides specialized information to, other state and national organizations with common goals
- Processes and distributes relevant information to members through email updates, as well as website updates

- Sponsors an annual educational seminar in conjunction with the full membership meeting
- Sponsors educational workshops on the subjects of vital interest to the membership
- Provides a forum for discussion of members' common problems
- Actively monitors changes to rules regarding self-insurance and the self-insurance privilege

LEARN MORE

Illinois Self-Insurers' Association

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