

# Amendment to the Illinois Workers' Compensation Act

The Illinois Workers' Compensation Act was amended by the 97<sup>th</sup> General Assembly on May 31, 2011, to reduce the benefits provided to injured workers. At the time of press, Governor Quinn indicated he will sign this legislation. We have outlined the most important changes below.

## Medical Provider Choice

Section 8.1a was added to the Act to allow employers to utilize **preferred provider programs** (hereinafter "PPPs") approved by the Illinois Department of Insurance.

- Employer does not have an approved PPP
  - Employee has the right to choose **two** treating providers and anyone they are referred to, as per the current law.
- Employer notifies the employee in writing that they have an approved PPP
  - Employee can **opt out** of the PPP in writing after reporting an injury and choose **one** treating provider of their choice and anyone they are referred to.
  - Employee can **opt in** to the PPP and chose **two** treating providers within the PPP and anyone they are referred to.

This Section applies to injuries occurring **immediately** after the Amendment is signed into law. If an employee chooses not to treat within the PPP, they should make sure to seek referrals from their initial provider as necessary.

## Carpal Tunnel Syndrome

The new Amendment also reduces the permanent partial disability awards for all injuries involving **carpal tunnel syndrome** due to repetitive or cumulative trauma. Prior to this Amendment, a worker with any hand injury was entitled to receive permanent partial disability benefits for a period of time no greater than 205 weeks. Arbitrators decide the amount compensation by defining the percentage of permanent disability. For example, if the Arbitrator finds that an injured worker sustained 20% loss of use of the hand, then the injured worker is entitled to weekly compensation for 41 weeks.

Section 8(e)9 of the Act now states that for all carpal tunnel injuries, the Arbitrator can only award compensation for permanent disability for a period of 28.5 weeks. Even if the injured worker proves his loss by clear and convincing evidence and is severely injured, the greatest length of time an Arbitrator can award is 57 weeks of compensation.

This Amendment applies to all carpal tunnel injuries that occur **immediately** after the Amendment is signed into law. If you have a carpal tunnel case currently pending, it does not apply to you.

## AMA Guidelines

Section 8.1b has been added to the Act to require the use of the American Medical Association Guides to the Evaluation of Permanent Impairment (**AMA Guidelines**) when determining permanent partial disability.

Currently in assessing the level of permanent impairment that an injured worker has suffered a number of factors are considered, including the subjective testimony of the injured worker regarding his/her ongoing injury.

For accidental injuries that occur on or after **September 1, 2011**, evidence regarding permanent partial disability is limited to the injured employee's age, occupation, future earning capacity, medical records, and a written report of a medical doctor, detailing the level of the injured workers permanent impairment based on the AMA Guidelines. The use of the AMA Guidelines will greatly reduce the award or settlements for permanent partial disability and the injured workers own subjective complaints will no longer be considered an important factor.

## Miscellaneous

- Limits wage differential awards to when an employee turns 67 or 5 years, whichever is later;
- Presumes that intoxication was the cause of an injury, as well as establishes alcohol and drug testing requirements;
- Reduces temporary partial disability benefits by lowering the calculation to 2/3 of the difference between the gross earnings at the time of the accident and the gross earnings in a modified job.

These changes to the Workers' Compensation Act greatly reduce the benefits available to injured workers, as well as significantly lessen their rights when confronted with an on-the-job injury. We are available to discuss these changes in the Act. If you have any questions about how this will affect you or your workers' compensation claim, please do not hesitate to [contact us](#).