State workers' compensation: significant legislation in 1989

Among the enactments taken on behalf of injured workers, maximum weekly compensation payments for temporary total disability were increased in 45 States and the Virgin Islands, and many States provided for medical deductibles in insurance policies

LaVerne C. Tinsley

In keeping with tradition, 49 States, the District of Columbia, and Puerto Rico were in legislative session during 1989. Kentucky was the only State in which the legislature did not meet. As of late July, more than 1,000 proposals and 245 enactments had been received and legislation was still being processed.

All but five States and Puerto Rico increased maximum weekly payments for temporary total disability. In Colorado, the percentage of the State average weekly wage used for calculating benefits for total disability and death was raised from 80 percent to 91 percent. Two States reversed their method of determining benefits. Arkansas now uses a percentage of the State average weekly wage ($66\frac{2}{3}$ percent) as a basis for determining weekly benefit levels, instead of making statutory increases. In Alaska, increases in benefits will be made statutorily instead of being linked to the State average weekly wage.

New legislation in California provides for weekly benefits for disability and death to be increased beginning on January 1, 1990, and again on January 1, 1991. In 1992, weekly payments are scheduled for a 16-percent increase. The cap on weekly benefit levels in Maine and Montana was lifted on July 1, leaving Oklahoma as the only remaining State where benefits are frozen; however, in a special session of the legislature in Montana, the freeze was restored until July 1991.

One State raised the minimum weekly compensation from $25 to $75 in cases of death, and another State approved lifetime benefits for permanent total disabilities. North Dakota increased the weekly allowance for dependent children.

The allowances for burial were raised in Arizona, California, Maryland, and Nevada.

Several States now provide for the inclusion of medical deductibles in workers' compensation insurance policies as a cost savings mechanism. Other jurisdictions have authorized employers who want to become self-insurers to file letters of credit along with their applications for self-insurance, in addition to posting bonds and other security.

The State Workers' Compensation Fund in Hawaii has been reorganized as the State Compensation Mutual Insurance Fund and will operate as a nonprofit independent mutual insurance corporation.

Other significant amendments related to rehabilitation and safety. Penalties and fines were assessed on employers and insurers for various violations of the law. Assessments were also authorized for funding purposes.

Following is a State-by-State summary of legislation enacted.

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Alabama

The Alabama Workmen's Compensation Self-Insurers Guaranty Association was established to set up and provide funding for an insolvency fund to assure payment of claims filed against any insolvent member.

Arizona

The burial allowance was increased from $1,000 to $3,000.

Arkansas

Lump-sum compensation is now payable when the Workers' Compensation Commission determines that such an arrangement is in the best interests of the employee or the dependents.

California

As a result of two major enactments, substantive reform in the workers' compensation system will become effective during 1990 and 1991. Reportedly, the new legislation is the first of its kind since 1971.

Maximum weekly benefits for temporary total and permanent total disability will increase on January 1, 1990, to $266 from $224; and on January 1, 1991, to $336. Minimum weekly benefits for temporary total disability will be increased during the same periods from $112 to $168, and from $168 to $189, respectively. The minimum for permanent total disability remains at $112.

Weekly compensation for permanent partial disabilities of 25 percent or greater, are now payable up to $148, formerly $140, as of January 1, 1991. On January 1, 1992, weekly payments will be increased by approximately 16 percent.

In cases of death, benefit payments will increase to a maximum of $336 per week as of January 1991, and a minimum of $224. The total maximum benefit payable for two or more surviving dependents in cases of death has been raised to $115,000, previously $95,000. Eligibility for death benefits will now continue until the youngest dependent minor child reaches age 18, even if compensation exceeds the statutory maximum.

Reserve or deputy peace officers and volunteer members of a sheriff's reserve are now protected by workers' compensation coverage.

The burial allowance was increased to $5,000 from $2,000 for injuries resulting in death on and after January 1, 1991.

An amendment permits reimbursement of costs for travel to medical examinations at 24 cents per mile, regardless of date of injury.

New procedures were enacted for resolving medical disputes and for determining the existence, and limitations, of permanent impairments. The period of disability that must pass following the 3-day waiting period before retroactive compensation is paid for temporary total disability was changed from 21 to 14 days.

An amendment raised the amount of compensation allowable for maintenance during vocational rehabilitation from $224 to $246. Vocational rehabilitation services that were previously terminated may now be restored within 5 years after injury in certain instances. Employers were given authority to withhold the benefit payments of an employee who unreasonably fails to cooperate during vocational rehabilitation. A new fee schedule was developed for vocational rehabilitation services that should reduce counselor charges by 10 percent.

The Division of Workers' Compensation was created as a successor office to the former Division of Industrial Accidents to administer the workers' compensation program. An Industrial Medical Council was established to replace the Medical and Chiropractic Advisory Committee and qualified medical evaluators were appointed to treat patients at least 20 percent of their medical practice time. Also, authorization was given for the creation of a safety and health program. Other provisions were amended relative to adjudication, attorney fee regulations, and insurance.

Colorado

An enactment eliminated the extraterritoriality coverage of out-of-State employers or employees who are temporarily employed in Colorado. Others eliminated from coverage include inmates in training, rehabilitation, or work release programs, volunteer ski patrol personnel and ski instructors, race crew members, and passenger tramway operators.

New increases were approved for maximum benefits in cases of temporary total disability based on 91 percent of the State's average weekly wage, formerly 80 percent. For permanent total disabilities, benefits may now be reduced by 50 percent of any Federal Social Security benefits at age 65, or if the employee is receiving retirement benefits, the reduction is based on the employer's contribution to the retirement fund over the entire period of covered employment if a work-related injury occurs after age 45.

The waiting period was changed from 3 days to 3 regular working days before any compensation will be paid for temporary total disability.

A medical care provider is no longer permitted to attempt to recover costs or fees for services from the employee when the employer or carrier is liable for payment of such expenses.

New procedures are now in effect for resolving disputes on claims. Another amendment added a deductible ($1,500 per claim) which may be taken by employers in contracts for workmen's compensation insurance. The Workmen's Compensation Cost Containment Act was created to assist employers in reducing costs related to coverage of injuries.

Connecticut

New coverage was extended to members of volunteer fire departments while performing firefighting duties under an agreement established between municipalities.

Minimum weekly benefits were raised in certain cases of partial disability from $20 to $50.

The Second Injury Fund is required to continue payment of premiums for health insurance coverage of employees where the employer has relocated or shut down a business. Retroactive compensation is now payable to the dependents of an employee who was injured on or after January 1, 1974, and who died not later than December 31, 1981. Interest will now be applied at 10 percent, formerly 6 percent, on compensation payments or adjustments in payments that are unduly delayed or neglected.

Delaware

Employers who promote and maintain safety in the workplace may now be charged reduced premiums as an incentive.

Florida

All construction industry employers are newly required to provide workers' compensation coverage if the employer employs one or more employees.

A new provision authorizes an employer to require his or her employees to submit to alcohol or drug tests, if the employer suspects that an injury was caused by alcohol intoxication or by the use of a nonprescription drug. If drug abuse is proven, an employer is required to give 25 percent of an employee's weekly indemnity benefits, up to $5,000, to a drug abuse program for rehabilitation of the employee.

Reimbursement for nonprofessional attendant or custodial care of an injured worker by a family member is limited to 12 hours per day.

The penalty for the failure or refusal of an employer or carrier to submit timely reports of injuries or death was increased to $500, formerly $100.

All compensation payments for wage loss, total disability, or death will now be

Table 1. **Jurisdictions which increased maximum weekly temporary total disability benefits during 1989**

Jurisdiction	Former maximum	New maximum
Alabama	$344.00	$357.98
Alaska	$1,094.00	$700.00
Arizona	$253.19, plus $10 monthly added to benefits of dependents residing in the United States	$276.15, plus $10 monthly added to benefits of dependents residing in the United States
Arkansas	$189.00	$209.08
Colorado	$354.69	$371.21
Connecticut	$671.00, plus $10 for each dependent under 18 years of age, up to 50 percent of basic benefit, not to exceed 75 percent of employee's wage	$693.00, plus $10 for each dependent under 18 years of age, up to 50 percent of basic benefit, not to exceed 75 percent of employee's wage
Delaware	$265.14	$280.64
District of Columbia	$481.92	$513.00
Florida	$344.00	$362.00
Hawaii	$344.00	$358.00
Idaho	$282.60 to $392.50, according to number of dependents, plus 7 percent of State's average weekly wage for each child	$290.70 to $403.75, according to number of dependents, plus 7 percent of State's average weekly wage for each child
Illinois	$580.89	$604.73
Indiana	$256.00	$274.00
Iowa	$660.00	$684.00
Kansas	$263.00	$271.00
Kentucky	$330.53	$343.02
Louisiana	$267.00	$276.00
Maine	$447.92	$471.83
Maryland	$382.00	$407.00
Massachusetts	$444.21, plus $6 for each dependent, if weekly benefits are below $150	$474.47, plus $6 for each dependent, if weekly benefits are below $150
Michigan	$397.00	$409.00
Minnesota	$391.00	$413.00
Mississippi	$198.00	$206.60
Missouri	$279.64	$289.75
Montana	$299.00	$318.00
Nevada	$354.46	$368.82
New Hampshire	$560.00	$600.00
New Jersey	$320.00	$342.00
New Mexico	$275.99	$283.70
North Carolina	$356.00	$376.00
North Dakota	$306.00, plus $10 for each dependent; aggregate not to exceed worker's net wages	$313.00, plus $10 for each dependent; aggregate not to exceed worker's net wages
Ohio	$385.00	$400.00
Oregon	$370.96	$388.99
Pennsylvania	$377.00	$399.00
Rhode Island	$360.00, plus $9 for each dependent; aggregate not to exceed 80 percent of worker's average weekly wage	$386.00, plus $9 for each dependent; aggregate not to exceed 80 percent of worker's average weekly wage
South Carolina	$319.20	$334.87
South Dakota	$281.00	$289.00
Tennessee	$231.00	$252.00
Texas	$231.00	$238.00
Utah	$344.00, plus $5 for dependent spouse and each dependent child up to four children, but not to exceed 100 percent of State's average weekly wage	$347.00, plus $5 for dependent spouse and each dependent child up to four children, but not to exceed 100 percent of State's average weekly wage
Vermont	$514.00, plus $10 for each dependent under age 21	$544.00, plus $10 for each dependent under age 21
Virgin Islands	$193.00	$214.00
Virginia	$362.00	$393.00
Washington	$385.49	$389.32
West Virginia	$358.52	$367.89
Wisconsin	$348.00	$363.00
Wyoming	$354.00	$373.00

NOTE: Most benefit increases are based on the applicable jurisdiction's average weekly or monthly wage. However, statutory amounts are prescribed in eight States (Alaska, Arizona, California, Georgia, Indiana, Nebraska, New York, and Tennessee) and Puerto Rico. Five States (California, Georgia, Nebraska, Oklahoma, and New York) and Puerto Rico made no changes in maximum weekly benefit amounts for temporary total disability during 1989.

made biweekly in lieu of weekly or monthly payments. By enactment, the offset of wage loss benefits by Federal Social Security benefits will be terminated at age 70.

Awards for recovery of attorney fees must now include the amount, statutory basis, and type of benefits that have been obtained through legal representation.

The Division of Workers' Compensation's role in the rehabilitation of injured workers was reestablished. Vocational rehabilitation services voluntarily provided by the employer or carrier must be useful to restoring the injured worker to suitable gainful employment. Such services are also required to be referred for utilization review.

Employers who employ permanently disabled employees for 2 consecutive years are entitled to be reimbursed based on 50 percent of the employee's wages, from the Special Disability Trust Fund, for up to 6 months.

By January 1990, the Division is required to identify and assist employers or groups of employers determined as having highest frequency or severity of work-related injuries in reducing the number of accidents. An employer identified in this category must submit a safety training program to the Division for approval; however, if no program is submitted, a program will be developed for the employer and if the employer refuses to implement it, his or her workers' compensation coverage may be cancelled. Any discount or deviation granted the employer for the remainder of the policy may also be terminated.

Fines for safety violations were raised from a $20 minimum to a minimum of $100, and from a $100 maximum to a maximum of $1,000.

A $10,000 maximum may be assessed in cases of repeat violations. Compensation for injuries caused by the willful refusal of the employee to use a safety appliance provided by the employer will be reduced by 25 percent.

Georgia

Suppliers of rehabilitation services are prohibited from directly billing an employee for authorized services rendered.

Hawaii

The "Hawaii Workers' Compensation State Fund" was renamed the "Hawaii State Compensation Mutual Insurance Fund" and will operate as a nonprofit independent mutual insurance corporation, rather than an agency of the State.

Idaho

Members of the State National Guard are now eligible for benefits under the Idaho workers' compensation law for an injury or death which is not covered by Federal law.

Newly enacted legislation grants widowers the same entitlement to benefits that are authorized for a widow. Previously, widowers were ineligible for the same benefits unless actually dependent on the deceased employee at the time of injury.

All references to "workmen's" were changed to "workers'" throughout the law.

Indiana

Vocational rehabilitation services have been extended to an employee who, as a result of a work-related injury or disease, cannot perform work for which he or she had previous training or experience, to restore the employee to useful employment.

Iowa

Claim settlements are no longer acceptable in contested cases unless evidence is produced of a bona fide dispute regarding a substantial portion of the claim.

Assessments to maintain the solvency of the Second Injury Fund were raised from $2,000 to $4,000, in death cases where there are dependents; and from $5,000 to $15,000, in cases where there are no dependents.

Kansas

An amendment authorizes vocational rehabilitation services for employees who, because of injury or occupational disease, are unable to work for the same employer at a comparable wage, and for employees who are unable to enter the open labor market and earn comparable wages.

Louisiana

Coverage is newly provided for legislative assistants as State employees, immediately upon employment. The requirement was lifted that foreign employers or out-of-State employers file a security deposit for workers' compensation purposes.

A self-insured employer who defaults on compensation payments will now be subject to forfeiture of any security deposit posted or any surety bond posted with the Office of Workers' Compensation.

Authorization was given for a penalty of 24 percent to be applied in all compensation cases where benefit payments are overdue, unless the order is appealed.

A new fraud investigation section was established within the Office of Workers' Compensation Administration to investigate allegations of workers' compensation fraud and transmit information to appropriate prosecutorial officials. In special session, the legislature passed an amendment requesting the Louisiana Insurance Rating Commission to reconsider its recent approval of increased workers' compensation insurance rates to relieve businesses from any additional financial burdens during the current economic crisis.

Definitions for "mental injury," and "heart-related" or "perivascular injuries" were revised to eliminate coverage for accidents caused by the employee engaging in horseplay, or occurring as a result of a dispute, unrelated to the employment, with another person. An amendment now provides that compensation will be paid for disability or death to any employee covered by the Federal Employers' Liability Act, the Longshore and Harbor Workers' Act, or any of its extensions, or the Jones Act.

All rights of an employee to compensation will be forfeited during periods of incarceration unless a determination is made that the dependents of the employee rely on the award for support. The amount of supplemental earnings used in computing compensation is now limited to 4.3 times the temporary total disability benefits.

Medical expenses now may be offset when payment has been made by any person or entity, other than a direct payment by the employee, a relative, or a friend of the employee, who extinguishes a claim against the employer or insurer for such benefits. Additionally, procedures for the resolution of disputes involving health care services were revised.

The provisions were revised to specifically enumerate the goals, criteria, and standards of the rehabilitation process relative to injured workers.

In third-party cases, the district court has new authority to approve lump-sum compensation or compromise a settlement of the claim.

Maine

The definition of "seasonal worker" was modified to eliminate any worker who is customarily employed for more than 26 weeks in a calendar year while working for one or more employers.

Criteria were added for determining an injured employee's degree of incapacity, to include the availability of work in the employee's community and the employee's ability to obtain work considering the effects of his or her work-related injury. If these criteria do not apply, the degree of incapacity will be based on 100 percent.

Compensation for medical expenses, aids, and other services in cases of permanent impairment must now be paid within 75 days, formerly 90 days, from date request for payment is made.

Employers of 250 or more employees now are required to reinstate injured employees who have completed rehabilitation within 2 years after maximum medical improvement. An enactment strengthened the statutes concerning the injured worker's rights to rehabilitation and made other changes concerning the program.

The data reporting requirements of insurers and self-insurers were simplified, and authorization was given for the use of surety bonds as security for self-insurance. Additionally, regulations for self-insurance were clarified and group self-insurers can no longer operate as a corporation.

Maryland

Elective coverage of volunteer firefighters and rescue squad members was changed to mandatory coverage. The Adjutant General is newly required to provide workers' compensation coverage for all members of the Maryland State Guard during training. Certain owner/operators of motor vehicles who establish contracts with motor carriers have been eliminated from coverage.

The maximum allowance for funeral expenses was raised to $2,500, previously $1,200, and the statute of limitations on claims for funeral expenses was extended from 5 to 7 years.

A percentage of all awards for permanent disability and death, including disfigurement and mutilations, and for all settlement agreements, now will be paid to the Subsequent Injury Fund.

The responsibility for determining the State's average weekly wage was transferred from the Department of Employment and Training to the Department of Economic and Employment Development.

Michigan

Legislation was enacted to protect the confidentiality of information concerning the injury of and benefits paid to an individual worker and information in records of employers who make application for self-insurance status from disclosure under the Freedom of Information Act.

A 45-member workers' compensation appeals board was established to assist in

resolving disputed claims through mediation and arbitration.

Montana

By enactment, a State Fund was created to operate as a nonprofit independent public corporation. The Fund will provide insurance coverage for every employer who makes a request for coverage unless an assigned risk plan is established within the State. The same amendment gives the Commissioner of the Department of Labor and Industry authority to establish an assigned risk plan for workers' compensation. Another enactment created a Guaranty Fund to cover payment of claims against insolvent self-insured employers.

The freeze on maximum weekly compensation for disability and death was extended another year, to June 30, 1991. A new revision provides that no compensation may be paid for the first 48 hours or 6 days of lost wages in cases of total disability, whichever is less; previously, the waiting period was 6 days.

Reciprocal agreements for coverage may now be arranged by the Governor with any Canadian province to ensure coverage of Montana employers and workers while temporarily employed in Canada. Members of an employer's family are no longer allowed to be included for coverage if an exemption for such person can be claimed under the Federal Internal Revenue Code.

Benefits for rehabilitation are now permitted to continue for 26 weeks after the healing period, except for cases of non-work-related subsequent injuries to the same body part.

Injured workers may also be reimbursed for reasonable costs for travel and medical treatment at the same rates permitted for State employees.

The filing period for claims is extended an additional 24 months in cases of a latent injury or equitable estoppel.

The law now allows workers' compensation insurance policies issued after September 30, 1989, to offer a medical deductible in $500 increments, not to exceed $2,500 per claim.

A maximum of $200 was established as the fine which may be assessed on an employer for giving improper notification regarding the cancellation of an insurance policy.

Nebraska

Workers' compensation hearings in cases where the accident occurred outside of the State may be held anywhere in Nebraska at the discretion of the court, unless otherwise stipulated.

Nevada

The amount payable for burial expenses doubled to a maximum of $5,000. Lump-sum compensation payments may now be permitted for injuries that occurred on or after July 1, 1981, formerly 1987, and resulted in permanent partial disability of more than 25 percent.

A presumption was added which states that a disease of the lung is conclusively presumed to be work-related for any person who has been employed full-time and continuously as a police officer or firefighter for 5 years or more prior to disablement.

New provisions were enacted concerning fraudulent claims submitted for payment of services rendered to workers' compensation claimants. Another enactment authorizes insurers to deduct from the compensation of an employee any amounts obtained by the employee through misrepresentation or concealment of a material fact. Repayment of any benefits obtained in this manner is now required.

Contracts or agreements arranged for therapy treatment or with a particular pharmacy for filling prescriptions are prohibited if such arrangement would prevent the injured worker from receiving prompt professional services.

New Hampshire

For coverage purposes, a call or volunteer firefighter is no longer required to be a member of the New Hampshire Firemen's Association.

A pilot program was set up to review medical, hospital, and remedial care in workers' compensation.

New Mexico

Employers were given authority to implement safety programs and provide bonuses based on 10 percent of the worker's wages if certain criteria are met. Coverage was amended to eliminate licensed real estate salespersons.

New York

Employers are now responsible for replacing prostheses that are lost or damaged without bodily injury to the employee. Damage to, or the loss of, a prosthetic device is deemed to be an injury, except that no disability benefits are payable in such cases.

Various fines were increased and stiffer penalties enacted for untimely payment of compensation, for violations of reporting requirements, and for noncompliance with other provisions under the workers' compensation law.

North Carolina

Coverage was revised by clarifying that a general contractor is not responsible for workers' compensation coverage of a subcontractor who has no employees and who waives his or her rights for coverage under the law. Subcontractors are permitted an exemption from coverage when there are no employees. Additional funding was approved for the Stock and Mutual Workers' Compensation Security Funds through assessment increases on carriers and self-insured employers.

North Dakota

Weekly benefit payments for total disability were increased from $150 to $160. In cases of death, weekly compensation was increased to $100, from $90, where a claimant is eligible for supplementary benefits; and dependency allowances for children were raised from $7 to $10 per week.

Legislation provides for the State average weekly wage to be computed to the next highest dollar. Lump-sum awards may now be received for injuries that cause permanent impairment, other than scheduled injuries, based on $33\frac{1}{3}$ percent of the State's average weekly wage, rounded to the next highest dollar. Compensation was formerly limited to $60 per week for a total of 500 weeks.

An enactment provides that no compensation is payable for a total or partial disability where the duration of such disability is less than 5 consecutive calendar days, formerly 5 days.

The compensation of any person confined to a correctional institution will now be suspended during incarceration, unless such person has a spouse or child eligible for such benefits.

A provision was enacted which exempts compensation from all claims of creditors, except for benefit overpayments recovered by the Bureau of Workers' Compensation.

Many definitions were revised to either broaden the scope of coverage or limit its application. A total of $10,000 is now payable to injured workers who sustain catastrophic injuries to cover remodeling costs or for adaptations to real estate. Reimbursement will now be made for travel and other personal expenses incurred by the injured worker to obtain medical care upon request.

Employees must now submit to medical examinations provided by a physician designated or approved by the Bureau. Providers of medical services are prohibited from billing a claimant directly for the difference between the usual and customary amounts charged for medical services

and amounts allowed by the Bureau's fee schedule.

By enactment, an injured worker now has a right to select the initial physician for treatment. A system of peer review has been authorized for reviewing the quality of medical care and services provided to injured workers. Medical assessment teams were also approved to review any physical restrictions and limitations of the injured worker.

After 104 weeks, benefits for rehabilitation will terminate, except in the case of catastrophic injuries, where benefits may continue beyond 5 years. Additional benefits may be approved to assist the worker with work search after rehabilitation is completed. Eligibility for partial disability benefits may continue for up to 2 years after rehabilitation is completed and the injured employee has acquired substantial gainful employment.

An offset was enacted, to be applied in cases of total or partial disability where the worker fails to report wages from any other source. Another provision now states that an offset of permanent total disability benefits by benefits under the Federal Social Security law may not exceed 40 percent of the employee's weekly Social Security benefits.

Ohio

Maximum weekly compensation for scheduled injuries will now be based on 100 percent of the State's average weekly wage; previously, the maximum was two-thirds of the employee's average weekly wage, not to exceed 100 percent of the State's average weekly wage.

Compensation for temporary total disability is limited to $66\frac{2}{3}$ percent of the State's average weekly wage if the employee is also eligible for Social Security retirement benefits.

Legislation was enacted concerning assessments on employers for self-insurance under a separate, newly established fund within the State treasury.

Oregon

Coverage was revised to clarify that an employer from another State is exempt from coverage even though the employer has a temporary workplace in Oregon, provided certain conditions are met. Formerly, the exemption was only applicable to a worker.

The term "independent contractor" was also revised to create a universal definition applicable to income taxes, workers' compensation, unemployment compensation, and the registering of residential builders.

Indemnity benefits may now be garnished for child and spousal support by an amount up to one-fourth of the employee's benefits.

The Department of Insurance and Finance was given authority to request reports from insurers at any time concerning safety and health loss control activities.

Rhode Island

Dependency allowances in cases of permanent total disabilities will now be increased as the number of persons entitled to compensation increases.

State employees are newly allowed to use the treatment facilities at the Donley Rehabilitation Center, regardless of date of injury.

An education unit was established within the Department of Workers' Compensation to provide information and services on known and suspected workplace hazards and on the prevention of occupational diseases and injuries. Training will also be provided for nonmanagement employees and employers on procedures and rights under the workers' compensation law.

A Special Legislative Commission was created to investigate occupational diseases in the workplace and submit a report on its investigation to the General Assembly on or before April 3, 1991.

South Carolina

Minimum weekly compensation for death was raised from $25 to $75, not to exceed the employee's average weekly wage.

Surviving nondependent children are now eligible for death benefits of a deceased employee who leaves no dependent survivors. In cases of death when all the deceased employee's children are no longer dependent, any remaining benefits must now be equally divided among all the children, rather than benefits terminating permanently.

New legislation requires employers to provide and enforce the use of safety appliances, and adopt and enforce safety rules and regulations. Previously, the Workers' Compensation Commission had authority over workplace safety regulations.

Maintenance tax assessments have now been reduced from $4\frac{1}{2}$ to $3\frac{1}{3}$ percent of actual operating costs for fiscal year 1990–91; for fiscal year 1991–92 and onward, the assessment will be $2\frac{1}{2}$ percent.

South Dakota

Temporary total disability compensation is now payable for a maximum of 60 days in cases where the employee is unable to return to his or her usual and customary line of employment, when the employee is pursuing rehabilitation.

Self-insurers were authorized to secure compensation with a surety bond, cash, certificate of deposit, approved government securities, or an irrevocable letter of credit in a total amount equal to the greater of $250,000, or twice the amount of compensation claims paid by the employer during the preceding calendar year, or an amount designated by the employer as a reserve for workers' compensation claims.

Responsibility for administration of the Subsequent Injury Fund was transferred from the Department of Labor to the Division of Insurance.

Tennessee

Government self-insurance groups are now authorized to participate in the Second Injury Fund upon payment of an annual fee. Any disbursements from the fund will be made only in accordance with a decree, instead of through the court.

Texas

A resolution was enacted which directs schools in the State to require course instruction in industrial hygiene, safety, and occupational medicine and nursing because these fields would have a significant impact on medical cost containment. Another resolution instructs the State Board of Insurance to reassign furniture stores to more accurate classifications. Many of these businesses are suffering from unjustified economic losses as a result of combining two employee types (for example, furniture salespersons and furniture delivery personnel).

Utah

Coverage was amended to include volunteer firefighters as employees of local governments.

First payment of compensation must now commence within 30 days, formerly 90 days, after a final award has been made by the Industrial Commission.

Virginia

Elective coverage was authorized for an independent contractor under his or her workers' compensation insurance policy as an employee of the employer, if an agreement regarding coverage has been reached with the insurer.

New conditions were enacted under which an ordinary disease of life is established as an occupational disease when an infection or contagious disease is contracted in the direct delivery of health care

services in the course of employment. Further, claims for symptomatic or asymptomatic infection with human immunodeficiency virus, including immunodeficiency syndrome, will be forever barred if not filed within 2 years after a positive test of such infection.

The Industrial Commission was authorized to make compensation awards within 36 months from the date of accident in cases where no compensation has been paid and where a review of an award is based on a change in condition.

When disputes arise regarding vocational rehabilitation training services, the employee can make a request to the Commission for approval of such services.

Washington

Coverage was amended to require that any common or contract carrier doing business in Washington exclusively in the area of interstate or foreign commerce or in any combination (formerly, domiciled in the State) must cover their Washington employees, unless coverage has been established for such employees under the laws of another State.

An appropriation was authorized for at least $300,000 to be transferred from the Medical Aid Fund to the Department of Labor and Industries for the biennium ending June 30, 1991, for workers' compensation purposes.

West Virginia

A resolution was enacted urging the U.S. Congress to enact legislation to restore interim black lung benefits to disabled coal miners whose benefits were put in jeopardy by a recent U.S. Supreme Court decision.

The law was modified concerning State employees' ineligibility for workers' compensation while receiving sick leave benefits, except for cases of permanent disability.

Wyoming

New coverage is now in effect for volunteer peace officers and for volunteers who handle or work with hazardous substances. Coverage was revised to include mine rescue teams and any employer or person who employs a worker engaged in an extrahazardous occupation; however, the employer must be qualified as a resident or nonresident employer.

Payments for temporary total disability are now based on two-thirds of the employee's actual monthly earnings at the time of injury, not to exceed the State's average monthly wage, in lieu of two-thirds of the employee's monthly earnings for the 12 months immediately preceding the injury.

The statute of limitations was changed to provide that a claim for additional disability or medical benefits must now be filed within 4 years. Notwithstanding the statute, medical claims still may be accepted under certain conditions after 4 years. Another amendment now prohibits recipients of unemployment compensation from receiving disability benefits under the workers' compensation law. □

Shiskin award nominations

The Washington Statistical Society invites nominations for the 11th annual Julius Shiskin Award in recognition of outstanding achievement in the field of economic statistics.

The award, in memory of the former Commissioner of Labor Statistics, is designed to honor an unusually original and important contribution in the development of economic statistics or in the use of economic statistics in interpreting the economy. The contribution could be in statistical research, in the development of statistical tools, in the application of computers, in the use of economic statistical programs, or in developing public understanding of measurement issues, to all of which Mr. Shiskin contributed. Either individuals or groups can be nominated.

The award will be presented with an honorarium of $500 at the Washington Statistical Society's annual dinner in June 1990. A nomination form may be obtained by writing to the Julius Shiskin Award Committee, American Statistical Association, 1429 Duke Street, Alexandria, VA 22314–3402. Completed nomination forms must be received by April 1, 1990.