



Workers' Compensation 2017 Reform

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ROUTE TO:

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NYLITF Mission Statement

Our mission is to provide our Members the best value and financial security for workers' compensation and disability benefits with the objective of the utmost protection for the health and safety of our Members' employees. We shall achieve this by rendering unparalleled loss prevention service, vigilant claim handling, risk selection and cost control. We are committed to continuous improvement, achieving and maintaining Member satisfaction with integrity and respect.

Important Dates to Remember

Friday, August 18 - Sunday, August 20, 2017
*New York State Woodsmen's Field Days
 Boonville, NY*

Monday, September 4, 2017
W.J. Cox Associates, Inc. Office will be Closed

October 2017
*New York Lumbermen's Insurance Trust Fund Area Meetings
 See inside for more details*

Thursday, November 23 & Friday, November 24, 2017
W.J. Cox Associates, Inc. Office will be Closed

Monday, December 25 & Tuesday, December 26, 2017
W.J. Cox Associates, Inc. Office will be Closed

This publication is intended for the educational use of employees and contractors who work for and provide services to members of the New York Lumbermen's Insurance Trust Fund. The techniques suggested herein do not apply to all situations and all work procedures should be discussed with supervisory personnel prior to being applied to your job.

A Workers' Compensation Reform package was included in the NYS Budget and signed into law April 10, 2017. From the information released to date, we are able to provide some of the highlights as detailed below. Similar to the 2007 Reform, we expect litigation will be required to interpret and clarify some of the changes.

Permanency

Pre-Reform: In order to qualify for wage loss benefits, a partially disabled claimant including those classified with a permanent disability were required to submit evidence they were seeking employment or actively participating in vocational services.

Post-Reform: The requirement has been eliminated if at the time of classification, the claimant is entitled to a wage loss benefit.

Pre-Reform: In most cases with a date of injury 03/13/07 and after, permanency benefits are limited to a certain number of weeks, referred to as capped benefits. These capped benefits did not begin to run until the claimant had reached maximum medical improvement (MMI), thus increasing the overall time frame for entitlement to loss wage benefits.

Post-Reform: Temporary benefits paid beyond 2.5 years from the date of injury will be counted as a credit towards the capped permanent disability benefits. The language is not clear for all scenarios. It is expected that the results will reflect a reduction in the overall duration of wage loss benefits.

Pre-Reform: A claimant classified with a loss wage earning capacity (LWEC) greater than 80% had the ability to petition the court, seeking a reclassification that would qualify them for lifetime benefits. The claimant had to prove hardship (an undefined but qualifying term.)

Post-Reform: The above still applies but the threshold has been lowered to greater than a 75% LWEC. This creates an opportunity for a larger number of claimants to pursue lifetime benefits. The claimant will also have a right to a Full Board review of any Board Panel decision that reduces the LWEC to 75% or less from the original classification decision.

Pre-Reform: Cases amenable to a schedule loss of use award are for permanency associated with extremities, hearing and vision loss. The awards are based upon outdated guidelines.

Post-Reform: The WCB is required to adopt new impairment guidelines for schedule loss of use evaluation that will consider advances in medicine and the better outcomes that result. The effective date is set for 01/01/2018. This modernization should reduce costs.

Prescription Management

Pre-Reform: Insurers have an option to contract with a pharmacy benefit manager to assist with prescription management and provide cost savings. The Medical Treatment Guidelines are another tool that provide guidance for appropriate prescriptions and their duration, dependent in part upon the diagnosis.



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KICKBACK
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Paid Family Leave

As you may be aware, the New York State legislature has passed the Paid Family Leave Act which is intended to provide salary benefits to eligible employees who have to take time off work to attend to family members for various reasons including maternity/paternity, caring for a family member with a serious health condition or spouses of active military members needing support. The law takes effect January 1, 2018.

The attached information outlines the program in more detail.

The program permits employers to collect 0.126% of the employee's weekly wage up to a max of \$1.65 per week beginning July 1, 2017 from all eligible employees to help fund the anticipated cost of the program.

The program as rolled out thus far is not yet in final form and we are monitoring it closely.

You Need to Know:

1. The NYLITF is intending to provide the coverage effective January 1, 2018.
2. We are **NOT** requiring employer members to begin collecting from their employees July 1, 2017. However, those wishing to do so may. Such funds are required to be kept in an escrow account.
3. We are working with our actuaries and others to help determine the ultimate cost of this program.
4. Once we have a better projection of #3 above, we will advise members on collecting from employees and what rate, if any, we will charge.

The comment period on the program ends next week. You will be hearing more from us as things progress.

In the meantime, if there are any questions just let us know.

Paid Family Leave – FAQ's

What is the timeline?

Employees may take the maximum benefit length in any give 52-week period. The maximum benefit is eight weeks during the first year, 10 weeks during the second and third years, and 12 weeks the fourth and subsequent years. The 52-week clock starts on the first day the employee takes Paid Family Leave.

Who is eligible?

Virtually every full-time or part-time private employee in New York State will be eligible for Paid Family Leave. Participation in the program is not optional for employees. Non-US citizens and undocumented workers are also eligible.

Employees collecting workers' compensation benefits and independent contractors are not eligible for Paid Family Leave.

Paid Family Leave - *Continued from previous page*

An employee must be employed full-time for 26 weeks or part-time for 175 days to be eligible for a Paid Family Leave Benefit.

Maternity/Paternity Leave

Parents expecting, fostering or adopting a child may take Paid Family Leave during the first 12 months following the birth, adoption or fostering of a child. Paid Family Leave is not available for pre-natal conditions.

Caring for a Close Relative with a Serious Health Condition (within or outside NYS)

A close relative includes:

- Spouse
- Domestic Partner
- Child
- Parent
- Parent in-law
- Grandparent
- Grandchild

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- inpatient care in a hospital, or residential care facility; or
- continuing treatment or continuing supervision by a healthcare provider.

Active Duty Deployment

For family members eligible for time off under the military provisions in the federal Family Medical Leave Act when a spouse, child, domestic partner or parent of the employee is on active duty or has been notified of an impending call or order of active duty.

What are the benefits?

Paid Family Leave is designed to phase in over four years, starting January 1, 2018. Schedule:

Workers' Compensation 2017 Reform - Continued from Cover

Post-Reform: The WCB has been directed to develop a drug formulary by 12/31/17, that includes a list of high-quality, cost-effective medications that will be pre-approved for dispensing and a list of non-preferred medications that will require pre-approval. The specifics of what will be included in the formulary are to be determined.

Independent Medical Examinations

Pre-Reform: Insurers have the ability to choose medical consultants who are licensed and board certified to perform independent medical examinations (IMEs) for comparison with the injured worker's physician opinions.

Post-Reform: The Chair of the Workers' Compensation Board has been directed to conduct a study of the use of IMEs. Ultimately,

Year	Weeks Available	Max % of Employee Average Weekly Wage	Cap % of State Average Weekly Wage
1/1/2018	8	50%	50%
1/1/2019	10	55%	55%
1/1/2020	10	60%	60%
1/1/2021	12	67%	67%

An employer may allow an employee to use sick and/or vacation time together with Paid Family Leave to receive full salary.

Does Paid Family Leave cost the employer anything?

New York's Paid Family Leave is entirely employee-funded. That is, the benefit is paid for by employees. Beginning on or after July 1, 2017, the employer may begin payroll deduction for Paid Family Leave benefits.

Do all employees have to participate in the Paid Family Leave program?

Yes, Paid Family Leave is not optional for most employees. The exception is if the job will not allow an employee to attain 26 continuous weeks of 175 days needed to qualify for Paid Family Leave (for example a seasonal worker).

Are spouses allowed to use Paid Family Leave at the same time?

If spouses have different employers they are both eligible to take Paid Family Leave at the same time. However, if spouses have the same employer, the employer can deny Paid Family Leave to more than one employee at the same time to care for the same family leave recipient or to bond with a child.

recommendations are to be made for improvements to ensure fairness, the highest medical quality and improve efforts against fraud.

In summary, the overall intent of the Reform seems to be an effort to significantly reduce costs to employers while maintaining injured workers' rights with regard to promptly receiving the highest level of care appropriate for their compensable claim. The Business Council of New York State, Inc. has posted an article claiming New York employers stand to save "hundreds of millions of dollars annually on their workers' compensation costs". The Empire State Forest Products Association, along with W. J. Cox Associates, Inc., has joined a broad coalition of organizations led by the Business Council of NYS in support of achieving these reforms. To find more information on this topic, please go to www.bcnys.org.

Continued on next page