

LEGISLATIVE PRIORITY: WORKERS COMPENSATION

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State Chamber Position

Workers compensation reform is the top legislative priority for the Delaware State Chamber of Commerce. We were one of the best in the nation, but we've slipped in the past few years, thanks to annual double-digit rate increases, rising medical costs and lack of change to our system. As a consequence, businesses are struggling to remain competitive. For the past five years the business community has pushed for changes to our system. Despite our efforts, the situation continues to worsen. Changes must be made.

Current Situation

Delaware is the only state in the nation that does not have some form of managed or directed care. In addition, we are one of the few states that does not have a method for establishing equitable fees for medical procedures and litigation.

As more states reform their systems, our ranking continues to drop. The State Competitiveness Study, produced by the Beacon Hill Institute for Public Policy Research, ranks us 44th in terms of workers compensation premium rates and points to our high rates as a key competitive disadvantage. In comparison, neighboring Maryland ranks 12th in terms of workers compensation rates. An independent consulting firm hired by the state of Delaware ranked us 43rd. They tell us that unless changes are implemented the best we can hope for after this year is 45th.

Three industries in particular are especially hurt by our workers compensation system: construction, manufacturing and hospitals. Construction companies must bid between 10 and 20 percent higher on contracts than competitors from neighboring states solely because of Delaware's workers compensation costs. This is an obvious competitive disadvantage.

One Wilmington printing company must decide between layoffs or having its employees absorb more benefit costs as a result of increased medical insurance and workers compensation costs. Increased costs affect all the decisions that management needs to make regarding personnel, business practices, and the upgrading of equipment and facilities. Every manufacturing facility in Delaware, from the smallest to the largest, is having a similar experience.

However, businesses across all sectors suffer. For example:

- A Delaware-based warehousing and transportation company with facilities in both Delaware and Maryland is being forced to move more and more operations across the border to Maryland where workers compensation costs are 50 percent lower.

- Agricultural interests are experiencing costs that are 30-100 percent higher than their Maryland counterparts.
- A local car dealership saw its workers compensation rates double in one year.

In addition, more and more business owners and corporate officials are finding that workers compensation costs are putting Delaware at a disadvantage when they consider expansion or locating facilities.

No major changes have been made to Delaware's system in the past 70 years. It remains a system designed for the industrial age of the mid-20th century. What can be done to bring Delaware's system on a par with the rest of the country? The discussion begins and ends with

implementing changes that will allow business a means of participating in concert with the injured worker and medical providers to control costs.

A Call for Change

The Chamber has offered some potential strategies to the Governor's Workers Compensation Advisory Council, which will present legislation to the Governor. To list a few:

- Instituting a certification system for medical providers who treat work-related injuries. This will ensure that injured employees are treated properly from the beginning of their recovery.
- Restricting the weekly payment to a percentage of the actual wage being paid. Some part-time workers actually receive more in workers compensation payments than their actual wages.
- Increasing the penalty for delayed payment; unless the insurer or employer can demonstrate a reasonable basis for contesting payment.
- Establishing a review panel to recommend candidates for appointment by the Governor to the Industrial Accident Board. This is similar to what is currently done with judicial appointments and assures qualified board members.
- Allowing employers a larger role in managing care. After all, they are the ones who pay the bills.

These are just a few ideas that are being considered by the Workers Compensation Advisory Council. By working together we can make Delaware's workers compensation system not only affordable, but also one of the best in the nation. Our goal is to get injured workers the right treatment – and then get them back to work. We want to make certain that everyone involved in the process is treated in a just and equitable manner, and at the same time improve our potential for economic development in the state. ■

