

Workers' compensation: significant enactments in 1983

Most States increased maximum weekly compensation for total disability and death, and eight raised allowances for burial expenses; other important changes dealt with occupational disease and rehabilitation benefits

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It was a heavy year for State workers' compensation legislation, except in Kentucky where the legislature did not meet.¹ More than 1,100 proposals were introduced and 232 enacted. The enactments dealt primarily with coverage, benefits, occupational disease, rehabilitation, insurance, and the creation of various funds.

Beginning January 1, 1984, Alaska will become the third State, after Iowa and Michigan, to establish maximum weekly benefit levels for disability and death at 80 percent of spendable earnings. Spendable earnings are defined as the employee's gross wage less State and Federal income taxes and social security, where appropriate. Previously, maximum weekly compensation in these States was established at 66 $\frac{2}{3}$ percent of the employee's average weekly wages before taxes. In New Hampshire, the percentage of the State's average weekly wage used in determining maximum weekly compensation for disability and death was raised from 100 to 150 percent.

Forty-five States and the Virgin Islands increased their maximum weekly compensation for total disability and death while eight jurisdictions increased allowances for burial expenses. One State's law was amended to change compensation for death from a statutory amount to 100 percent of

the State's average weekly wage.

Legislation in Louisiana increased the maximum weekly benefits for injured workers from two-thirds to three-fourths of the State's average weekly wage and established a supplemental earnings benefit system. Also, the State now compensates disfigurement for any part of the body, and requires that employers or their insurance carriers provide prompt rehabilitation services for at least 26 weeks to injured workers who are unable to earn wages equal to preinjury wages.

Three States specifically broadened medical care coverage to include chiropractors, and mandated coverage of domestic workers employed by a single employer for 40 or more hours per week, or 5 or more days per week. Several jurisdictions passed legislation extending their statutes-of-limitations for the filing of occupational disease claims.

Minnesota became the first State in more than 50 years to establish a competitive State fund. The State also created a competitive system for setting workers' compensation insurance rates and reformed procedures for compensating permanent impairments.

A moratorium was placed on increases in insurance premium rates through December 31, 1984, in Hawaii, while an enactment in North Carolina permits insurers to deviate from workers' compensation and employer liability insurance rates.

In California, workers' compensation will now be the sole and exclusive remedy against the employer when a work-related injury or death occurs. This means that injured

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employees or their dependents, in cases of death, can no longer bring court actions against the employer for damages.

Following is a summary of legislation enacted by individual States.

Alabama

Corporate officers have the option of being exempted from coverage; however, such an election does not relieve corporate officers of their coverage liability to their employees.

Alaska

The percentage of the worker's wages upon which benefits are based for disability and death is now 80 percent of the worker's spendable earnings. Previously, it was 66 $\frac{2}{3}$ percent of the worker's gross weekly wages.

The minimum weekly compensation for disability is increased from \$65 to \$110. Death benefits, which previously had ranged from \$45 to \$75, are now between \$75 and \$125. The maximum compensation for scheduled injuries is also increased.

The burial allowance is increased to \$2,500 from \$1,000.

Arizona

Real-estate licensees whose remuneration is based on commission and is directly related to sales and service, rather than the number of hours worked, were excluded from coverage.

Liability for compensation of injuries to public employees is now initially the responsibility of the primary employer.

Employees working temporarily outside of the State may now be compensated by the State Fund for their work-related injuries, if the Fund insures employees of the same employer working in the State.

Arkansas

Injured employees are now permitted to receive treatment from certified chiropractors after the carrier or employer has been notified of the treatment.

The Workers' Compensation Fund, the Second Injury Trust Fund, and the Death and Permanent Total Disability Trust Fund are newly established to be administered by the Workers' Compensation Commission. Certain similar preexisting funds are incorporated into the new funds. The purpose is to improve the financial operations of the workers' compensation system.

All workers' compensation and employer liability insurance carriers in the State must participate in apportionment of rejected risks.

California

Workers' compensation is the sole and exclusive remedy against employers when work-related injury or death occurs. Therefore, injured employees, or dependents in

cases of death, are forbidden from bringing court actions against the employer for damages.

Colorado

Mandatory coverage is established for domestic workers employed by a single employer for 40 or more hours per week, or 5 or more days per week; however, a private homeowner is not required to cover a contractor who is hired to work about the home.

Educational institutions that sponsor students in job training programs where no remuneration is paid must either insure the students under their liability policies, or enter into agreements with the job training employers to provide the required coverage.

Corporate officers may reject coverage for themselves by filing a written notice with the insurer.

The maximum allowance for medical expenses from the Medical Disaster Fund is increased from \$35,000 to \$55,000.

Connecticut

The Workers' Compensation Commission is now required to notify claimants of their entitlements to annual cost-of-living increases.

The additional weekly allowance (\$40) paid to injured employees during rehabilitation was eliminated.

Third-party claims are not allowed for worksite injuries involving certain mobile equipment designed for use principally off public roads.

Delaware

Sole proprietors and partners are permitted elective coverage. Another amendment now allows as many as four officers of a corporation who are also stockholders to be exempt from coverage upon written agreement.

Florida

Coverage is extended to include contractors and subcontractors of certain public utilities.

The burden of proof is the responsibility of claimants who file for wage-loss and temporary partial disability benefits. Wage-loss benefits are no longer reduced at age 62 by the total amount of any social security retirement benefits not exceeding 50 percent, or terminated at age 65. Social Security benefits are primary and wage-loss benefits are supplemental when an injured employee is entitled to both; however, total compensation must not exceed the prein-

jury wages of the employee. Also, temporary partial disability benefits are offset against unemployment compensation benefits.

The medical fee schedule is applicable and must be uniform throughout the State.

Health care providers are subject to deauthorization by insurance carriers to provide remedial treatment, care, and attendance services to injured employees, if a deputy commissioner determines the deauthorization to be in the best interest of the injured employee.

The Division of Workers' Compensation must establish minimum qualifications, standards, and requirements for rehabilitation providers, and maintain a directory of approved providers. Injured employees will be referred only to providers listed in the Division's directory.

Employers who pay excess compensation for an injury, subsequent to a preexisting injury, that results in permanent total disability will be reimbursed from the Special Disability Trust Fund.

The discount factor used in computing the present value of compensation for lump sums is increased from 4 to 8 percent. Advance payments may be made up to a maximum of \$47,500, or 26 weeks of compensation, in a 48-month period, whichever is greater.

The reporting time is increased from 7 to 10 days during which the employer must notify the Division of Workers' Compensation of an injury causing 7 or more consecutive lost workdays, or of an injury resulting in death. The reporting time is retained for minor injuries and for cases in which fewer than 7 days were lost from work due to injury.

Procedures for obtaining coinsurance policies were modified and the penalties for late compensation payments were stiffened.

Georgia

Licensed real-estate salespersons or associate brokers with a written contract of employment indicating that all their services will be performed as independent contractors are exempt from coverage.

The burial expenses are raised to \$1,500 from \$750.

Upon receipt of an employer's report of injury, the Workers' Compensation Board notifies the injured worker of his or her rights, benefits, and obligations under the law, and briefly explains the law.

Hawaii

A moratorium has been placed on increases in workers' compensation premium

rates for the period January 1, 1983, through December 31, 1984.

Certain workers' compensation studies were authorized, to be conducted under the direction of the legislative auditor. One study puts special emphasis on ways to reduce or stabilize costs, and the other examines the financial impact and feasibility of creating a competitive State fund under competitive rating law.

Illinois

A sole proprietor or partner of a business may elect coverage under the law.

The Industrial Commission was granted authority to establish claims administration procedures for claims filed by employees of defaulting self-insured employers. Group self-insurance is allowed.

Indiana

The maximum average weekly wage of an employee to be used in computing compensation for total disability with respect to injuries occurring on or after July 1, 1983, increased from \$210 to \$234; on July 1, 1984, the amount will increase to \$249. Total maximum compensation allowable for injury, excluding medical benefits, was raised from \$70,000 to \$78,000 on July 1, 1983; on July 1, 1984, the maximum will become \$83,000.

Burial expenses are increased from \$1,500 to \$2,000.

Iowa

The total number of officers in a corporation who elect exemption from coverage may not exceed four, except for family farm corporations.

The State Department of Social Services may set liens against medical benefits to recover monies paid for hospital and medical services provided injured workers.

The State treasurer has sole authority for operational control of the Second Injury Fund.

Kansas

The maximum expenses allowed for burial are \$3,200, previously \$2,000. Additionally, any child of a deceased employee who is adopted is no longer eligible for compensation as a dependent of the employee.

Five or more employers participating in the same trade or professional organization for at least 5 years may establish group self-insurance pools for workers' compensation and employers' liability coverage.

Louisiana

Coverage is broadened to include quadriplegia, paraplegia, and loss of physical function of the respiratory system, gastro-

intestinal system, or genito-urinary system as contained in the thoracic or abdominal cavities.

The maximum weekly benefit level for disability and for death is 75 percent of the State average weekly wage. Minimum weekly benefits for total disability and death remain at 20 percent of the State average weekly wage, while the minimum for scheduled injury and supplemental earnings benefits is eliminated.

Benefits based on supplemental earnings are now computed at 74 percent (formerly 66 $\frac{2}{3}$ percent) of the difference between 90 percent of the employee's preinjury average monthly wages and his or her postinjury average monthly wages, but must not be less than the employee's actual wages prior to injury.

Compensation is allowable for any bodily disfigurement. Previously, only disfigurement of the head and face was compensable.

Scheduled injury compensation will only be awarded if a determination is made that an anatomical loss of use, amputation, or loss of physical function of at least 50 percent exists, as established in the *American Medical Association Guides to the Evaluation of Permanent Impairment*. Previously, no percentage was statutorily prescribed. Another requirement specifies that an employee must be unable to engage in any self-employment to qualify for total disability compensation.

Workers' compensation benefit payments are prohibited during any week in which an employee is receiving or is entitled to receive unemployment compensation benefits.

Workers injured on the job are entitled to prompt vocational rehabilitation services when they are unable to earn wages equal to their preinjury wages. The employer or insurer is required to provide up to 26 weeks of rehabilitation services, which may be extended for an additional 26 weeks. Upon request, board, lodging, or travel costs will be provided. For each week an injured employee refuses to accept rehabilitation services, his or her compensation will be reduced up to 50 percent.

The Office of Workers' Compensation Administration is created within the State Department of Labor to administer the workers' compensation law. Rules and regulations are also established for the agency concerning administration of the workers' compensation law and operation of the office.

In third-party cases, employers may recover up to 50 percent of a compensation award.

Costs of medical examinations are set by the State agency director based on prevailing rates, rather than a statutory amount.

The director is also authorized to set attorney fees and method of payment.

New legislation requires that the first payment of compensation for total disability or death be made within 14 days after the employer receives notification of injury or death, and within 30 days of receipt of the medical report.

Maine

Volunteer firefighters and emergency medical services workers are covered for workers' compensation. Coverage is eliminated for real-estate brokers or salespersons whose services are based on commission only.

All (rather than a previous few) services performed by chiropractors are covered.

Injury or death from asbestosis occurring on or after November 30, 1967, may now be compensated; the employer in whose employment the last exposure to asbestos occurred will be liable for any compensation due.

The 2-year statute of limitations for claim filing will not begin to run until the employer, if he or she has knowledge of the injury, files a report.

A direct payment compensation system is established and the agreement system eliminated for injuries that occur on or after January 1, 1984.

Benefits for injuries occurring on or after July 1, 1983, will be adjusted on the anniversary date of the injury. Under prior law, all benefits were adjusted concurrently with the State average weekly wage.

The Workers' Compensation Commission is required to actively monitor the State's workers' compensation system to ensure that it operates efficiently and with maximum benefit to both employees and employers.

Maryland

Coverage was amended to exclude licensed real-estate salespersons or associate brokers whose services are based on commission only, and those who qualify as independent contractors for Federal tax purposes.

Requests for compensation are to be made to the Uninsured Employers' Fund Board in cases where the employer fails to make such payments. Previously, requests were made to the Workmen's Compensation Commission.

Massachusetts

Maximum weekly compensation for death is no longer a statutory amount (\$110) but is set at 100 percent of the State's average weekly wage. Minimum weekly compensation is set at \$110; formerly, no statutory amount was prescribed. Weekly compensation for a dependent spouse and a spouse

with children will be determined at 66⅔ percent of the employee's average weekly wage. Formerly, no percentage was established in the law. The maximum period of 400 weeks during which surviving spouses were entitled to receive compensation is eliminated. Dependent surviving spouses may receive compensation payments for as long as they do not remarry.

The previous \$32,000 cap on total maximum compensation is removed and the aggregate benefit set at an amount not to exceed 250 times the State average weekly wage in effect at the time of injury. An additional allowance of \$6 per week for each child is included, to be applied in cases where the combined weekly compensation of the spouse and children falls below \$150.

Michigan

Employees of police and fire departments who waive their rights to workers' compensation benefits, in lieu of benefits from their municipality or village, will maintain their rights under the State law to medical benefits that are not provided for by the municipality or village.

A new provision permits benefits to be redeemed after certain criteria are met; formerly, any redemption of benefits was prohibited.

Employers are permitted to waive any reduction in the benefits of certain volunteer employees who are also entitled to disability benefits under a disability insurance program paid for by the employer.

Minnesota

Coverage is elective for independent contractors and for employers of individuals who participate in ridesharing arrangements.

The permanent partial disability provision concerning scheduled injuries is repealed. Compensation for a scheduled injury will be determined according to the percentage of body function lost. Awards will consist of impairment compensation and economic recovery compensation. A schedule has been formulated which provides for compensation awards between \$75,000 and \$400,000, according to percentage of disability.

The Labor Commissioner has authority to determine an employee's eligibility for rehabilitation, and to make all subsequent decisions concerning the rehabilitation of injured workers. Retraining during rehabilitation is limited to 156 weeks; previously, no time limit was established. Day-care services, travel, and reasonable moving expenses are added as costs of rehabilitation. Within 90 days after maximum medical improvement, or after the employee has completed a retraining program,

compensation for temporary total disability will be terminated. Health care services rendered to injured employees must be monitored by the Commissioner of Labor.

Any health care provider who violates regulations concerning health care services will be penalized, suspended, or disqualified.

The burial allowance is increased from \$1,000 to \$2,500.

A new requirement makes the employer in whose employ a worker was last exposed to a hazard causing an occupational disease the responsible employer for compensation.

The State Compensation Insurance Fund has been established as a nonprofit independent public corporation for the purpose of insuring employers against their workers' compensation liabilities.

Missouri

Sole proprietors, partners, and copartners may elect coverage; and real-estate agents are exempt from coverage.

The percentage of the State average weekly wage used in computing maximum weekly benefits for total disability, temporary partial disability, and death is increased from 66⅔ percent to 70 percent for all injuries or deaths occurring after September 28, 1983. Compensation for permanent partial disability is increased from 40 to 45 percent of the State average weekly wage. Beginning September 28, 1986, maximum compensation for total disability, temporary partial disability, and death will be based on 75 percent of the State average weekly wage.

Injured employees are no longer entitled to an additional 52 weeks of compensation during the healing period.

Awards for disfigurement will be made up to a maximum of 40 weeks; previously, awards were payable up to a statutory maximum of \$4,000.

Employers are responsible for replacement of prosthetic devices of injured employees whenever necessary.

Liability for compensation resulting from occupational disease must, without exception, be borne by the employer in whose employment a worker was last exposed to the cause of the disease, regardless of the time since last exposure. Prior to this legislation, certain occupational diseases were excluded. Firefighters who receive remuneration for their services are covered for exposure to smoke, gases, inadequate oxygen, and for psychological stress.

All injuries and deaths must be immediately reported to the Division of Workers' Compensation upon occurrence; formerly, up to 3 days of lost worktime could elapse before notification had to be made.

Montana

Coverage is compulsory for certain sole proprietors and working members of a partnership who consider themselves independent contractors.

The coverage of medical services is expanded to include nurse specialists as providers of medical treatment services. Medical practitioners and hospitals are now permitted to attach liens against compensation awards for services rendered.

Nebraska

The maximum weekly benefit level for disability and for death is raised from \$180 to \$200.

The statutes concerning payment of attorney fees in appealed cases have been revised.

Nevada

Volunteers serving as police officers in the Nevada highway patrol, and apprentices in an apprenticeship program who are injured during the course of instruction are covered for workers' compensation.

The monthly wage levels used to determine compensation of volunteer firefighters are raised from \$600 to \$900, and from \$250 to \$900 for volunteer peace officers while they are serving as State employees.

Indemnity benefits for permanent partial disability will be gradually extended from age 65 to 70. Additionally, compensation awards of less than 25 percent may now be received in a lump sum payment; however, all rights to additional benefits in such cases will be forfeited.

Employers may no longer require employees to waive the confidentiality of their medical records. Fees for medical services must be uniform within communities and be revised at least annually. The occupational disease statutes concerning exclusive remedy and medical examinations were revised. The administrator of the industrial insurance system is authorized to rescind an employer's self-insurance status under certain conditions.

New Hampshire

Household employees who are not covered by the Federal Social Security Act and volunteer members of rescue squads are included for coverage.

The percentage of the State average weekly wage used in determining maximum weekly compensation for disability and death is raised from 100 to 150. Minimum compensation is changed from a statutory amount to 40 percent of the State average weekly wage, or the actual wage of the worker if less. The wage and compensation schedule used in computing benefits is deleted from the law.

Table 1. Jurisdictions which changed maximum weekly temporary total disability benefits during 1983

Jurisdiction	Former maximum	New maximum	Jurisdiction	Former maximum	New maximum
Alabama	\$174.00	\$184.00	New Hampshire	\$279.00	\$418.00
Alaska	\$942.00	\$996.00	New Jersey	\$217.00	\$236.00
California	\$175.00	\$196.00	New Mexico	\$246.44	\$271.76
Colorado	\$283.71	\$296.80	New York	\$215.00	\$255.00
Connecticut	\$326.00, plus \$10 for each dependent under 18 years of age, not to exceed 75 percent of employee's wage	\$345.00, plus \$10 for each dependent under 18 years of age, not to exceed 75 percent of employee's wage	North Carolina	\$228.00	\$248.00
Delaware	\$208.45	\$223.78	North Dakota	\$261.00, plus \$5 for each dependent child; aggregate not to exceed worker's net wages	\$278.00, plus \$5 for each dependent child; aggregate not to exceed worker's net wages
District of Columbia	\$496.70	\$396.78	Ohio	\$298.00	\$321.00
Florida	\$253.00	\$271.00	Oklahoma	\$196.00	\$212.00
Hawaii	\$252.00	\$266.00	Oregon	\$304.60	\$316.23
Idaho	\$217.80 to \$302.50, according to number of dependents, plus 7 percent of the State average weekly wage for each child up to 5 children	\$238.50 to \$331.25, according to number of dependents, plus 7 percent of the State average weekly wage for each child up to 5 children	Pennsylvania	\$284.00	\$306.00
Illinois	\$446.40	\$456.33	Rhode Island	\$257.00, plus \$9 for each dependent; aggregate not to exceed 80 percent of worker's average weekly wage	\$275.00, plus \$9 for each dependent; aggregate not to exceed 80 percent of worker's average weekly wage
Indiana	\$140.00	\$156.00	South Carolina	\$235.00	\$254.38
Iowa	\$542.00	\$563.00	South Dakota	\$227.00	\$238.00
Kansas	\$204.00	\$218.00	Texas	\$182.00	\$189.00
Kentucky	\$254.33	\$277.66	Utah	\$284.00, plus \$5 for dependent spouse and each dependent child up to 4 children, but not to exceed 100 percent of the State average weekly wage	\$300.00, plus \$5 for dependent spouse and each dependent child up to 4 children, but not to exceed 100 percent of the State average weekly wage
Louisiana	\$230.00	\$245.00	Vermont	\$243.00, plus \$10 for each dependent under age 21	\$262.00, plus \$10 for each dependent under age 21
Maine	\$396.48	\$426.43	Virgin Islands	\$153.00	\$165.00
Maryland	\$267.00	\$292.00	Virginia	\$253.00	\$277.00
Massachusetts	\$297.85, plus \$6 for each dependent, if weekly benefits are below \$150	\$320.29, plus \$6 for each dependent, if weekly benefits are below \$150	Washington	\$243.10	\$249.33
Michigan	\$307.00	\$330.00	West Virginia	\$301.00	\$318.87
Minnesota	\$290.00	\$313.00	Wisconsin	\$269.00	\$294.00
Missouri	\$202.09	\$212.19	Wyoming	\$346.62	\$346.17
Montana	\$263.00	\$277.00			
Nebraska	\$180.00	\$200.00			
Nevada	\$297.21	\$314.18			

NOTE: Most benefit increases are based on the applicable jurisdiction's average weekly or monthly wage; and formerly on the national average weekly wage in the District of Columbia. However, nine States (Arizona, Arkansas, California, Georgia, Indiana, Mississippi, Nebraska, New York, and Tennessee) and Puerto Rico prescribe statutory amounts.

Five States (Arizona, Arkansas, Georgia, Mississippi, and Tennessee) and Puerto Rico are not listed because no changes for temporary total disability were legislated during 1983.

Modifications have been made in the dollar amounts and the number of weeks that compensation is payable for certain permanent partial disabilities. The provision which allowed compensation for the loss of two hands, two feet, or one hand and one foot for a maximum of 341 weeks has been repealed. A loss of one or more scheduled members is to be compensated weekly, based on a percentage loss of the whole person as defined in the *American Medical Association Guides*, subject to a 350-week limit. Scheduled awards are required to be compensated no later than 14 days after maximum medical improvement.

The maximum benefit level for sole proprietors and partnerships under special coverage is changed from \$300 to 150 percent of the State average weekly wage.

The 400-week limit on benefits of a widow or widower without dependent children who does not remarry is removed. Burial allowances are raised from \$1,200 to \$3,000.

Civil penalties are increased for employers who fail to secure compensation payments from \$10 to \$100 per day. An additional \$100 will be assessed for each day of noncompliance.

Revisions have been made regarding assessments to the Special Fund and to the Administration Fund.

The new title of the statute is "Workers' Compensation Law" and all references to "workmen's" have been changed to "workers'" throughout the act.

New Jersey

Awards to claimants under age 62 who are entitled to benefits for a permanent total disability or subsequent injury that occurred after December 31, 1979 (formerly June 1, 1965), are subject to reduction by social security benefit payments.

New Mexico

Coverage is extended to State mounted patrol members while they are serving at the request of law enforcement agencies.

The statutory graduated limit on payments for disability or death due to asbestosis or silicosis is eliminated.

A claimant may seek the services of another health care provider when the services being rendered are unsatisfactory.

New York

All officers of a corporation may elect an exemption from coverage; formerly, only the officers holding a combination of offices could be excluded.

Injury sustained in or caused by any voluntary participation in an off-duty athletic

activity will not be covered unless the employer (1) requires the employee to be a participant; (2) compensates the employee for his or her participation; or (3) sponsors the activity.

Maximum weekly benefit levels for disability and death are to be increased in steps between July 1, 1983, and July 1, 1985.

Compensation for the permanent partial loss or loss of use of an eye will be awarded on the basis of an uncorrected loss of vision resulting from an injury.

Licensed physical therapists have been authorized to provide medical treatment to an injured employee upon referral by a physician or podiatrist. All health care providers are prohibited from collecting medical fees directly from claimants. The Worker's Compensation Board is authorized to direct one or more insurers to pay for medical services rendered by a physician, hospital, podiatrist, or chiropractor, pending a determination of the liable party.

The assessment paid by employers to the Uninsured Employers' Fund is increased from \$100 to \$200.

North Carolina

Coverage is extended to include deputy sheriffs. The definition of "injury and personal injury" is amended to include back

injury caused by a work-related accident.

The law is amended to permit injured employees to use sick or other leave during the statutory waiting period prior to commencement of compensation.

Insurers are allowed to deviate from workers' compensation and employer liability insurance rates; however, such deviations are only effective for 1 year. Payment of dividends to members of self-insurance groups will not be contingent upon the maintenance or continuance of membership in the group.

North Dakota

The maximum weekly benefit level for death is raised from \$105 to \$210, and a lifetime maximum of \$175,000 established. The weekly compensation rate for permanent impairment and scheduled injury is increased from \$40 to \$60. The burial allowance is raised from \$2,000 to \$2,500.

Supplementary compensation for permanent total disability and death is based on 50 percent (formerly 25 percent) of the difference between the benefits the claimant was originally receiving and the maximum compensation rate, effective July 1, 1975.

Claimants entitled to Federal coal workers' pneumoconiosis benefits may receive benefits under the North Dakota Workmen's Compensation Act, provided the disease was contracted or aggravated as the result of employment as a coal miner in the State.

The distribution of compensation benefits when there is no surviving spouse or dependent child has been redesigned.

Oregon

Volunteer employees in the ACTION programs have been eliminated from coverage. Previously, volunteers receiving stipends or nominal reimbursements for time and travel were covered.

Farm labor contractors in the business of forestation or reforestation of lands are required to cover each worker performing manual labor, regardless of any contractual relationship which may exist between the contractor and workers. Each worker must be provided with a written statement of his or her rights and remedies under the law.

The denial of a claim for compensation for any condition or impairment to the health of a firefighter must be determined from clear and convincing medical evidence.

Rhode Island

The term "widow" has been changed to "surviving spouse."

A legislative commission has been created to study the feasibility of an exclusive State fund. The commission will expire on April 1, 1984.

South Carolina

Coverage of volunteer firefighters and rescue squad members is now mandatory. The average weekly wage used in determining compensation for national guard members, volunteer firefighters, and rescue squad members is changed from \$84 to 15 percent of the State average weekly wage in the preceding year.

The term "widow" has been replaced with "surviving spouse."

For compensation purposes, the average weekly wage of members of the National Guard is set at 75 percent of the State average weekly wage; and the wages of volunteer firefighters and rescue squad members were reduced from 75 percent to 37½ percent of the State average weekly wage.

South Dakota

Annual rates of interest on lump sum payments equaling the total sum of the probable future compensation payments will be determined according to Department of Labor rules or regulations, in lieu of the 5-percent per annum rate.

New reporting requirements concerning medical care of injured employees were established for employers.

Tennessee

Injured employees are covered for emergency medical care services up to \$300 (formerly \$100), and for prescription eyeglasses or eyewear when necessary.

The burial allowance is raised from \$1,250 to \$2,000.

Texas

Coverage is broadened for State employees who are injured while working outside the State. A subcontractor and prime contractor are permitted to enter into a written contract which establishes that the prime contractor will provide coverage for the subcontractor and his or her employees.

The offset of death benefits against compensation the employee had been awarded prior to death will now be applicable only to legal beneficiaries, who are entitled to benefits for a maximum of 360 weeks. Benefits of widows, widowers, and children are excluded.

The funeral allowance is increased from \$1,250 to \$2,500.

The claim filing period for compensation is increased from 6 months to 1 year. Within 20 days from receipt of notice of injury, the insurer or self-insurer must either initiate benefits or file with the Industrial Accident Board a statement of controversy, or in case of death, a statement of position.

Lump sum attorney fees in death cases where the Texas Employers' Insurance As-

sociation controverts the claim may not exceed 25 percent of the recovery.

Procedures have been established for handling disputes relating to medical benefits under a compromise settlement agreement approved by the Industrial Accident Board, or a judgment approved by the court. The penalty assessed against employers who fail to keep on file certain reports of employee injuries is decreased.

Utah

Workers' compensation will be the exclusive remedy when an injury occurs to volunteers serving as State employees under the "Volunteer State Workers' Act." Agricultural employers of five or fewer persons (other than immediate family members) are no longer required to have coverage. Also exempted are agricultural employers of four or fewer persons, if the cash payments to employees amounted to less than \$2,500 during the preceding calendar year.

The minimum weekly benefit payment to permanently and totally disabled employees from the Second Injury Fund is increased from \$10 to \$110.

The frequencies used in determining binocular hearing loss are now at levels of 500, 1,000, 2,000, and 3,000 cycles per second. Previously, only frequencies of 500, 1,000, and 2,000 were used. The number of decibels used in hearing loss cases is increased to 25 from 15.

Virginia

Coverage of certain public officials is permitted by the governing bodies of any county, city, or town. Hernia injuries are no longer covered under the law.

The Industrial Commission is authorized to require that an employer furnish certain medical equipment for an injured employee if necessary, including remodeling of the employee's principal home, not to exceed a cost of \$10,000.

A 2-year time limit is established within which claims for asbestosis must be filed.

The title "Virginia Workmen's Compensation Act" is changed to "Virginia Workers' Compensation Act," and the term "workmen's" replaced with "workers'" throughout the statute.

New rules governing the reporting of injuries require that any change of address by an injured employee be reported immediately. Any unreasonable justification for noncompliance will result in suspension of compensation payments.

An informative guide on the rights of injured workers under the State's workers' compensation law must be published by the Commission.

Washington

Services performed by musicians or entertainers under contract for a specific engagement or engagements have been eliminated from mandatory coverage.

A cost-of-living adjustment will begin in July 1984 for persons whose entitlement to compensation started on or after July 1, 1971.

Workers are entitled to reimbursement for loss or damage to personal clothing, footwear, or protective equipment caused by industrial accidents or while receiving emergency medical treatment.

The allowance for rehabilitation during a 52-week period is increased from \$1,500 to \$3,000. All injured workers are now entitled to rehabilitation or retraining services, regardless of injury date, except for persons who reopen their cases solely for purposes of receiving rehabilitation.

West Virginia

Claims for compensation can no longer be denied by an employer based on defenses of willful self-exposure and failure to use protective or safety appliances.

A new voluntary "Employers' Excess Liability Fund" insures employer liabilities in excess of amounts covered by workers' compensation.

The term "workmen's" is changed to "workers'" wherever it appears in the act.

Wyoming

Coverage is broadened to include recreational guides involved in hazardous outdoor service.

Dependent children of permanently and totally disabled workers are entitled to \$100 per month each (formerly \$60), until the age of majority.

The burial allowance is increased from \$1,100 to \$1,800.

Permanent partial disability compensation for any one accident may not exceed compensation payable for permanent total disability.

The statute of limitations for an injury occurring over a substantial period of time is broadened to allow a claim to be filed within 3 years from the date of last injurious exposure to the condition causing the injury, or 1 year after diagnosis of injury is first communicated to the employee, whichever occurs last (formerly whichever occurs first).

Attorney fees will be set by the district court; previously, 10 percent of the claimant's award was recoverable by the attorney. □

FOOTNOTE

¹The legislatures of California, Mississippi, Ohio, Oklahoma, Pennsylvania, Vermont, Wisconsin, and the District of Columbia convened in 1983 but workers' compensation changes were relatively minor, and are

not discussed in the State-by-State summary of significant amendments to workers' compensation laws. Kentucky was the only State in which the legislature did not meet in 1983.