is evidence of marijuana or controlled substance in the employee's blood within 8 hours of an accident. Tennessee broadened its provision and now does not allow benefits for injuries resulting from intoxication or use of illegal drugs. In Virginia, the employer now has rebuttable presumption that the employee was intoxicated if body fluids indicate that the amount of alcohol or illegal drugs is equal to or more than the standard set forth in the law.

Following is a State-by-State summary of legislation enacted during 1994.

Alaska

Workers' compensation coverage is extended to firefighters participating in authorized training.

Coverage is excluded for neutral sports officials officiating at recreational games, and employees participating in employer-sponsored recreational league activities, unless participation is required as a condition of employment.

Arizona

It is now unlawful for an employer to willfully misrepresent employee job descriptions or functions or the employer's loss history to an insurance carrier in order to obtain a lower premium.

The fine for employees who make false statements in order to obtain workers' compensation benefits increased from that of a Class 2 misdemeanor to a Class 6 felony.

Contractors obtaining or renewing a license are required to provide proof that they have compensation insurance coverage.

Colorado

The Colorado child support enforcement agency is permitted to issue a lien and attachment to compensation benefits of an obligor who is responsible for child support payments.

The definition of "permanent total disability" is amended to create a rebuttable presumption of permanent total disability if a claimant has total loss, or total loss of use, of both hands, both arms, both feet, both legs or both eyes, or any two thereof. Rebuttable presumption will result only from a medical determination based upon objective findings of an independent medical examiner accredited by the workers' compensation system to make impairment determinations.

Limits were placed on the offset against permanent total disability benefits for private pension benefits. All contributions made by an employer to a private pension plan pursuant to a collective bargaining agreement is considered to have been made by the employee for purposes of calculating offset (such offset is limited to cases where an employer does not participate in the Federal Social Security program).

The schedule of injuries for permanent partial disability benefits is modified by adding the following entries (each injury is to be compensated at 208 weeks): loss of an arm above the hand including the wrist and loss of a leg above the foot including the ankle. The entry for the loss of a hand was changed from "at the wrist" to "below the wrist," and the entry for the loss of a foot was changed from "at the ankle" to "below the ankle." The provision was deleted which related to the loss of forearm at the elbow, 139 weeks of benefits; and loss of a leg at or above the knee where the stump remains sufficient to permit the use of an artificial limb, 139 weeks.

The annual 2-percent cost-of-living adjustment for permanent total disability benefits for injuries occurring after July 1, 1991, is repealed effective July 1, 1994. Lifetime payments are authorized for disabilities occurring after July 1, 1994; previously, payments were terminated when the employee reached age 65.

An employee is now allowed to obtain more than one replacement of an artificial member, glasses, hearing aid, brace, or other external prosthetic device (including dentures). Also, more than one replacement of implants or devices needed to use an implant is allowed when deemed necessary by the authorized treating physician.

For a fee, unrestricted access to orders pertaining to claims of the Director of the Workers' Compensation Division or the Administrative Law Judge is now permitted; however, the claimant's name and other identifying information must be removed.

The Workers' Compensation Division is required to develop a procedure by January 1, 1995, for verifying whether employers comply with workers' compensation insurance requirements, including, but not limited to, cross referencing employer records of the Division of Employment and Training and the Workers' Compensation Division.

Delaware

The Governor, at any time after notice and hearing, may remove any Industrial Accident Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

The Superior Court is authorized to allow a reasonable fee to a claimant's attorney for services rendered on appeal from the Industrial Accident Board to the Superior Court and from the Superior Court to the Supreme Court if the claimant's position in the hearing before the Board is affirmed on appeal. The fee will be taxed in the costs and become a part of the final judgment and may be recovered from the employer and the employer's insurance carrier.

It is now unlawful for an employer to discharge, retaliate, or discriminate against an employee because the employee claimed or attempted to claim workers' compensation benefits, reported employer's noncompliance with the workers' compensation law, or testified or is able to testify in any proceeding under the workers' compensation law. Employers who violate this provision are to pay a penalty of $500 to $3,000 to the Industrial Accident Board's Second Injury and Contingency Fund.

For the purpose of workers' compensation coverage, inmates in the custody of the Department of Correction and inmates on work release who participate in the Prison Industries Program or other programs sponsored for inmates by the Department of Correction are not considered State employees. Volunteer fire company and volunteer firefighters now include junior members, Ladies Auxiliary members, volunteer ambulance companies of the State, members of volunteer ambulance companies, and members of the University of Delaware Emergency Care Unit and are considered State employees.

Coverage is extended to members of a volunteer fire department and volunteers of a life support agency who are injured in the performance of duty.

Georgia

The definition of "injury" or "personal injury" now includes aggravation of a preexisting condition, but for only so long as the aggravation continues to be the cause of the disability.

Workers' compensation laws: enactments in 1994

Although some States made sweeping changes, overall legislative changes were light this year; several new and revised laws focused on fraud and injuries resulting from intoxication and use of illegal drugs

Ruth A. Brown

Workers' compensation legislation was relatively light during 1994. Fraud continued to receive considerable attention, especially in Arizona, Georgia, Kentucky, North Carolina, South Dakota, and Virginia. Some States made sweeping changes in their laws. For example, Kentucky established an ombudsman program and guidelines that allow a collective bargaining agreement between an employer and a bargaining agreement representative; barred a provider from collecting payment for medical treatment in excess of the State's medical fee schedule; required a 10-percent reduction of benefits awarded at age 65 if injury or last exposure occurred prior to age 65; limited the special fund's liability for income benefits to an amount not to exceed 50 percent of the award; created the Employers' Mutual Insurance Authority as a competitive State fund; prohibited the awarding of compensation based on fraud; and denied compensation for work-related exposure to human immunodeficiency virus if the Commissioner is notified of the exposure within a certain time frame.

New Hampshire required employers to pay benefits for disability while a prosthesis is being replaced or repaired; required that providers of vocational rehabilitation be certified; exempted from coverage prisoners who perform services without pay; required managed-care programs to include a "sufficient" number of injury management facilitators; required that certain employers provide alternative work opportunities for injured employees; reduced benefits for permanent total and permanent partial disability; required health care providers conducting independent medical examinations to be certified in their area of specialty; and established a workplace safety incentive program.

North Carolina permitted the use of managed-care organizations to satisfy liability for medical care and treatment; required preauthorization for inpatient admission for medical care and for inpatient and outpatient surgery; authorized the adoption of a medical fee schedule; allowed employees to attempt a trial return to work and to be paid partial disability during this trial period; authorized the establishment of an ombudsman program; increased the assessment against an employer or carrier for an employee's loss, or loss of use, of a minor or major member; and classified the penalty for fraudulently obtaining or denying workers' compensation as a Class 1 misdemeanor.

Alaska extended coverage to firefighters participating in authorized training, while sports officials who officiate at recreational games are excluded from coverage. In Delaware, prisoners who are allowed to work within the penal system are not considered employees for the purpose of workers' compensation coverage. In contrast, Maryland provided coverage to prisoners working under the Federal Prison Industry Enhancement Program.

Workers' compensation coverage in Delaware is extended to members of a volunteer fire department and volunteers of a life support agency. Rhode Island exempted workers' compensation coverage for real estate workers, salespersons, and appraisers if substantially all remuneration is related to sales or other output, rather than the number of hours worked.

In Georgia, benefits are denied if chemical analysis shows the amount of alcohol to be 0.08 grams or more, and if there

Ruth A. Brown is a State standards adviser in the Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor.

The provision relating to the denial of compensation benefits for an injury or death due to intoxication by alcohol or from being under the influence of marijuana or a controlled substance is broadened to specify that if chemical analysis shows the amount of alcohol to be 0.08 grams or more, or evidence of marijuana or a controlled substance is in the employee's blood within 8 hours of the accident. If the employee unjustifiably refuses to submit to a chemical test, the rebuttable presumption is that the accident was caused by the consumption of alcohol or the ingestion of marijuana or a controlled substance.

A penalty of $500 to $5,000 per violation is assessed against anyone knowingly and intentionally making false or misleading statements in order to obtain or deny workers' compensation benefits, or against anyone failing to insure for workers' compensation or found to be in noncompliance with insurance requirements.

An interested party has 15 days (previously, 10 days) after being notified, to object in writing to a request for a change of physician or treatment.

Employers may satisfy their requirements of furnishing medical care to employees by maintaining a panel of at least four physicians who are reasonably accessible to the employees; by maintaining a list of physicians (known as the "Conformed Panel of Physicians") in conformity with the guidelines and criteria established by the Workers' Compensation Board; or by contracting with a certified managed-care organization.

Health care providers or groups of medical service providers may apply to the Workers' Compensation Board to provide managed care to injured employees.

New legislation increased maximum weekly compensation benefits for total disability from $250 to $275.

Idaho

The term "community service worker" now includes private nonprofit agencies which have workers' compensation coverage for criminal and juvenile offenders.

Guidelines are established for compensation of psychological injuries and set forth causes of action for benefits. Compensation is barred if psychological injuries arise from conditions generally inherent in every working situation or are from a personnel action. The terminology and criteria of the American Psychiatric Association is used in diagnosis of psychological injuries, and there must be clear and convincing evidence that the psychological injury arose from the claimant's employment.

Iowa

While a case is pending to determine liability for workers' compensation, a health care provider shall not attempt to collect from the employee or the employee's dependents for services rendered.

Certain injured employees may receive an amount equivalent to the wages the employee lost for having to leave work to receive treatment subsequent to sustaining a compensable injury. Payments must be reimbursed by any applicable workers' compensation insurance policy and shall be considered wages and not weekly benefits.

If a temporarily partially disabled employee is not offered a suitable job by the employer for whom he or she was working at the time of injury and elects to work for a different employer, the employee shall receive temporary partial benefits.

An employer is required to obtain a security bond to insure for workers' compensation before engaging in business; a violation results in a class "D" felony.

Kansas

A principal contractor is exempt from liability in cases in which a contractor is an employer and has secured the payment of workers' compensation for employees for whom the principal contractor would have otherwise been liable. In the event the payment of compensation is not secured, the principal contractor is liable for payment. An insurance company is prohibited from charging a principal contractor a premium for workers' compensation coverage for which the contractor has secured the payment.

Kentucky

An employer is prohibited from requiring a contractor to waive its third-party liability remedies as a condition of receiving a contract. In selecting a contractor, an employer cannot consider whether a contractor voluntarily waives its third-party liability remedies or offers to accept lesser compensation than another contractor for that waiver of remedies.

The commissioner is required to establish an ombudsman program that serves as an information source for employees, employers, medical, vocational, and rehabilitation personnel, carriers, and self-insurers; responds to inquiries and complaints relative to the workers' compensation program; advises all parties of their rights and obligations under the workers' compensation statute; and performs other duties as required by administrative regulations promulgated by the commissioner.

An Administrative Law Judge must render an award, order, or decision of a claim settlement within 60 days following the final hearing unless mutually agreed to by all parties.

New legislation established guidelines for a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative. Some of the stipulations include an agreed-upon list of providers of medical treatment; a limited list of physicians to conduct independent medical examinations; a light duty, modified job, or return-to-work program; and a 24-hour health care coverage plan for medical benefits.

A medical provider, or anyone acting on behalf of the provider, is not allowed to collect or attempt to collect payment for services provided to treat a work-related injury or occupational disease in excess of that provided by the medical fee schedule.

The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related workers' compensation benefits.

The purchase of a 24-hour health policy does not constitute an exemption from statutory provisions which require other nonmedical insurance coverage. Also, an employer who obtains a 24-hour health insurance policy to secure payment of compensation for medical care and treatment must also procure a policy which provides indemnity benefits to ensure that the total coverage provided by both the 24-hour insurance policy and the indemnity policy amounts to the required total compensation coverage.

Weekly income benefits for permanent partial disability is provided for all cases, except those in which an employee returns to work at a wage equal to or greater than his or her preinjury wage.

If an injury or last exposure occurs before an employee's 65th birthday, income benefits awarded must be reduced by 10

percent beginning at age 65 and by 10 percent each year thereafter until and including age 70. Income benefits shall not be reduced beyond the employee's 70th birthday.

The average weekly wage for 1995 and 1996 cannot be higher than the average weekly wage for 1994. If so, it may be lowered. Beginning in 1997 and annually thereafter, the average weekly wage must be calculated based on the State's average weekly wage in effect 2 years prior to that calculation.

The special fund's liability for income benefits for claims, other than those involving the back and the heart, shall not exceed 50 percent of the income benefits awarded for permanent disability. For claims in which the Administrative Law Judge determines that the apportionment to the special fund exceeds 50 percent of the award of permanent disability, that portion of the award exceeding 50 percent shall be paid by the employer.

The General Assembly shall create the Employers' Mutual Insurance Authority to establish a self-supporting competitive State fund for the purpose of providing both a market of last resort for employers in the Commonwealth and another competitive source of insurance in the voluntary market through which employers may secure and maintain their workers' compensation coverage. The Authority is required to begin providing coverage and issuing policies as an insurer in the voluntary market and as a residual market mechanism on or before September 1, 1995.

Procedures were enacted for phasing out the Kentucky Workers' Compensation Insurance Plan (which is prohibited from renewing or writing new policies after September 1, 1995) and developing a plan for the application and transfer of the insured to the Employers' Mutual Insurance Authority.

The payment of workers' compensation is not allowed for work-related injuries if the employee, at the time of employment, falsely represents in writing his or her physical condition or medical history, the employer relied upon this false representation as a substantial factor in the hiring, and there is a causal connection between the false representation and the injury.

Employers subject to the workers' compensation provisions must report to the carrier or the party responsible for the payment of workers' compensation benefits any work-related injury or disease or alleged work-related injury or disease within 3 working days of receiving notification of the incident or alleged incident.

The right to workers' compensation for work-related exposure to the human immunodeficiency virus (HIV) is barred, unless notice of the injurious exposure is given and unless an application for adjustment of claim for compensation was made with the Commissioner within 5 years after the injurious exposure to the virus.

Beginning January 1, 1995, every carrier, self-insurer, and group self-insurer is required to file detailed claim information contained in the model regulation developed by the National Association of Insurance Commissioners in conjunction with the International Association of Industrial Accident Boards and Commissions.

Maryland

The Injured Workers' Insurance Fund board may not increase the policy rate of an employer by more than 20 percent upon renewal of a policy, unless the board notifies the employer in writing at least 45 days before the effective date of the policy. This does not apply to an increase based on the experience of the employer.

A prisoner is now covered for workers' compensation while engaged in work under the supervision of State Use Industries in the Federal Prison Industry Enhancement Program.

Minnesota

Workers' compensation coverage is now exempt for a manager who owns at least a 25-percent membership interest in a limited liability company which has 10 or fewer members and less than 22,880 hours of payroll in the preceding year, and also is exempt for the spouse, parent, child, and persons related by blood or marriage to the manager. However, the limited liability company can elect to provide workers' compensation coverage for such managers.

Nebraska

An insurer who cancels a workers' compensation policy or contract is required to provide a written notice, including reasons for cancellation, to the court and the employer. Cancellation is effective 60 days after mailing; however, if the cancellation is for nonpayment of premium, employer's failure to reimburse required deductible losses, or employers in assigned risk system failing to comply with certain health and safety regulations, cancellation may become effective 10 days after mailing.

An insurer who does not renew a workers' compensation policy or contract is required to provide a written notice, including reasons for nonrenewal, to the court and the employer. Notice of nonrenewal is effective 60 days after mailing, and does not apply to policies or contracts issued under the assigned risk system.

New Hampshire

The employer or carrier must pay compensation for disability resulting from the replacement or repair of prosthesis. The amount is based on the employee's average wage at the time of original injury. The commissioner may be petitioned for such compensation at any time if the disability results solely from the replacement or repair.

After January 1, 1995, persons providing vocational rehabilitation services under the workers' compensation law must be certified. Any person currently providing vocational rehabilitation services has until January 1, 1996, to apply for certification.

For the purpose of coverage, the definition of "employee" with respect to public employment does not include inmates who are required or allowed to perform services, or volunteers who perform services, for which no significant remuneration is provided.

"After-tax earnings" is now calculated using as the number of exemptions the lowest number of exemptions actually claimed by the employee during the 26-week period immediately preceding the date of injury.

Managed-care programs must include a sufficient number of injury facilitators to manage the injured employee's medical, hospital, and remedial care, vocational rehabilitation, modified duty, and return to work plans.

Employers with five or more employees are required to (1) develop alternative work opportunities for injured employees; and (2) reinstate an injured employee to the employee's former position upon request, if the position still exists and is available and the employee is able to perform the position's duties with reasonable accommodations for his or her limitations. Stipulations are provided for reinstatement privileges.

Workers' compensation benefits for permanent total disability and permanent partial disability are reduced to 60 percent (previously, 66-2/3 percent) of the employee's average weekly wage; the maximum dura-

tion of the benefits is reduced to 262 weeks (previously, 350 weeks).

Compensation for disability, rehabilitation, medical benefits, or death benefits will be barred unless claimant petitions for a hearing within 18 months after notice that claim has been denied by insurer.

Health care providers who conduct independent medical examinations are required to be board-certified in their area of specialty. Examinations must be conducted within a 50-mile radius of the injured employee's residence. An employee is not required to submit to more than two independent medical examinations per year.

New laws establish a safety incentive program, provide eligible employers with a discount on their workers' compensation premium, and creates a full-time position of manager of safety, training, and injury prevention to be responsible for mandatory workplace safety programs.

New Jersey

Employees who are eligible for coverage under the Federal Longshore and Harbor Workers' Compensation Act are not exempt from coverage under the Workers' Compensation Act.

New York

Within 45 days of receipt, an employer must pay the bill rendered for medical treatment of an employee, or provide in writing the reasons for nonpayment.

The Commissioner of Health is authorized to prescribe a reasonable fee to accompany each application for certification as a managed-care organization; the fee will be used to defray the administrative costs of the pilot program for workers' compensation medical and health care cost containment.

An employee covered under the managed-care pilot program is allowed to receive emergency care from a duly licensed medical or health care provider after the sudden onset of an injury or illness which arose out of the course of employment.

North Carolina

Employers or carriers are permitted to use managed-care organizations as a means to satisfy liability to provide medical services for the care and treatment of injured workers.

An insurer may now require preauthorization for inpatient admission to a hospital or a treatment center, and for inpatient and outpatient surgery.

The Commission must adopt a medical fee schedule to ensure that injured workers are provided adequate services and care, providers are reimbursed reasonable fees for services, and medical costs are adequately contained.

The Commission can adopt utilization rules and guidelines for vocational rehabilitation services, medical care, and medical rehabilitation services including, but not limited to, palliative care, physical therapy, psychological therapy, chiropractic services, and attendant care.

The right to medical compensation terminates 2 years after the employer's last payment of medical or indemnity compensation, unless the employee files an application for additional medical compensation or the Commission orders additional medical compensation.

The definition of "medical compensation" is amended to include replacement of artificial members when reasonably necessitated by ordinary use or medical circumstances.

An employee can attempt a trial return to work for a period not to exceed 9 months, and is to be paid any compensation which may be owed for partial disability during this trial period. If the trial return is not successful, the employee has a right to continue to receive compensation for total incapacity.

The Commission is authorized to establish an ombudsman program to assist unrepresented claimants, employers, and other parties, to enable them to protect their workers' compensation rights.

A new law increases the assessment against the employer or carrier for the Second Injury Fund for the loss or loss of use of each minor member from $100 to $250, and each major member from $500 to $750.

A person who willfully makes a false statement or representation of a material fact for the purpose of obtaining or denying any workers' compensation benefit or payment will be guilty of a Class 1 misdemeanor.

Oklahoma

Employers may secure workers' compensation insurance through an equivalent insurance product approved by the Insurance Commissioner which at least equal benefits to injured employees. The insurance company selling the product must be authorized to operate in Oklahoma and have a minimum surplus of $50 million.

Rhode Island

Licensed real estate brokers or salespersons or licensed or certified real estate appraisers may be exempted from workers' compensation if substantially all remuneration for services performed is directly related to sales or other output, rather than to the number of hours worked.

A general contractor or construction manager who enters into a contract with a subcontractor is required to obtain written documentation as proof that the subcontractor carries workers' compensation insurance coverage over the term of the contract. Failure to obtain this documentation will place liability on the general contractor or construction manager.

The State Employees' Compensation Fund, used to settle claims against the State, was established.

A private employer, self-insurer, or group self-insurer is allowed to make payment or reimburse an employee for any costs associated with treatment by prayer or spiritual means.

The Workers' Compensation Administrative Fund may be used for the payment or reimbursement of actual incremental cost-of-living adjustment increases for injuries occurring prior to September 1, 1990.

An insurance company will be subject to prosecution for a misdemeanor and fined up to $250 for each offense of willfully refusing to lower premium rates based on the employer's good faith report; and the Director of the Department of Labor will be allowed to assess an administrative penalty and/or to bring a civil action in any court of competent jurisdiction.

An employer, insurer, self-insurer, or group self-insurer who has not paid assessments or is not current with the payment of assessments into the Workers' Compensation Administrative Fund will not be permitted to place a claim against the Fund, and any reimbursements will be suspended as of the first date of arrearage.

South Carolina

If an employee makes a claim for workers' compensation benefits and the records show that the employer is uninsured, the Workers' Compensation Uninsured Employers' Fund may subpoena the employer or its agents to produce any documents which the Fund considers relevant to its investigation of the claim.

South Dakota

If an employee has had more than one employer and claims an aggravation of a preexisting injury and cumulative trauma makes the date of injury undeterminable, the insurer providing coverage at the time the aggravation or injury is reported makes initial payments until the insurers agree on responsibility or the matter is adjudicated.

Compensation received by an injured employee for damages from third parties must be offset against any workers' compensation benefits which the employee would otherwise have been entitled to receive.

A person who knowingly files a fraudulent workers' compensation claim is deemed guilty of a Class 1 misdemeanor.

In death cases where children are not in the custody of the surviving spouse, compensation is to be divided according to the will of the deceased or the State's estate law if no will exists.

Tennessee

Workers' compensation benefits are not allowed for injuries due to intoxication or use of illegal drugs.

Utah

A new law permits the reduction of reimbursement of workers' compensation payments because of fault attributable to an employer. Further, it requires the injured employee or his or her heirs to give written notice to the carrier of any known attempt to attribute fault to the employer, officer, agent, or employee of the employer, by way of settlement or in a proceeding brought by the injured employee or his or her heirs.

Procedures were enacted for phasing out the Employer's Reinsurance Fund for second injuries by limiting its obligations to injuries and diseases resulting from employment prior to July 1, 1994, Compensation for second injuries and related deaths after this date will be borne by employers or their insurance carriers.

Virginia

An employer will have a rebuttable presumption that an employee was intoxicated or using a nonprescribed controlled substance at the time of an injury or death if the body fluids indicate that the amount of alcohol is equal to or greater than the standard set forth in State law, or the amount of drug yields a positive test result from a laboratory certified by the National Institute on Drug Abuse.

Violation for workers' compensation fraud is now a Class 6 felony, rather than a Class 1 misdemeanor.

If a health care provider refers an injured employee, or transfers responsibility for the employee's care, to another health care provider, the referring provider must also provide to the succeeding provider or to the employee, copies of all diagnostic tests, x rays, and other medical records pertaining to the injury. The succeeding provider is not allowed to repeat any diagnostic test or procedure conducted by the referring provider in the preceding 60 days without making a good faith attempt to use the medical information provided, unless it is medically necessary to do so as certified by a qualified physician on behalf of the succeeding provider. Violation of this requirement will prevent the succeeding provider from receiving compensation or reimbursement from the injured employee's employer or insurer for costs associated with the repeated test or procedure.

Executive sedan drivers are exempt from workers' compensation coverage.

There will be no delay of payment penalty for the period in which a Workers' Compensation Commission review may be requested which deals with review of an award, hearing, or conclusiveness of an award or appeal.

Noncompensated employees and directors of corporations exempt from taxation as charitable and nonprofit organizations are allowed to be excluded from workers' compensation coverage.

Health care providers must refrain from debt collection activities relating to medical treatment received by an injured employee until an award is made on the employee's claim. The statute of limitations for collection of such debt will be tolled during the period in which the provider is required to refrain from debt collection activities.

A physician, hospital, or other health care provider is prohibited from seeking payment from the employee whenever an employer or carrier declines to pay for all medical treatment, services, appliances, or supplies furnished to the employee for a compensable injury.

The Workers' Compensation Commission shall have exclusive jurisdiction over all disputes concerning fees of attorneys and physicians, and charges of hospitals for services approved by the Commission.

There is a presumption as to death or disability for a volunteer or salaried firefighter who contracts leukemia or pancreatic, prostate, rectal, or throat cancer caused by documented contact with a toxic substance in the line of duty. In order for the presumption to apply, the volunteer or salaried firefighter must have completed 12 years of continuous service.

In relation to the presumption for firefighters for death or disability from respiratory disease, hypertension, or heart disease, the term "firefighter" includes persons who are employed by, or have a contract with, private employers primarily to perform firefighting services.

Washington

Chiropractic care is added to the choice of health services available to injured workers.

By December 31, 1994, the Department of Labor and Industries must adopt final criteria for the management of claims involving chemically related illness to ensure consistency and fairness in the adjudication of these claims by December 31, 1994. An advisory committee is appointed to review issues relating to chemically related illnesses and make recommendations.

West Virginia

If an employer does not furnish the Commissioner with wage information necessary to determine workers' compensation benefits, the employee will be paid temporary total disability benefits for lost time at the rate the Commission obtains from reports required by law for employers to provide information on number of employees, hours worked, and wage rate. However, if no such wages have been reported, the Commissioner shall make payments at the rate believed to be justified by the usual rate of pay for the occupation of the injured employee.

In no event shall the minimum weekly benefits for temporary total disability exceed the level of benefits determined by use of the applicable Federal minimum hourly wage. Any claimant receiving permanent total or permanent partial disability benefits, or dependents' benefits prior to July 1, 1994, will not have benefits reduced based upon the requirement that the minimum weekly benefit shall not exceed the applicable Federal minimum hourly wage.

For the purpose of establishing temporary total disability benefits for part-time

employees, "average weekly earnings" on or after July 1, 1994, shall be based on the best average weekly gross pay (wherever it is earned), which is received by the employee during the best quarter of wages out of the preceding four quarters of wages as reported to the Commissioner.

Wisconsin

Temporary disability, during which compensation is payable for loss of earnings, includes such period as may be reasonably required for training in the use of artificial members and appliances, but cannot exceed 80 weeks. The 80-week limitation does not apply to temporary disability benefits, travel or maintenance expenses, or private rehabilitation counseling or rehabilitative training costs.

Wyoming

The definition of "injury" is amended to exclude any injury resulting primarily from the natural aging process or normal daily activities, or an injury sustained during voluntary recreational or social activities. Any mental injury is also excluded unless it is caused by, or occurs subsequent to or simultaneously with, a compensable physical injury as demonstrated by "clear and convincing" evidence. The mental injury is limited to 6 months after the employee's physical injury has healed to maximum improvement.

The ratemaking process no longer requires approval by the Insurance Department. The Division of Workers' Compensation is authorized to grant a premium discount to employers with an approved safety program not to exceed 10 percent of the base rate for the employment classification.

Burial expenses is increased from $1,800 to $2,500, with an additional $2,500 to cover other related expenses.

Monthly benefits for permanent total disability is extended from 60 months to 80 months. Any award for permanent total impairment or disability will constitute the exclusive benefit from the injury, including loss of earnings, extra expenses associated with the injury, and rehabilitation expenses.

It is no longer required that requests for additional benefits or modification of previously paid benefits be filed within 4 years from the date of last payment. The 1-year time limitation for filing death claims from ionizing radiation now begins at the date of death instead of the date of discovery of exposure to the radiation. □

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