



Workers' Compensation Insight

Workers' Compensation News & Case Law

May 12, 2015

Quick Facts:

- The governor of Arizona signed into law a bill that exempts workers' compensation carriers and self-insurers from reimbursing injured employee's for their medical marijuana purchases.
- Two California individuals were arrested for workers' compensation insurance fraud after an extensive investigation by the San Francisco District Attorney's Office.
- A California appellate court ruled that a lower court made a mistake when it allowed the jury to be informed of an injured worker's immigration status.
- Colorado celebrated the 100th anniversary of its workers' compensation program.
- A Connecticut state employee has been charged with a class B felony for fraudulently collecting workers' compensation benefits.
- The mayor of New Haven, Connecticut signed a city resolution on 4/14/2015 that urges the state to pass laws protecting domestic workers.
- Eleven Florida individuals have been arrested and charged with unlicensed contracting and workers' compensation fraud.
- The Georgia House and Senate committees on insurance and labor met to discuss a bill to cut the length of time workers have to file a claim with the State Board of Workers' Compensation from five years to two years.
- In February 2013, a joint inspection of Unicol Corporation by OSHA and Hawaii-OSHA revealed dozens of violations and assessed \$197,000 in penalties.
- Under current Massachusetts law, in order for an injured worker to be compensated for work-related burns or surgery, the disfigurement must be on the face, neck, or hands.
- A Nevada Assembly Bill has been introduced that would lower the legal requirement for employers to terminate employees for misconduct.
- The New York City Transit Authority has been ordered by OSHA to pay an employee \$52,500 and take other corrective action.
- The Oregon Supreme Court held that Oregon's workers' compensation law does not restrict an injured worker's estate or other beneficiaries from receiving benefits that were undecided at the time of the worker's death.
- The Dallas, Texas nurse who contracted Ebola has filed a negligence and breach of privacy suit against her employer on March 2, 2015.
- The Washington State Department of Labor & Industries found that a Washington business owner and his spouse are personally liable for over \$1 million in delinquent workers' compensation premiums and penalties.



Arizona

On April 6, 2015 the governor of Arizona signed into law a bill that exempts workers' compensation carriers and self-insurers from reimbursing injured employee's for their medical marijuana purchases. Similar protections have previously been put into place for federal and private employers in Arizona. Opponents of the law find it unfair that insurers now will cover opioid pain medication but not medical marijuana.

<http://www.therepublic.com/view/story/7ce6be7d9a904bb4a00582cf1c2374ea/AZ--Medical-Marijuana-Insurance>

California

Two California individuals were arrested for workers' compensation insurance fraud after an extensive investigation by the San Francisco District Attorney's Office. The list of charges include: conspiracy to commit insurance fraud, false and fraudulent claims, claims adjuster fraud, grand theft by false pretenses, forgery, and money laundering. One individual, an ex-employee of AmTrust North America allegedly created several shell companies through which she filed 137 fake workers' compensation claims. The other individual, a current senior claims adjuster with AmTrust, allegedly approved the fraudulent claims which totaled over \$528,058.

<http://www.workerscompensation.com/compnewsnetwork/news/21151-co-conspirators-arrested-and-charged-for-bilking-insurance-companies-of-over-half-a-million-dollars-in-ca.html>

A CA appellate court ruled that a lower court made a mistake when it allowed the jury to be informed of an injured worker's immigration status. The lower court was hearing a case on liability for the worker's lung condition that allegedly was caused by industrial exposure to a chemical. The appellate court held that immigration status is irrelevant to the case and should not have been admitted.

<http://www.lexisnexis.com/legalnewsroom/immigration/b/insideneews/archive/2015/02/02/39-popcorn-lung-39-verdict-reversed-over-immigration-info-velasquez-v-centrome.aspx>

The California Workers' Compensation Insurance Rating Bureau (WCIRB) released its report on 2014 workers' compensation insurance trends. Written premium increased 11% from 2013 which is mainly due to increases in cumulative injury claims, late reported indemnity claims, claims involving injuries to multiple body parts, and claims from the LA area.

<http://www.businessinsurance.com/article/20150421/NEWS08/150429947?tags=58|422|92>

Colorado

Colorado celebrated the 100th anniversary of its workers' compensation program. It was established in 1915 making it the 10th state to create such a program. The establishment of the program was partly driven by the risks presented by the mining industry that dominated Colorado's economy in 1915. Initially, participation by employers was not mandatory but two



years later it became mandatory when the Colorado Supreme Court found that a mandatory provision would be constitutional.

<http://www.coloradostatesman.com/content/995496-pinnacol-celebrates-workers-comp-centennial-history>

Connecticut

A Connecticut state employee has been charged with a class B felony for fraudulently collecting workers' compensation benefits. The employee reported a work injury in March 2014 and subsequently collected almost \$12,000 in benefits. Though he claimed he was unable to work, surveillance video showed him working in his yard and playing golf. If convicted, he could face up to 20 years in prison and/or a \$15,000 fine.

<http://www.workerscompensation.com/compnewsnetwork/news/20984-ct-dcf-employee-charged-with-workers-compensation-fraud.html>

The mayor of New Haven, CT signed a city resolution on 4/14/2015 that urges the state to pass laws protecting domestic workers. The resolution calls for the state to give domestic workers access to legal protection such as labor laws, sick days, and workers' compensation. If Connecticut passes such laws, they would become the fifth state to do so - Massachusetts, New York, Hawaii, and California all have passed domestic worker bill of rights.

http://www.newhavenindependent.org/index.php/archives/entry/city_rallies_for_domestic_workers_rights/

Florida

Eleven Florida individuals have been arrested and charged with unlicensed contracting and workers' compensation fraud. In a three-day sting operation, the Florida Division of Insurance Fraud with the assistance of local police and code enforcement agencies, called the contractors for work at an uninhabited home and arrested them upon arrival. If convicted, each individual faces 6 to 10 years in prison depending whether they are first-time or repeat offenders.

<http://www.workerscompensation.com/compnewsnetwork/workers-comp-blogwire/21053-florida-sting-nets-workers-comp-violations.html>

Georgia

The Georgia House and Senate committees on insurance and labor met to discuss a bill to cut the length of time workers have to file a claim with the State Board of Workers' Compensation from five years to two years. The intent of the bill is to reduce manipulation of the workers' compensation system. No legislative action was taken but the committees referred the bill to an advisory council of employers, attorneys, and insurers.

<http://chronicle.augusta.com/news/business/2015-03-30/proposal-would-cut-time-suing-over-georgia-workplace-injuries>



Hawaii

In February 2013, a joint inspection of Unicold Corporation by OSHA and HI-OSHA revealed dozens of violations and assessed \$197,000 in penalties. The inspection found that almost every emergency exit door or route was blocked or sealed and that Unicold was using a dangerous chemical as a refrigerant. Unicold immediately contested these penalties and citations and fought a two year legal battle in opposition. However at the end of March 2015, Unicold finally agreed to end the fight and pay the penalties.

<http://www.workerscompensation.com/compnewsnetwork/news/21047-hi-food-warehouse-avoids-potential-for-catastrophic-incident.html>

Massachusetts

Under current Massachusetts law, in order for an injured worker to be compensated for work-related burns or surgery, the disfigurement must be on the face, neck, or hands. The maximum compensation currently under this provision is \$15,000. A new MA Senate bill introduced this year would remove the “face, neck, or hands” requirement and increase the maximum compensation to 30 times the average weekly wage.

<http://www.boston.com/jobs/news/2015/04/10/some-disfigured-employees-not-compensated-for-scarring-massachusetts/L4VGn5AULRrCmkZXbMELUM/story.html>

Nevada

A Nevada Assembly Bill has been introduced that would lower the legal requirement for employers to terminate employees. Currently employers must show gross misconduct on the employee’s part in order to legally terminate. This Bill would lower the bar to just “misconduct.” Opponents of the Bill worry that it will have an adverse impact on employees who have filed workers’ compensation claims. If passed, employers will have an easier time proving that they terminated an employee for “misconduct” when they face a discrimination charge for terminating an employee with a workers’ compensation claim.

<http://www.publicnewsservice.org/2015-04-09/budget-policy-and-priorities/nevada-lawmakers-consider-workers-compensation-bill/a45616-1>

New York

The New York City Transit Authority has been ordered by OSHA to pay an employee \$52,500 and take other corrective action. OSHA found that the transit authority had discriminated and retaliated against the employee for exercising his safety rights under OSHA and the National Transit Systems Security Act. Employers cannot retaliate against employees who file complaints or provide information regarding safety violations to their employer or to the government. Employers who do so are subject to punitive and compensatory fines.

<http://www.workerscompensation.com/compnewsnetwork/news/21010-new-york-city-transit-authority-retaliates-against-employee-for-participating-in-safety-inspection-and-filing-complaint.html>



Oregon

The Oregon Supreme Court held that Oregon's workers' compensation law does not restrict an injured worker's estate or other beneficiaries from receiving benefits that were undecided at the time of the worker's death. This ruling arose from a case the Court was hearing on appeal involving an injured worker who died from reasons unrelated to the work injury before his claim for benefits for the work injury could be finalized. The injured worker's estate sought to be substituted as the party of interest after the worker's death, the insurer opposed this substitution, and the case went up to the Oregon Supreme Court.

<http://www.businessinsurance.com/article/20150410/NEWS08/150419986>

Texas

The Dallas nurse who contracted Ebola filed a negligence and breach of privacy suit against her employer on March 2, 2015. The employer contends that she should be barred from suing as her "exclusive remedy" is the workers' compensation system. Their argument is that since her exposure to Ebola and subsequent illness occurred in the course and scope of her employment, she must seek her remedy within the workers' compensation system – not the civil court system. On April 3, 2015 the employer filed their motion requesting dismissal or referral to the Texas Department of Insurance's Division of Workers' Compensation.

<http://www.workerscompensation.com/compnewsnetwork/from-bobs-cluttered-desk/21114-will-ebola-infect-the-trend-to-opt-out.html>

Washington

The Washington State Department of Labor & Industries found that a Washington business owner and his spouse are personally liable for over \$1 million in delinquent workers' compensation premiums and penalties. An investigation leading up to the charge revealed that the owner listed his employees as co-owners and significantly underreported employee hours to avoid paying premiums.

<http://www.insurancejournal.com/news/west/2015/04/15/364497.htm>

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For further information on this or any other topics, please contact your EPIC benefits consulting team.

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