



**Sub. H.B. 180**

123rd General Assembly

(As Passed by the General Assembly)

(excluding appropriations, fund transfers, and similar provisions)

**Reps. Corbin, Thomas, Vesper, Cates, Hoops, Buehrer, Core, Harris, Britton, Patton, Opfer, Jones**

**Sens. Nein, Ray, Drake, Mumper, Spada, White, Gardner, Wachtmann**

**Effective date: May 6, 1999; codified provisions effective August 6, 1999**

---

**ACT SUMMARY**

- Retains indefinitely with the Governor the power to appoint the Administrator of Workers' Compensation and eliminates the power of the Workers' Compensation Oversight Commission to make such appointments after August 31, 2000.
- Increases from 3/4 of 1% to the constitutionally allowed 1% limit the amount of employer premiums the Administrator is required to devote to support the activities of the Division of Safety and Hygiene.
- Requires the Tax Commissioner to report to the Administrator the marital status of a person as listed on the most recent income tax returns for the purpose of determining remarriage of a spouse of a deceased workers' compensation claimant in order for the Administrator to calculate the limits on spousal death benefits.
- Authorizes the Administrator to recertify managed care organizations to operate the Workers' Compensation Health Partnership Program for an indefinite number of additional two-year periods.
- Specifies that certain information furnished to the Bureau of Workers' Compensation by a managed care organization under the Health Partnership Program is not open to the public and specifies exceptions to the confidential status of that information for certain public officials.

- On and after January 1, 2001, prohibits a managed care organization from being an insurance company or a health insuring corporation.
- Requires the Administrator to make a series of reports to the General Assembly and the Office of Budget and Management on the various aspects relating to the performance of the workers' compensation system.
- Renames the Head Injury Program the Brain Injury Program, and the Head Injury Advisory Committee the Brain Injury Advisory Committee.
- Modifies the composition of the Brain Injury Advisory Committee.
- Makes other administrative changes in the operation of the workers' compensation law.

---

## **CONTENT AND OPERATION**

### **Power to appoint Administrator of Workers' Compensation**

(secs. 121.03, 4121.12, and 4121.121)

Former law gave the Governor the power until August 31, 2000, to appoint the Administrator of Workers' Compensation, after which the power of appointment shifted to the Workers' Compensation Oversight Commission. The act eliminates the future power of the Commission to appoint the Administrator and extends the Governor's power of appointment indefinitely.

### **Employer premium contributions to the Safety and Hygiene Fund**

(sec. 4121.37)

Former law authorized the Administrator to transfer up to 3/4 of 1% of employers' premium contributions into a Safety and Hygiene Fund for the support of the Division of Safety and Hygiene activities and the Occupational Safety Loan Fund. The act raises the amount of the premium contributions set aside to the maximum 1% authorized by the Ohio Constitution.

### **Identification of a change in marital status for the purpose of spousal death benefits**

(secs. 4123.591, 5703.21, and 5747.18)

The act authorizes the Administrator, quarterly, to furnish to the Tax Commissioner, in a format approved by the Tax Commissioner, the name and

social security number of any person receiving spousal death benefits and receive back from the Commissioner, in a format designed by the Commissioner, information about the filing status of persons filing under the status of "married filing joint return" or "married filing separately" of the named individuals as of the person's most recent Ohio income tax return. The act specifically authorizes the Tax Commissioner to respond to the Administrator's request for information notwithstanding the general and specific provisions existing in the tax laws requiring the Tax Commissioner and his employees to keep confidential any information acquired about taxpayers, except where disclosure is mandated in court proceedings.

**Benefit payment orders of the Administrator and commencement dates for first payments**

(secs. 4121.63 and 4123.511)

Under former law modified by the act, the Administrator had to issue an order stating whether a claim was or was not compensable not earlier than 21 days and not later than 28 days after sending notice of a claim filing to the employer and claimant, except that the 21-day waiting period was waived when an employer agrees that a claim is valid. The act eliminates the 21-day waiting period.

Existing law requires that living maintenance payments be made to any claimant who the Administrator determines could probably be successfully rehabilitated. The act makes clear that such payments must commence at the time the claimant begins participating in an approved rehabilitation program.

**Premium rate adjustments to employers for injuries to handicapped employees**

(sec. 4123.343)

Existing law contains an incentive for employers to hire persons with certain types of handicaps or preexisting injuries. If an employee is injured on the job and the new injury is determined to be the result of the preexisting condition, or a new injury aggravated the preexisting condition, then the costs of the new claim are charged to the Surplus Fund (i.e., spread among all employers) rather than added into the calculation of the employer's premium rates. To qualify for this beneficial premium rate calculation, however, under former law, the employer had to notify the Bureau of Workers' Compensation, prior to the occurrence of the injury or occupational disease, of the fact that the employer had a handicapped person in employment. The only exception was when the employer could show "good cause" for failure to give this prior notice. Former law also required employers to file annually, an inventory of current handicapped employees.

The act removes the requirements placed upon an employer to give prior notice and furnish the annual inventory of handicapped employees.

**Managed care organizations under the Workers' Compensation Health Partnership Program**

**Recertification**

(sec. 4121.44)

Continuing law gives to employers a choice of either of two mechanisms to provide required medical benefits to an injured worker. One way is through a Qualified Health Plan. This plan allows any employer to utilize the services of any plan that meets the criteria for a qualified plan. The other means is through the Health Partnership Program. This program also utilizes the services of managed care organizations (the law calls them "external vendors") who, under the direct supervision of the Administrator, provide cost containment and medical management services for medical benefits to injured workers. In this latter case, when the law created the program, it required the Administrator, initially, to certify one or more external vendors to provide managed care services for a period of two years. The Administrator could recertify such vendor for one additional two-year period. Beyond that, former law made no provision for additional recertifications.

The act allows recertification for an unlimited number of additional two-year periods.

**Confidentiality of information**

The act specifies that information contained in the application of a vendor for certification in the Health Partnership Program, which the act further specifies is to be known as a "managed care organization," and other information furnished to the Bureau by a vendor (MCO) for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the Administrator, is for the exclusive use and information of the Bureau in the discharge of its official duties, and is not open to the public and cannot be used in any court in any proceeding pending therein, unless the Bureau is a party to the action or proceeding. That information, however, may be tabulated and published by the Bureau in statistical form for the use and information of other state departments and the public. The act also prohibits all Bureau employees from divulging any information secured by the employees while in the employ of the Bureau in respect to a vendor's (MCO's) application for certification or in respect to the business or other trade processes of any vendor (MCO), to any person other than the Administrator or to the employee's superior, except as otherwise authorized by the Administrator.

Notwithstanding the restrictions described above, the act permits the Governor, members of select or standing committees of the Senate or House of Representatives, the Auditor of State, the Attorney General, or their designees, pursuant to the authority granted under the Workers' Compensation Law, to examine any vendor (MCO) application or other information furnished to the Bureau by the vendor (MCO). Those individuals are prohibited under the act from divulging any information secured in the exercise of that authority in respect to a vendor's (MCO's) application for certification or in respect to the business or other trade processes of any vendor (MCO) to any person.

**MCOs cannot be insurance companies or health insuring corporations**

On and after January 1, 2001, under the act, a vendor (MCO) cannot be an insurance company holding a certificate of authority issued pursuant to the Commercial Insurance Law (R.C. Title 39) or any health insuring corporation holding a certificate of authority under the Health Insuring Corporations Law (R.C. Chapter 1751.).

**Filing with Administrator the notice of appeal to court of an Industrial Commission decision**

(sec. 4123.512)

Continuing law allows either a workers' compensation claimant or the employer to appeal to a court of common pleas the decision of the Industrial Commission (the highest administrative tribunal) granting or denying compensation or benefits. The claimant, employer, and the Administrator automatically are parties to an appeal.

The act requires the party filing the appeal to serve a copy of the notice of appeal on the Administrator at the Columbus central office of the Bureau of Workers' Compensation.

**Documentation in support of workers' compensation liens against noncomplying employers**

(sec. 4123.76)

Continuing law requires the Administrator to file liens against employers who are not in compliance with the Workers' Compensation Law. In support of the lien, the Administrator, under former law, had to file a copy of the workers' compensation claim that revealed to the Administrator the fact that the employer was a noncomplying employer.

The act stipulates that in lieu of a formal claim document, if the Administrator has no such formal document, the Administrator may file such other record the Administrator has documenting the existence of a claim.

**Newspaper notices of complying employers**

(sec. 4123.83)

The act deletes a requirement that the Bureau of Workers' Compensation, semiannually, send a list of all employers who are in compliance with the workers' compensation law, classified by counties, to the newspapers published in each county seat with a request for gratuitous publication of the list as a matter of news and protection to workers.

**Performance reports of the Administrator**

(Section 3)

The appropriations act preceding this one (Am. Sub. H.B. 363 of the 122nd General Assembly) required the Administrator to submit a series of reports during the 1997-1999 biennium, to the Workers' Compensation Oversight Commission, the Office of Budget and Management, the Legislative Budget Office, and the General Assembly. The act continues this requirement for the 1999-2001 biennium. These reports must cover various aspects of the workers' compensation system as follows:

(1) The premium cost per worker (calculated by adding together an employer's total amounts of premiums and assessments paid during a calendar year and dividing that sum by the employer's average number of workers), which is the average annual cost a state fund employer pays to provide workers' compensation coverage for its employees.

(2) The claims cost per worker (calculated by dividing an employer's total claim expenses paid during the preceding 12 months by the employer's average number of workers), which is the average annual benefit cost paid for each worker who is employed by a state fund employer during the preceding 12 months.

(3) The administrative cost per claim (calculated by dividing an employer's total amount of administrative expenses incurred during the preceding 12 months by the total number of claims the employer processed), which is the average annual administrative expense a state fund employer pays to process a claim.

(4) The direct loss ratio, which measures the relationship between an employer's revenues and workers' compensation benefits paid to an injured worker during the preceding 12 months;

(5) The rate of return generated by investments of the Bureau;

(6) The customer service index, which accounts for various statistical measures reflecting the Bureau's customer service levels;

(7) The Health Partnership Program performance index, which measures the effectiveness of managed care organizations working for the Bureau and reflects the quality of care, customer satisfaction, and cost of care provided by the managed care organizations.

(8) The rate of injury in the state per 1,000 workers;

(9) The average number of days the Bureau takes to adjudicate an injured worker's medical bill fee;

(10) The return-to-work rate of state fund employers' injured workers who do not receive workers' compensation benefits for at least 90 days following their injury, which reports the number of injured workers who returned to work as a percentage of total injuries;

(11) The average number of days it takes for an employer or injured worker to report an injury to the Bureau, which is calculated by taking the average number of days between the date of injury and the date the claim was filed with the Bureau;

(12) The percentage of indemnity claims adjudicated by the Bureau within 14 days of the injury.

### **Technical corrections**

(secs. 4123.511 and 4123.57)

The act corrects irreconcilable differences in two sections of the Workers' Compensation Law that occurred because both sections were amended by both H.B. 363 and S.B. 45 of the 122nd General Assembly, but S.B. 45 was later defeated by referendum. H.B. 363 incorrectly reflected language in division (H)(2) of section 4123.511 as being existing law via amendment by S.B. 45, although S.B. 45 did not amend division (H)(2) of that section. The act eliminates this erroneous language and returns the statute to its former state.

H.B. 363 also amended language in section 4123.57 that was amended by S.B. 45. The language properly retained by enactment of H.B. 363 has no appropriate context upon necessary removal of the language it amended under obsolete S.B. 45. It is therefore eliminated under the act.

**Revisions regarding the Head Injury Program and Advisory Committee**

(secs. 3304.23 and 3304.231)

The act renames the Head Injury Program, the Brain Injury Program under the Rehabilitation Services Commission. It also renames the Head Injury Advisory Committee, the Brain Injury Advisory Committee and designates the Administrator of Workers' Compensation as a member of the Brain Injury Advisory Committee in place of the Industrial Commission Chairperson. The act also specifies that the member of the Advisory Committee who represents the National Head Injury Foundation/Ohio, Inc., is replaced by a member who represents the Brain Injury Association of Ohio.<sup>1</sup>

---

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-16-99	p. 199
Reported, H. Finance & Appropriations	03-03-99	p. 257
Passed House (97-0)	03-10-99	p. 281
Reported, S. Insurance, Commerce, & Labor	04-14-99	p. 284
Passed Senate (30-2)	04-14-99	p. 288
House concurred in Senate amendments (79-16)	04-20-99	p. 423

99-HB180.123/rss

---

<sup>1</sup> *The National Head Injury Foundation/Ohio, Inc., appears to be the predecessor of the Brain Injury Association of Ohio.*