Ohio Legislative Service Commission

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 75*

134th General Assembly

Bill Analysis

Click here for H.B. 75's Fiscal Analysis

Version: As Reported by House Finance Committee

Primary Sponsor: Rep. Oelslager

Paul Luzzi, Attorney

SUMMARY

- Requires a workers' compensation claim arising on or after the provision's effective date that is based on an employee's occupational disease to be filed within one year after disability due to the occupational disease or death of the employee, instead of two years as under current law.
- Maintains current law with respect to allowing a period longer than one year after disability if that time period does not exceed six months after a licensed physician diagnoses the disease as occupational in origin.
- Prohibits, for a claim arising on or after the provision's effective date, an individual who receives wages in lieu of temporary total disability compensation from filing an application for permanent partial disability compensation until 26 weeks after payment of the wages ends.
- Requires, for a claim arising on or after the provision's effective date, if the Industrial Commission has denied an application for permanent total disability compensation, an employee to present evidence of new and changed circumstances before the Commission may consider a subsequent application based on the same injury or occupational disease.
- Permits the use of a power of attorney allowing an attorney to cash or endorse a check on behalf of a workers' compensation claimant, provided the power of attorney is narrowly tailored to apply to a specific check.

* This analysis was prepared before the report of the House Finance Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Appropriates funds for the Bureau of Workers' Compensation for the biennium ending June 30, 2023.

DETAILED ANALYSIS

Occupational disease claims

(R.C. 4123.85; Section 8)

Under the bill, for a workers' compensation claim that arises on or after the provision's effective date, an employee who is disabled by an occupational disease, or the dependent of an employee who dies from an occupational disease, must file a claim based on the disease within one year after the disability due to the disease began or death. Current law generally requires an occupational disease claim to be filed within two years of disability or death. Under continuing law, if the time for filing expires before the employee is aware that a disease is occupational in origin, the employee must file the claim no more than six months after a licensed physician identifies the disease as being occupational.

An employee who is disabled by an occupational disease, or the dependent of an employee whose death is caused by the disease, is typically entitled to any compensation and benefits provided by the Workers' Compensation Law. For a disease to be considered an occupational disease, all of the following conditions must be satisfied:

1. The disease is contracted in the course of employment;
2. The employment creates a risk of contracting the disease in greater degree and in a different manner from the general public;
3. Either of the following applies:
   a. The disease is peculiar to that type of employment by the disease's causes and the characteristics of the disease's manifestations;
   b. The conditions of the employment results in a hazard that distinguishes the employment in character from employment generally.[1]

Application for permanent partial disability compensation

(R.C. 4123.57; Section 8)

Temporary total disability (TTD) compensation partially replaces an employee's lost wages for the period the employee is completely unable to work due to a work place injury or occupational disease. An employer who knows that an employee has a compensable claim may choose to pay an employee the employee's wages in lieu of compensation.[2] Currently, an

[1] R.C. 4123.01(F) and 4123.68, not in the bill, and *State ex rel. Ohio Bell Tel. Co. v. Krise*, 42 Ohio St.2d 247, 253-254 (1975).

[2] R.C. 4123.56 and 4123.84, not in the bill.

employee receiving TTD compensation must wait until 26 weeks after TTD compensation terminates before filing an application for permanent partial disability (PPD) compensation. The bill requires, for a claim arising on or after the provision's effective date, an employee receiving wages in lieu of TTD compensation to wait 26 weeks after the payments terminate to file an application for PPD.

Permanent total disability

(R.C. 4123.58; Section 8)

Under the bill, if the Industrial Commission has denied an employee's application for permanent total disability (PTD) compensation, the employee must present evidence of new and changed circumstances before the Commission may consider a subsequent PTD application based on the same injury or occupational disease. This applies to a claim arising on or after the provision's effective date.

Under continuing law, PTD compensation is payable only when an employee demonstrates that at least one of the following applies to the employee:

- The employee has lost, or lost the use of both hands or both arms, or both feet or both legs, or both eyes, or of any two thereof (the loss or loss of use of one limb does not constitute the loss or loss of use of two body parts);
- An impairment resulting from the employee's injury or occupational disease prevents the employee from engaging in sustained remunerative employment utilizing the employment skills that the employee has or may reasonably be expected to develop.

PTD compensation is not payable when the employee is unable to engage in sustained remunerative employment for one or more of the following reasons:

- Impairments that are not the result of an allowed injury or occupational disease;
- Solely because of age or aging;
- Retirement or reasons unrelated to the allowed injury or occupational disease;
- Failure to engage in educational or rehabilitative efforts to enhance the employee's employability, unless such efforts are determined to be in vain.

Power of attorney

(R.C. 4121.43)

The bill permits a claimant to execute a power of attorney allowing an attorney to cash or endorse a check on behalf of the claimant, provided the power of attorney is narrowly tailored to apply to a specific check. Current law prohibits any power of attorney allowing an attorney or employee to cash or endorse a check on behalf of a claimant. The bill retains the current prohibition against an employee cashing or endorsing a check using a power of attorney.

HISTORY

Action	Date
Introduced	02-09-21
Reported, H. Insurance	05-11-21
Re-referred to H. Finance	05-11-21
Reported, H. Finance	---

H0075-RH-134/ts