

Review could catch comp cheaters

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Catching workers' comp cheats is one thing but using new regulations to disqualify an injured worker who legitimately qualified under the old regulations is unfair, a labor leader said.

The Workers' Compensation Board is scheduled to restart the public comment period on a proposed regulation for reviewing about 7,000 disability awards when it meets today. The state Legislature mandated the review when it rewrote the state's workers' comp laws in 2003.

Steve White, executive director of the Affiliated Construction Trades Foundation, said lawmakers are pursuing a double standard because they're forcing reconsideration of disability awards to injured workers but ignoring the question of how many of those awards were illegitimately shunted by employers onto the state's Second Injury Fund.

"If we're going to go back on workers, we should go back on companies as well," he said.

Steve Roberts, president of the West Virginia Chamber of Commerce, couldn't be reached for comment.

Andy Wessels, spokesman for the Workers' Compensation Commission, said the review will cover all permanent and total disability awards made since April 8, 1993. That accounts for more than half of the about 11,000 active permanent and total disability awards in the workers' comp system.

"Basically we'll look at them to make sure they still meet the standards for permanent, total disability," Wessels said.

The review is partly an attempt to find people who are cheating the system.

"We'll look at tax records to find out whether there are folks out there with jobs, even in other states, who shouldn't be," Wessels said.

However, the review will also likely cut benefits to people who legitimately qualified for permanent and total disability awards, he said. Several changes in the workers' comp standards are likely to eliminate some injured workers' awards.

In particular, a new requirement that anyone who can qualify for some kind of work within 75 miles of their home cannot receive a permanent and total disability award will likely affect many of the recipients, he said.

The requirement holds even if the new job is at a considerably lower salary than the worker had before his or her injury, Wessels said. A heavy equipment operator, for example, with a permanent injury that keeps him from returning to the same job would be disqualified from receiving a permanent and total disability award if there were a minimum-wage restaurant job available within 75 miles of his house.

White said he agrees with the system weeding out cheats.

"Go get them. I'm all for it," he said.

The legislative mandate, however, isn't based on catching cheats or closing loopholes. Instead, it's a deliberate attempt by lawmakers to shed some of the program's liabilities by retroactively changing the rules on injured workers, he said.

"It would be one thing if they had had a faulty definition (of permanent and totally disabled)," White said. "That's not what they're saying. They're saying, 'We don't have enough money to pay out these awards.' It's all based on money."

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