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Statutory Update

By Chris Yoshimura-Rank

The recent legislative session has brought about several changes in the law, the most relevant of which favor injured workers.

Permanent Total Disability

Minn. Stat. 176.101, Subd. 4

Presently, there is a rebuttable presumption that permanent total disability benefits end when the injured worker reaches age 67. However, for all dates of injury that occur on or after October 1, 2018, the new rebuttable presumption to end permanent total disability benefits will be age 72; however, if the claimant is injured after the age of 67, permanent total disability benefits will end five years after the injury.

Temporary Partial Disability

Minn. Stat. 176.101, Subd. 2

Presently, there is a statutory cap of 225 weeks of TPD exposure related to any single date of injury, and these 225 weeks of TPD must be accrued within 450 weeks of the date of injury. However, for all dates of injury that occur on or after October 1, 2018, there is a new statutory cap of 275 weeks of TPD exposure related to any single date of injury. The new law continues to restrict any payments of temporary partial disability benefits beyond 450 weeks post-injury.

Permanent Partial Disability

Minn. Stat. 176.101, Subd. 2a

The dollar values in the compensation schedule for permanent partial disability benefits will increase by 5% for any injuries occurring on or after October 1, 2018.

Mental Impairment for First Responders

Minn. Stat. 176.011, Subd. 15

Relevant occupations: licensed police officer; firefighter; paramedic; emergency medical technician; licensed nurse employed to provide emergency medical services outside of a medical facility; public safety dispatcher; officer employed by the state or a political subdivision at a corrections, detention or secure treatment facility; sheriff or full-time deputy sheriff; or a member of the Minnesota state patrol.

Effective October 1, 2018, if preceding the date of disablement or death, an employee who was employed on active duty in any of the aforementioned occupations is diagnosed with a mental impairment and had not been diagnosed with the mental impairment previously, there is a rebuttable presumption that their condition is an occupational disease that shall be presumed to be due to the nature of their employment.

The presumption may be rebutted by “substantial factors”, and the mental impairment shall not be considered an occupational disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the employer.

Ultimately, this puts the burden on the Employer and Insurer to disprove mental impairment/PTSD diagnoses for the aforementioned first responders, presuming the condition did not pre-exist the injury. It is unclear what the “substantial factors” needed to rebut the presumption entails; however, any “substantial factors” known at the time of a primary denial of liability shall be communicated on the Notice of Insurer’s Primary Liability Determination.

If you have any questions, please feel free to call Chris at (763) 252-6371.

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