



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5546

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/8.1a	
820 ILCS 305/8.2	
820 ILCS 305/11	from Ch. 48, par. 138.11

Amends the Workers' Compensation Act. Provides that an "accident" is an occurrence that arises out of employment resulting from a risk incidental to and in the course of the employment at a time and place and under circumstances reasonably required by the employment. Provides that an "injury" is an occurrence that arises out of and in the course of employment. Provides that an injury by accident is compensable only if the accident was the primary factor in causing both the resulting medical condition and disability. Provides that certain conditions and impairments of health suffered by firefighters, paramedics, and emergency medical technicians shall be rebuttably presumed not to arise out of employment unless the accident is the primary factor in causing the resulting medical condition. Abolishes certain notice and election provisions in connection with preferred providers. Specifies that fees for certain prescriptions shall be limited to the manufacturer's Average Wholesale Price (rather than the Average Wholesale Price). Provides that an employee may overcome the rebuttable presumption that intoxication was the proximate cause of the injury by a preponderance of the evidence that the intoxication was not the sole proximate cause, rather than sole proximate cause or proximate cause, of the accidental injury.

LRB097 19514 JLS 64768 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Workers' Compensation Act is amended by
5 changing Sections 1, 8, 8.1a, 8.2, and 11 as follows:

6 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

7 Sec. 1. This Act may be cited as the Workers' Compensation
8 Act.

9 (a) The term "employer" as used in this Act means:

10 1. The State and each county, city, town, township,
11 incorporated village, school district, body politic, or
12 municipal corporation therein.

13 2. Every person, firm, public or private corporation,
14 including hospitals, public service, eleemosynary, religious
15 or charitable corporations or associations who has any person
16 in service or under any contract for hire, express or implied,
17 oral or written, and who is engaged in any of the enterprises
18 or businesses enumerated in Section 3 of this Act, or who at or
19 prior to the time of the accident to the employee for which
20 compensation under this Act may be claimed, has in the manner
21 provided in this Act elected to become subject to the
22 provisions of this Act, and who has not, prior to such
23 accident, effected a withdrawal of such election in the manner

1 provided in this Act.

2 3. Any one engaging in any business or enterprise referred
3 to in subsections 1 and 2 of Section 3 of this Act who
4 undertakes to do any work enumerated therein, is liable to pay
5 compensation to his own immediate employees in accordance with
6 the provisions of this Act, and in addition thereto if he
7 directly or indirectly engages any contractor whether
8 principal or sub-contractor to do any such work, he is liable
9 to pay compensation to the employees of any such contractor or
10 sub-contractor unless such contractor or sub-contractor has
11 insured, in any company or association authorized under the
12 laws of this State to insure the liability to pay compensation
13 under this Act, or guaranteed his liability to pay such
14 compensation. With respect to any time limitation on the filing
15 of claims provided by this Act, the timely filing of a claim
16 against a contractor or subcontractor, as the case may be,
17 shall be deemed to be a timely filing with respect to all
18 persons upon whom liability is imposed by this paragraph.

19 In the event any such person pays compensation under this
20 subsection he may recover the amount thereof from the
21 contractor or sub-contractor, if any, and in the event the
22 contractor pays compensation under this subsection he may
23 recover the amount thereof from the sub-contractor, if any.

24 This subsection does not apply in any case where the
25 accident occurs elsewhere than on, in or about the immediate
26 premises on which the principal has contracted that the work be

1 done.

2 4. Where an employer operating under and subject to the
3 provisions of this Act loans an employee to another such
4 employer and such loaned employee sustains a compensable
5 accidental injury in the employment of such borrowing employer
6 and where such borrowing employer does not provide or pay the
7 benefits or payments due such injured employee, such loaning
8 employer is liable to provide or pay all benefits or payments
9 due such employee under this Act and as to such employee the
10 liability of such loaning and borrowing employers is joint and
11 several, provided that such loaning employer is in the absence
12 of agreement to the contrary entitled to receive from such
13 borrowing employer full reimbursement for all sums paid or
14 incurred pursuant to this paragraph together with reasonable
15 attorneys' fees and expenses in any hearings before the
16 Illinois Workers' Compensation Commission or in any action to
17 secure such reimbursement. Where any benefit is provided or
18 paid by such loaning employer the employee has the duty of
19 rendering reasonable cooperation in any hearings, trials or
20 proceedings in the case, including such proceedings for
21 reimbursement.

22 Where an employee files an Application for Adjustment of
23 Claim with the Illinois Workers' Compensation Commission
24 alleging that his claim is covered by the provisions of the
25 preceding paragraph, and joining both the alleged loaning and
26 borrowing employers, they and each of them, upon written demand

1 by the employee and within 7 days after receipt of such demand,
2 shall have the duty of filing with the Illinois Workers'
3 Compensation Commission a written admission or denial of the
4 allegation that the claim is covered by the provisions of the
5 preceding paragraph and in default of such filing or if any
6 such denial be ultimately determined not to have been bona fide
7 then the provisions of Paragraph K of Section 19 of this Act
8 shall apply.

9 An employer whose business or enterprise or a substantial
10 part thereof consists of hiring, procuring or furnishing
11 employees to or for other employers operating under and subject
12 to the provisions of this Act for the performance of the work
13 of such other employers and who pays such employees their
14 salary or wages notwithstanding that they are doing the work of
15 such other employers shall be deemed a loaning employer within
16 the meaning and provisions of this Section.

17 (b) The term "employee" as used in this Act means:

18 1. Every person in the service of the State, including
19 members of the General Assembly, members of the Commerce
20 Commission, members of the Illinois Workers' Compensation
21 Commission, and all persons in the service of the University of
22 Illinois, county, including deputy sheriffs and assistant
23 state's attorneys, city, town, township, incorporated village
24 or school district, body politic, or municipal corporation
25 therein, whether by election, under appointment or contract of
26 hire, express or implied, oral or written, including all

1 members of the Illinois National Guard while on active duty in
2 the service of the State, and all probation personnel of the
3 Juvenile Court appointed pursuant to Article VI of the Juvenile
4 Court Act of 1987, and including any official of the State, any
5 county, city, town, township, incorporated village, school
6 district, body politic or municipal corporation therein except
7 any duly appointed member of a police department in any city
8 whose population exceeds 500,000 according to the last Federal
9 or State census, and except any member of a fire insurance
10 patrol maintained by a board of underwriters in this State. A
11 duly appointed member of a fire department in any city, the
12 population of which exceeds 500,000 according to the last
13 federal or State census, is an employee under this Act only
14 with respect to claims brought under paragraph (c) of Section
15 8.

16 One employed by a contractor who has contracted with the
17 State, or a county, city, town, township, incorporated village,
18 school district, body politic or municipal corporation
19 therein, through its representatives, is not considered as an
20 employee of the State, county, city, town, township,
21 incorporated village, school district, body politic or
22 municipal corporation which made the contract.

23 2. Every person in the service of another under any
24 contract of hire, express or implied, oral or written,
25 including persons whose employment is outside of the State of
26 Illinois where the contract of hire is made within the State of

1 Illinois, persons whose employment results in fatal or
2 non-fatal injuries within the State of Illinois where the
3 contract of hire is made outside of the State of Illinois, and
4 persons whose employment is principally localized within the
5 State of Illinois, regardless of the place of the accident or
6 the place where the contract of hire was made, and including
7 aliens, and minors who, for the purpose of this Act are
8 considered the same and have the same power to contract,
9 receive payments and give quittances therefor, as adult
10 employees.

11 3. Every sole proprietor and every partner of a business
12 may elect to be covered by this Act.

13 An employee or his dependents under this Act who shall have
14 a cause of action by reason of any injury, disablement or death
15 arising out of and in the course of his employment may elect to
16 pursue his remedy in the State where injured or disabled, or in
17 the State where the contract of hire is made, or in the State
18 where the employment is principally localized.

19 However, any employer may elect to provide and pay
20 compensation to any employee other than those engaged in the
21 usual course of the trade, business, profession or occupation
22 of the employer by complying with Sections 2 and 4 of this Act.
23 Employees are not included within the provisions of this Act
24 when excluded by the laws of the United States relating to
25 liability of employers to their employees for personal injuries
26 where such laws are held to be exclusive.

1 The term "employee" does not include persons performing
2 services as real estate broker, broker-salesman, or salesman
3 when such persons are paid by commission only.

4 (c) "Commission" means the Industrial Commission created
5 by Section 5 of "The Civil Administrative Code of Illinois",
6 approved March 7, 1917, as amended, or the Illinois Workers'
7 Compensation Commission created by Section 13 of this Act.

8 (d) The term "accident" as used in this Act means an
9 occurrence arising out of the employment resulting from a risk
10 incidental to the employment and in the course of the
11 employment at a time and place and under circumstances
12 reasonably required by the employment. ~~To obtain compensation~~
13 ~~under this Act, an employee bears the burden of showing, by a~~
14 ~~preponderance of the evidence, that he or she has sustained~~
15 ~~accidental injuries arising out of and in the course of the~~
16 ~~employment.~~

17 (e) The term "injury" as used in this Act means an injury
18 that arises out of and in the course of employment. An injury
19 by accident is compensable only if the accident was the primary
20 factor in causing both the resulting medical condition and
21 disability. The "primary factor" is defined to be the major
22 contributory factor, in relation to other factors, causing both
23 the resulting medical condition and disability. "Injury"
24 includes the aggravation of a pre-existing condition by an
25 accident arising out of and in the course of the employment,
26 but only for so long as the aggravation of the pre-existing

1 condition continues to be the primary factor causing the
2 disability.

3 (1) An injury is deemed to arise out of and in the
4 course of the employment only if:

5 (A) it is reasonably apparent, upon consideration
6 of all circumstances, that the accident is the primary
7 factor in causing the injury;

8 (B) it does not come from a hazard or risk
9 unrelated to the employment to which employees would
10 have been equally exposed outside of the employment.

11 (2) An injury resulting directly or indirectly from
12 idiopathic causes is not compensable.

13 (3) Any condition or impairment of health of an
14 employee employed as a suffered by a firefighter,
15 paramedic, or emergency medical technician (EMT), which
16 results directly or indirectly from any bloodborne
17 pathogen, lung or respiratory disease or condition, heart
18 or vascular disease or condition, hypertension, hernia,
19 hearing loss, tuberculosis, or cancer resulting in any
20 disability to the employee shall be rebuttably presumed not
21 to arise out of and in the course of the employment unless
22 the accident is the primary factor in causing the resulting
23 medical condition.

24 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised
25 9-15-11.)

1 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

2 Sec. 8. The amount of compensation which shall be paid to
3 the employee for an accidental injury not resulting in death
4 is:

5 (a) The employer shall provide and pay the negotiated rate,
6 if applicable, or the lesser of the health care provider's
7 actual charges or according to a fee schedule, subject to
8 Section 8.2, in effect at the time the service was rendered for
9 all the necessary first aid, medical and surgical services, and
10 all necessary medical, surgical and hospital services
11 thereafter incurred, limited, however, to that which is
12 reasonably required to cure or relieve from the effects of the
13 accidental injury, even if a health care provider sells,
14 transfers, or otherwise assigns an account receivable for
15 procedures, treatments, or services covered under this Act. If
16 the employer does not dispute payment of first aid, medical,
17 surgical, and hospital services, the employer shall make such
18 payment to the provider on behalf of the employee. The employer
19 shall also pay for treatment, instruction and training
20 necessary for the physical, mental and vocational
21 rehabilitation of the employee, including all maintenance
22 costs and expenses incidental thereto. If as a result of the
23 injury the employee is unable to be self-sufficient the
24 employer shall further pay for such maintenance or
25 institutional care as shall be required.

26 The employee may at any time elect to secure his own

1 physician, surgeon and hospital services at the employer's
2 expense, or,

3 Upon agreement between the employer and the employees, or
4 the employees' exclusive representative, and subject to the
5 approval of the Illinois Workers' Compensation Commission, the
6 employer shall maintain a list of physicians, to be known as a
7 Panel of Physicians, who are accessible to the employees. The
8 employer shall post this list in a place or places easily
9 accessible to his employees. The employee shall have the right
10 to make an alternative choice of physician from such Panel if
11 he is not satisfied with the physician first selected. If, due
12 to the nature of the injury or its occurrence away from the
13 employer's place of business, the employee is unable to make a
14 selection from the Panel, the selection process from the Panel
15 shall not apply. The physician selected from the Panel may
16 arrange for any consultation, referral or other specialized
17 medical services outside the Panel at the employer's expense.
18 Provided that, in the event the Commission shall find that a
19 doctor selected by the employee is rendering improper or
20 inadequate care, the Commission may order the employee to
21 select another doctor certified or qualified in the medical
22 field for which treatment is required. If the employee refuses
23 to make such change the Commission may relieve the employer of
24 his obligation to pay the doctor's charges from the date of
25 refusal to the date of compliance.

26 Any vocational rehabilitation counselors who provide

1 service under this Act shall have appropriate certifications
2 which designate the counselor as qualified to render opinions
3 relating to vocational rehabilitation. Vocational
4 rehabilitation may include, but is not limited to, counseling
5 for job searches, supervising a job search program, and
6 vocational retraining including education at an accredited
7 learning institution. The employee or employer may petition to
8 the Commission to decide disputes relating to vocational
9 rehabilitation and the Commission shall resolve any such
10 dispute, including payment of the vocational rehabilitation
11 program by the employer.

12 The maintenance benefit shall not be less than the
13 temporary total disability rate determined for the employee. In
14 addition, maintenance shall include costs and expenses
15 incidental to the vocational rehabilitation program.

16 When the employee is working light duty on a part-time
17 basis or full-time basis and earns less than he or she would be
18 earning if employed in the full capacity of the job or jobs,
19 then the employee shall be entitled to temporary partial
20 disability benefits. Temporary partial disability benefits
21 shall be equal to two-thirds of the difference between the
22 average amount that the employee would be able to earn in the
23 full performance of his or her duties in the occupation in
24 which he or she was engaged at the time of accident and the
25 gross amount which he or she is earning in the modified job
26 provided to the employee by the employer or in any other job

1 that the employee is working.

2 Every hospital, physician, surgeon or other person
3 rendering treatment or services in accordance with the
4 provisions of this Section shall upon written request furnish
5 full and complete reports thereof to, and permit their records
6 to be copied by, the employer, the employee or his dependents,
7 as the case may be, or any other party to any proceeding for
8 compensation before the Commission, or their attorneys.

9 Notwithstanding the foregoing, the employer's liability to
10 pay for such medical services selected by the employee shall be
11 limited to:

12 (1) all first aid and emergency treatment; plus

13 (2) all medical, surgical and hospital services
14 provided by the physician, surgeon or hospital initially
15 chosen by the employee or by any other physician,
16 consultant, expert, institution or other provider of
17 services recommended by said initial service provider or
18 any subsequent provider of medical services in the chain of
19 referrals from said initial service provider; plus

20 (3) all medical, surgical and hospital services
21 provided by any second physician, surgeon or hospital
22 subsequently chosen by the employee or by any other
23 physician, consultant, expert, institution or other
24 provider of services recommended by said second service
25 provider or any subsequent provider of medical services in
26 the chain of referrals from said second service provider.

1 Thereafter the employer shall select and pay for all
2 necessary medical, surgical and hospital treatment and the
3 employee may not select a provider of medical services at
4 the employer's expense unless the employer agrees to such
5 selection. At any time the employee may obtain any medical
6 treatment he desires at his own expense. This paragraph
7 shall not affect the duty to pay for rehabilitation
8 referred to above.

9 (4) (Blank). ~~The following shall apply for injuries~~
10 ~~occurring on or after the effective date of this amendatory~~
11 ~~Act of the 97th General Assembly and only when an employer~~
12 ~~has an approved preferred provider program pursuant to~~
13 ~~Section 8.1a on the date the employee sustained his or her~~
14 ~~accidental injuries:~~

15 ~~(A) The employer shall, in writing, on a form~~
16 ~~promulgated by the Commission, inform the employee of~~
17 ~~the preferred provider program;~~

18 ~~(B) Subsequent to the report of an injury by an~~
19 ~~employee, the employee may choose in writing at any~~
20 ~~time to decline the preferred provider program, in~~
21 ~~which case that would constitute one of the two choices~~
22 ~~of medical providers to which the employee is entitled~~
23 ~~under subsection (a) (2) or (a) (3); and~~

24 ~~(C) Prior to the report of an injury by an~~
25 ~~employee, when an employee chooses non-emergency~~
26 ~~treatment from a provider not within the preferred~~

~~provider program, that would constitute the employee's
one choice of medical providers to which the employee
is entitled under subsection (a)(2) or (a)(3).~~

When an employer and employee so agree in writing, nothing in this Act prevents an employee whose injury or disability has been established under this Act, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof, and having nursing services appropriate therewith, without suffering loss or diminution of the compensation benefits under this Act. However, the employee shall submit to all physical examinations required by this Act. The cost of such treatment and nursing care shall be paid by the employee unless the employer agrees to make such payment.

Where the accidental injury results in the amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the employer shall furnish an artificial of any such members lost or damaged in accidental injury arising out of and in the course of employment, and shall also furnish the necessary braces in all proper and necessary cases. In cases of the loss of a member or members by amputation, the employer shall, whenever necessary, maintain in good repair, refit or replace the artificial limbs during the lifetime of the employee. Where the accidental injury accompanied by physical injury results in damage to a denture,

1 eye glasses or contact eye lenses, or where the accidental
2 injury results in damage to an artificial member, the employer
3 shall replace or repair such denture, glasses, lenses, or
4 artificial member.

5 The furnishing by the employer of any such services or
6 appliances is not an admission of liability on the part of the
7 employer to pay compensation.

8 The furnishing of any such services or appliances or the
9 servicing thereof by the employer is not the payment of
10 compensation.

11 (b) If the period of temporary total incapacity for work
12 lasts more than 3 working days, weekly compensation as
13 hereinafter provided shall be paid beginning on the 4th day of
14 such temporary total incapacity and continuing as long as the
15 total temporary incapacity lasts. In cases where the temporary
16 total incapacity for work continues for a period of 14 days or
17 more from the day of the accident compensation shall commence
18 on the day after the accident.

19 1. The compensation rate for temporary total
20 incapacity under this paragraph (b) of this Section shall
21 be equal to 66 2/3% of the employee's average weekly wage
22 computed in accordance with Section 10, provided that it
23 shall be not less than 66 2/3% of the sum of the Federal
24 minimum wage under the Fair Labor Standards Act, or the
25 Illinois minimum wage under the Minimum Wage Law, whichever
26 is more, multiplied by 40 hours. This percentage rate shall

1 be increased by 10% for each spouse and child, not to
2 exceed 100% of the total minimum wage calculation,
3 nor exceed the employee's average weekly wage computed in
4 accordance with the provisions of Section 10, whichever is
5 less.

6 2. The compensation rate in all cases other than for
7 temporary total disability under this paragraph (b), and
8 other than for serious and permanent disfigurement under
9 paragraph (c) and other than for permanent partial
10 disability under subparagraph (2) of paragraph (d) or under
11 paragraph (e), of this Section shall be equal to 66 2/3% of
12 the employee's average weekly wage computed in accordance
13 with the provisions of Section 10, provided that it shall
14 be not less than 66 2/3% of the sum of the Federal minimum
15 wage under the Fair Labor Standards Act, or the Illinois
16 minimum wage under the Minimum Wage Law, whichever is more,
17 multiplied by 40 hours. This percentage rate shall be
18 increased by 10% for each spouse and child, not to exceed
19 100% of the total minimum wage calculation,
20 nor exceed the employee's average weekly wage computed in
21 accordance with the provisions of Section 10, whichever is
22 less.

23 2.1. The compensation rate in all cases of serious and
24 permanent disfigurement under paragraph (c) and of
25 permanent partial disability under subparagraph (2) of
26 paragraph (d) or under paragraph (e) of this Section shall

1 be equal to 60% of the employee's average weekly wage
2 computed in accordance with the provisions of Section 10,
3 provided that it shall be not less than 66 2/3% of the sum
4 of the Federal minimum wage under the Fair Labor Standards
5 Act, or the Illinois minimum wage under the Minimum Wage
6 Law, whichever is more, multiplied by 40 hours. This
7 percentage rate shall be increased by 10% for each spouse
8 and child, not to exceed 100% of the total minimum wage
9 calculation,

10 nor exceed the employee's average weekly wage computed in
11 accordance with the provisions of Section 10, whichever is
12 less.

13 3. As used in this Section the term "child" means a
14 child of the employee including any child legally adopted
15 before the accident or whom at the time of the accident the
16 employee was under legal obligation to support or to whom
17 the employee stood in loco parentis, and who at the time of
18 the accident was under 18 years of age and not emancipated.
19 The term "children" means the plural of "child".

20 4. All weekly compensation rates provided under
21 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
22 Section shall be subject to the following limitations:

23 The maximum weekly compensation rate from July 1, 1975,
24 except as hereinafter provided, shall be 100% of the
25 State's average weekly wage in covered industries under the
26 Unemployment Insurance Act, that being the wage that most

1 closely approximates the State's average weekly wage.

2 The maximum weekly compensation rate, for the period
3 July 1, 1984, through June 30, 1987, except as hereinafter
4 provided, shall be \$293.61. Effective July 1, 1987 and on
5 July 1 of each year thereafter the maximum weekly
6 compensation rate, except as hereinafter provided, shall
7 be determined as follows: if during the preceding 12 month
8 period there shall have been an increase in the State's
9 average weekly wage in covered industries under the
10 Unemployment Insurance Act, the weekly compensation rate
11 shall be proportionately increased by the same percentage
12 as the percentage of increase in the State's average weekly
13 wage in covered industries under the Unemployment
14 Insurance Act during such period.

15 The maximum weekly compensation rate, for the period
16 January 1, 1981 through December 31, 1983, except as
17 hereinafter provided, shall be 100% of the State's average
18 weekly wage in covered industries under the Unemployment
19 Insurance Act in effect on January 1, 1981. Effective
20 January 1, 1984 and on January 1, of each year thereafter
21 the maximum weekly compensation rate, except as
22 hereinafter provided, shall be determined as follows: if
23 during the preceding 12 month period there shall have been
24 an increase in the State's average weekly wage in covered
25 industries under the Unemployment Insurance Act, the
26 weekly compensation rate shall be proportionately

1 increased by the same percentage as the percentage of
2 increase in the State's average weekly wage in covered
3 industries under the Unemployment Insurance Act during
4 such period.

5 From July 1, 1977 and thereafter such maximum weekly
6 compensation rate in death cases under Section 7, and
7 permanent total disability cases under paragraph (f) or
8 subparagraph 18 of paragraph (3) of this Section and for
9 temporary total disability under paragraph (b) of this
10 Section and for amputation of a member or enucleation of an
11 eye under paragraph (e) of this Section shall be increased
12 to 133-1/3% of the State's average weekly wage in covered
13 industries under the Unemployment Insurance Act.

14 For injuries occurring on or after February 1, 2006,
15 the maximum weekly benefit under paragraph (d)1 of this
16 Section shall be 100% of the State's average weekly wage in
17 covered industries under the Unemployment Insurance Act.

18 4.1. Any provision herein to the contrary
19 notwithstanding, the weekly compensation rate for
20 compensation payments under subparagraph 18 of paragraph
21 (e) of this Section and under paragraph (f) of this Section
22 and under paragraph (a) of Section 7 and for amputation of
23 a member or enucleation of an eye under paragraph (e) of
24 this Section, shall in no event be less than 50% of the
25 State's average weekly wage in covered industries under the
26 Unemployment Insurance Act.

1 4.2. Any provision to the contrary notwithstanding,
2 the total compensation payable under Section 7 shall not
3 exceed the greater of \$500,000 or 25 years.

4 5. For the purpose of this Section this State's average
5 weekly wage in covered industries under the Unemployment
6 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
7 per week and the computation of compensation rates shall be
8 based on the aforesaid average weekly wage until modified
9 as hereinafter provided.

10 6. The Department of Employment Security of the State
11 shall on or before the first day of December, 1977, and on
12 or before the first day of June, 1978, and on the first day
13 of each December and June of each year thereafter, publish
14 the State's average weekly wage in covered industries under
15 the Unemployment Insurance Act and the Illinois Workers'
16 Compensation Commission shall on the 15th day of January,
17 1978 and on the 15th day of July, 1978 and on the 15th day
18 of each January and July of each year thereafter, post and
19 publish the State's average weekly wage in covered
20 industries under the Unemployment Insurance Act as last
21 determined and published by the Department of Employment
22 Security. The amount when so posted and published shall be
23 conclusive and shall be applicable as the basis of
24 computation of compensation rates until the next posting
25 and publication as aforesaid.

26 7. The payment of compensation by an employer or his

1 insurance carrier to an injured employee shall not
2 constitute an admission of the employer's liability to pay
3 compensation.

4 (c) For any serious and permanent disfigurement to the
5 hand, head, face, neck, arm, leg below the knee or the chest
6 above the axillary line, the employee is entitled to
7 compensation for such disfigurement, the amount determined by
8 agreement at any time or by arbitration under this Act, at a
9 hearing not less than 6 months after the date of the accidental
10 injury, which amount shall not exceed 150 weeks (if the
11 accidental injury occurs on or after the effective date of this
12 amendatory Act of the 94th General Assembly but before February
13 1, 2006) or 162 weeks (if the accidental injury occurs on or
14 after February 1, 2006) at the applicable rate provided in
15 subparagraph 2.1 of paragraph (b) of this Section.

16 No compensation is payable under this paragraph where
17 compensation is payable under paragraphs (d), (e) or (f) of
18 this Section.

19 A duly appointed member of a fire department in a city, the
20 population of which exceeds 500,000 according to the last
21 federal or State census, is eligible for compensation under
22 this paragraph only where such serious and permanent
23 disfigurement results from burns.

24 (d) 1. If, after the accidental injury has been sustained,
25 the employee as a result thereof becomes partially
26 incapacitated from pursuing his usual and customary line of

1 employment, he shall, except in cases compensated under the
2 specific schedule set forth in paragraph (e) of this Section,
3 receive compensation for the duration of his disability,
4 subject to the limitations as to maximum amounts fixed in
5 paragraph (b) of this Section, equal to 66-2/3% of the
6 difference between the average amount which he would be able to
7 earn in the full performance of his duties in the occupation in
8 which he was engaged at the time of the accident and the
9 average amount which he is earning or is able to earn in some
10 suitable employment or business after the accident. For
11 accidental injuries that occur on or after September 1, 2011,
12 an award for wage differential under this subsection shall be
13 effective only until the employee reaches the age of 67 or 5
14 years from the date the award becomes final, whichever is
15 later.

16 2. If, as a result of the accident, the employee sustains
17 serious and permanent injuries not covered by paragraphs (c)
18 and (e) of this Section or having sustained injuries covered by
19 the aforesaid paragraphs (c) and (e), he shall have sustained
20 in addition thereto other injuries which injuries do not
21 incapacitate him from pursuing the duties of his employment but
22 which would disable him from pursuing other suitable
23 occupations, or which have otherwise resulted in physical
24 impairment; or if such injuries partially incapacitate him from
25 pursuing the duties of his usual and customary line of
26 employment but do not result in an impairment of earning

1 capacity, or having resulted in an impairment of earning
2 capacity, the employee elects to waive his right to recover
3 under the foregoing subparagraph 1 of paragraph (d) of this
4 Section then in any of the foregoing events, he shall receive
5 in addition to compensation for temporary total disability
6 under paragraph (b) of this Section, compensation at the rate
7 provided in subparagraph 2.1 of paragraph (b) of this Section
8 for that percentage of 500 weeks that the partial disability
9 resulting from the injuries covered by this paragraph bears to
10 total disability. If the employee shall have sustained a
11 fracture of one or more vertebra or fracture of the skull, the
12 amount of compensation allowed under this Section shall be not
13 less than 6 weeks for a fractured skull and 6 weeks for each
14 fractured vertebra, and in the event the employee shall have
15 sustained a fracture of any of the following facial bones:
16 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
17 mandible, the amount of compensation allowed under this Section
18 shall be not less than 2 weeks for each such fractured bone,
19 and for a fracture of each transverse process not less than 3
20 weeks. In the event such injuries shall result in the loss of a
21 kidney, spleen or lung, the amount of compensation allowed
22 under this Section shall be not less than 10 weeks for each
23 such organ. Compensation awarded under this subparagraph 2
24 shall not take into consideration injuries covered under
25 paragraphs (c) and (e) of this Section and the compensation
26 provided in this paragraph shall not affect the employee's

1 right to compensation payable under paragraphs (b), (c) and (e)
2 of this Section for the disabilities therein covered.

3 (e) For accidental injuries in the following schedule, the
4 employee shall receive compensation for the period of temporary
5 total incapacity for work resulting from such accidental
6 injury, under subparagraph 1 of paragraph (b) of this Section,
7 and shall receive in addition thereto compensation for a
8 further period for the specific loss herein mentioned, but
9 shall not receive any compensation under any other provisions
10 of this Act. The following listed amounts apply to either the
11 loss of or the permanent and complete loss of use of the member
12 specified, such compensation for the length of time as follows:

13 1. Thumb-

14 70 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 76 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 2. First, or index finger-

20 40 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 43 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 3. Second, or middle finger-

26 35 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 38 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 4. Third, or ring finger-

6 25 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 27 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 5. Fourth, or little finger-

12 20 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 22 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 6. Great toe-

18 35 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 38 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 7. Each toe other than great toe-

24 12 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

1 13 weeks if the accidental injury occurs on or
2 after February 1, 2006.

3 8. The loss of the first or distal phalanx of the thumb
4 or of any finger or toe shall be considered to be equal to
5 the loss of one-half of such thumb, finger or toe and the
6 compensation payable shall be one-half of the amount above
7 specified. The loss of more than one phalanx shall be
8 considered as the loss of the entire thumb, finger or toe.
9 In no case shall the amount received for more than one
10 finger exceed the amount provided in this schedule for the
11 loss of a hand.

12 9. Hand-

13 190 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 205 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 190 weeks if the accidental injury occurs on or
19 after June 28, 2011 (the effective date of Public Act
20 97-18) ~~this amendatory Act of the 97th General Assembly~~
21 and if the accidental injury involves carpal tunnel
22 syndrome due to repetitive or cumulative trauma, in
23 which case the permanent partial disability shall not
24 exceed 15% loss of use of the hand, except for cause
25 shown by clear and convincing evidence and in which
26 case the award shall not exceed 30% loss of use of the

1 hand.

2 The loss of 2 or more digits, or one or more phalanges
3 of 2 or more digits, of a hand may be compensated on the
4 basis of partial loss of use of a hand, provided, further,
5 that the loss of 4 digits, or the loss of use of 4 digits,
6 in the same hand shall constitute the complete loss of a
7 hand.

8 10. Arm-

9 235 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 253 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 Where an accidental injury results in the amputation of
15 an arm below the elbow, such injury shall be compensated as
16 a loss of an arm. Where an accidental injury results in the
17 amputation of an arm above the elbow, compensation for an
18 additional 15 weeks (if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the 94th
20 General Assembly but before February 1, 2006) or an
21 additional 17 weeks (if the accidental injury occurs on or
22 after February 1, 2006) shall be paid, except where the
23 accidental injury results in the amputation of an arm at
24 the shoulder joint, or so close to shoulder joint that an
25 artificial arm cannot be used, or results in the
26 disarticulation of an arm at the shoulder joint, in which

1 case compensation for an additional 65 weeks (if the
2 accidental injury occurs on or after the effective date of
3 this amendatory Act of the 94th General Assembly but before
4 February 1, 2006) or an additional 70 weeks (if the
5 accidental injury occurs on or after February 1, 2006)
6 shall be paid.

7 11. Foot-

8 155 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 167 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 12. Leg-

14 200 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 215 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of
20 a leg below the knee, such injury shall be compensated as
21 loss of a leg. Where an accidental injury results in the
22 amputation of a leg above the knee, compensation for an
23 additional 25 weeks (if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the 94th
25 General Assembly but before February 1, 2006) or an
26 additional 27 weeks (if the accidental injury occurs on or

1 after February 1, 2006) shall be paid, except where the
2 accidental injury results in the amputation of a leg at the
3 hip joint, or so close to the hip joint that an artificial
4 leg cannot be used, or results in the disarticulation of a
5 leg at the hip joint, in which case compensation for an
6 additional 75 weeks (if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the 94th
8 General Assembly but before February 1, 2006) or an
9 additional 81 weeks (if the accidental injury occurs on or
10 after February 1, 2006) shall be paid.

11 13. Eye-

12 150 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 162 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 Where an accidental injury results in the enucleation
18 of an eye, compensation for an additional 10 weeks (if the
19 accidental injury occurs on or after the effective date of
20 this amendatory Act of the 94th General Assembly but before
21 February 1, 2006) or an additional 11 weeks (if the
22 accidental injury occurs on or after February 1, 2006)
23 shall be paid.

24 14. Loss of hearing of one ear-

25 50 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 54 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 Total and permanent loss of hearing of both ears-

5 200 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 215 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 15. Testicle-

11 50 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 54 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 Both testicles-

17 150 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 162 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 16. For the permanent partial loss of use of a member
23 or sight of an eye, or hearing of an ear, compensation
24 during that proportion of the number of weeks in the
25 foregoing schedule provided for the loss of such member or
26 sight of an eye, or hearing of an ear, which the partial

1 loss of use thereof bears to the total loss of use of such
2 member, or sight of eye, or hearing of an ear.

3 (a) Loss of hearing for compensation purposes
4 shall be confined to the frequencies of 1,000, 2,000
5 and 3,000 cycles per second. Loss of hearing ability
6 for frequency tones above 3,000 cycles per second are
7 not to be considered as constituting disability for
8 hearing.

9 (b) The percent of hearing loss, for purposes of
10 the determination of compensation claims for
11 occupational deafness, shall be calculated as the
12 average in decibels for the thresholds of hearing for
13 the frequencies of 1,000, 2,000 and 3,000 cycles per
14 second. Pure tone air conduction audiometric
15 instruments, approved by nationally recognized
16 authorities in this field, shall be used for measuring
17 hearing loss. If the losses of hearing average 30
18 decibels or less in the 3 frequencies, such losses of
19 hearing shall not then constitute any compensable
20 hearing disability. If the losses of hearing average 85
21 decibels or more in the 3 frequencies, then the same
22 shall constitute and be total or 100% compensable
23 hearing loss.

24 (c) In measuring hearing impairment, the lowest
25 measured losses in each of the 3 frequencies shall be
26 added together and divided by 3 to determine the

1 average decibel loss. For every decibel of loss
 2 exceeding 30 decibels an allowance of 1.82% shall be
 3 made up to the maximum of 100% which is reached at 85
 4 decibels.

5 (d) If a hearing loss is established to have
 6 existed on July 1, 1975 by audiometric testing the
 7 employer shall not be liable for the previous loss so
 8 established nor shall he be liable for any loss for
 9 which compensation has been paid or awarded.

10 (e) No consideration shall be given to the question
 11 of whether or not the ability of an employee to
 12 understand speech is improved by the use of a hearing
 13 aid.

14 (f) No claim for loss of hearing due to industrial
 15 noise shall be brought against an employer or allowed
 16 unless the employee has been exposed for a period of
 17 time sufficient to cause permanent impairment to noise
 18 levels in excess of the following:

19 Sound Level DBA

20	Slow Response	Hours Per Day
21	90	8
22	92	6
23	95	4
24	97	3
25	100	2
26	102	1-1/2

1	105	1
2	110	1/2
3	115	1/4

4 This subparagraph (f) shall not be applied in cases of
5 hearing loss resulting from trauma or explosion.

6 17. In computing the compensation to be paid to any
7 employee who, before the accident for which he claims
8 compensation, had before that time sustained an injury
9 resulting in the loss by amputation or partial loss by
10 amputation of any member, including hand, arm, thumb or
11 fingers, leg, foot or any toes, such loss or partial loss
12 of any such member shall be deducted from any award made
13 for the subsequent injury. For the permanent loss of use or
14 the permanent partial loss of use of any such member or the
15 partial loss of sight of an eye, for which compensation has
16 been paid, then such loss shall be taken into consideration
17 and deducted from any award for the subsequent injury.

18 18. The specific case of loss of both hands, both arms,
19 or both feet, or both legs, or both eyes, or of any two
20 thereof, or the permanent and complete loss of the use
21 thereof, constitutes total and permanent disability, to be
22 compensated according to the compensation fixed by
23 paragraph (f) of this Section. These specific cases of
24 total and permanent disability do not exclude other cases.

25 Any employee who has previously suffered the loss or
26 permanent and complete loss of the use of any of such

1 members, and in a subsequent independent accident loses
2 another or suffers the permanent and complete loss of the
3 use of any one of such members the employer for whom the
4 injured employee is working at the time of the last
5 independent accident is liable to pay compensation only for
6 the loss or permanent and complete loss of the use of the
7 member occasioned by the last independent accident.

8 19. In a case of specific loss and the subsequent death
9 of such injured employee from other causes than such injury
10 leaving a widow, widower, or dependents surviving before
11 payment or payment in full for such injury, then the amount
12 due for such injury is payable to the widow or widower and,
13 if there be no widow or widower, then to such dependents,
14 in the proportion which such dependency bears to total
15 dependency.

16 Beginning July 1, 1980, and every 6 months thereafter, the
17 Commission shall examine the Second Injury Fund and when, after
18 deducting all advances or loans made to such Fund, the amount
19 therein is \$500,000 then the amount required to be paid by
20 employers pursuant to paragraph (f) of Section 7 shall be
21 reduced by one-half. When the Second Injury Fund reaches the
22 sum of \$600,000 then the payments shall cease entirely.
23 However, when the Second Injury Fund has been reduced to
24 \$400,000, payment of one-half of the amounts required by
25 paragraph (f) of Section 7 shall be resumed, in the manner
26 herein provided, and when the Second Injury Fund has been

1 reduced to \$300,000, payment of the full amounts required by
2 paragraph (f) of Section 7 shall be resumed, in the manner
3 herein provided. The Commission shall make the changes in
4 payment effective by general order, and the changes in payment
5 become immediately effective for all cases coming before the
6 Commission thereafter either by settlement agreement or final
7 order, irrespective of the date of the accidental injury.

8 On August 1, 1996 and on February 1 and August 1 of each
9 subsequent year, the Commission shall examine the special fund
10 designated as the "Rate Adjustment Fund" and when, after
11 deducting all advances or loans made to said fund, the amount
12 therein is \$4,000,000, the amount required to be paid by
13 employers pursuant to paragraph (f) of Section 7 shall be
14 reduced by one-half. When the Rate Adjustment Fund reaches the
15 sum of \$5,000,000 the payment therein shall cease entirely.
16 However, when said Rate Adjustment Fund has been reduced to
17 \$3,000,000 the amounts required by paragraph (f) of Section 7
18 shall be resumed in the manner herein provided.

19 (f) In case of complete disability, which renders the
20 employee wholly and permanently incapable of work, or in the
21 specific case of total and permanent disability as provided in
22 subparagraph 18 of paragraph (e) of this Section, compensation
23 shall be payable at the rate provided in subparagraph 2 of
24 paragraph (b) of this Section for life.

25 An employee entitled to benefits under paragraph (f) of
26 this Section shall also be entitled to receive from the Rate

1 Adjustment Fund provided in paragraph (f) of Section 7 of the
2 supplementary benefits provided in paragraph (g) of this
3 Section 8.

4 If any employee who receives an award under this paragraph
5 afterwards returns to work or is able to do so, and earns or is
6 able to earn as much as before the accident, payments under
7 such award shall cease. If such employee returns to work, or is
8 able to do so, and earns or is able to earn part but not as much
9 as before the accident, such award shall be modified so as to
10 conform to an award under paragraph (d) of this Section. If
11 such award is terminated or reduced under the provisions of
12 this paragraph, such employees have the right at any time
13 within 30 months after the date of such termination or
14 reduction to file petition with the Commission for the purpose
15 of determining whether any disability exists as a result of the
16 original accidental injury and the extent thereof.

17 Disability as enumerated in subdivision 18, paragraph (e)
18 of this Section is considered complete disability.

19 If an employee who had previously incurred loss or the
20 permanent and complete loss of use of one member, through the
21 loss or the permanent and complete loss of the use of one hand,
22 one arm, one foot, one leg, or one eye, incurs permanent and
23 complete disability through the loss or the permanent and
24 complete loss of the use of another member, he shall receive,
25 in addition to the compensation payable by the employer and
26 after such payments have ceased, an amount from the Second

1 Injury Fund provided for in paragraph (f) of Section 7, which,
2 together with the compensation payable from the employer in
3 whose employ he was when the last accidental injury was
4 incurred, will equal the amount payable for permanent and
5 complete disability as provided in this paragraph of this
6 Section.

7 The custodian of the Second Injury Fund provided for in
8 paragraph (f) of Section 7 shall be joined with the employer as
9 a party respondent in the application for adjustment of claim.
10 The application for adjustment of claim shall state briefly and
11 in general terms the approximate time and place and manner of
12 the loss of the first member.

13 In its award the Commission or the Arbitrator shall
14 specifically find the amount the injured employee shall be
15 weekly paid, the number of weeks compensation which shall be
16 paid by the employer, the date upon which payments begin out of
17 the Second Injury Fund provided for in paragraph (f) of Section
18 7 of this Act, the length of time the weekly payments continue,
19 the date upon which the pension payments commence and the
20 monthly amount of the payments. The Commission shall 30 days
21 after the date upon which payments out of the Second Injury
22 Fund have begun as provided in the award, and every month
23 thereafter, prepare and submit to the State Comptroller a
24 voucher for payment for all compensation accrued to that date
25 at the rate fixed by the Commission. The State Comptroller
26 shall draw a warrant to the injured employee along with a

1 receipt to be executed by the injured employee and returned to
2 the Commission. The endorsed warrant and receipt is a full and
3 complete acquittance to the Commission for the payment out of
4 the Second Injury Fund. No other appropriation or warrant is
5 necessary for payment out of the Second Injury Fund. The Second
6 Injury Fund is appropriated for the purpose of making payments
7 according to the terms of the awards.

8 As of July 1, 1980 to July 1, 1982, all claims against and
9 obligations of the Second Injury Fund shall become claims
10 against and obligations of the Rate Adjustment Fund to the
11 extent there is insufficient money in the Second Injury Fund to
12 pay such claims and obligations. In that case, all references
13 to "Second Injury Fund" in this Section shall also include the
14 Rate Adjustment Fund.

15 (g) Every award for permanent total disability entered by
16 the Commission on and after July 1, 1965 under which
17 compensation payments shall become due and payable after the
18 effective date of this amendatory Act, and every award for
19 death benefits or permanent total disability entered by the
20 Commission on and after the effective date of this amendatory
21 Act shall be subject to annual adjustments as to the amount of
22 the compensation rate therein provided. Such adjustments shall
23 first be made on July 15, 1977, and all awards made and entered
24 prior to July 1, 1975 and on July 15 of each year thereafter.
25 In all other cases such adjustment shall be made on July 15 of
26 the second year next following the date of the entry of the

1 award and shall further be made on July 15 annually thereafter.
2 If during the intervening period from the date of the entry of
3 the award, or the last periodic adjustment, there shall have
4 been an increase in the State's average weekly wage in covered
5 industries under the Unemployment Insurance Act, the weekly
6 compensation rate shall be proportionately increased by the
7 same percentage as the percentage of increase in the State's
8 average weekly wage in covered industries under the
9 Unemployment Insurance Act. The increase in the compensation
10 rate under this paragraph shall in no event bring the total
11 compensation rate to an amount greater than the prevailing
12 maximum rate at the time that the annual adjustment is made.
13 Such increase shall be paid in the same manner as herein
14 provided for payments under the Second Injury Fund to the
15 injured employee, or his dependents, as the case may be, out of
16 the Rate Adjustment Fund provided in paragraph (f) of Section 7
17 of this Act. Payments shall be made at the same intervals as
18 provided in the award or, at the option of the Commission, may
19 be made in quarterly payment on the 15th day of January, April,
20 July and October of each year. In the event of a decrease in
21 such average weekly wage there shall be no change in the then
22 existing compensation rate. The within paragraph shall not
23 apply to cases where there is disputed liability and in which a
24 compromise lump sum settlement between the employer and the
25 injured employee, or his dependents, as the case may be, has
26 been duly approved by the Illinois Workers' Compensation

1 Commission.

2 Provided, that in cases of awards entered by the Commission
3 for injuries occurring before July 1, 1975, the increases in
4 the compensation rate adjusted under the foregoing provision of
5 this paragraph (g) shall be limited to increases in the State's
6 average weekly wage in covered industries under the
7 Unemployment Insurance Act occurring after July 1, 1975.

8 For every accident occurring on or after July 20, 2005 but
9 before the effective date of this amendatory Act of the 94th
10 General Assembly (Senate Bill 1283 of the 94th General
11 Assembly), the annual adjustments to the compensation rate in
12 awards for death benefits or permanent total disability, as
13 provided in this Act, shall be paid by the employer. The
14 adjustment shall be made by the employer on July 15 of the
15 second year next following the date of the entry of the award
16 and shall further be made on July 15 annually thereafter. If
17 during the intervening period from the date of the entry of the
18 award, or the last periodic adjustment, there shall have been
19 an increase in the State's average weekly wage in covered
20 industries under the Unemployment Insurance Act, the employer
21 shall increase the weekly compensation rate proportionately by
22 the same percentage as the percentage of increase in the
23 State's average weekly wage in covered industries under the
24 Unemployment Insurance Act. The increase in the compensation
25 rate under this paragraph shall in no event bring the total
26 compensation rate to an amount greater than the prevailing

1 maximum rate at the time that the annual adjustment is made. In
2 the event of a decrease in such average weekly wage there shall
3 be no change in the then existing compensation rate. Such
4 increase shall be paid by the employer in the same manner and
5 at the same intervals as the payment of compensation in the
6 award. This paragraph shall not apply to cases where there is
7 disputed liability and in which a compromise lump sum
8 settlement between the employer and the injured employee, or
9 his or her dependents, as the case may be, has been duly
10 approved by the Illinois Workers' Compensation Commission.

11 The annual adjustments for every award of death benefits or
12 permanent total disability involving accidents occurring
13 before July 20, 2005 and accidents occurring on or after the
14 effective date of this amendatory Act of the 94th General
15 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
16 continue to be paid from the Rate Adjustment Fund pursuant to
17 this paragraph and Section 7(f) of this Act.

18 (h) In case death occurs from any cause before the total
19 compensation to which the employee would have been entitled has
20 been paid, then in case the employee leaves any widow, widower,
21 child, parent (or any grandchild, grandparent or other lineal
22 heir or any collateral heir dependent at the time of the
23 accident upon the earnings of the employee to the extent of 50%
24 or more of total dependency) such compensation shall be paid to
25 the beneficiaries of the deceased employee and distributed as
26 provided in paragraph (g) of Section 7.

1 (h-1) In case an injured employee is under legal disability
2 at the time when any right or privilege accrues to him or her
3 under this Act, a guardian may be appointed pursuant to law,
4 and may, on behalf of such person under legal disability, claim
5 and exercise any such right or privilege with the same effect
6 as if the employee himself or herself had claimed or exercised
7 the right or privilege. No limitations of time provided by this
8 Act run so long as the employee who is under legal disability
9 is without a conservator or guardian.

10 (i) In case the injured employee is under 16 years of age
11 at the time of the accident and is illegally employed, the
12 amount of compensation payable under paragraphs (b), (c), (d),
13 (e) and (f) of this Section is increased 50%.

14 However, where an employer has on file an employment
15 certificate issued pursuant to the Child Labor Law or work
16 permit issued pursuant to the Federal Fair Labor Standards Act,
17 as amended, or a birth certificate properly and duly issued,
18 such certificate, permit or birth certificate is conclusive
19 evidence as to the age of the injured minor employee for the
20 purposes of this Section.

21 Nothing herein contained repeals or amends the provisions
22 of the Child Labor Law relating to the employment of minors
23 under the age of 16 years.

24 (j) 1. In the event the injured employee receives benefits,
25 including medical, surgical or hospital benefits under any
26 group plan covering non-occupational disabilities contributed

1 to wholly or partially by the employer, which benefits should
2 not have been payable if any rights of recovery existed under
3 this Act, then such amounts so paid to the employee from any
4 such group plan as shall be consistent with, and limited to,
5 the provisions of paragraph 2 hereof, shall be credited to or
6 against any compensation payment for temporary total
7 incapacity for work or any medical, surgical or hospital
8 benefits made or to be made under this Act. In such event, the
9 period of time for giving notice of accidental injury and
10 filing application for adjustment of claim does not commence to
11 run until the termination of such payments. This paragraph does
12 not apply to payments made under any group plan which would
13 have been payable irrespective of an accidental injury under
14 this Act. Any employer receiving such credit shall keep such
15 employee safe and harmless from any and all claims or
16 liabilities that may be made against him by reason of having
17 received such payments only to the extent of such credit.

18 Any excess benefits paid to or on behalf of a State
19 employee by the State Employees' Retirement System under
20 Article 14 of the Illinois Pension Code on a death claim or
21 disputed disability claim shall be credited against any
22 payments made or to be made by the State of Illinois to or on
23 behalf of such employee under this Act, except for payments for
24 medical expenses which have already been incurred at the time
25 of the award. The State of Illinois shall directly reimburse
26 the State Employees' Retirement System to the extent of such

1 credit.

2 2. Nothing contained in this Act shall be construed to give
3 the employer or the insurance carrier the right to credit for
4 any benefits or payments received by the employee other than
5 compensation payments provided by this Act, and where the
6 employee receives payments other than compensation payments,
7 whether as full or partial salary, group insurance benefits,
8 bonuses, annuities or any other payments, the employer or
9 insurance carrier shall receive credit for each such payment
10 only to the extent of the compensation that would have been
11 payable during the period covered by such payment.

12 3. The extension of time for the filing of an Application
13 for Adjustment of Claim as provided in paragraph 1 above shall
14 not apply to those cases where the time for such filing had
15 expired prior to the date on which payments or benefits
16 enumerated herein have been initiated or resumed. Provided
17 however that this paragraph 3 shall apply only to cases wherein
18 the payments or benefits hereinabove enumerated shall be
19 received after July 1, 1969.

20 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised
21 9-15-11.)

22 (820 ILCS 305/8.1a)

23 Sec. 8.1a. Preferred provider programs. Starting on the
24 effective date of this amendatory Act of the 97th General
25 Assembly, to satisfy its liabilities under this Act for the

1 provision of medical treatment to injured employees, an
2 employer may utilize a preferred provider program approved by
3 the Illinois Department of Insurance as in compliance with
4 Sections 370k, 370l, 370m, and 370p of Article XX-1/2 of the
5 Illinois Insurance Code. For the purposes of compliance with
6 these Sections, the employee shall be considered the
7 "beneficiary" and the employer shall be considered the
8 "insured". Employers and insurers contracting directly with
9 providers or utilizing multiple preferred provider programs to
10 implement a preferred provider program providing workers'
11 compensation benefits shall be subject to the above
12 requirements of Article XX-1/2 applicable to administrators
13 with regard to such program, with the exception of Section 370l
14 of the Illinois Insurance Code.

15 (a) In addition to the above requirements of Article XX-1/2
16 of the Illinois Insurance Code, all preferred provider programs
17 under this Section shall meet the following requirements:

18 (1) The provider network shall include an adequate
19 number of occupational and non-occupational providers.

20 (2) The provider network shall include an adequate
21 number and type of physicians or other providers to treat
22 common injuries experienced by injured workers in the
23 geographic area where the employees reside.

24 (3) Medical treatment for injuries shall be readily
25 available at reasonable times to all employees. To the
26 extent feasible, all medical treatment for injuries shall

1 be readily accessible to all employees.

2 (4) Physician compensation shall not be structured in
3 order to achieve the goal of inappropriately reducing,
4 delaying, or denying medical treatment or restricting
5 access to medical treatment.

6 (5) Before entering into any agreement under this
7 Section, a program shall establish terms and conditions
8 that must be met by noninstitutional providers wishing to
9 enter into an agreement with the program. These terms and
10 conditions may not discriminate unreasonably against or
11 among noninstitutional providers. Neither difference in
12 prices among noninstitutional providers produced by a
13 process of individual negotiation nor price differences
14 among other noninstitutional providers in different
15 geographical areas or different specialties constitutes
16 unreasonable discrimination.

17 (b) The administrator of any preferred provider program
18 under this Act that uses economic evaluation shall file with
19 the Director of Insurance a description of any policies and
20 procedures related to economic evaluation utilized by the
21 program. The filing shall describe how these policies and
22 procedures are used in utilization review, peer review,
23 incentive and penalty programs, and in provider retention and
24 termination decisions. The Director of Insurance may deny
25 approval of any preferred provider program that uses any policy
26 or procedure of economic evaluation to inappropriately reduce,

1 delay or deny medical treatment, or to restrict access to
2 medical treatment. Evaluation of providers based upon
3 objective medical quality and patient outcome measurements,
4 appropriate use of best clinical practices and evidence based
5 medicine, and use of health information technology shall be
6 permitted. If approved, the employer shall provide a copy of
7 the filing to all participating providers.

8 (1) The Director of the Department of Insurance shall
9 make each administrator's filing available to the public
10 upon request. The Director of the Department of Insurance
11 may not publicly disclose any information submitted
12 pursuant to this Section that is determined by the Director
13 of the Department of Insurance to be confidential,
14 proprietary, or trade secret information pursuant to State
15 or federal law.

16 (2) For the purposes of this subsection (b), "economic
17 evaluation" shall mean any evaluation of a particular
18 physician, provider, medical group, or individual practice
19 association based in whole or in part on the economic costs
20 or utilization of services associated with medical care
21 provided or authorized by the physician, provider, medical
22 group, or individual practice association. Economic
23 evaluation shall not include negotiated rates with a
24 provider.

25 (c) Except for the provisions of subsection (a)~~(4)~~ of
26 Section 8 and for injuries occurring on or after the effective

1 date of this amendatory Act of the 97th General Assembly, an
2 employee of an employer utilizing a preferred provider program
3 shall only be allowed to select a participating ~~network~~
4 provider from the network. An employer shall be responsible
5 for: ~~(i) all first aid and emergency treatment; (ii) all~~
6 medical care, ~~surgical, and hospital services~~ provided by the
7 participating providers ~~network provider initially selected by~~
8 ~~the employee or by any other participating network provider~~
9 ~~recommended by the initial participating network provider or~~
10 ~~any subsequent participating network provider in the chain of~~
11 ~~referrals from the initial participating network provider; and~~
12 ~~(iii) all medical, surgical, and hospital services provided by~~
13 ~~the participating network provider subsequently chosen by the~~
14 ~~employee or by any other participating network provider~~
15 ~~recommended by the subsequent participating network provider~~
16 ~~or any subsequent participating network provider in the chain~~
17 ~~of referrals from the second participating network provider. An~~
18 ~~employer shall not be liable for services~~ determined by the
19 Commission ~~not~~ to be compensable. An employer shall not be
20 liable for medical services provided by a non-authorized
21 provider when proper notice is provided to the injured worker.

22 (1) When the injured employee notifies the employer of
23 the injury or files a claim for workers' compensation with
24 the employer, the employer shall notify the employee of his
25 or her right to be treated by a physician of his or her
26 choice from the medical ~~preferred~~ provider network

1 established pursuant to this Section, and the method by
2 which the list of participating network providers may be
3 accessed by the employee, ~~except as provided in subsection~~
4 ~~(a)(4) of Section 8.~~

5 (2) Consistent with Article XX-1/2 of the Illinois
6 Insurance Code, treatment by a specialist who is not a
7 member of the preferred provider network shall be permitted
8 on a case-by-case basis if the medical provider network
9 does not contain a physician who can provide the approved
10 treatment, and if the employee has complied with any
11 pre-authorization requirements ~~of the preferred provider~~
12 ~~network.~~ Consent for the employee to visit an
13 out-of-network provider may not be unreasonably withheld.
14 When a non-network provider is authorized ~~pursuant to this~~
15 ~~subparagraph (2),~~ the non-network provider shall not hold
16 an employee liable for costs except as provided in
17 subsection (e) of Section 8.2.

18 (3) The Director shall not approve, and may withdraw
19 prior approval of, a preferred provider program that fails
20 to provide an injured employee with sufficient access to
21 necessary treating physicians, surgeons, and specialists.

22 (d) (Blank) ~~Except as provided in subsection (a)(4) of~~
23 ~~Section 8, upon a finding by the Commission that the care being~~
24 ~~rendered by the employee's second choice of provider within the~~
25 ~~employer's network is improper or inadequate, the employee may~~
26 ~~then choose a provider outside of the network at the employer's~~

1 ~~expense. The Commission shall issue a decision on any petition~~
2 ~~filed pursuant to this Section within 5 working days.~~

3 (e) The Director of the Department of Insurance may
4 promulgate such reasonable rules as are necessary and proper to
5 carry out the provisions of this Section relating to approval
6 and regulation of preferred provider programs.

7 (Source: P.A. 97-18, eff. 6-28-11.)

8 (820 ILCS 305/8.2)

9 Sec. 8.2. Fee schedule.

10 (a) Except as provided for in subsection (c), for
11 procedures, treatments, or services covered under this Act and
12 rendered or to be rendered on and after February 1, 2006, the
13 maximum allowable payment shall be 90% of the 80th percentile
14 of charges and fees as determined by the Commission utilizing
15 information provided by employers' and insurers' national
16 databases, with a minimum of 12,000,000 Illinois line item
17 charges and fees comprised of health care provider and hospital
18 charges and fees as of August 1, 2004 but not earlier than
19 August 1, 2002. These charges and fees are provider billed
20 amounts and shall not include discounted charges. The 80th
21 percentile is the point on an ordered data set from low to high
22 such that 80% of the cases are below or equal to that point and
23 at most 20% are above or equal to that point. The Commission
24 shall adjust these historical charges and fees as of August 1,
25 2004 by the Consumer Price Index-U for the period August 1,

1 2004 through September 30, 2005. The Commission shall establish
2 fee schedules for procedures, treatments, or services for
3 hospital inpatient, hospital outpatient, emergency room and
4 trauma, ambulatory surgical treatment centers, and
5 professional services. These charges and fees shall be
6 designated by geozip or any smaller geographic unit. The data
7 shall in no way identify or tend to identify any patient,
8 employer, or health care provider. As used in this Section,
9 "geozip" means a three-digit zip code based on data
10 similarities, geographical similarities, and frequencies. A
11 geozip does not cross state boundaries. As used in this
12 Section, "three-digit zip code" means a geographic area in
13 which all zip codes have the same first 3 digits. If a geozip
14 does not have the necessary number of charges and fees to
15 calculate a valid percentile for a specific procedure,
16 treatment, or service, the Commission may combine data from the
17 geozip with up to 4 other geozips that are demographically and
18 economically similar and exhibit similarities in data and
19 frequencies until the Commission reaches 9 charges or fees for
20 that specific procedure, treatment, or service. In cases where
21 the compiled data contains less than 9 charges or fees for a
22 procedure, treatment, or service, reimbursement shall occur at
23 76% of charges and fees as determined by the Commission in a
24 manner consistent with the provisions of this paragraph.
25 Providers of out-of-state procedures, treatments, services,
26 products, or supplies shall be reimbursed at the lesser of that

1 state's fee schedule amount or the fee schedule amount for the
2 region in which the employee resides. If no fee schedule exists
3 in that state, the provider shall be reimbursed at the lesser
4 of the actual charge or the fee schedule amount for the region
5 in which the employee resides. Not later than September 30 in
6 2006 and each year thereafter, the Commission shall
7 automatically increase or decrease the maximum allowable
8 payment for a procedure, treatment, or service established and
9 in effect on January 1 of that year by the percentage change in
10 the Consumer Price Index-U for the 12 month period ending
11 August 31 of that year. The increase or decrease shall become
12 effective on January 1 of the following year. As used in this
13 Section, "Consumer Price Index-U" means the index published by
14 the Bureau of Labor Statistics of the U.S. Department of Labor,
15 that measures the average change in prices of all goods and
16 services purchased by all urban consumers, U.S. city average,
17 all items, 1982-84=100.

18 (a-1) Notwithstanding the provisions of subsection (a) and
19 unless otherwise indicated, the following provisions shall
20 apply to the medical fee schedule starting on September 1,
21 2011:

22 (1) The Commission shall establish and maintain fee
23 schedules for procedures, treatments, products, services,
24 or supplies for hospital inpatient, hospital outpatient,
25 emergency room, ambulatory surgical treatment centers,
26 accredited ambulatory surgical treatment facilities,

1 prescriptions filled and dispensed outside of a licensed
2 pharmacy, dental services, and professional services. This
3 fee schedule shall be based on the fee schedule amounts
4 already established by the Commission pursuant to
5 subsection (a) of this Section. However, starting on
6 January 1, 2012, these fee schedule amounts shall be
7 grouped into geographic regions in the following manner:

8 (A) Four regions for non-hospital fee schedule
9 amounts shall be utilized:

10 (i) Cook County;

11 (ii) DuPage, Kane, Lake, and Will Counties;

12 (iii) Bond, Calhoun, Clinton, Jersey,
13 Macoupin, Madison, Monroe, Montgomery, Randolph,
14 St. Clair, and Washington Counties; and

15 (iv) All other counties of the State.

16 (B) Fourteen regions for hospital fee schedule
17 amounts shall be utilized:

18 (i) Cook, DuPage, Will, Kane, McHenry, DeKalb,
19 Kendall, and Grundy Counties;

20 (ii) Kankakee County;

21 (iii) Madison, St. Clair, Macoupin, Clinton,
22 Monroe, Jersey, Bond, and Calhoun Counties;

23 (iv) Winnebago and Boone Counties;

24 (v) Peoria, Tazewell, Woodford, Marshall, and
25 Stark Counties;

26 (vi) Champaign, Piatt, and Ford Counties;

- 1 (vii) Rock Island, Henry, and Mercer Counties;
2 (viii) Sangamon and Menard Counties;
3 (ix) McLean County;
4 (x) Lake County;
5 (xi) Macon County;
6 (xii) Vermilion County;
7 (xiii) Alexander County; and
8 (xiv) All other counties of the State.

9 (2) If a geozip, as defined in subsection (a) of this
10 Section, overlaps into one or more of the regions set forth
11 in this Section, then the Commission shall average or
12 repeat the charges and fees in a geozip in order to
13 designate charges and fees for each region.

14 (3) In cases where the compiled data contains less than
15 9 charges or fees for a procedure, treatment, product,
16 supply, or service or where the fee schedule amount cannot
17 be determined by the non-discounted charge data,
18 non-Medicare relative values and conversion factors
19 derived from established fee schedule amounts, coding
20 crosswalks, or other data as determined by the Commission,
21 reimbursement shall occur at 76% of charges and fees until
22 September 1, 2011 and 53.2% of charges and fees thereafter
23 as determined by the Commission in a manner consistent with
24 the provisions of this paragraph.

25 (4) To establish additional fee schedule amounts, the
26 Commission shall utilize provider non-discounted charge

1 data, non-Medicare relative values and conversion factors
2 derived from established fee schedule amounts, and coding
3 crosswalks. The Commission may establish additional fee
4 schedule amounts based on either the charge or cost of the
5 procedure, treatment, product, supply, or service.

6 (5) Implants shall be reimbursed at 25% above the net
7 manufacturer's invoice price less rebates, plus actual
8 reasonable and customary shipping charges whether or not
9 the implant charge is submitted by a provider in
10 conjunction with a bill for all other services associated
11 with the implant, submitted by a provider on a separate
12 claim form, submitted by a distributor, or submitted by the
13 manufacturer of the implant. "Implants" include the
14 following codes or any substantially similar updated code
15 as determined by the Commission: 0274
16 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
17 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
18 (investigational devices); and 0636 (drugs requiring
19 detailed coding). Non-implantable devices or supplies
20 within these codes shall be reimbursed at 65% of actual
21 charge, which is the provider's normal rates under its
22 standard chagemaster. A standard chagemaster is the
23 provider's list of charges for procedures, treatments,
24 products, supplies, or services used to bill payers in a
25 consistent manner.

26 (6) The Commission shall automatically update all

1 codes and associated rules with the version of the codes
2 and rules valid on January 1 of that year.

3 (a-2) For procedures, treatments, services, or supplies
4 covered under this Act and rendered or to be rendered on or
5 after September 1, 2011, the maximum allowable payment shall be
6 70% of the fee schedule amounts, which shall be adjusted yearly
7 by the Consumer Price Index-U, as described in subsection (a)
8 of this Section.

9 (a-3) Prescriptions filled and dispensed outside of a
10 licensed pharmacy shall be subject to a fee schedule that shall
11 not exceed the manufacturer's Average Wholesale Price (AWP)
12 plus a dispensing fee of \$4.18. AWP or its equivalent as
13 registered by the National Drug Code shall be set forth for
14 that drug on that date as published in Medispan.

15 (b) Notwithstanding the provisions of subsection (a), if
16 the Commission finds that there is a significant limitation on
17 access to quality health care in either a specific field of
18 health care services or a specific geographic limitation on
19 access to health care, it may change the Consumer Price Index-U
20 increase or decrease for that specific field or specific
21 geographic limitation on access to health care to address that
22 limitation.

23 (c) The Commission shall establish by rule a process to
24 review those medical cases or outliers that involve
25 extra-ordinary treatment to determine whether to make an
26 additional adjustment to the maximum payment within a fee

1 schedule for a procedure, treatment, or service.

2 (d) When a patient notifies a provider that the treatment,
3 procedure, or service being sought is for a work-related
4 illness or injury and furnishes the provider the name and
5 address of the responsible employer, the provider shall bill
6 the employer directly. The employer shall make payment and
7 providers shall submit bills and records in accordance with the
8 provisions of this Section.

9 (1) All payments to providers for treatment provided
10 pursuant to this Act shall be made within 30 days of
11 receipt of the bills as long as the claim contains
12 substantially all the required data elements necessary to
13 adjudicate the bills.

14 (2) If the claim does not contain substantially all the
15 required data elements necessary to adjudicate the bill, or
16 the claim is denied for any other reason, in whole or in
17 part, the employer or insurer shall provide written
18 notification, explaining the basis for the denial and
19 describing any additional necessary data elements, to the
20 provider within 30 days of receipt of the bill.

21 (3) In the case of nonpayment to a provider within 30
22 days of receipt of the bill which contained substantially
23 all of the required data elements necessary to adjudicate
24 the bill or nonpayment to a provider of a portion of such a
25 bill up to the lesser of the actual charge or the payment
26 level set by the Commission in the fee schedule established

1 in this Section, the bill, or portion of the bill, shall
2 incur interest at a rate of 1% per month payable to the
3 provider. Any required interest payments shall be made
4 within 30 days after payment.

5 (e) Except as provided in subsections (e-5), (e-10), and
6 (e-15), a provider shall not hold an employee liable for costs
7 related to a non-disputed procedure, treatment, or service
8 rendered in connection with a compensable injury. The
9 provisions of subsections (e-5), (e-10), (e-15), and (e-20)
10 shall not apply if an employee provides information to the
11 provider regarding participation in a group health plan. If the
12 employee participates in a group health plan, the provider may
13 submit a claim for services to the group health plan. If the
14 claim for service is covered by the group health plan, the
15 employee's responsibility shall be limited to applicable
16 deductibles, co-payments, or co-insurance. Except as provided
17 under subsections (e-5), (e-10), (e-15), and (e-20), a provider
18 shall not bill or otherwise attempt to recover from the
19 employee the difference between the provider's charge and the
20 amount paid by the employer or the insurer on a compensable
21 injury, or for medical services or treatment determined by the
22 Commission to be excessive or unnecessary.

23 (e-5) If an employer notifies a provider that the employer
24 does not consider the illness or injury to be compensable under
25 this Act, the provider may seek payment of the provider's
26 actual charges from the employee for any procedure, treatment,

1 or service rendered. Once an employee informs the provider that
2 there is an application filed with the Commission to resolve a
3 dispute over payment of such charges, the provider shall cease
4 any and all efforts to collect payment for the services that
5 are the subject of the dispute. Any statute of limitations or
6 statute of repose applicable to the provider's efforts to
7 collect payment from the employee shall be tolled from the date
8 that the employee files the application with the Commission
9 until the date that the provider is permitted to resume
10 collection efforts under the provisions of this Section.

11 (e-10) If an employer notifies a provider that the employer
12 will pay only a portion of a bill for any procedure, treatment,
13 or service rendered in connection with a compensable illness or
14 disease, the provider may seek payment from the employee for
15 the remainder of the amount of the bill up to the lesser of the
16 actual charge, negotiated rate, if applicable, or the payment
17 level set by the Commission in the fee schedule established in
18 this Section. Once an employee informs the provider that there
19 is an application filed with the Commission to resolve a
20 dispute over payment of such charges, the provider shall cease
21 any and all efforts to collect payment for the services that
22 are the subject of the dispute. Any statute of limitations or
23 statute of repose applicable to the provider's efforts to
24 collect payment from the employee shall be tolled from the date
25 that the employee files the application with the Commission
26 until the date that the provider is permitted to resume

1 collection efforts under the provisions of this Section.

2 (e-15) When there is a dispute over the compensability of
3 or amount of payment for a procedure, treatment, or service,
4 and a case is pending or proceeding before an Arbitrator or the
5 Commission, the provider may mail the employee reminders that
6 the employee will be responsible for payment of any procedure,
7 treatment or service rendered by the provider. The reminders
8 must state that they are not bills, to the extent practicable
9 include itemized information, and state that the employee need
10 not pay until such time as the provider is permitted to resume
11 collection efforts under this Section. The reminders shall not
12 be provided to any credit rating agency. The reminders may
13 request that the employee furnish the provider with information
14 about the proceeding under this Act, such as the file number,
15 names of parties, and status of the case. If an employee fails
16 to respond to such request for information or fails to furnish
17 the information requested within 90 days of the date of the
18 reminder, the provider is entitled to resume any and all
19 efforts to collect payment from the employee for the services
20 rendered to the employee and the employee shall be responsible
21 for payment of any outstanding bills for a procedure,
22 treatment, or service rendered by a provider.

23 (e-20) Upon a final award or judgment by an Arbitrator or
24 the Commission, or a settlement agreed to by the employer and
25 the employee, a provider may resume any and all efforts to
26 collect payment from the employee for the services rendered to

1 the employee and the employee shall be responsible for payment
2 of any outstanding bills for a procedure, treatment, or service
3 rendered by a provider as well as the interest awarded under
4 subsection (d) of this Section. In the case of a procedure,
5 treatment, or service deemed compensable, the provider shall
6 not require a payment rate, excluding the interest provisions
7 under subsection (d), greater than the lesser of the actual
8 charge or the payment level set by the Commission in the fee
9 schedule established in this Section. Payment for services
10 deemed not covered or not compensable under this Act is the
11 responsibility of the employee unless a provider and employee
12 have agreed otherwise in writing. Services not covered or not
13 compensable under this Act are not subject to the fee schedule
14 in this Section.

15 (f) Nothing in this Act shall prohibit an employer or
16 insurer from contracting with a health care provider or group
17 of health care providers for reimbursement levels for benefits
18 under this Act different from those provided in this Section.

19 (g) On or before January 1, 2010 the Commission shall
20 provide to the Governor and General Assembly a report regarding
21 the implementation of the medical fee schedule and the index
22 used for annual adjustment to that schedule as described in
23 this Section.

24 (Source: P.A. 97-18, eff. 6-28-11.)

25 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

1 Sec. 11. The compensation herein provided, together with
2 the provisions of this Act, shall be the measure of the
3 responsibility of any employer engaged in any of the
4 enterprises or businesses enumerated in Section 3 of this Act,
5 or of any employer who is not engaged in any such enterprises
6 or businesses, but who has elected to provide and pay
7 compensation for accidental injuries sustained by any employee
8 arising out of and in the course of the employment according to
9 the provisions of this Act, and whose election to continue
10 under this Act, has not been nullified by any action of his
11 employees as provided for in this Act.

12 Accidental injuries incurred while participating in
13 voluntary recreational programs including but not limited to
14 athletic events, parties and picnics do not arise out of and in
15 the course of the employment even though the employer pays some
16 or all of the cost thereof. This exclusion shall not apply in
17 the event that the injured employee was ordered or assigned by
18 his employer to participate in the program.

19 Notwithstanding any other defense, accidental injuries
20 incurred while the employee is engaged in the active commission
21 of and as a proximate result of the active commission of (a) a
22 forcible felony, (b) aggravated driving under the influence of
23 alcohol, other drug or drugs, or intoxicating compound or
24 compounds, or any combination thereof, or (c) reckless homicide
25 and for which the employee was convicted do not arise out of
26 and in the course of employment if the commission of that

1 forcible felony, aggravated driving under the influence, or
2 reckless homicide caused an accident resulting in the death or
3 severe injury of another person. If an employee is acquitted of
4 a forcible felony, aggravated driving under the influence, or
5 reckless homicide that caused an accident resulting in the
6 death or severe injury of another person or if these charges
7 are dismissed, there shall be no presumption that the employee
8 is eligible for benefits under this Act. No employee shall be
9 entitled to additional compensation under Sections 19(k) or
10 19(1) of this Act or attorney's fees under Section 16 of this
11 Act when the employee has been charged with a forcible felony,
12 aggravated driving under the influence, or reckless homicide
13 that caused an accident resulting in the death or severe injury
14 of another person and the employer terminates benefits or
15 refuses to pay benefits to the employee until the termination
16 of any pending criminal proceedings.

17 Accidental injuries incurred while participating as a
18 patient in a drug or alcohol rehabilitation program do not
19 arise out of and in the course of employment even though the
20 employer pays some or all of the costs thereof.

21 Any injury to or disease or death of an employee arising
22 from the administration of a vaccine, including without
23 limitation smallpox vaccine, to prepare for, or as a response
24 to, a threatened or potential bioterrorist incident to the
25 employee as part of a voluntary inoculation program in
26 connection with the person's employment or in connection with

1 any governmental program or recommendation for the inoculation
2 of workers in the employee's occupation, geographical area, or
3 other category that includes the employee is deemed to arise
4 out of and in the course of the employment for all purposes
5 under this Act. This paragraph added by this amendatory Act of
6 the 93rd General Assembly is declarative of existing law and is
7 not a new enactment.

8 No compensation shall be payable if (i) the employee's
9 intoxication is the proximate cause of the employee's
10 accidental injury or (ii) at the time the employee incurred the
11 accidental injury, the employee was so intoxicated that the
12 intoxication constituted a departure from the employment.
13 Admissible evidence of the concentration of (1) alcohol, (2)
14 cannabis as defined in the Cannabis Control Act, (3) a
15 controlled substance listed in the Illinois Controlled
16 Substances Act, or (4) an intoxicating compound listed in the
17 Use of Intoxicating Compounds Act in the employee's blood,
18 breath, or urine at the time the employee incurred the
19 accidental injury shall be considered in any hearing under this
20 Act to determine whether the employee was intoxicated at the
21 time the employee incurred the accidental injuries. If at the
22 time of the accidental injuries, there was 0.08% or more by
23 weight of alcohol in the employee's blood, breath, or urine or
24 if there is any evidence of impairment due to the unlawful or
25 unauthorized use of (1) cannabis as defined in the Cannabis
26 Control Act, (2) a controlled substance listed in the Illinois

1 Controlled Substances Act, or (3) an intoxicating compound
2 listed in the Use of Intoxicating Compounds Act or if the
3 employee refuses to submit to testing of blood, breath, or
4 urine, then there shall be a rebuttable presumption that the
5 employee was intoxicated and that the intoxication was the
6 proximate cause of the employee's injury. The employee may
7 overcome the rebuttable presumption by the preponderance of the
8 admissible evidence that the intoxication was not the sole
9 proximate cause ~~or proximate cause~~ of the accidental injuries.
10 Percentage by weight of alcohol in the blood shall be based on
11 grams of alcohol per 100 milliliters of blood. Percentage by
12 weight of alcohol in the breath shall be based upon grams of
13 alcohol per 210 liters of breath. Any testing that has not been
14 performed by an accredited or certified testing laboratory
15 shall not be admissible in any hearing under this Act to
16 determine whether the employee was intoxicated at the time the
17 employee incurred the accidental injury.

18 All sample collection and testing for alcohol and drugs
19 under this Section shall be performed in accordance with rules
20 to be adopted by the Commission. These rules shall ensure:

21 (1) compliance with the National Labor Relations Act
22 regarding collective bargaining agreements or regulations
23 promulgated by the United States Department of
24 Transportation;

25 (2) that samples are collected and tested in
26 conformance with national and State legal and regulatory

1 standards for the privacy of the individual being tested,
2 and in a manner reasonably calculated to prevent
3 substitutions or interference with the collection or
4 testing of reliable sample;

5 (3) that split testing procedures are utilized;

6 (4) that sample collection is documented, and the
7 documentation procedures include:

8 (A) the labeling of samples in a manner so as to
9 reasonably preclude the probability of erroneous
10 identification of test result; and

11 (B) an opportunity for the employee to provide
12 notification of any information which he or she
13 considers relevant to the test, including
14 identification of currently or recently used
15 prescription or nonprescription drugs and other
16 relevant medical information;

17 (5) that sample collection, storage, and
18 transportation to the place of testing is performed in a
19 manner so as to reasonably preclude the probability of
20 sample contamination or adulteration; and

21 (6) that chemical analyses of blood, urine, breath, or
22 other bodily substance are performed according to
23 nationally scientifically accepted analytical methods and
24 procedures.

25 The changes to this Section made by Public Act 97-18 ~~this~~
26 ~~amendatory Act of the 97th General Assembly~~ apply only to

1 accidental injuries that occur on or after September 1, 2011.
2 (Source: P.A. 97-18, eff. 6-28-11; 97-276, eff. 8-8-11; revised
3 9-15-11.)