



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2521

Introduced 11/8/2011, by Sen. Kyle McCarter

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 305/8.1b	

Amends the Workers' Compensation Act. Defines "accident" and "injury." Provides that "injury" includes the aggravation of a pre-existing condition by an accident arising out of and in the course of the employment, but only for so long as the aggravation of the pre-existing condition continues to be the major contributing cause of the disability. Provides that an injury resulting directly or indirectly from idiopathic causes is not compensable. No longer allows an employee to choose in writing to decline their employer's preferred provider program. Makes changes concerning the determination of the level of permanent partial disability. Effective immediately.

LRB097 14633 AEK 59515 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, and 8.1b 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) To obtain compensation under this Act, an employee
9 bears the burden of showing, by a preponderance of the
10 evidence, that he or she has sustained accidental injuries
11 arising out of and in the course of the employment.

12 (e) The term "accident" as used in this Act means an
13 occurrence arising out of the employment, resulting from a risk
14 incidental to the employment, and in the course of the
15 employment at a time and place and under circumstances
16 reasonably required by the employment.

17 (f) The term "injury" as used in this Act means a condition
18 or impairment that arises out of and in the course of
19 employment. An injury, its occupational cause, and any
20 resulting manifestations or disability must be established to a
21 reasonable degree of medical certainty, based on objective
22 relevant medical findings, and the accidental compensable
23 injury must be the major contributing cause of any resulting
24 injuries. For the purposes of this Section, "major contributing
25 cause" means the cause which is more than 50% responsible for
26 the injury as compared to all other causes combined for which

1 treatment or benefits are sought. "Injury" includes the
2 aggravation of a pre-existing condition by an accident arising
3 out of and in the course of the employment, but only for so
4 long as the aggravation of the pre-existing condition continues
5 to be the major contributing cause of the disability.

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

8 (A) it is reasonably apparent, upon consideration
9 of all circumstances, that the accident is the major
10 contributing cause of the injury; and

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

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

16 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised
17 9-15-11.)

18 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

22 (a) The employer shall provide and pay the negotiated rate,
23 if applicable, or the lesser of the health care provider's
24 actual charges or according to a fee schedule, subject to
25 Section 8.2, in effect at the time the service was rendered for

1 all the necessary first aid, medical and surgical services, and
2 all necessary medical, surgical and hospital services
3 thereafter incurred, limited, however, to that which is
4 reasonably required to cure or relieve from the effects of the
5 accidental injury, even if a health care provider sells,
6 transfers, or otherwise assigns an account receivable for
7 procedures, treatments, or services covered under this Act. If
8 the employer does not dispute payment of first aid, medical,
9 surgical, and hospital services, the employer shall make such
10 payment to the provider on behalf of the employee. The employer
11 shall also pay for treatment, instruction and training
12 necessary for the physical, mental and vocational
13 rehabilitation of the employee, including all maintenance
14 costs and expenses incidental thereto. If as a result of the
15 injury the employee is unable to be self-sufficient the
16 employer shall further pay for such maintenance or
17 institutional care as shall be required.

18 The employee may at any time elect to secure his own
19 physician, surgeon and hospital services at the employer's
20 expense, or,

21 Upon agreement between the employer and the employees, or
22 the employees' exclusive representative, and subject to the
23 approval of the Illinois Workers' Compensation Commission, the
24 employer shall maintain a list of physicians, to be known as a
25 Panel of Physicians, who are accessible to the employees. The
26 employer shall post this list in a place or places easily

1 accessible to his employees. The employee shall have the right
2 to make an alternative choice of physician from such Panel if
3 he is not satisfied with the physician first selected. If, due
4 to the nature of the injury or its occurrence away from the
5 employer's place of business, the employee is unable to make a
6 selection from the Panel, the selection process from the Panel
7 shall not apply. The physician selected from the Panel may
8 arrange for any consultation, referral or other specialized
9 medical services outside the Panel at the employer's expense.
10 Provided that, in the event the Commission shall find that a
11 doctor selected by the employee is rendering improper or
12 inadequate care, the Commission may order the employee to
13 select another doctor certified or qualified in the medical
14 field for which treatment is required. If the employee refuses
15 to make such change the Commission may relieve the employer of
16 his obligation to pay the doctor's charges from the date of
17 refusal to the date of compliance.

18 Any vocational rehabilitation counselors who provide
19 service under this Act shall have appropriate certifications
20 which designate the counselor as qualified to render opinions
21 relating to vocational rehabilitation. Vocational
22 rehabilitation may include, but is not limited to, counseling
23 for job searches, supervising a job search program, and
24 vocational retraining including education at an accredited
25 learning institution. The employee or employer may petition to
26 the Commission to decide disputes relating to vocational

1 rehabilitation and the Commission shall resolve any such
2 dispute, including payment of the vocational rehabilitation
3 program by the employer.

4 The maintenance benefit shall not be less than the
5 temporary total disability rate determined for the employee. In
6 addition, maintenance shall include costs and expenses
7 incidental to the vocational rehabilitation program.

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

20 Every hospital, physician, surgeon or other person
21 rendering treatment or services in accordance with the
22 provisions of this Section shall upon written request furnish
23 full and complete reports thereof to, and permit their records
24 to be copied by, the employer, the employee or his dependents,
25 as the case may be, or any other party to any proceeding for
26 compensation before the Commission, or their attorneys.

1 Notwithstanding the foregoing, the employer's liability to
2 pay for such medical services selected by the employee shall be
3 limited to:

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

5 (2) all medical, surgical and hospital services
6 provided by the physician, surgeon or hospital initially
7 chosen by the employee or by any other physician,
8 consultant, expert, institution or other provider of
9 services recommended by said initial service provider or
10 any subsequent provider of medical services in the chain of
11 referrals from said initial service provider; plus

12 (3) all medical, surgical and hospital services
13 provided by any second physician, surgeon or hospital
14 subsequently chosen by the employee or by any other
15 physician, consultant, expert, institution or other
16 provider of services recommended by said second service
17 provider or any subsequent provider of medical services in
18 the chain of referrals from said second service provider.
19 Thereafter the employer shall select and pay for all
20 necessary medical, surgical and hospital treatment and the
21 employee may not select a provider of medical services at
22 the employer's expense unless the employer agrees to such
23 selection. At any time the employee may obtain any medical
24 treatment he desires at his own expense. This paragraph
25 shall not affect the duty to pay for rehabilitation
26 referred to above.

1 (4) The following shall apply for injuries occurring on
2 or after June 28, 2011 (the effective date of Public Act
3 97-18) ~~this amendatory Act of the 97th General Assembly~~ and
4 only when an employer has an approved preferred provider
5 program pursuant to Section 8.1a on the date the employee
6 sustained his or her accidental injuries:

7 (A) The employer shall, in writing, on a form
8 promulgated by the Commission, inform the employee of
9 the preferred provider program;

10 (B) Subsequent to the report of an injury by an
11 employee, the employee may choose physicians in the
12 preferred provider program as provided in subsection
13 (c) of Section 8.1a ~~in writing at any time to decline~~
14 ~~the preferred provider program, in which case that~~
15 ~~would constitute one of the two choices of medical~~
16 ~~providers to which the employee is entitled under~~
17 ~~subsection (a) (2) or (a) (3); and~~

18 (C) Prior to the report of an injury by an
19 employee, when an employee chooses non-emergency
20 treatment from a provider not within the preferred
21 provider program, that would constitute the employee's
22 one choice of medical providers to which the employee
23 is entitled under subsection (c) of Section 8.1a ~~(a) (2)~~
24 ~~or (a) (3).~~

25 When an employer and employee so agree in writing, nothing
26 in this Act prevents an employee whose injury or disability has

1 been established under this Act, from relying in good faith, on
2 treatment by prayer or spiritual means alone, in accordance
3 with the tenets and practice of a recognized church or
4 religious denomination, by a duly accredited practitioner
5 thereof, and having nursing services appropriate therewith,
6 without suffering loss or diminution of the compensation
7 benefits under this Act. However, the employee shall submit to
8 all physical examinations required by this Act. The cost of
9 such treatment and nursing care shall be paid by the employee
10 unless the employer agrees to make such payment.

11 Where the accidental injury results in the amputation of an
12 arm, hand, leg or foot, or the enucleation of an eye, or the
13 loss of any of the natural teeth, the employer shall furnish an
14 artificial of any such members lost or damaged in accidental
15 injury arising out of and in the course of employment, and
16 shall also furnish the necessary braces in all proper and
17 necessary cases. In cases of the loss of a member or members by
18 amputation, the employer shall, whenever necessary, maintain
19 in good repair, refit or replace the artificial limbs during
20 the lifetime of the employee. Where the accidental injury
21 accompanied by physical injury results in damage to a denture,
22 eye glasses or contact eye lenses, or where the accidental
23 injury results in damage to an artificial member, the employer
24 shall replace or repair such denture, glasses, lenses, or
25 artificial member.

26 The furnishing by the employer of any such services or

1 appliances is not an admission of liability on the part of the
2 employer to pay compensation.

3 The furnishing of any such services or appliances or the
4 servicing thereof by the employer is not the payment of
5 compensation.

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

14 1. The compensation rate for temporary total
15 incapacity under this paragraph (b) of this Section shall
16 be equal to 66 2/3% of the employee's average weekly wage
17 computed in accordance with Section 10, provided that it
18 shall be not less than 66 2/3% of the sum of the Federal
19 minimum wage under the Fair Labor Standards Act, or the
20 Illinois minimum wage under the Minimum Wage Law, whichever
21 is more, multiplied by 40 hours. This percentage rate shall
22 be increased by 10% for each spouse and child, not to
23 exceed 100% of the total minimum wage calculation,
24 nor exceed the employee's average weekly wage computed in
25 accordance with the provisions of Section 10, whichever is
26 less.

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

18 2.1. The compensation rate in all cases of serious and
19 permanent disfigurement under paragraph (c) and of
20 permanent partial disability under subparagraph (2) of
21 paragraph (d) or under paragraph (e) of this Section shall
22 be equal to 60% of the employee's average weekly wage
23 computed in accordance with the provisions of Section 10,
24 provided that it shall be not less than 66 2/3% of the sum
25 of the Federal minimum wage under the Fair Labor Standards
26 Act, or the Illinois minimum wage under the Minimum Wage

1 Law, whichever is more, multiplied by 40 hours. This
2 percentage rate shall be increased by 10% for each spouse
3 and child, not to exceed 100% of the total minimum wage
4 calculation,
5 nor exceed the employee's average weekly wage computed in
6 accordance with the provisions of Section 10, whichever is
7 less.

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

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

18 The maximum weekly compensation rate from July 1, 1975,
19 except as hereinafter provided, shall be 100% of the
20 State's average weekly wage in covered industries under the
21 Unemployment Insurance Act, that being the wage that most
22 closely approximates the State's average weekly wage.

23 The maximum weekly compensation rate, for the period
24 July 1, 1984, through June 30, 1987, except as hereinafter
25 provided, shall be \$293.61. Effective July 1, 1987 and on
26 July 1 of each year thereafter the maximum weekly

1 compensation rate, except as hereinafter provided, shall
2 be determined as follows: if during the preceding 12 month
3 period there shall have been an increase in the State's
4 average weekly wage in covered industries under the
5 Unemployment Insurance Act, the weekly compensation rate
6 shall be proportionately increased by the same percentage
7 as the percentage of increase in the State's average weekly
8 wage in covered industries under the Unemployment
9 Insurance Act during such period.

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

26 From July 1, 1977 and thereafter such maximum weekly

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

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

13 4.1. Any provision herein to the contrary
14 notwithstanding, the weekly compensation rate for
15 compensation payments under subparagraph 18 of paragraph
16 (e) of this Section and under paragraph (f) of this Section
17 and under paragraph (a) of Section 7 and for amputation of
18 a member or enucleation of an eye under paragraph (e) of
19 this Section, shall in no event be less than 50% of the
20 State's average weekly wage in covered industries under the
21 Unemployment Insurance Act.

22 4.2. Any provision to the contrary notwithstanding,
23 the total compensation payable under Section 7 shall not
24 exceed the greater of \$500,000 or 25 years.

25 5. For the purpose of this Section this State's average
26 weekly wage in covered industries under the Unemployment

1 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
2 per week and the computation of compensation rates shall be
3 based on the aforesaid average weekly wage until modified
4 as hereinafter provided.

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

21 7. The payment of compensation by an employer or his
22 insurance carrier to an injured employee shall not
23 constitute an admission of the employer's liability to pay
24 compensation.

25 (c) For any serious and permanent disfigurement to the
26 hand, head, face, neck, arm, leg below the knee or the chest

1 above the axillary line, the employee is entitled to
2 compensation for such disfigurement, the amount determined by
3 agreement at any time or by arbitration under this Act, at a
4 hearing not less than 6 months after the date of the accidental
5 injury, which amount shall not exceed 150 weeks (if the
6 accidental injury occurs on or after the effective date of this
7 amendatory Act of the 94th General Assembly but before February
8 1, 2006) or 162 weeks (if the accidental injury occurs on or
9 after February 1, 2006) at the applicable rate provided in
10 subparagraph 2.1 of paragraph (b) of this Section.

11 No compensation is payable under this paragraph where
12 compensation is payable under paragraphs (d), (e) or (f) of
13 this Section.

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

19 (d) 1. If, after the accidental injury has been sustained,
20 the employee as a result thereof becomes partially
21 incapacitated from pursuing his usual and customary line of
22 employment, he shall, except in cases compensated under the
23 specific schedule set forth in paragraph (e) of this Section,
24 receive compensation for the duration of his disability,
25 subject to the limitations as to maximum amounts fixed in
26 paragraph (b) of this Section, equal to 66-2/3% of the

1 difference between the average amount which he would be able to
2 earn in the full performance of his duties in the occupation in
3 which he was engaged at the time of the accident and the
4 average amount which he is earning or is able to earn in some
5 suitable employment or business after the accident. For
6 accidental injuries that occur on or after September 1, 2011,
7 an award for wage differential under this subsection shall be
8 effective only until the employee reaches the age of 67 or 5
9 years from the date the award becomes final, whichever is
10 later.

11 2. If, as a result of the accident, the employee sustains
12 serious and permanent injuries not covered by paragraphs (c)
13 and (e) of this Section or having sustained injuries covered by
14 the aforesaid paragraphs (c) and (e), he shall have sustained
15 in addition thereto other injuries which injuries do not
16 incapacitate him from pursuing the duties of his employment but
17 which would disable him from pursuing other suitable
18 occupations, or which have otherwise resulted in physical
19 impairment; or if such injuries partially incapacitate him from
20 pursuing the duties of his usual and customary line of
21 employment but do not result in an impairment of earning
22 capacity, or having resulted in an impairment of earning
23 capacity, the employee elects to waive his right to recover
24 under the foregoing subparagraph 1 of paragraph (d) of this
25 Section then in any of the foregoing events, he shall receive
26 in addition to compensation for temporary total disability

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

24 (e) For accidental injuries in the following schedule, the
25 employee shall receive compensation for the period of temporary
26 total incapacity for work resulting from such accidental

1 injury, under subparagraph 1 of paragraph (b) of this Section,
2 and shall receive in addition thereto compensation for a
3 further period for the specific loss herein mentioned, but
4 shall not receive any compensation under any other provisions
5 of this Act. The following listed amounts apply to either the
6 loss of or the permanent and complete loss of use of the member
7 specified, such compensation for the length of time as follows:

8 1. Thumb-

9 70 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 76 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 2. First, or index finger-

15 40 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 43 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 3. Second, or middle finger-

21 35 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

24 38 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 4. Third, or ring finger-

1 25 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

4 27 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 5. Fourth, or little finger-

7 20 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 22 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 6. Great toe-

13 35 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 38 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 7. Each toe other than great toe-

19 12 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 13 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 8. The loss of the first or distal phalanx of the thumb
25 or of any finger or toe shall be considered to be equal to
26 the loss of one-half of such thumb, finger or toe and the

1 compensation payable shall be one-half of the amount above
2 specified. The loss of more than one phalanx shall be
3 considered as the loss of the entire thumb, finger or toe.
4 In no case shall the amount received for more than one
5 finger exceed the amount provided in this schedule for the
6 loss of a hand.

7 9. Hand-

8 190 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.

11 205 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 190 weeks if the accidental injury occurs on or
14 after June 28, 2011 (the effective date of Public Act
15 97-18) ~~this amendatory Act of the 97th General Assembly~~
16 and if the accidental injury involves carpal tunnel
17 syndrome due to repetitive or cumulative trauma, in
18 which case the permanent partial disability shall not
19 exceed 15% loss of use of the hand, except for cause
20 shown by clear and convincing evidence and in which
21 case the award shall not exceed 30% loss of use of the
22 hand.

23 The loss of 2 or more digits, or one or more phalanges
24 of 2 or more digits, of a hand may be compensated on the
25 basis of partial loss of use of a hand, provided, further,
26 that the loss of 4 digits, or the loss of use of 4 digits,

1 in the same hand shall constitute the complete loss of a
2 hand.

3 10. Arm-

4 235 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 253 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 Where an accidental injury results in the amputation of
10 an arm below the elbow, such injury shall be compensated as
11 a loss of an arm. Where an accidental injury results in the
12 amputation of an arm above the elbow, compensation for an
13 additional 15 weeks (if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the 94th
15 General Assembly but before February 1, 2006) or an
16 additional 17 weeks (if the accidental injury occurs on or
17 after February 1, 2006) shall be paid, except where the
18 accidental injury results in the amputation of an arm at
19 the shoulder joint, or so close to shoulder joint that an
20 artificial arm cannot be used, or results in the
21 disarticulation of an arm at the shoulder joint, in which
22 case compensation for an additional 65 weeks (if the
23 accidental injury occurs on or after the effective date of
24 this amendatory Act of the 94th General Assembly but before
25 February 1, 2006) or an additional 70 weeks (if the
26 accidental injury occurs on or after February 1, 2006)

1 shall be paid.

2 11. Foot-

3 155 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 167 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 12. Leg-

9 200 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.

12 215 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 Where an accidental injury results in the amputation of
15 a leg below the knee, such injury shall be compensated as
16 loss of a leg. Where an accidental injury results in the
17 amputation of a leg above the knee, compensation for an
18 additional 25 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 27 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 a leg at the
24 hip joint, or so close to the hip joint that an artificial
25 leg cannot be used, or results in the disarticulation of a
26 leg at the hip joint, in which case compensation for an

1 additional 75 weeks (if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the 94th
3 General Assembly but before February 1, 2006) or an
4 additional 81 weeks (if the accidental injury occurs on or
5 after February 1, 2006) shall be paid.

6 13. Eye-

7 150 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 162 weeks if the accidental injury occurs on or
11 after February 1, 2006.

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

19 14. Loss of hearing of one ear-

20 50 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 54 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 Total and permanent loss of hearing of both ears-

26 200 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.

3 215 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 15. Testicle-

6 50 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 54 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 Both testicles-

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 16. For the permanent partial loss of use of a member
18 or sight of an eye, or hearing of an ear, compensation
19 during that proportion of the number of weeks in the
20 foregoing schedule provided for the loss of such member or
21 sight of an eye, or hearing of an ear, which the partial
22 loss of use thereof bears to the total loss of use of such
23 member, or sight of eye, or hearing of an ear.

24 (a) Loss of hearing for compensation purposes
25 shall be confined to the frequencies of 1,000, 2,000
26 and 3,000 cycles per second. Loss of hearing ability

1 for frequency tones above 3,000 cycles per second are
2 not to be considered as constituting disability for
3 hearing.

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

19 (c) In measuring hearing impairment, the lowest
20 measured losses in each of the 3 frequencies shall be
21 added together and divided by 3 to determine the
22 average decibel loss. For every decibel of loss
23 exceeding 30 decibels an allowance of 1.82% shall be
24 made up to the maximum of 100% which is reached at 85
25 decibels.

26 (d) If a hearing loss is established to have

1 existed on July 1, 1975 by audiometric testing the
2 employer shall not be liable for the previous loss so
3 established nor shall he be liable for any loss for
4 which compensation has been paid or awarded.

5 (e) No consideration shall be given to the question
6 of whether or not the ability of an employee to
7 understand speech is improved by the use of a hearing
8 aid.

9 (f) No claim for loss of hearing due to industrial
10 noise shall be brought against an employer or allowed
11 unless the employee has been exposed for a period of
12 time sufficient to cause permanent impairment to noise
13 levels in excess of the following:

14	Sound Level DBA	
15	Slow Response	Hours Per Day
16	90	8
17	92	6
18	95	4
19	97	3
20	100	2
21	102	1-1/2
22	105	1
23	110	1/2
24	115	1/4

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

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

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

20 Any employee who has previously suffered the loss or
21 permanent and complete loss of the use of any of such
22 members, and in a subsequent independent accident loses
23 another or suffers the permanent and complete loss of the
24 use of any one of such members the employer for whom the
25 injured employee is working at the time of the last
26 independent accident is liable to pay compensation only for

1 the loss or permanent and complete loss of the use of the
2 member occasioned by the last independent accident.

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

11 Beginning July 1, 1980, and every 6 months thereafter, the
12 Commission shall examine the Second Injury Fund and when, after
13 deducting all advances or loans made to such Fund, the amount
14 therein is \$500,000 then the amount required to be paid by
15 employers pursuant to paragraph (f) of Section 7 shall be
16 reduced by one-half. When the Second Injury Fund reaches the
17 sum of \$600,000 then the payments shall cease entirely.
18 However, when the Second Injury Fund has been reduced to
19 \$400,000, payment of one-half of the amounts required by
20 paragraph (f) of Section 7 shall be resumed, in the manner
21 herein provided, and when the Second Injury Fund has been
22 reduced to \$300,000, payment of the full amounts required by
23 paragraph (f) of Section 7 shall be resumed, in the manner
24 herein provided. The Commission shall make the changes in
25 payment effective by general order, and the changes in payment
26 become immediately effective for all cases coming before the

1 Commission thereafter either by settlement agreement or final
2 order, irrespective of the date of the accidental injury.

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

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

20 An employee entitled to benefits under paragraph (f) of
21 this Section shall also be entitled to receive from the Rate
22 Adjustment Fund provided in paragraph (f) of Section 7 of the
23 supplementary benefits provided in paragraph (g) of this
24 Section 8.

25 If any employee who receives an award under this paragraph
26 afterwards returns to work or is able to do so, and earns or is

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

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

14 If an employee who had previously incurred loss or the
15 permanent and complete loss of use of one member, through the
16 loss or the permanent and complete loss of the use of one hand,
17 one arm, one foot, one leg, or one eye, incurs permanent and
18 complete disability through the loss or the permanent and
19 complete loss of the use of another member, he shall receive,
20 in addition to the compensation payable by the employer and
21 after such payments have ceased, an amount from the Second
22 Injury Fund provided for in paragraph (f) of Section 7, which,
23 together with the compensation payable from the employer in
24 whose employ he was when the last accidental injury was
25 incurred, will equal the amount payable for permanent and
26 complete disability as provided in this paragraph of this

1 Section.

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

8 In its award the Commission or the Arbitrator shall
9 specifically find the amount the injured employee shall be
10 weekly paid, the number of weeks compensation which shall be
11 paid by the employer, the date upon which payments begin out of
12 the Second Injury Fund provided for in paragraph (f) of Section
13 7 of this Act, the length of time the weekly payments continue,
14 the date upon which the pension payments commence and the
15 monthly amount of the payments. The Commission shall 30 days
16 after the date upon which payments out of the Second Injury
17 Fund have begun as provided in the award, and every month
18 thereafter, prepare and submit to the State Comptroller a
19 voucher for payment for all compensation accrued to that date
20 at the rate fixed by the Commission. The State Comptroller
21 shall draw a warrant to the injured employee along with a
22 receipt to be executed by the injured employee and returned to
23 the Commission. The endorsed warrant and receipt is a full and
24 complete acquittance to the Commission for the payment out of
25 the Second Injury Fund. No other appropriation or warrant is
26 necessary for payment out of the Second Injury Fund. The Second

1 Injury Fund is appropriated for the purpose of making payments
2 according to the terms of the awards.

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

10 (g) Every award for permanent total disability entered by
11 the Commission on and after July 1, 1965 under which
12 compensation payments shall become due and payable after the
13 effective date of this amendatory Act, and every award for
14 death benefits or permanent total disability entered by the
15 Commission on and after the effective date of this amendatory
16 Act shall be subject to annual adjustments as to the amount of
17 the compensation rate therein provided. Such adjustments shall
18 first be made on July 15, 1977, and all awards made and entered
19 prior to July 1, 1975 and on July 15 of each year thereafter.
20 In all other cases such adjustment shall be made on July 15 of
21 the second year next following the date of the entry of the
22 award and shall further be made on July 15 annually thereafter.
23 If during the intervening period from the date of the entry of
24 the award, or the last periodic adjustment, there shall have
25 been an increase in the State's average weekly wage in covered
26 industries under the Unemployment Insurance Act, the weekly

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

23 Provided, that in cases of awards entered by the Commission
24 for injuries occurring before July 1, 1975, the increases in
25 the compensation rate adjusted under the foregoing provision of
26 this paragraph (g) shall be limited to increases in the State's

1 average weekly wage in covered industries under the
2 Unemployment Insurance Act occurring after July 1, 1975.

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

1 award. This paragraph shall not apply to cases where there is
2 disputed liability and in which a compromise lump sum
3 settlement between the employer and the injured employee, or
4 his or her dependents, as the case may be, has been duly
5 approved by the Illinois Workers' Compensation Commission.

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

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

22 (h-1) In case an injured employee is under legal disability
23 at the time when any right or privilege accrues to him or her
24 under this Act, a guardian may be appointed pursuant to law,
25 and may, on behalf of such person under legal disability, claim
26 and exercise any such right or privilege with the same effect

1 as if the employee himself or herself had claimed or exercised
2 the right or privilege. No limitations of time provided by this
3 Act run so long as the employee who is under legal disability
4 is without a conservator or guardian.

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

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

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

19 (j) 1. In the event the injured employee receives benefits,
20 including medical, surgical or hospital benefits under any
21 group plan covering non-occupational disabilities contributed
22 to wholly or partially by the employer, which benefits should
23 not have been payable if any rights of recovery existed under
24 this Act, then such amounts so paid to the employee from any
25 such group plan as shall be consistent with, and limited to,
26 the provisions of paragraph 2 hereof, shall be credited to or

1 against any compensation payment for temporary total
2 incapacity for work or any medical, surgical or hospital
3 benefits made or to be made under this Act. In such event, the
4 period of time for giving notice of accidental injury and
5 filing application for adjustment of claim does not commence to
6 run until the termination of such payments. This paragraph does
7 not apply to payments made under any group plan which would
8 have been payable irrespective of an accidental injury under
9 this Act. Any employer receiving such credit shall keep such
10 employee safe and harmless from any and all claims or
11 liabilities that may be made against him by reason of having
12 received such payments only to the extent of such credit.

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

23 2. Nothing contained in this Act shall be construed to give
24 the employer or the insurance carrier the right to credit for
25 any benefits or payments received by the employee other than
26 compensation payments provided by this Act, and where the

1 employee receives payments other than compensation payments,
2 whether as full or partial salary, group insurance benefits,
3 bonuses, annuities or any other payments, the employer or
4 insurance carrier shall receive credit for each such payment
5 only to the extent of the compensation that would have been
6 payable during the period covered by such payment.

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

15 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised
16 9-15-11.)

17 (820 ILCS 305/8.1a)

18 Sec. 8.1a. Preferred provider programs. Starting on June
19 28, 2011 (the effective date of Public Act 97-18), ~~this~~
20 ~~amendatory Act of the 97th General Assembly,~~ to satisfy its
21 liabilities under this Act for the provision of medical
22 treatment to injured employees, an employer may utilize a
23 preferred provider program approved by the Illinois Department
24 of Insurance as in compliance with Sections 370k, 370l, 370m,
25 and 370p of Article XX-1/2 of the Illinois Insurance Code. For

1 the purposes of compliance with these Sections, the employee
2 shall be considered the "beneficiary" and the employer shall be
3 considered the "insured". Employers and insurers contracting
4 directly with providers or utilizing multiple preferred
5 provider programs to implement a preferred provider program
6 providing workers' compensation benefits shall be subject to
7 the above requirements of Article XX-1/2 applicable to
8 administrators with regard to such program, with the exception
9 of Section 3701 of the Illinois Insurance Code.

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

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

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

19 (3) Medical treatment for injuries shall be readily
20 available at reasonable times to all employees. To the
21 extent feasible, all medical treatment for injuries shall
22 be readily accessible to all employees.

23 (4) Physician compensation shall not be structured in
24 order to achieve the goal of inappropriately reducing,
25 delaying, or denying medical treatment or restricting
26 access to medical treatment.

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

12 (b) The administrator of any preferred provider program
13 under this Act that uses economic evaluation shall file with
14 the Director of Insurance a description of any policies and
15 procedures related to economic evaluation utilized by the
16 program. The filing shall describe how these policies and
17 procedures are used in utilization review, peer review,
18 incentive and penalty programs, and in provider retention and
19 termination decisions. The Director of Insurance may deny
20 approval of any preferred provider program that uses any policy
21 or procedure of economic evaluation to inappropriately reduce,
22 delay or deny medical treatment, or to restrict access to
23 medical treatment. Evaluation of providers based upon
24 objective medical quality and patient outcome measurements,
25 appropriate use of best clinical practices and evidence based
26 medicine, and use of health information technology shall be

1 permitted. If approved, the employer shall provide a copy of
2 the filing to all participating providers.

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

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

20 (c) ~~For Except for the provisions of subsection (a)(4) of~~
21 ~~Section 8 and for~~ injuries occurring on or after June 28, 2011
22 ~~the effective date of this amendatory Act of the 97th General~~
23 ~~Assembly,~~ an employee of an employer utilizing a preferred
24 provider program shall only be allowed to select a
25 participating network provider from the network. An employer
26 shall be responsible for: (i) all first aid and emergency

1 treatment; (ii) all medical, surgical, and hospital services
2 provided by the participating network provider initially
3 selected by the employee or by any other participating network
4 provider recommended by the initial participating network
5 provider or any subsequent participating network provider in
6 the chain of referrals from the initial participating network
7 provider; and (iii) all medical, surgical, and hospital
8 services provided by the participating network provider
9 subsequently chosen by the employee or by any other
10 participating network provider recommended by the subsequent
11 participating network provider or any subsequent participating
12 network provider in the chain of referrals from the second
13 participating network provider. An employer shall not be liable
14 for services determined by the Commission not to be
15 compensable. An employer shall not be liable for medical
16 services provided by a non-authorized provider when proper
17 notice is provided to the injured worker.

18 (1) When the injured employee notifies the employer of
19 the injury or files a claim for workers' compensation with
20 the employer, the employer shall notify the employee of his
21 or her right to be treated by a physician of his or her
22 choice from the preferred provider network established
23 pursuant to this Section, and the method by which the list
24 of participating network providers may be accessed by the
25 employee, except as provided in subsection (a)(4) of
26 Section 8.

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

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

18 (d) Except as provided in subsection (a)(4) of Section 8,
19 upon a finding by the Commission that the care being rendered
20 by the employee's second choice of provider within the
21 employer's network is improper or inadequate, the employee may
22 then choose a provider outside of the network at the employer's
23 expense. The Commission shall issue a decision on any petition
24 filed pursuant to this Section within 5 working days.

25 (e) The Director of the Department of Insurance may
26 promulgate such rules as are necessary to carry out the

1 provisions of this Section relating to approval and regulation
2 of preferred provider programs.

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

4 (820 ILCS 305/8.1b)

5 Sec. 8.1b. Determination of permanent partial disability.
6 For accidental injuries that occur on or after September 1,
7 2011, permanent partial disability shall be established using
8 the following criteria:

9 (a) A physician licensed to practice medicine in all of its
10 branches preparing a permanent partial disability impairment
11 report shall report the level of impairment in writing. The
12 report shall include an evaluation of medically defined and
13 professionally appropriate measurements of impairment that
14 include, but are not limited to: loss of range of motion; loss
15 of strength; measured atrophy of tissue mass consistent with
16 the injury; and any other measurements that establish the
17 nature and extent of the impairment. The most current edition
18 of the American Medical Association's "Guides to the Evaluation
19 of Permanent Impairment" shall be used by the physician in
20 determining the level of impairment.

21 (b) In determining the level of permanent partial
22 disability, the Commission shall base its determination on the
23 following factors: (i) the reported level of impairment
24 pursuant to subsection (a); (ii) the occupation of the injured
25 employee; (iii) the age of the employee at the time of the

1 injury; (iv) the employee's future earning capacity; and (v)
2 evidence of disability corroborated by objective findings in
3 ~~the treating~~ medical records. ~~No single enumerated factor shall~~
4 ~~be the sole determinant of disability.~~ In determining the level
5 of disability, the relevance and weight of any factors used in
6 addition to the level of impairment as reported by the
7 physician must be explained in a written order.

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.