

Work Comp Insights

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4 Trends That Could Impact Workers' Compensation Insurance

The National Council on Compensation Insurance (NCCI) recently published the [2024 Regulatory and Legislative Trends](#) report, highlighting key state legislative actions that have influenced the workers' compensation landscape this year.

According to the NCCI report, legislation surrounding workplace-related mental injuries, marijuana reimbursements, independent contractors, the gig economy and single-payer health insurance all have the potential to impact the U.S. workers' compensation system. Here is an overview of the four workers' compensation trends identified by the NCCI.

1. Mental Health and Workplace Injuries

One of the major focuses in 2024 has been the growing concern about workplace-related mental health injuries. As mental health continues to gain recognition in both public health and legal contexts, state legislatures are increasingly addressing how these injuries should be compensated and expanding mental injury benefits to more workers. This includes the introduction of bills that expand coverage for psychological conditions, such as post-traumatic stress disorder for first responders, among other worker categories.

Several states have introduced legislation aimed at establishing presumptions in workers' compensation cases unrelated to mental injuries, primarily affecting certain first responders. These presumptions determine whether an injury or illness is considered work-related and eligible for compensation. The conditions covered include hearing loss, hypertension, cardiovascular or cerebrovascular injuries or death, long COVID-19, infertility, heat-related injuries and specific types of cancer.

2. Marijuana Legalization and Reimbursement

With the increasing number of states legalizing marijuana, questions about its reimbursement in workers' compensation cases have arisen.

The NCCI report highlights legislative efforts aimed at clarifying how and when workers can be reimbursed for medical marijuana used to treat workplace injuries. The impact of these laws varies across states, adding complexity to the issue as states grapple with the balance between federal and state regulations.

At the federal level, a bill was introduced in May 2024, aiming to decriminalize marijuana by removing it from the list of scheduled drugs under the federal Controlled Substances Act. On May 16, 2024, the U.S. Department of Justice issued a notice of rulemaking, signaling the Drug Enforcement Administration's plan to reclassify marijuana from a Schedule I drug to a Schedule III drug under the Controlled Substances Act. While this proposed change would not fully legalize marijuana, it would regulate it similarly to less harmful substances. The proposal must undergo a formal rulemaking process before becoming final.



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3. The Gig and Independent Economies

As the gig economy continues to grow, independent contractors—who often fall outside traditional employment protections—have become a central focus for workers' compensation reform. Gig workers, including transportation network company drivers for Uber and Lyft, as well as other marketplace contractors, also remain a central focus of legislation in multiple states during the 2024 legislative session.

The U.S. Department of Labor (DOL) issued a final rule for determining whether a worker qualifies as an employee or independent contractor under the Fair Labor Standards Act, which went into effect March 11, 2024. According to the DOL, the rule does not adopt the three-part "ABC" test but instead relies on the long-standing multifactor "economic reality" test used by courts. This test assesses six factors to determine a worker's status, considering the totality of the circumstances, with no single factor being decisive. If they are not classified as employees, workers may not be eligible for workers' compensation.

States are also exploring new ways to extend workers' compensation benefits to gig workers, reflecting the need to adapt labor laws to modern work arrangements.

4. Single-payer Health Insurance

The concept of a single-payer health insurance system has been debated at both the federal and state levels for years. While no state has implemented such a system, several are actively studying the issue.

Notably, some bills reference workers' compensation, with many containing similar provisions directing the single-payer health care program's board to develop proposals addressing health care services currently covered by the workers' compensation system. These proposals focus on two key aspects:

1. Determining how to continue funding for health care services currently covered by workers' compensation
2. Exploring the incorporation of an experience rating component

This ongoing debate over single-payer health insurance also plays a role in the workers' compensation landscape. States considering this type of health care reform may see significant shifts in how workers' compensation is administered, particularly in terms of medical cost containment and the role of private insurance companies. The NCCI report indicates that this will remain a key issue for legislators and stakeholders in the coming years.

Conclusion

The landscape of workers' compensation in 2024 is dynamic, reflecting broader changes in societal attitudes towards mental health, the legalization of marijuana, the structure of the labor force and health care reform. As these trends continue to evolve, staying informed will be crucial for industry leaders to navigate the future of workers' compensation effectively.

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