

July 22, 2022

## State of the States



U.S. Democratic Senators such as Sherrod Brown (OH), Tim Kaine (VA), Mark Warner

(VA), and Joe Manchin (WV) reintroduced SB4511 earlier this month concerning the Black Lungs Benefit Act. The bill's primary sponsor is Pennsylvania Democratic Senator Robert Casey, who, along with President Biden are both from Scranton, a town with deep roots in coal mining. Citing several issues with claims handling and management, the bill aims to "ensure claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner to protect former and current miners from pneumoconiosis." Bill language would address issues such as that of legal representation as just **42%** of injured workers have an attorney during the initial claim's determination. Other proposed fixes would include lowering the burden of proof and identifying conflict of

interest matters among examining physicians. The proposal is currently assigned to the U.S. Senate Committee on Health, Education, Labor, and Pensions.



Workers' compensation continues to experience strong and resilient results

as insurers mark their 8th straight year of underwriting profitability with a 2021 combined ratio of 87. However, NCCI President Bill Donnell **warns** that there remains uncertainty ahead. He says that while remote work could put downward pressure on frequency, the labor market changes to short-tenured workers could increase injury frequency as less experienced employees are at a higher risk of injury. Donnell also points to uncertainty on long covid, believing the industry is just now witnessing the implications and costs of the virus. According to Donnell, inflation

and a looming recession could also affect industry volatility but would more likely than not make only a subtle and or "moderate" impact.



The Occupation Safety & Health Administration **announced** new initiatives to conduct surprise

inspections regarding fall hazards. Construction falls hazards remain the number one cause of death for workers and are the most cited violations in the construction industry. OSHA's Assistant Secretary of Labor states that 50 percent of inspections are in construction, and half of those inspections usually result in identifying a fall hazard. Bureau of Labor Statistics shows that 351 of the 1008 construction deaths in 2021 were attributed to falls from high elevations accounting for approximately one-third of construction-related fatalities.

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Florida – on Monday, the DWC announced **plans** (Page 2771 of the Florida Register) to revise

physician dispensing rules stating that it seeks “clarification of medical reimbursement and utilization review requirements regarding physician-dispensed medication.” However, the proposed changes are still in the making and remain currently unavailable. DWC officials have planned a workshop at 9:30AM on September 29th to discuss the rulemaking efforts.



South Dakota – A **proposed** transparency measure in South Dakota is facing hurdles with the

state’s Workers’ Compensation Advisory Council. A proposal from Sioux Falls Senator Reynold Nesiba would require nurse case managers to copy injured workers or their attorneys in communications with medical providers. Those in support of this measure believe nurse case managers are inclined to be more swayed to the insurance side and that adding a communication obligation would improve the rights of injured workers if any issues with their claim present themselves. Senator Nesiba, joined by workers’ compensation attorneys representing injured workers, also suggested an extension on the time injured workers have to report their injuries (push to seven

days), which the Council promptly rejected. Although the time extension proposal failed, Council members voted to give themselves time to review the nurse case manager recommendation further. The Advisory Council is responsible for recommending alterations to state leaders regarding the state’s workers’ compensation system.



Tennessee – A investigative series from **the Memphis Commercial Appeal** into workers’

compensation protocols in the state shows that the system predominantly swings in favor of employers/carriers. Findings demonstrate that some out-of-state doctors paid by employers/carriers have routinely denied surgeries during utilization reviews without seeing patients or properly inspecting medical imaging. The report also points to workers’ compensation fines being so small that it fails to adequately protect the interests of injured workers. Other grievances include the effects of the state’s 2013 workers’ compensation reform which makes it difficult for attorneys to earn reasonable compensation for representing injured workers resulting in limited representation for those hurt on the job. Tennessee regulators penalized Sedgwick more than any other company in the industry, citing “erroneous paperwork, mishandled surgery requests” and delays in overall treatment.

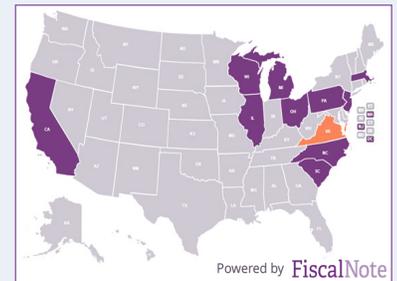
## Where in the U.S.A. are Jayne and Ian?

Jayne was in Florida while Ian was in the home office.



## States in Session

■ In Session □ Out of Session ■ In Special Session



## Questions, Concerns, Suggestions? Let Us Know.

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