Real-Life Example of the Impact on an Employer

Recent appellate cases have ruled an injured worker is to go back to receiving Temporary Total Disability benefits regardless of the reason for termination after the employee had returned to work at full pay. Under current law, employers are not afforded an opportunity to contest the continuation of the 66% of normal pay benefits to an employee who has been fired for misconduct.

Below is a real-life example of the impact on an employer where an employee who was fired for misconduct continued to receive benefits.

<table>
<thead>
<tr>
<th></th>
<th>Prior To Claim</th>
<th>Year 1 After Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience modifier</td>
<td>.86</td>
<td>1.36</td>
</tr>
<tr>
<td>Premium</td>
<td>$12,700</td>
<td>$44,752</td>
</tr>
</tbody>
</table>

This is just after the first year of the claim. This claim will continue to impact this employer for 2 more years!

In addition to increased premium, this employer may no longer be able to bid on public works jobs.

This impact removes the incentive for employers to offer return to work in the future.

For more information contact:

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Supporters of this bill include:

Mutual insurance companies, self-insured insurance companies and funds, construction and restaurant trade associations, Association of Counties, Municipal League, the Greater Albuquerque Chamber of Commerce, National Federation of Independent Business, and the Association of Commerce and Industries.

NM Advisory Council on Workers’ Compensation and Occupational Disease Disablement

Supports

SB 155 Workers’ Comp Benefit Clarification (Candelaria)

• SB155 would restore incentives for return to work. This bill places incentives for the employer to offer return to work and incentives for the injured worker to accept a reasonable return to work offer.
• SB155 gives discretion back to the Work Comp Judge to decide whether if it is reasonable to continue indemnity benefits after a worker has separated from employment.
• SB155 gives discretion back to the Work Comp Judge to decide if the return to work offer was reasonable.
• SB155 gives the Work Comp Judge the discretion to penalize an unscrupulous employer or limit benefits to a worker that would take advantage of the work comp system.
• SB155 does NOT impact lifetime medical benefits, does NOT impact payment of the impairment portion of permanent disability, and does NOT impact survivor benefits for widows and children.
New Mexico’s 2016 Economic Ranking Continues to be near the bottom compared to other states.

**UTAH:**
- Economic Performance Rank: 3
- Economic Outlook Rank: 1
- State Liability System Rank: 10
  (tort litigation treatment, judicial impartiality, etc.)
- Average Workers’ Compensation Costs Rank: 7
  (per $100 of payroll)

**COLORADO:**
- Economic Performance Rank: 6
- Economic Outlook Rank: 16
- State Liability System Rank: 16
  (tort litigation treatment, judicial impartiality, etc.)
- Average Workers’ Compensation Costs Rank: 10
  (per $100 of payroll)

**ARIZONA:**
- Economic Performance Rank: 14
- Economic Outlook Rank: 5
- State Liability System Rank: 25
  (tort litigation treatment, judicial impartiality, etc.)
- Average Workers’ Compensation Costs Rank: 14
  (per $100 of payroll)

**TEXAS:**
- Economic Performance Rank: 1
- Economic Outlook Rank: 12
- State Liability System Rank: 40
  (tort litigation treatment, judicial impartiality, etc.)
- Average Workers’ Compensation Costs Rank: 15
  (per $100 of payroll)

Source: American Legislative Exchange Council