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Revised Fiscal Note

(replaces fiscal note dated January 31, 2023)

Drafting Number: LLS 23-0256
Prime Sponsors: Rep. Daugherty

Date: April 14, 2023
Bill Status: House Appropriations
Fiscal Analyst: Erin Reynolds | 303-866-4146
erin.reynolds@coleg.gov

Bill Topic: **WORKERS' COMPENSATION**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill modifies workers' compensation benefits and creates additional avenues to prehearings at the Division of the Independent Medical Examiner. The bill increases state expenditures on an ongoing basis beginning in FY 2023-24 and may impact workers' compensation benefits paid by the state, local governments, and Pinnacle Assurance.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$731,640 to the Department of Labor and Employment.

Fiscal Note Status: The revised fiscal note reflects the introduced bill. It has been revised to correct an error in Table 2.

Table 1
State Fiscal Impacts Under HB 23-1076

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	Cash Funds	\$731,640	\$806,093
	Centrally Appropriated	\$265,515	\$313,542
	Total Expenditures	\$997,155	\$1,119,635
	Total FTE	7.4 FTE	9.0 FTE
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

This bill makes changes concerning workers compensation benefits administered by the Division of Workers' Compensation (DOWC) and the Division of Independent Medical Examiner (DIME) in the Department of Labor and Employment (CDLE). Specifically, the bill:

- changes the limit on workers compensation claims by reason of mental impairment from 12 to 36 weeks;
- removes the option for state employees to petition the DOWC for a replacement of prosthetics, eyeglasses, hearing aids, and similar products;
- allows an expedited hearing for employees whose temporary total disability benefits are terminated by the employer based on an authorized medical provider’s release to return to regular employment;
- confirms that insurers cannot limit maintenance medical benefits in an admission of liability;
- provides that record packets for an independent medical review may be limited to those medical records that are relevant to the injury;
- provides rulemaking authority to the DOWC to determine the amount and allocation of costs to be paid by the parties for an independent medical examination;
- expands the authority of the DIME prehearing unit to allow parties to attend a prehearing conference to resolve disputes regarding medical records;
- allows the DIME prehearing unit to make indigence determinations for payment purposes; and
- amends the maximum allowable rate for a contingent attorney fee from 20 to 25 percent of the amount of contested benefits that are presumed to be unreasonable.

State Expenditures

The bill increases state expenditures in the CDLE by about \$1.0 million in FY 2023-24 and about \$1.1 million per year thereafter, paid from the Workers’ Compensation Cash Fund. The bill may also impact workers compensation claims paid by the state. Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under HB 23-1076**

	FY 2023-24	FY 2024-25
Department of Labor and Employment		
Personal Services	\$661,620	\$793,943
Operating Expenses	\$9,990	\$12,150
Capital Outlay Costs	\$60,030	-
Centrally Appropriated Costs ¹	\$265,515	\$313,542
Total Cost	\$997,155	\$1,119,635
Total FTE	7.4 FTE	9.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Division of Workers Compensation, CDLE. The CDLE requires 9.0 FTE additional staff for the expanded prehearing work related to medical packet disputes and indigency requests. Standard operating and capital outlay costs are included for staff and first-year costs are prorated for a September 1, 2023, start date.

- **Caseload assumptions.** There are approximately 3,000 independent medical review requests received annually by DIME. The fiscal note assumes that over half of these requests (1,650) will require a prehearing conference to resolve disputes regarding medical record packets. Additionally, there are anticipated to be 300 indigency requests per year starting in FY 2023-24, each of which require the prehearing unit to make a determination.
- **Medical review.** Assuming each disputed medical record packet requires staff with a medical background 2 hours to review, the CDLE requires 4.0 FTE Health Professional V to perform reviews and 1.0 FTE Health Professional VI to manage this staff.
- **Administrative law judges.** Assuming at least 2 hours for medical record packets and at least 2 hours for indigency application review, the CDLE requires 2.0 FTE Administrative Law Judge II to adjudicate these cases.
- **Support staff.** The CDLE requires 1.0 FTE Program Assistant to provide support for prehearing conferences, estimated at 1 hour per at least 1,500 conferences, and to review indigency requests, estimated at 0.75 hours for 300 requests. CDLE also requires 1.0 FTE Technician III to facilitate a heavy volume of medical records associated with these requests and provide technical support to new staff.
- **Legal services.** It is anticipated that legal support for rulemaking, provided by the Department of Law, can be accomplished within existing appropriations.
- **Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2. For this bill, centrally appropriated costs also include a 10 percent indirect rate and leased space for each employee.

State employee workers' compensation payments. If expanded benefits under the bill increase workers' compensation benefits paid to state employees, costs will increase for the Division of Risk Management in the Department of Personnel and Administration. It is assumed that any additional costs will be accounted for and billed to state agencies through the annual budget process based on actual payments. Based on the scope of benefit changes, this impact is assumed to be minimal.

Local Government

Similar to the state impact noted above, the bill may increase costs for local governments for workers' compensation, whether through increased benefit payments through self-funded coverage or through increased premiums for local governments that purchase coverage. Overall, this impact on local governments is assumed to be minimal.

Statutory Public Entity

Pinnacol Assurance was created in statute as a political subdivision to provide workers' compensation insurance to employers in Colorado. Expanded benefits under the bill may increase benefits payments by Pinnacol Assurance. If necessary, these additional costs will be covered through adjustments in employer premiums.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$731,640 to the Department of Labor and Employment from the Workers' Compensation Cash Fund, and 7.4 FTE.

State and Local Government Contacts

Corrections
Labor
Personnel

Counties
Law

Human Services
Municipalities