

STATE OF LOUISIANA
WORKERS' COMPENSATION
SECOND INJURY FUND

P.O. Box 44187
Baton Rouge, LA 70804-4187

The following information is designed to familiarize employers, employees, the insurance industry and the general public with the Louisiana Workers' Compensation Second Injury Fund.

What Is The Second Injury Fund?

The Fund is a state agency which reimburses employers or, if insured, their insurance carriers for part of the workers' compensation costs in certain instances when an employee with a pre-existing permanent partial disability is injured on the job.

Who Administers The Fund?

The Fund is administered by five Board members, comprised of the State Treasurer, Commissioner of Insurance, Director of Office of Workers' Compensation, Secretary of State and the Secretary to the Department of Social Services.

How Is The Fund Financed?

Every property and casualty insurer, individual self-insurer, and group self-insurance fund that has paid workers' compensation benefits makes annual payments to the fund. The board determines the amount of the assessment, which is a percentage of the total benefits paid, for the preceding calendar year.

What Is The Purpose of The Second Injury Fund?

Quite often many employers are reluctant or will not hire employees with a pre-existing permanent partial disability because they fear an increase in workers' compensation insurance costs. The Second Injury Fund is designed to encourage employers to hire such employees by reimbursing the employer or, if insured, his insurer, for part of the compensation costs, in certain instances, when such an employee is injured on the job.

Is It Safe To Hire Employees With A Pre-existing Permanent Partial Disability?

Yes, because such workers are generally conditioned to be careful not to become further disabled, they are less likely to incur injury during employment than are other employees. Proper placement of all employees, including those with disabilities, in suitable jobs on the basis of their aptitudes, qualifications and abilities, coupled with safety precautions, tend to lessen overall workers' compensation costs for employers.

Is It Good Business To Hire Employees With A Preexisting Permanent Partial Disability?

Yes. Extensive research on employer experience clearly shows that such selectively placed workers are reliable, not prone to lose days from work, nor likely seek to change jobs. His productivity has been shown to be on a par with the non-disabled worker. He is much more safety conscious in the performance of his job. Contrary to widespread opinion, conclusive research data shows that he is no more likely to incur injury during employment than other employees. He is generally conditioned to be careful not to become further disabled. His safe working habits provide savings to the employer. Each time an unemployed person with a pre-existing permanent partial disability obtains

gainful employment, he becomes a taxpayer rather than a tax user.

The Second Injury Fund also protects employers from excess liability for workers' compensation, when an employee sustains an on-the-job injury.

What Are The Basic Pre-Requisites For Reimbursement?

1. The employee must have a pre-existing permanent partial disability as listed and defined by R.S. 23:1378(F) that is an obstacle or hindrance in obtaining employment.
2. The employer must establish that they had actual knowledge of the employee's pre-existing permanent partial disability prior to the subsequent injury.
3. The employee must sustain a subsequent (occupational) injury that results in liability for workers' compensation and:
 - a. The subsequent injury would not have occurred but for the pre-existing permanent partial disability; or
 - b. The disability is greater than would have resulted had the pre-existing permanent partial disability not been present and the employer has been required to pay compensation for the greater disability
4. The employer or, if insured his insurer, must file a Notice of Claim within fifty-two (52) weeks after the first payment of any benefits (indemnity or medical) by mailing the Notice to the Second Injury Fund.

What Benefits Are Available?

On accidents occurring after October 1, 1995, in most cases, falling under this Act, where all the requirements and prerequisites have been met, the employer or, if insured, his insurance carrier, will be reimbursed for:

1. All weekly compensation payments payable after the first one hundred and four (104) weeks of payments.
2. In death cases, all compensation paid and payable after the first one hundred and four (104) weeks of payments.
3. MEDICAL - One hundred percent of all reasonable and necessary medical expenses actually paid and payable, which exceed twenty-five thousand dollars (\$25,000.00).

What Is A Pre-Existing Permanent Partial Disability?

A pre-existing permanent partial disability is any permanent condition, whether congenital or due to injury or disease that constitutes a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed.

If the employer establishes that he had knowledge of the pre-existing permanent partial disability prior to the subsequent injury, there shall be a presumption that the employer considered the condition to be permanent and to be or likely to be a hindrance or obstacle to employment where the condition is one of the following:

- (1) Seizure disorder.
- (2) Diabetes mellitus.
- (3) Coronary artery disease or congestive heart failure.
- (4) Arthritis.

- (5) Amputated foot, leg, arm, or hand, or total or partial of at least fifty percent loss of use thereof.
- (6) Loss of sight of one or both eyes or legal blindness.
- (7) Residual disability from poliomyelitis.
- (8) Cerebral palsy.
- (9) Multiple sclerosis.
- (10) Parkinson's disease.
- (11) Cerebral vascular accident.
- (12) Tuberculosis.
- (13) Pneumoconiosis.
- (14) Psychoneurosis or psychosis following treatment in a recognized medical or mental institution.
- (15) Bleeding disorder.
- (16) Chronic osteomyelitis.
- (17) Ankylosis of joints.
- (18) Muscular dystrophy.
- (19) Arteriosclerosis.
- (20) Thrombophlebitis.
- (21) Varicose veins.
- (22) Heavy metal poisoning.
- (23) Ionizing radiation injury.
- (24) Compressed air sequelae.
- (25) Ruptured or herniated intervertebral disc.
- (26) Brain damage.
- (27) Spinal surgery including fusion, partial, or total discectomy or microdiscectomy.
- (28) Chronic obstructive pulmonary disease (COPD).
- (29) Post traumatic stress disorder syndrome (PTSD).
- (30) Post concussive syndrome.
- (31) Alzheimer's disease.
- (32) Sickle cell anemia.
- (33) Joint replacement surgery.
- (34) Intellectual disability,
 - (a) Provided the diagnosis of intellectual disability shall be made on the basis of the following:
 - (i) Significantly subnormal intellectual functioning, defined as an objective measure of cognitive status which falls at least two standard deviations below the mean of the

national standardization sample based on valid results of a recognized individually administered test of intellectual function.

- (ii) Objective evidence of concurrent impairment of adaptive functioning in at least two areas of functional behavior as measured by standardized, norm reference measures of adaptive function.
- (iii) Evidence of an onset before the age of eighteen years.
- (b) It shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.
- (c) Diagnosis of intellectual disability shall be made by a psychiatrist, psychologist, or other person properly licensed and certified to make such a diagnosis.

Questions & Answers

Question: Does the permanent partial disability have to be from a previous workers' compensation claim in order to qualify?

Answer: No. The permanent partial disability may be from any cause congenital or occupational injury.

Question: If a job applicant has a permanent partial disability and later incurs a work injury or occupational disease, does his prior permanent partial disability limit or restrict in any way his right to workers' compensation?

Answer: No. The Second Injury Fund limits the employer's liability; it does not affect the rights of injured employees or their dependents.

Question: Does the employer have to register the employee's disability with the Fund prior to the subsequent injury?

Answer: No. Effective October 1, 1977, the law was amended and the employer does not have to pre-register any employee's disability; however, the employer must establish that he had actual knowledge of the employee's partial disability prior to the subsequent injury.

When, Where and How To File A Claim

When an employee with a pre-existing partial permanent disability is injured on the job, the employer or, if insured, his insurer must file a First Notice of Claim within fifty-two (52) weeks after the first payment of any benefits (indemnity or medical).

The Notice of Claim should be mailed to the Louisiana Second Injury Board:
P.O. Box 44187
Baton Rouge, Louisiana 70804-4187

Forms for filing a claim and Rules and Regulations of the Board will be furnished upon request or visit www.LaWorks.net.

If you need any additional information concerning The Act, you should write the Second Injury Board or call Area Code (225) 342-7866 or our toll free number: 800-201-2493 and someone will be glad to assist you.



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Visit our website:
www.LaWorks.net

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