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.

Who Administers The Fund?

The Fund is administered by five Board members, 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 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.
(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

(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 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.