

## **TALKING POINTS FOR COMMUNICATING WITH YOUR ELECTED OFFICIALS**

In an effort to help you prepare your communications strategy, here are a few talking points about the version of LD 756 that passed out of committee. These are not all-inclusive and only deal with the most egregious aspects (in our opinion) of the bill:

- The system is not perfect, but it currently is in acceptable balance. Nobody is complaining that injured employees are not getting paid, they are arguing that they are not getting paid enough. A system that expands benefits is more expensive by its very nature without offsetting system improvements.
- The original version of LD 756 extended the duration of benefits on partial incapacity claims from 10 years to 12 years and eliminated the exceptions to receiving benefits beyond 10 years. The current version of LD 756 brings us back to the days before the 1992 reforms (when Maine had the most expensive WC system in the country) by increasing the durational cap from 10 to 12 years, but it also makes any claim with a permanent impairment threshold above 12% eligible for lifetime benefits.
  - Essentially, there would be no durational cap on claims with a PI over 12%, which is not a very high standard to meet.
  - The original version of the bill would have added cost to the system. The current version adds *significantly* more cost.
- The original version of LD 756 established an annual COLA (cost of living) increase, but only for the most serious (total incapacity) claims. The current version of LD 756 brings us back to the days before the 1992 reforms (when Maine had the most expensive WC system in the country) by establishing the COLA for total incapacity and lifetime partial incapacity claims.
  - The original version of the bill would have added cost to the system. The current version adds *significantly* more cost.
- The original version of LD 756 changed the maximum benefit from 100% of the state average weekly wage (AWW) to 120% of the state AWW. The current version of LD 756 ratchets the amount up to 125% of the state AWW.
  - The original version of the bill would have added cost to the system. The current version adds *significantly* more cost.
- Both the original version and current version of LD 756 extends the injury notice requirement that is currently 30-days. The original bill extends it to 60-days and the current version extends it to 90-days.
- Both versions of LD 756 would have death benefits go to parents of a deceased worker if the worker had no dependents. This would be the case even if the parents were not dependent upon their child's income.
- The system will pay attorneys considerably more in both versions of LD 756.
  - The first increase they would get is from a change to apply a flat 10% fee on all settlements. Currently, there is a graduated schedule that starts at 10%, but decreases after amounts exceeding \$50,000.
    - A generic example is a \$200,000 settlement on a capped claim. Under today's law, the attorney would get paid \$13,500 and the injured employee would get paid \$186,500.

- If LD 756 passes, the settlement would be at least \$240,000 due to durational cap going from 10 to 12 years and even more with a COLA. The attorney would get paid \$24,000 and the injured employee would get paid \$216,000.
    - Attorneys will get an **77%** increase in their fees and the injured employee will get a 16% increase in their portion of the settlement. For the same claim.
  - The second increase they would get is because they will receive their fees based upon the expanded benefits described prior – the durational cap expansion, more lifetime claims and COLA's on total and partial incapacity claims.
  - Attorneys will get paid more for doing the same amount of work, and this money is better to be directed to injured workers.
- If you believe the Maine workers' compensation system is currently in an adequate balance, neither version of LD 756 offers to keep the system in balance. The options between the versions is whether they want the impacts to be bad, or worse.
  - Businesses forced to pay for expanded benefits have to account for higher premiums. They will need to pass on the increases to their customers, increase their revenues or decrease their expenses which will likely have negative impacts on workers, their pay, their benefits and their job security.
  - The minority report supported by committee Republicans would attempt to balance the additional benefits with system improvements.