



NEW YORK STATE SENATOR

Velmanette Montgomery

Senator Montgomery, Leader Andrea Stewart-Cousins and members of the Senate Democratic Conference Fight Efforts To Weaken Workers' Compensation Protections

SENATOR VELMANETTE MONTGOMERY October 13, 2017

| ISSUE: **LABOR, WORKERS' COMPENSATION, WORKERS' RIGHTS, NEW YORK STATE CONSTITUTION PROTECTIONS**

NEW YORK STATE SENATE DEMOCRATIC CONFERENCE

New York State Constitution (Article I, Section 18) guarantees workers compensation protections to injured employees. Recently, the New York State Workers' Compensation Board proposed changes to the "Schedule Loss of Use" impairment guidelines. Labor advocates have raised concerns that this substantive change would likely reduce

benefits for a wide-range of claimants.

Under the leadership of Conference Leader Andrea Stewart-Cousins, the Senate Democratic Conference submitted a letter as part of the public comment period. The letter expresses opposition to the current draft regulations changing the Schedule Loss of Use Impairment Guidelines and calls on the Workers Compensation Board to substantially alter these regulations by taking the following actions:

1. Withdraw the proposed regulations concerning Independent Medical Examiners in their entirety, allowing for the legislatively directed study on IMEs to occur;
2. Re-examine technological advances in medical procedures as directed by the Legislature; and
3. Substantially amend the proposed Schedule Loss of Use rules and guidelines to ensure that changes in awards are directly related to medical advances, and that the new rules do not systemically reduce awards in an arbitrary manner.

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As legislators, we understand the concern of businesses that old regulations may be medically outdated and impose unreasonable costs. Those concerns were balanced against the needs of injured workers in this specific proposal, and taken into consideration with the enactment of other workers' compensation reforms this year.

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Unfortunately, the Board’s proposal goes beyond the legislative intent in revising the current SLU guidelines. The draft regulations would drastically reduce benefits for a wide range of workers and bears no reasonable relationship to “advances in modern medicine that enhance healing and result in better outcomes.”

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In many cases, the regulations would wholesale eliminate compensation for seriously injured workers, and improved medical procedures do not justify eliminating the need for compensation for serious injuries. By placing a substantial number of injuries into categories that presume little to no compensation, the Board has made a policy judgment that exceeds questions of medical improvements and worker healing.

To read the entire letter, download the attached PDF or visit:

<https://www.scribd.com/document/361838887/SDC-Workers-Compensation-Reform-Administrative-Comment>

To read the proposed regulations, visit:

http://www.wcb.ny.gov/content/main/wclaws/Proposed/Part300_2_300_39_325_1-6.jsp

To learn more about the proposed guidelines, visit:

<https://www.nysenate.gov/newsroom/articles/velmanette-montgomery/new-york-state-workers-compensation-board-proposes>

https://www.workerscompensation.com/news_read.php?id=27435

http://www.pressrepublican.com/news/local_news/major-revamp-of-workers-comp-gets-pushback-from-labor-doctors/article_d639d994-fa29-5f1a-a494-bd7889cd6ed9.html

<http://nysaflcio.org/action-needed-to-stop-proposed-workers-comp-attacks/>

<http://www.nydailynews.com/news/politics/n-y-unions-fight-proposed-workers-compensation-rules-article-1.3485562>

<http://www.nystateofpolitics.com/2017/10/senate-dems-raise-concerns-with-workers-comp-guidelines/>