

Risky Business

Did You Know?

- Lost time days for workers comp injuries decreased 9% in 2009
- The fastest growing profession is currently Registered Nurses
- 83% of workers will show up sick to work
- Employers which provide accommodation under the ADA may be eligible for an annual tax credit



V&A RISK SERVICES

Workers' Compensation Services

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Privatization Task Force Update

Jennifer Hann Harrison, Esq., an attorney with Taft Stettinius & Hollister, updated the V&A staff on developments from her term on the Ohio Workers' Compensation Task Force.

The Task Force was formed and first met in February 2010. Led by Senator Tim Grendell, the Task Force is composed of 23 members from various stakeholder groups in the Ohio workers' comp system, including employer attorneys, injured worker representatives, third-party administrators (TPAs), insurance experts, etc.

Its mission is to (1) evaluate the current workers' comp insurance offerings from the Ohio Bureau of Workers' Compensation (BWC) and compare with similar offerings in other states; (2) evaluate other states that have transitioned from monopolistic state funds to private insurance or some sort of hybrid; (3) identify 3 business options for Ohio to introduce viable private workers' comp insurance.

Testimony has been given by the National Conference on Compensation and Insurance (NCCI), business owners, BWC, a panel of attorneys representing injured workers, among others. The Task Force as a body has not examined the constitutional issues inherent to the debate.

A report was originally due by June 30, 2010, however that deadline has been extended so more testimony could be presented. Also, the gubernatorial election will likely have a significant impact on the process of Ohio Workers' Comp reform.

Group Rating Packets In the Mail Ahead of Schedule

The V&A Group Rating Department reports that all Group Rating invitations have been sent. Normally, invitations are mailed in early November. For the upcoming 7/1/2011 policy year packets were mailed between October 14 and 22 to all group eligible V&A State Funded clients.

All State Fund private employer group rosters must be filed by V&A by February 28, 2011. Be sure to return your original completed forms to V&A by January 14 to assure your policy is included. You will find a checklist conveniently printed on the inside sleeve of your packet.

If you have any questions or have not received your invitation, please contact the V&A Group Rating Department at 800.493.9662 or e-mail kfinley@variskservices.com.

Important Drug Free Updates

In order to be in compliance with the new Drug Free Safety Program testing requirements, employers should ensure that testing mirrors the current federal protocols which requires a laboratory test for amphetamines, cocaine, marijuana, opiates, PCP and ecstasy. (5 Panel plus ecstasy).

Grant applications for the new DFSP are now available on the [BWC website](#). This form is only for services performed after July, 2010. You can also view the new reimbursement rates on the [Summary Chart](#).



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Court Decision May Increase Number of FLSA Suits

On Aug. 31, 2010, the U.S. Court of Appeals for the 11th Circuit, which oversees the federal courts of Florida, issued a decision in *Polycarpe v E&S Landscaping Service, Inc.*, that is likely to further increase the number of Fair Labor Standards Act (FLSA) suits filed. In the decision, the Court considered which employees are covered by the FLSA and determined that individual employees engaged in commerce and the production of goods for commerce, including telephone calls to persons in other states, handling records of interstate transactions, performing janitorial work in buildings where good are produced for out of state shipments or typing letters to be sent out of state would qualify. If individual employees are not covered based on that description, they still may fall under the requirements of the act if their employer is a covered entity under the act's enterprise coverage (at least two employees), which applies if the employer:

1. has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling or working on **goods or materials** that have been moved in or produced for commerce by any person; and,
2. has at least \$500,000 of annual gross volume of sales made or business done.

As it now stands, if an employer meets the \$500,000 threshold, it will be very difficult to argue it is not covered by the FLSA. Essentially, the employer would have to prove its employees do not regularly handle, sell or work on materials in interstate commerce or that the materials do not have a significant connection to the client's business.

Important Dates

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| December 31, 2010 | - BWC takes snapshot of private employers' claims to determine 7/1 rates. |
| January 1, 2011 | - Premium notices for July 1, 2010 – December 31, 2010 are mailed to employers |
| January 14, 2011 | - Group Rating applications are due to V&A |