



## *Important Dates*

### **September 30**

Application deadline for former Group Rated companies to sign into EM Cap Program

Drug Free Safety Reports due for January start date employers

### **October 15**

BWC filing deadline for Settlement Applications

### **October 31**

Application for Transitional Work Bonus Program Due

Applications for Drug Free Safety Program Due



**V&A RISK SERVICES**

*Workers' Compensation Services*

Tradition Square  
2730 Centennial Rd.  
Toledo, OH 43617  
419.867.1044

## *Ohio Supreme Court Rules on Average Weekly Wage Calculation*

The Ohio Supreme Court's decision in *State ex rel. Warner v Industrial Commission, 2012 – Ohio-1084* will make it more difficult for a claimant to exclude periods of unemployment from the calculation of his or her average weekly wage when applying for temporary total compensation.

In determining compensation, Ohio's workers' compensation system uses a claimant's average weekly wage in the year preceding the date of disability. An exception to the rule provides that any period of unemployment due to any cause beyond the employee's control should be excluded from the calculation.

The claimant in the case was injured on September 7, 2007, while working a seasonal job on a paving crew. The claimant would apply for unemployment compensation during the winter when his employer did a seasonal lay off. The claimant applied for temporary total disability after his injury and requested that his average weekly wage be calculated in one of two ways: 1.) exclude his 22 weeks of unemployment as well as the unemployment compensation he received or 2.) include the 22 weeks as well as the unemployment compensation.

The Industrial Commission rejected the claimant's recommendations and found that his 22 weeks of unemployment wages should be included and his unemployment wages excluded because his unemployment was not beyond his control. The claimant filed in Franklin County Court of Appeals with the Court finding that the Industrial Commission abused its discretion by not including the claimant's unemployment compensation because the wages are federally taxable.

The employer filed an appeal to the Supreme Court of Ohio, which rejected the claimant's statement that his employment was beyond his control. The Court determined that federal taxability of unemployment compensation has no bearing on whether unemployment compensation should be included in the average weekly wage calculation. The Court also cautioned that inclusion of unemployment compensation could create a windfall for the claimant, if the Industrial Commission ruled that unemployment was beyond the claimant's control.

The Warner decision further solidifies the burden imposed upon a claimant when trying to exclude weeks of unemployment compensation beyond his control. The claimant must show what efforts were made to prove why the unemployment was beyond his or her control.

For more information about the Warner decision, visit [Eastman & Smith, Attorney At Law's newsletter](#).

***Wholesale, retail  
industry safety grants  
available***

In a partnership with the National Institute for Occupational Safety and Health (NIOSH), the Ohio BWC will provide a 2-to-1 matching grant (up to \$40,000) to eligible employers to help purchase equipment that will reduce injuries on the job. If awarded the grant, employers will become part of the study analyzing how the effects of adding equipment to a delivery, installation or receiving process may reduce particular on the job injuries.

For more information about the program or to find out if your company is eligible, visit the [Ohio BWC website](#).



**V&A RISK SERVICES**

*Workers' Compensation Services*

Tradition Square  
2730 Centennial Rd.  
Toledo, OH 43617  
419.867.1044

***Simple solutions prevent most common injuries***

The Ohio BWC claims data show that slips, trips and falls as well as overexertion represent more than 60 percent of all lost time claims in 2010. There are some simple solutions that employers can use to prevent injuries caused by slips trips and falls:

- Establish good housekeeping practices.
- Fix poor lighting.
- Keep floors and stairs clean and free of objects.
- Clean slippery surfaces (wet, oily or icy) regularly.
- Cover hoses and cords or run them out of the path of walking areas.
- Don't allow aisles to become cluttered.
- Establish a procedure for regularly sweeping granular or powdered material.
- Wear slip resistant footwear.
- Repair uneven surfaces.

In preventing injuries caused by overexertion, implementing the following solutions will help:

- Reduce forceful exertions.
- Reduce manual material handling and eliminate manual lifting by using conveyors, hoists, lift assist devices, lift gates on trucks and other mechanical means.
- Reduce the weight of objects to be lifted.
- Instruct employees to lift with the legs and not the back.
- Use handles on objects to be lifted
- Reduce the frequency and distances of lifts and minimize reaching
- Reduce mechanical pressure on soft tissues.
- Add padding to tools.
- Use floor mats.

For more information on how to prevent slips, trips and falls or overexertion injuries, visit the [Ohio BWC website](#).

***NCCI: States that switch to AMA Guides Sixth Edition  
See Drop in Impairment Ratings***

NCCI analyzed the impact of the AMA Guides Sixth Edition for three states that recently switched from the Fifth Edition to the Sixth, finding a trend where substantial decreases in impairment ratings resulted. Of the three states analyzed, New Mexico experienced the most dramatic whole person decrease at 32 percent while Tennessee and Montana dropped 25 percent and 28 percent respectively.

## ***Drug Free Safety Program Webinar by Working Partners***

Employers that wish to participate in the Ohio BWC Drug Free Safety Program are required to submit an application to the Ohio BWC by October 31<sup>st</sup> for a January 1 program start date. Before you submit, join our friends at Working Partners for a free webinar that will provide you with valuable information on implementing a drug free workplace in your organization.

### **Webinar Topics**

- ✓ Who can apply
- ✓ Premium discounts and other savings
- ✓ Program deadlines and your responsibilities
- ✓ How much time and money you can expect to invest
- ✓ How to apply for grants to help pay for your DFSP
- ✓ Resources to make the process hassle free



### **Dates and Times:**

Friday, September 28 9 – 10 am  
Thursday, October 11 9 – 10 am  
Tuesday, October 23 9 – 10 am

To register, visit the Working Partners website at [www.workingpartners.com](http://www.workingpartners.com) and click on “Free Webinar” or call 614-337-8200 for more information.

---

## ***Transitional Work Grant and Bonus Program Webinar by Corporate Connections***

In July, the Ohio BWC re-introduced the Transitional Work Grant program and rolled out a new transitional work bonus to eligible employers. Corporate Connections presents this webinar that will discuss the new programs and the benefits of establishing a transitional work in your organization.

### **Webinar Topics**

- ✓ The benefits of a transitional work program
- ✓ Establishing a transitional work program in your facility
- ✓ Review of the grant program eligibility and application process
- ✓ Components of the transitional work program and the role of the employer
- ✓ Understanding the Bonus Program, deadlines and application



### **Dates and Times:**

September 20, 10 – 11 am  
October 3, 10:30 – 11:30 am

To register, visit the Corporate Connections website at [www.corporate-connections.org](http://www.corporate-connections.org) and click on “Training” or call 330-315-3066 for more information.