House Bill 81: Changes to the Ohio Workers' Compensation Law

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Ohio H.B. 81, which became effective on September 15, 2020, makes a few noteworthy changes to the Ohio workers' compensation law. The stated intent of the new bill was to create workers' compensation coverage for detention facility employees; however, the new bill makes several changes that could benefit all Ohio employers.

First, H.B. 81 codifies the voluntary abandonment doctrine regarding temporary total disability compensation. Under the new law, "if an employee is not working or has suffered a wage loss as the direct result of reasons unrelated to the allowed injury or occupational disease, the employee is not eligible to receive compensation." In short, if the employee cannot work due to factors unrelated to the injury, such as being fired for poor attendance unrelated to a compensable injury, the employee will not be able to receive temporary total disability compensation. Because H.B. 81 supersedes all prior court decision regarding voluntarily abandonment, its effect will be to eliminate several judicially-created exceptions to the voluntary abandonment doctrine. The new voluntary abandonment defense applies to claims pending on or arising after September 15, 2020.

Second, H.B. 81 shortens the statute of limitations for applications for additional awards for violations of specific safety requirements ("VSSR") from two years to one year after the date of the compensable injury. The reduced one-year limitations period brings VSSRs in line with the relatively new one-year limitations period for filing a workers' compensation claim. The one-year limitations period for VSSRs applies to all claims pending on and arising after September 15, 2020.

Third, H.B. 81 also shortens the length of time in which a claim remains open. Under the new law, the Industrial Commission can invoke its continuing jurisdiction during the five years from the last medical services being rendered or the date of the last payment of compensation. Previously, the Industrial Commission could invoke its continuing jurisdiction during the five years from the last date of payment of the medical services. In essence, the continuing jurisdiction period could be shortened a month or two.

Finally, H.B. 81 permits a claimant's settlement application to be processed without the state-funded employer's consent if (1) the claim is no longer in the employer's experience and (2) the injured worker is no longer employed by the employer.

If you have any questions, we encourage you to reach out to your Benesch contact or one of the attorneys below to discuss.

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