

NEW JERSEY SELF INSURERS' ASSOCIATION

JULY 2014 NEWSLETTER

Atlantic City 2014 “Live In Concert”

Our “thanks” go out to all who participated in the Atlantic City Program. The speakers and panels were knowledgeable and experienced, and did a great job imparting their knowledge to our attendees. The Association’s Program Committee is due special recognition for selecting an outstanding group of speakers and creating the well-received agenda. A brief review:

First off, Dr. Alexander Sapega gave us an informative speech on surgical procedures associated with the treatment of knees.

John Hunt’s enthusiastic presentation on **Violence in the Workplace** was certainly informative and gave us a new perspective on workplace safety.

The panel chaired by Matt Gitterman that discussed **Voluntary Offers** and why they can be beneficial in settling claims was well received and appropriate considering today’s worker’s compensation climate.

We would like to recognize; Patricia Kent for her Medicare update, Jon R. Bobardieri for his legislative insight and Director Calderone for his update on the activity at the Division.

Especially well received was the lively discussion on **Treating and Defending Occupational Disease Claims**.

I think we all agree that the information presented by our **social media** experts can help us with investigations and the identified search engines can help find even the most obscure bits of information.

Continuing with our review of the program a new subject, presented effectively by Mark Pew entitled **Opioid Management: Use and Detox** gave the layman guidance through the maze of pharmaceutical drugs and alternative ways to keep our employees well.

Finally, a topic that is most timely; **Is it Compensable? Telecommuting and Worker’s Compensation** was introduced and received with interest.

We hope to see you all at the **Annual Meeting on November 13, 2014** at the Crowne Plaza Hotel in Jamesburg, NJ.

Regina Lamptey, President

LEGISLATIVE NEWS

We welcome Scott C. Tennant of Arthur J. Gallagher & Co. and Dr. Caryl Russo of Barnabas Health Corporate Care to our Legislative Committee. NJSIA has contracted with Cammarano, Layton & Bombardieri, Government Affairs Consultants to assist in communicating our positions on WC legislation to all of our legislators. Meetings have been held with the major employer organizations to review and discuss our positions on pending legislation. Our committee members also met with representatives from the Governor’s office.

S-929, the COLA Bill sponsored by Senator Sweeney was passed by the Senate this month on a straight party line vote. The Office of Legislative Services has projected an additional cost of \$58 million dollars over a 3 year period to self insured and insured private employers. NJSIA has been active in communicating our opposition to this Bill to members of the Senate and to the Governor’s office.

On June 17th, **S 2247** was filed by Senator Scutari. The Bill appears to be a direct reaction to the decision of the Supreme Court in the Hersh v. Morris County case. The Bill provides that employees should be covered for injuries occurring in a parking area provided by the employer and while traveling directly from the parking area to the place of employment.

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On June 30th the Senate passed **S 374**, another bill filed by Senator Scutari that provides for increased legal fees on cases where voluntary offers have been made and paid to injured workers. The Assembly version A3403 has been assigned to the Labor committee for review.

On the national scene there has been recent activity on the extension of the Terrorism Risk Insurance Act (TRIA) which will expire on December 31, 2014. The Senate bill renews the program for 7 years and retains the \$100 million dollar trigger. The present House version calls for 3 years with a \$500 million dollar trigger. Congressman King of New York expects a compromise final bill will be enacted before year end. There are conflicting opinions on the need for this coverage.

LITIGATION UPDATE

Liu v. Bally's Casino A-0737-13T3,

(Appellate Division, decided on 7/18/14).

Bally's appealed from a decision of the Honorable Arthur Marchand awarding this poker dealer temporary disability benefits for a work related incident involving alleged psychiatric injury. The incident involved petitioner being startled by a loud noise generated by a patron. The Appellate Division determined the Judge's findings were not supported or made with proper explanation of why competing evidence was rejected. The Court went on to explain how the Judge did not correctly apply the standards of *Cunningham v. Atlantic States Cast Iron Pipe Co.*, 386 N.J. Super: 423(App.Div.) cert. denied, 188 NJ 492 (2006). The Appellate Division reversed the decision of the WC judge, and remanded the claim to a different WC Judge.

Catalini v. AIG 08-1138; decided October 22, 2013 by the Honorable Jill M. Fader, J.W.C. Petitioner applied for temporary total disability benefits while under authorized medical treatment and totally disabled. She was

unemployed and receiving unemployment benefits. The doctor opined she was totally disabled. The Judge awarded temporary total disability benefits until she reached maximum medical improvement and was cleared to return to work.

Bellino vs. Verizon Wireless 435 N.J. Super. 85 (Appellate Division. 2014) Decided March 19, 2014.

The Court affirmed the decision of the WC Judge to award benefits as there was insufficient evidence that the petitioner violated the anti-fraud provisions of NJSA 34: 15-57.4

Hersh v. County of Morris 217 N.J. 236 (2014)

Decided April 1, 2014. The New Jersey Supreme Court in a unanimous decision reversed the decisions of the Appellate Division and the Division of Workers' Compensation and denied benefits. Found that the County of Morris did not control the garage where Hersh parked, the routes of egress and ingress and the public street where she was injured. Also, the County did not expose her to any special or additional hazards. The injury occurred outside the employer's premises and therefore is not compensable under the WC act.

Peterson v. Home Depot, CP 2007-13601.

Decided by Judge Lenore Mohr. Claim for orthopedic and neurological injuries. After a long trial with medical testimony from treating and examining doctors, the Judge found the petitioner had not shown the disabilities to be work related and had failed to sustain the burden of proof. The Appellate Court affirmed the decision; petitioner has filed with the Supreme Court.

Farnath v. 34th StreetMarkets, LLC

Question if a limited partner is entitled to WC benefits. Judge Arthur J. Marchand ruled in favor of the Company in denying benefits, affirmed by the Appellate Division. A self employed person of a LLC shall be deemed an employee of the business if the business elects to obtain coverage

on the person. In this case Mr. Farnath did not elect to purchase the additional coverage.

Thank you to Attorneys John Geany and Matt Gitterman for their contributions to the newsletter.

DIVISION NEWS

Welcome to new Judges, Dawn Shanahan and Michael Luther who will be assigned to the courts in New Brunswick, Lebanon and Newark.

Director Peter J. Calderone will appoint a committee to review the handling of medical bills and the issue of a medical fee schedule. Fred Huber from the Compensation Rating and Inspection Bureau (CRIB) reported Worker's Compensation premiums had increased 3.6% in 2014, the lowest increase in 4 years.

Average medical cost per claim is \$34,193. A Recent study of 16 states completed by Worker's Compensation Research Institute (WCRI) found that fees in New Jersey for major surgeries were 2.5 times higher than the typical costs. We pay more for professional services, however indemnity benefits per claim are lower than typical costs.

Larry Crider from the Office of Special Compensation Funds reported there are 220 carriers providing WC coverage for New Jersey's 235,000 employers His office conducts ongoing investigations to verify that all employers have coverage or are self insured. In 2013 penalties in excess of \$1 million dollars were assessed against violators.

Go to the Division of WC website to download the Schedule of Disabilities & Benefits for 2014. The maximum temporary total and permanent total weekly rate is now \$843.

NOTICE OF COMPLIANCE

The Employers' Liability Insurance Law Title 24, Chapter 15, Article 5, Section 80 provides that employers who qualify to carry their own liability (self insurers) must post and maintain a Notice of Compliance in the employers work places. The association has a supply of these notices for our members.

NATIONAL NEWS

The National Council held their meeting in Las Vegas in early June. Information on their program can be seen at nationalcouncil.com. A special thanks to Larry Holt who retired as Executive Director after many years of service, we thank Larry for his assistance to NJSIA. Dave Kaplan was appointed Executive Director.

NOVEMBER 13, 2014 WC PROGRAM

Crowne Plaza in Jamesburg, New Jersey will host our Fall conference. Mark you calendar, details will follow.

WELCOME TO NEW MEMBERS: Arthur J. Gallagher & Co., Barnabas Health Care, Cooper Levenson PA, Digistream Mid Atlantic, Highland Claims Services, ISG Investigations, Kirshner Spine Institute, Lemieux & Associates, OLIVER WYMAN, Rehabilitation Specialists, QualCare, ReMed, The Remy Company, Spreemo, Titan Investigative Alliance, Tri- County Orthopedics, Twin Boro Physical Therapy, United Review Services.

JOIN NJSIA

For over 90 years the New Jersey Self Insurer's Association has represented the interests of New Jersey's employers in the area of worker's compensation. Membership in the Association is open to all employers, law firms, third party administrators, and medical groups. Visit our website for more information and an application. www.njsselfinsurers.com.

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