



SPONSOR: Sen. Walsh & Rep. B. Short
Reps. Baumbach, Brady, J. Johnson, Osienki, Wilson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 258

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION DATA COLLECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2322A, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2322A. Workers' Compensation Oversight Panel.

(e)(1) Data collection. — ~~It is the intent of the General Assembly that, among its other duties, the~~ The Workers' Compensation Oversight Panel ~~be provided with data enabling it to conduct studies ("Panel") may collect data to evaluate the workers' compensation system in the State, identify~~ State to do all of the following:

a. Identify systemic cost drivers, provide drivers.

b. Provide objective information to guide policy formulation and identify formulations.

c. Identify carrier specific cost drivers. To that end, the

(2) All of the following must provide data to the Panel, if requested:

a. The Insurance Commissioner, for data from insurance carriers and other entities, including a third-party administrator that contracts with an insurance carrier to provide services under this chapter.

b. The Secretary of Labor, for data from self-insured employers and other entities, including a third-party administrator that contracts with an insurance carrier to provide services under this chapter.

c. Any person providing healthcare services under this chapter.

(3) The data the Panel is authorized to collect data concerning reports under paragraph (2) of this section includes all of the following:

a. Reports of industrial injuries and occupational disease, the diseases.

b. The cost of benefits associated with such industrial injuries and diseases, and compliance occupational diseases.

c. Compliance by employers with the mandatory workers' compensation insurance or self-insurance requirement. The Panel is also charged with ensuring

(4) To ensure that an individual insurance carrier and any entity that contracts with an insurance carrier, including third-party administrators, complies ~~compliance by individual carriers~~ with their responsibilities relating to medical and indemnity cost ~~control~~ control, the Panel may, through the Insurance Commissioner, collect any data available to the Insurance Commissioner under Title 18, including data call and market conduct examination.

(5)a. The Department of Labor may exercise its authority under this title to address a legitimate competitive, trade secret, or health privacy concern regarding data under paragraph (2)b. of this section but may not exercise this authority in a manner that interferes with the Panel's ability to fulfill the Panel's statutory obligations.

b. The Secretary of Labor may issue subpoenas and promulgate regulations to ensure the receipt of data that the Panel determines is necessary to fulfill the Panel's statutory obligations.

(6) On at least a quarterly basis, the Insurance Commissioner shall collect and provide to the Panel data sufficient for the Panel to carry out the duties described in this subsection. In addition, the Panel or its designee shall have the authority to demand directly from any person or entity providing health-care services under this chapter ~~chapter~~, including a self-insured employer, data sufficient for the Panel to carry out the duties described in this subsection.

(7)a. The advisory organization designated pursuant to ~~under~~ § 2607 of Title 18 ~~shall also~~ shall, on an annual basis ~~basis~~, provide the Panel with carrier-specific medical cost data for each workers' compensation carrier having a market share in Delaware of 1% or greater over the 12 preceding months.

b. If, after reviewing said data and making necessary inquiries with individual carriers, the Panel determines that there is a well-founded concern that an individual insurance carrier is not sufficiently scrutinizing medical payments, the Panel may ~~direct~~ request that the Insurance Commissioner to conduct a formal examination of a carrier to determine compliance with applicable laws and regulations regarding medical reimbursements. The Insurance Commissioner may not unreasonably deny a request from the Panel for a formal examination.

c. The Department of Insurance may exercise its authority ~~granted~~ under Title 18 to address legitimate competitive, trade secret, or health-privacy concerns that arise in connection with its responsibilities ~~under this section, provided that the Department's exercise of this authority shall not interfere with the Panel's ability to fulfill its statutory obligations. The Secretary of Labor shall have authority to address legitimate competitive, trade secret, or health-privacy concerns that arise in connection with the Panel's collection of data directly from persons or entities providing health care services under this chapter, provided that the Secretary's exercise of this authority~~

53 ~~shall not interfere with the Panel's ability to fulfill its statutory obligations. regarding data under paragraph (2)a. of~~
54 ~~this section but may not exercise this authority in a manner that interferes with the Panel's ability to fulfill the~~
55 ~~Panel's statutory obligations.~~

56 (6) Data acquired by the Panel under this section is confidential and is specifically excluded from the
57 definition of public record under § 10002 of Title 29 and may not be subpoenaed.

SYNOPSIS

This Act revises the data collection procedures and authority of the Workers' Compensation Oversight Panel ("Panel") to ensure that the Panel is able to obtain the data necessary to perform its statutory duties, without infringing upon the authority of the Department of Insurance to regulate the insurance industry. This Act also protects the confidentiality of data acquired by the Panel from the Department of Insurance or the Department of Labor.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Walsh