Workers' Compensation Program

DEFENSE COVERAGE POLICY

Each member will receive up to $25,000.00 per occurrence in defense coverage for132a and serious & willful claims. This is for defense coverage only, any penalty or awards will be paid by the member.

132a. It is the declared policy of this state that there should not be discrimination against workers who are injured in the course and scope of their employment.
(1) Any employer who discharges, or threatens to discharge, or in any manner discriminates against any employee because he or she has filed or made known his or her intention to file a claim for compensation with his or her employer or an application for adjudication, or because the employee has received a rating, award, or settlement, is guilty of a misdemeanor and the employee's compensation shall be increased by one-half, but in no event more than ten thousand dollars ($10,000), together with costs and expenses not in excess of two hundred fifty dollars ($250). Any such employee shall also be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.
(2) Any insurer that advises, directs, or threatens an insured under penalty of cancellation or a raise in premium or for any other reason, to discharge an employee because he or she has filed or made known his or her intention to file a claim for compensation with his or her employer or an application for adjudication, or because the employee has received a rating, award, or settlement, is guilty of a misdemeanor and subject to the increased compensation and costs provided in paragraph (1).
(3) Any employer who discharges, or threatens to discharge, or in any manner discriminates against any employee because the employee testified or made known his or her intentions to testify in another employee's case before the appeals board, is guilty of a misdemeanor, and the employee shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.
(4) Any insurer that advises, directs, or threatens an insured employer under penalty of cancellation or a raise in premium or for any other reason, to discharge or in any manner discriminate against an employee because the employee testified or made known his or her intention to testify in another employee's case before the appeals board, is guilty of a misdemeanor. Proceedings for increased compensation as provided in paragraph (1), or for reinstatement and reimbursement for lost wages and work benefits, are to be instituted by filing an appropriate petition with the appeals board, but these proceedings may not be commenced more than one year from the discriminatory act or date of termination of the employee. The appeals board is vested with full power, authority, and jurisdiction to try and determine finally all matters specified in this section subject only to judicial review, except that the appeals board shall have no jurisdiction to try and determine a misdemeanor charge. The appeals board may refer and any worker may complain of suspected violations of the criminal misdemeanor

provisions of this section to the Division of Labor Standards Enforcement, or directly to the office of the public prosecutor.

Serious and Willful

The amount of compensation otherwise recoverable shall be increased one-half, together with costs and expenses not to exceed two hundred fifty dollars ($250), where the employee is injured by reason of the serious and willful misconduct of any of the following:

(a) The employer, or his managing representative.

(b) If the employer is a partnership, on the part of one of the partners or a managing representative or general superintendent thereof.

(c) If the employer is a corporation, on the part of an executive, managing officer, or general superintendent thereof.

132a – Adopted February 2, 2012
Serious and Willful – Adopted April 9, 2015