

A RESOLUTION

25-301

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 3, 2023

To declare the existence of an emergency with respect to the need to amend the District of Columbia Workers' Compensation Act of 1979 to provide that the payment or award of compensation under the workers' compensation law of any other state shall not bar a claim for compensation under the District's workers' compensation law for the same injury or death; provided, that any such award under the District's workers' compensation law shall be reduced by the amount of compensation received or awarded under the workers' compensation law of any other state.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Parity in Workers' Compensation Recovery Emergency Declaration Resolution of 2023".

Sec. 2. (a) Currently, under section 4(a-1) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1503(a-1)) ("section 4(a-1)"), a worker cannot receive any workers' compensation and at any time receive compensation under the workers' compensation law of any other state for the same injury or death. In practice, this provision is strictly interpreted by the courts to bar injured workers from bringing otherwise valid claims in the District if they have received any compensation under the law of another state, no matter whether the compensation provided in that other state was less than the worker would be entitled to in the District or whether the worker knew that receiving the compensation would waive the right to bring a claim in the District.

(b) This legislative scheme effectively allows employers and their insurers to choose which state's law will apply to workers' compensation claims brought against them. For example, where an employer or its insurance company files the first report of injury in another state and writes the injured employee a check for any amount, that action effectively bars the employee from seeking compensation in the District. An employer may even simply tell the worker that a payment is being made in accordance with the law of another state. Although an injured worker could maintain the ability to bring a claim in the District by rejecting payment, injured workers are typically not in a position to do so when such payments are needed to cover medical expenses or other bills and often do not know that accepting a payment will bar

them from any recovery in the District. Courts interpret section 4(a-1) broadly and conduct a case-by-case analysis to determine whether a claimant has received compensation under the law of another state; that analysis often results in claimants being denied access to relief in the District.

(c) The Council first addressed this problem through the Parity in Workers' Compensation Recovery Emergency Amendment Act of 2022, effective June 28, 2022 (D.C. Act 24-453; 69 DCR 7765), which enacted protections for workers on an emergency basis. The accompanying temporary legislation maintained the provided remedy through May 2023; however, the Council was not able to consider permanent legislation on this issue prior to the expiration of the temporary act.

(d) This current emergency legislation keeps in place the remedy the Council provided in 2022 by removing the bar on recovering workers' compensation in the District after receiving similar compensation under the laws of another state. This legislation is being moved on an emergency basis to restore the status quo while the Council considers permanent legislation (Bill 25-474) to ensure that injured workers—including those with a currently pending case—are not prevented from accessing full compensation afforded under District law due to first accepting compensation in another state.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Parity in Workers' Compensation Recovery Emergency Amendment Act of 2023 be adopted after a single reading

Sec. 4. This resolution shall take effect immediately.