STATE OF MARYLAND
WORKERS’ COMPENSATION
COMPENDIUM OF LAW

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PART ONE:

Definitions of Employer and Employee

For purposes of workers’ compensation, an employee must be a “covered employee” to be eligible to receive benefits. An employee is considered “covered” while he or she is in the service of an employer and when an employer has sufficient control over an employee. See Md. Lab. & Empl. Code Ann. § 9-202; Whitehead v. Safway Steel Prods, Inc., 304 Md. 67, 497 A.2d 803 (1985). In addition, covered employees of a subcontractor are potential "statutory employees" of the principal contractor. Md. Lab. & Empl. Code Ann. § 9-508.

Under the Code, a “normal” employer is defined as: “(1) each person who has at least 1 covered employee; and (2) each governmental unit or quasi-public corporation that has at least 1 covered employee.” Md. Lab. & Empl. Code Ann. § 9-201. An employer can also be considered a “statutory employer.” For example, a principal contractor is liable to pay benefits to a covered employee of a subcontractor if the subcontractor does not have sufficient workers’ compensation coverage. Md. Lab. & Empl. Code Ann. § 9-508. The principal contractor in that situation would not be considered a “normal” employer because the employee is not covered as to the principal contractor, but the principal contractor may still be liable to the employee simply by way of the statute.

Compensable Conditions

In Maryland workers’ compensation law, traumatic or “single occurrence” claims are very common. These types of claims are also referred to as “accidental personal injury” claims. For such a claim to be compensable, an "accidental personal injury" must arise from a specific traumatic event that arises out of and is in the course of employment. Md. Lab. & Empl. Code Ann. § 9-101(b); Schemmel v. T.B. Gatch & Sons Contracting & Building Co., 164 Md. 671, 166 A. 39 (1933).

The recent case of Harris v. Howard County Board of Education, 375 Md. 21, 825 A.2d 365 (2003), has modified the previous standard so that it is no longer particularly important whether an injury results from some unusual strain or exertion or some unusual condition of the employment. Rather, while an injury must still be accidental, that is result from some unexpected cause or be an unexpected result, and while the injury must be definite and causally related to the employment, the fact that the employee was doing customary or routine duties when injured will not prevent compensability. Previously, only unexpected causes, and not simply unexpected results, were deemed to be “accidental injuries.” It is important to note, as well, that benefits are also available if a new accidental injury simply aggravates a pre-existing condition, but apportionment is available for permanency.

Maryland also specifically recognizes claims for occupational diseases, including respiratory and repetitive use diseases. To be compensable, the disease must be of a gradual and insidious nature. There must also be proof that the occupational disease is caused by, not simply aggravated by, the employment. Further, the employer/insurer of last injurious exposure is responsible for the entire claim. Md. Lab. & Empl. Code Ann. § 9-502.

An employee in the State of Maryland may recover benefits and medical expenses, including mental health treatment, for harm resulting from an accidental personal injury. Md. Lab. & Empl. Code Ann. § 9-660(a)(1). Until relatively recent Maryland jurisprudence, an employee could only recover for a mental disability that resulted from a physical injury (known as a “physical/mental” claim). In 1993, however, the Maryland Court of Appeals held that purely emotional or psychological harm, unaccompanied by physical injury, may be compensable if caused by an accidental injury (known as a “mental/mental” claim). Belcher v. T. Rowe Price, 329 Md. 709, 621 A.2d 872 (1993).
In *Davis v. Dynacorp*, 336 Md. 226, 647 A.2d 446 (1994), an employee filed a claim for an alleged occupational disease of a mental disorder resulting from harassment by management and co-workers. The Court of Appeals rejected the compensability of the claim because the alleged mental disorder was not due to the nature of an employment in which hazards of the alleged occupational disease exist. The Court, however, expressly refused to rule out the possibility that some gradually resulting, purely mental diseases (without physical harm) could be compensable occupational diseases or that there may be circumstances where work induced stress may result in a compensable occupational disease.

The Maryland Court of Appeals then decided *Means v. Baltimore County*, 344 Md. 661, 689 A.2d 1238 (1997) finding that post-traumatic stress disorder may be compensable as an occupational disease if the employee presents sufficient evidence to meet the statutory requirements. In *Means*, the claimant, a paramedic, alleged the occupational disease of post-traumatic stress disorder (PTSD) as a result of responding to several fatal accident scenes. The Court of Appeals held that this claim was potentially compensable as the nature of Claimant’s employment exposed her to events that could cause PTSD. The case was remanded to the Circuit Court for further determination as to whether the employee had contracted PTSD, whether it arose out of and in the course of her employment, and whether the nature of her employment as a paramedic regularly exposed to grisly accident scenes entails the hazard of developing PTSD.

The Court of Appeals revisited this issue in *King v. Prince George’s County*, 354 Md. 369, 731 A.2d 460 (1999). The Court went to great lengths to distinguish the facts of *King* from those in Maryland’s seminal “mental/mental” claim, *Means*. In *King*, however, it was found that the stresses that caused the Claimant’s alleged disease were not particular to her employment. Her difficult working conditions were held to be “...pervasive across many types of occupations and are not uniquely characteristic of any particular occupation.” Consequently, the Court held the claim had been properly denied.

**Excluded Injuries or Claims**

Following the decision in *Harris v Howard County Board of Education*, 375 Md. 21, 825 A.2d 365 (2003), which removed the “regular job” exclusion, injuries or claims now excluded from compensability are self-inflicted injuries, willful misconduct or “horseplay,” and injuries involving drugs and/or alcohol. See Md. Lab. & Empl. Code Ann. § 9-506.