

SUBSEQUENT INJURY FUND

-A QUICK LOOK-

LMAC – June 2019



Montana Department of
LABOR & INDUSTRY

References

- **Part 9 of Chapter 71 for Workers' Compensation – Subsequent Injury Received by Vocationally Handicapped**
 - 39-71-901 – 39-71-920
- **Rules for Subsequent Injury Fund – Subchapter 26**
 - 24.29.2601 – 24.29.2614

What is the Subsequent Injury Fund (SIF)

- The Legislature established the Subsequent Injury Fund in 1973 to assist persons with disabilities become employed by offering a financial incentive to employers who hire certified workers.
- The law defines a person with a disability as a person who has a medically certifiable permanent impairment which is a substantial obstacle to obtaining employment or ... reemployment ... considering the person's age, education, training, experience and employment rejection.
- Benefit to worker - Being certified means you are more likely to be hired because there is a limit on the employer's workers' compensation liability if you become injured or reinjured on the job. When the limit is reached, the Subsequent Injury Fund assumes liability. If you are injured on the job, you are entitled to all benefits due under the Workers' Compensation Act. Certification is not body part specific. The certification applies to any new injury.
- Benefit to employer - By hiring a person who has been certified by the department, you are hiring an experienced, skilled worker while limiting your workers' compensation liability. If the certified worker is injured or reinjured while in your employ, you will (through your insurer) be liable for the first 104 weeks of benefits. After 104 weeks of benefits have been paid, the Fund assumes all remaining liability on the claim.
- Benefit to insurer – reimbursement on claim expenses after 104 weeks.

How it works

- Worker applies for certification with the department
- If a subsequent injury occurs, department notifies the insurer that the injured worker is SIF certified
- After 104 weeks of making payments, insurer contacts department to have claim certified
- Insurer submits reimbursement requests every six months to the department
- If insurer and injured worker desire settlement, they contact the department for concurrence
- If employer is experience rated, insurer may not base that factor on those claim costs reimbursed by SIF
- Paid out expenses from SIF are annually assessed to employers in Montana
 - Self-insured – as a direct assessment
 - Insured by Plan 2 or 3 – as a surcharge on their insurance bill

Montana Statistics

Exhibit 5.4

SIF Payments and Dollars Assessed

By Plan and Fiscal Year

	FY13		FY14		FY15		FY16		FY17	
Plan Type	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment
Self-Insured	\$375,991	\$82,383	\$31,989	\$127,827	\$44,671	\$216,790	\$147,774	\$126,804	\$271,404	\$344,965
Private	\$278,648	\$65,624	\$219,437	\$365,669	\$287,916	\$514,133	\$230,368	\$268,053	\$93,448	\$672,984
State Fund	\$562,552	\$131,510	\$455,896	\$448,232	\$532,231	\$759,991	\$1,086,556	\$514,657	\$746,478	\$898,505
Total	\$1,217,191	\$279,517	\$707,322	\$941,728	\$864,818	\$1,490,914	\$1,464,698	\$909,514	\$1,111,330	\$1,916,454

Approved SIF individuals

34 in 2017

22 in 2018

13 in 2019

In FY 2017 5,108 workers certified

Nationally

- 39 states have some sort of second injury or subsequent injury fund
- 26 states enacted their funds before 1955 with the remaining in the 60s and 70s. Massachusetts was the last one in 1986
- 9 states no longer have their funds
- 30 are funded through assessment or surcharge, 4 are a tax on premiums, plus misc. other options

Questions

- **After almost 50 years, does the SIF still provide:**
 1. A benefit to employers in reducing their costs of workers' compensation premium coverage, and
 2. Opportunities for workers with a disability to obtain jobs that they otherwise would not be able to secure without the SIF certification