

FOR LOWER WORKERS' COMPENSATION COST



**What is the Second Injury Fund?**

The Second Injury Fund is a state-administered program that reimburses part of a claim when an employee with a permanent, pre-existing condition is subsequently injured on the job. The fund encourages employers to hire people with disabilities by reducing financial liability if these employees get hurt on the job.

**What are the benefits of the Second Injury Fund?**

Because the Second Injury Fund reimburses part of your claims costs, it can help reduce your experience modifier (E-mod) leading to lower workers' compensation premiums.

**Which claims qualify?**

To be eligible for reimbursement under the Second Injury Fund, the following criteria must be met:

1. **The injury results from a qualifying permanent partial pre-existing disability.** ■ The fund covers numerous injuries, illnesses and congenital medical conditions that may hinder someone from obtaining employment. For a partial list, see the sample Employee Medical History Questionnaire.
2. **The employer has proof he knowingly hired or retained an employee with a permanent partial disability.** ■ Even if the condition is obvious, the employer *must have proof* that he knew of the condition before the injury occurred in order for a claim to be eligible.
3. **The injury results in liability for workers' compensation benefits.** ■ In other words, the claim must be a bona fide compensable claim under Louisiana's workers' compensation statute.
4. **The pre-existing condition merges with the resulting injury in such a way that the injury would not have occurred but for the pre-existing condition OR the resulting disability is materially greater because of the pre-existing condition.** ■ In other words, the pre-existing condition must either cause the work injury or make the resulting disability worse, causing the employer to pay more.
5. **The claim for reimbursement must be made within 52 weeks of the first medical or lost-time benefit payment.**
6. **In order for payments to be reimbursed, they must be submitted to the SIF within one year after the claim is accepted by the Fund for reimbursement, or within one year from the payment of benefits, whichever occurs later.**

The Second Injury Fund will reimburse qualifying claims at the following rates:

BENEFIT	REIMBURSEMENT RATE
<b>MEDICAL COSTS</b> (*accidents prior to 7/1/04)	
\$0-\$5,000	0%
\$5,001-\$10,000	50%
over \$10,000	100%
<b>LOST-TIME COSTS</b> (*accidents prior to 7/1/04)	
0-104 weeks	0%
after 104 weeks	100%
<b>DEATH BENEFITS</b> (*accidents prior to 7/1/04)	
0-175 weeks	0%
after 175 weeks	100%
*For claims w/date of accident 7/1/04 or after:	
Medical Costs (>\$25,000)	100%
Lost-Time Claims (after 130 weeks)	100%
Death Benefits (after 130 weeks)	100%

## Why hire employees with disabilities?

Research indicates employees with disabilities are no more likely to incur injury during employment than non-disabled employees.

Selectively placed, these employees are reliable, not prone to absenteeism and are as productive as non-disabled employees. Often, these employees are more cautious and safety conscious than non-disabled workers.

The Second Injury Fund provides an additional incentive to hire employees with disabilities.

## How can I take advantage of the Second Injury Fund?

Written questionnaires and screenings are the best ways to obtain information about employees' health.

Although the Americans With Disabilities Act prohibits employers from requiring physicals or asking health-related questions *before* they hire an employee, post-offer screenings are acceptable and should be incorporated into the hiring process. Such screenings should be a business necessity and should be consistently required of all applicants.

*Under the ADA, information obtained from post-offer questionnaires cannot be used to discriminate against qualified employees who can perform the essential functions of the job, with or without accommodations.*

On health-related questionnaires, be sure to let employees know how the information will be used. If employees fail to answer the questionnaire truthfully, they may be denied workers' comp benefits under La R.S. 23:1208.1.

The employers should use the sample post-employment Employee Medical History Questionnaire for the Second Injury Fund post-hire and then annually thereafter. (Please note that this is only a sample. If reproducing the questionnaire, the "Failure to Answer Truthfully" notice must be typeset in at least 10-point bold-faced block lettering in order to be in compliance.) You should also notify employees that the information obtained from the questionnaire will be kept confidential and will not be made a part of the employee's personnel file.

LWCC provides technical expertise in Second Injury Fund claims and files necessary paperwork to recoup these benefits when a policyholder is eligible.

## THE SPECIAL FUND Limiting Longshore Liability

Employers with longshore coverage also have a way to recover claims costs when an employee with a pre-existing, permanent partial disability is subsequently injured on the job.

Similar to the Second Injury Fund that applies to State workers' comp, the Special Fund allows longshore employers to apply for up to 100 percent reimbursement of indemnity costs after two years, including vocational rehabilitation.

With the higher benefit levels involved in longshore claims, policyholders with USL&H coverage stand to save substantially by participating in the Special Fund. Call your LWCC claims representative for more information.

Please go to [www.lwcc.com](http://www.lwcc.com) to download the Employee Medical History Questionnaire for the Second Injury Fund.

For more information about the Second Injury Fund, contact LWCC's Recovery Department at 225-231-0802 or 930-0447 or 231-0956 or visit the Louisiana Department of Labor at [www.ldol.state.la.us](http://www.ldol.state.la.us)



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