Livery Drivers’ Benefit Fund Rules

Proposed Rules
March 18, 2010
Workers’ Compensation Overview

- Most drivers we regulate benefit from a statutory scheme to provide benefits to cover on the job injuries.
- Taxi Drivers are covered by workers’ compensation insurance provided by medallion owners.
Black Car and Luxury Limo Drivers also benefit, in a different way.

The legislature passed a law (separate from workers’ compensation) to cover these drivers.

Black Car Fund, funded by surcharge on rides, provides coverage.
Livery Drivers are a special case

- Uncertain status of entitlement of livery drivers to workers’ compensation coverage for on the job injuries

- Law appeared to mandate coverage but livery drivers in practice rarely held to be “employees”
Problem

- As a result, livery drivers have traditionally had a hard time getting workers’ compensation benefits for injuries suffered while they are driving.
Old Workers’ Comp Structure for Livery Drivers

- Vehicle owner was “employer” if driver found to be “employed”.

- Coverage for any work related injuries includes
  - Medical Costs
  - Loss of Earnings
  - Death Benefit
  - Disability for non-work related injuries
Problems with old approach

• Anecdotal evidence coverage is difficult to obtain and/or expensive

• Few drivers recover anything in practice because they are determined not to be employees eligible for coverage.
Livery Drivers Benefit Fund/ New Approach

• NYS has passed a law to create a new statutory scheme to provide coverage.

• The law creates the Livery Drivers’ Benefit Fund to provide certain coverage.

• Dispatching Base is employer of drivers
New Approach/II

- Coverage provided by the Fund to Livery Drivers for
  - Injuries resulting from a crime
  - Loss of limbs, hand, finger, multiple toes, ear or nose
  - Paraplegia or quadriplegia
  - Total/permanent deafness or blindness

- Other, less serious injuries, not covered by the Fund
New Approach/III

Coverage by Fund also includes:

• Medical coverage for covered injuries
• Loss of earnings for covered injuries
• Death benefit
Fund covers less than traditional workers’ compensation

- No Disability coverage (for non-work related injuries) provided at all.

- For less severe, non-covered injuries:
  - Drivers may make claims against the no-fault insurance coverage.
  - Claims can include medical costs and lost income
The Livery Drivers’ Benefit Fund

- Will provide the limited statutory coverage to drivers of member bases.
- Coverage will be paid for by bases.
- Each base assessed upon number of affiliated vehicles.
- Livery Bases NOT joining the Fund MUST provide workers’ compensation coverage to drivers.
TLC OBLIGATIONS

• Beginning 1/1/10 require each Livery Base, as a condition of licensure, to provide proof of either
  – Livery Fund membership or
  – Workers’ Compensation Coverage for drivers.

• Provide Fund with information regarding vehicles affiliated with each Livery Base
Enforcement

- The statute contains strict penalties for matters such as failure of a base to pay assessments to the Fund or misrepresenting numbers of affiliated vehicles to reduce assessments
  - Penalties include fines, suspension, and revocation
  - Either or both of base license and Fund membership may be suspended/revoked.
TLC Enforcement

• Mandatory requirements:

• TLC must deny base licenses to applicants without either Fund membership or workers’ comp coverage for drivers.
Enforcement (cont’d)

- Optional requirements:
- TLC has the option of enforcing base duties to the Fund, including
  - Failure of a base to pay its Fund assessment for coverage
  - Misrepresentations about numbers of affiliated vehicles
  - Attempts to coerce drivers and vehicle owners to assist with misrepresentations.
Enforcement (cont’d)

- The staff is recommending that the TLC Rules implement both the mandatory and optional components.
  - Advances goal of providing coverage to livery drivers

- The Fund and the Workers’ Comp Board, which administers the Fund, will request assistance if desired and provide documentation of the violation
Current status

- Anticipate a hearing on the proposed rules in May.
- Licensing is already requiring livery bases applying for new and renewal license to provide proof of Fund membership OR workers’ comp coverage for drivers.
- The Fund and the WC Board have served stop work notices on livery bases which have not joined the Fund and paid the first assessment.
The Livery Drivers’ Benefit Fund

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