

Subsequent Injury Fund (SIF)

Original Purpose of the SIF

The Subsequent Injury Fund (SIF), previously known as the Second Injury Fund under the “old law” Workers’ Compensation Act, was created by the Texas Legislature 1947 to facilitate the employment of handicapped persons, including a large number of disabled World War II veterans. As conceived, the Legislature directed that if an employee who had previously lost a leg, eye, or hand and should lose a second leg, eye, or hand in a work related incident, then the insurance carrier would be liable only for the compensation payable for the second injury. The Second Injury Fund would be liable for the remainder of any total and permanent disability award.

Additional Reimbursement Functions of the SIF

Since 1991, the Texas Legislature has expanded scope of allowable expenditures from the SIF. In addition to its responsibility for payments when an injured employee is entitled to lifetime income benefits as a result of a second injury, the SIF reimburses insurance carriers in the following instances:

- Texas Department of Insurance, Division of Workers’ Compensation (TDI-DWC) interlocutory orders or decisions are reversed or modified and result in an overpayment of income and or medical benefits (Texas Labor Code §§410.209; 413.055). Rationale was that an insurance carrier should not be liable for an “incorrect” agency decision.
- When an insurance carrier incurs increased income benefit and/or death benefit costs due to an employee’s multiple employment (Texas Labor Code §408.042), the SIF reimburses the carrier for benefits paid by the carrier that are attributed to the non-claim employer(s).
- Insurance carriers that incur certain pharmaceutical costs on a claim that is ultimately determined to be non-compensable may seek reimbursement from the SIF (Texas Labor Code §413.0141).
- Insurance carrier required to pay death benefits to an eligible beneficiary after having already paid those benefits to the SIF may seek reimbursement (Texas Labor Code §403.007).
- Insurance carriers required to pay workers’ compensation income and medical benefits based on the opinion of designated doctors may obtain reimbursement from the SIF if that opinion is later reversed or modified by a final arbitration award or a final order or decision of the Commissioner of Workers’ Compensation or a court (Texas Labor Code §408.0041).

Reduction in SIF Revenue

The SIF is funded solely by the payment of 364 weeks of death benefit payments from insurance carriers where a compensable death occurs and there is no eligible legal beneficiary. The SIF may receive any remaining death benefits after all eligible beneficiaries have received less than 364 weeks of benefits.

The 79th Legislature expanded the list of legal beneficiaries who may be entitled to receive death benefits following the compensable death of an injured employee to include “eligible parents” (Texas Labor Code §408.182). An eligible parent who is not a dependent of the deceased may be eligible for death benefits if there is no surviving spouse, dependent child(ren), dependent grandchild(ren), or other surviving dependents of the deceased (such as dependent parents, siblings, or grandparents). Eligible parents can receive a maximum of 104 weeks of death benefits. The remaining 260 weeks of death benefits are paid to the SIF. HB 1058, 81st Legislature, clarified the definition of eligible parent by removing the requirement for receipt of burial benefits and amended the standard for a filing extension from “compelling reason” to “good cause.”