Indiana raises medical malpractice damage caps

Damage caps in the Indiana Medical Malpractice Act, also referred to as the Indiana Patient Compensation Fund, (I.C. § 34-18-14-3) are set to increase on July 1, 2017 for the first time since the fund was created in 1999.

The maximum amount of recoverable damages will rise from $1.25M to $1.65M in July 2017 and increase again to $1.8M in July 2019. Health care providers will need to update their malpractice liability coverage to match the new requirements starting in July.

Updated financial responsibility under Indiana’s updated Patient Compensation Fund

<table>
<thead>
<tr>
<th>Financial Responsibility of:</th>
<th>Current</th>
<th>Effective 7/1/17</th>
<th>Effective 7/1/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health care provider</td>
<td>$250,000/$750,000</td>
<td>$400,000/$1,200,000</td>
<td>$500,000/$1,500,000</td>
</tr>
<tr>
<td>Hospital less than 100 beds</td>
<td>$250,000/$5,000,000</td>
<td>$400,000/$8,000,000</td>
<td>$500,000/$10,000,000</td>
</tr>
<tr>
<td>Hospital over 100 beds</td>
<td>$250,000/$7,500,000</td>
<td>$400,000/$12,000,000</td>
<td>$500,000/$15,000,000</td>
</tr>
</tbody>
</table>

Summary of changes:

- The increased caps apply to alleged malpractice acts that occur after 7/1/17 and 7/1/19 respectively.
- Qualified Healthcare Providers will need to increase their insurance liability coverage to match the limits of $400,000/$1,200,000 that will apply to alleged malpractice acts that occur after 7/1/17. Limits again increase on 7/1/19 to $500,000/$1,500,000. (**IC 34-18-4-1 and 34-18-14-3b**)
- Cap on Attorney’s fees will increase from 15% to 32% of total judgment (**IC 34-18-18-13**)
- Increase in the amounts paid to medical review panel from $350 to $500 and from $2,000 to $2,500 to the panel chair (**IC 34-18-10-25**)
- Anesthesiology assistants added to the class of Qualified Health Care Providers (**IC 34-18-2-14**)
- Timelier Payments by the Fund of awards. Under the revised law, payment from "the Fund" cannot be made later than 60 days after the issuance of a court-approved settlement or a final, non-appealable judgment. The PCF previously only paid plaintiffs twice per year. (**IC 34-18-2-12.5 and IC 34-18-6-4**)

*Did you know?*

If excess coverage is purchased by a health care provider participating in the PCF, the fund will not recognize erosion of the limits until the excess has also been eroded.*

* "Limits of liability for the Indiana exposure are those stated under IC 34-18-4-1. It is the Department’s position that if higher limits are maintained; those limits must be tendered before a claimant would be eligible to receive excess damages from the PCF, and the health care provider would not receive the full benefit of the excess coverage.” [http://www.in.gov/idoi/files/FAQs_12-21-15.pdf](http://www.in.gov/idoi/files/FAQs_12-21-15.pdf)