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Register

1 **102.423 Health service fee schedule. (1) ESTABLISHMENT OF SCHEDULE. (a)**
2 By July 1, 2015, the department shall establish a schedule of the maximum fees that
3 a health care provider may charge an employer or insurer for health services
4 provided to an injured employee who claims benefits under this chapter. When that
5 schedule is established, the department shall notify the legislative reference bureau
6 and the legislative reference bureau shall publish that notice in the Wisconsin
7 Administrative Register. In determining those maximum fees, the department
8 shall divide the state into 5 regions based on geographical and economical similarity,
9 including similarity in the cost of health services, and, for each region, shall do all
10 of the following:

11 1. Determine the average payment made by group health benefit plans, as
12 defined in s. 632.745 (9), group health plans, as defined in s. 632.745 (10), and
13 self-insured health plans, as defined in s. 632.745 (24), and the average copayment,
14 coinsurance, and deductible payment made by persons covered under those plans,
15 for each health service included in the schedule based on health service payment
16 data obtained from the Wisconsin Health Information Organization, the Workers
17 Compensation Research Institute, health insurers and health plan sponsors, the
18 group health insurance plan under subch. IV of ch. 40, and other sources determined
19 by the department to be credible.

20 2. Set the maximum fee for each health service included in the schedule at 110
21 percent of the sum of the average payment for that service and the average
22 copayment, coinsurance, and deductible payment for that service, as determined
23 under subd. 1.

24 (b) 1. In this paragraph, "consumer price index" means the average of the
25 consumer price index for medical care services over each 12-month period for all

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1 urban consumers, U.S. city average, as determined by the bureau of labor statistics
2 of the federal department of labor.

3 2. On each July 1, beginning on July 1, 2016, the department shall adjust the
4 maximum fees established under par. (a) by the percentage difference between the
5 consumer price index for the 12-month period ending on December 31 of the
6 preceding year and the consumer price index for the 12-month period ending on
7 December 31 of the year before the preceding year.

8 (c) No less often than every 2 years, the department shall obtain health service
9 payment data from the sources specified in par. (a) 1., redetermine the average
10 payments specified in par. (a) 1., and revise the maximum fees established under par.
11 (a) 2. based on that redetermined average.

12 (d) The department may not implement the fee schedule established under par.
13 (a) or revise that schedule under par. (c) unless the schedule or revised schedule is
14 approved by the council on worker's compensation.

15 (e) The department shall post a link to the fee schedule established under par.
16 (a) on the department's Internet site. Notwithstanding s. 227.10 (1), the fee schedule
17 need not be promulgated as a rule.

18 **(2) LIABILITY OF EMPLOYER OR INSURER.** The liability of an employer or insurer
19 for a health service included in the fee schedule established under sub. (1) (a) is
20 limited to the maximum fee allowed under the schedule for that health service as of
21 the date on which the health service was provided, any fee agreed to by contract
22 between the employer or insurer and health care provider for that health service as
23 of that date, or the health care provider's actual fee for the health service as of that
24 date, whichever is less. A health care provider that provides health services to an
25 injured employee under this chapter may not collect, or bring an action to collect,

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1 from the injured employee any charge that is in excess of the liability of the employer
2 or insurer under this subsection. This subsection first applies to a health service
3 provided to an injured employee on the date on which the notice under sub. (1) (a)
4 is published in the Wisconsin Administrative Register.

5 (3) RULES. The department shall promulgate rules to implement this section.

6 SECTION 50. 102.425 (3) (am) of the statutes is created to read:

7 102.425 (3) (am) 1. Subject to subd. 2., if a prescription drug dispensed under
8 sub. (2) (a) for outpatient use by an injured employee is a repackaged prescription
9 drug, the liability of an employer or insurer for the cost of the repackaged
10 prescription drug is limited to the average wholesale price, as determined under par.
11 (a) 1., of the prescription drug set by the original manufacturer of the prescription
12 drug, plus any dispensing fee that may be payable under par. (a) 2. and any taxes that
13 may be applicable under par. (a) 3., except that if the national drug code number of
14 the prescription drug as packaged by the original manufacturer of the prescription
15 drug cannot be determined from the billing statement under par. (c), that liability
16 is limited to the average wholesale price, as determined under par. (a) 1., of the
17 lowest-priced drug product equivalent, plus any dispensing fee under par. (a) 2. and
18 any taxes under par. (a) 3. that would be payable for the drug product equivalent.

19 2. Subdivision 1. does not apply to a repackaged prescription drug dispensed
20 from a retail, mail-order, or institutional pharmacy.

21 SECTION 51. 102.425 (3) (b) of the statutes is amended to read:

22 102.425 (3) (b) In addition to the liability under par. (a) or (am), whichever is
23 applicable, an employer or insurer is also liable for reimbursement to an injured
24 employee for all out-of-pocket expenses incurred by the injured employee in
25 obtaining the prescription drug dispensed.

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1 **SECTION 52.** 102.425 (4) (a) of the statutes is amended to read:

2 102.425 (4) (a) Except as provided in par. (b), a pharmacist or practitioner who
3 dispenses a prescription drug under sub. (2) to an injured employee may not collect,
4 or bring an action to collect, from the injured employee any charge that is in excess
5 of the liability of the injured employee under sub. (2) (c) 2. or the liability of the
6 employer or insurer under sub. (3) (a) or (am), whichever is applicable.

7 **SECTION 53.** 102.425 (4) (b) of the statutes is amended to read:

8 102.425 (4) (b) If an employer or insurer denies or disputes liability for the cost
9 of a drug prescribed to an injured employee under sub. (2), the pharmacist or
10 practitioner who dispensed the drug may collect, or bring an action to collect, from
11 the injured employee the cost of the prescription drug dispensed, subject to the
12 limitations specified in sub. (3) (a) or (am), whichever is applicable. If an employer
13 or insurer concedes liability for the cost of a drug prescribed to an injured employee
14 under sub. (2), but disputes the reasonableness of the amount charged for the
15 prescription drug, the employer or insurer shall provide notice under sub. (4m) (b)
16 to the pharmacist or practitioner that the reasonableness of the amount charged is
17 in dispute and the pharmacist or practitioner who dispensed the drug may not
18 collect, or bring an action to collect, from the injured employee the cost of the
19 prescription drug dispensed after receiving that notice.

20 **SECTION 54.** 102.425 (4m) (b) of the statutes is amended to read:

21 102.425 (4m) (b) An employer or insurer that disputes the reasonableness of
22 the amount charged for a prescription drug dispensed under sub. (2) for outpatient
23 use by an injured employee or the department under sub. (4) (b) or s. 102.16 (1m) (c)
24 or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a completed bill for
25 the prescription drug, reasonable written notice to the pharmacist or practitioner

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1 that the charge is being disputed. After receiving reasonable written notice under
2 this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1) (bg) ~~1- 3.~~ that
3 a prescription drug charge is being disputed, a pharmacist or practitioner may not
4 collect the disputed charge from, or bring an action for collection of the disputed
5 charge against, the employee who received the prescription drug.

6 **SECTION 55.** 102.43 (5) (c) of the statutes is amended to read:

7 102.43 (5) (c) Compensation for temporary disability on account of receiving
8 instruction under s. 102.61 (1) or (1m) shall not be reduced under sub. (2) on account
9 of any wages earned for the first 24 hours worked by an employee during a week in
10 which the employee is receiving that instruction. If an employee performs more than
11 24 hours of work during a week in which the employee is receiving that instruction,
12 all wages earned for hours worked in excess of 24 during that week shall be offset
13 against the employee's average weekly wage in calculating compensation for
14 temporary disability under sub. (2). An employee who is receiving compensation for
15 temporary disability on account of receiving instruction under s. 102.61 (1) or (1m)
16 shall report any wages earned during the period in which the employee is receiving
17 that instruction to the insurance carrier or self-insured employer paying that
18 compensation. This paragraph does not apply after April 30, 2014 2016.

19 **SECTION 56.** 102.44 (1) (ag) of the statutes is amended to read:

20 102.44 (1) (ag) Notwithstanding any other provision of this chapter, every
21 employee who is receiving compensation under this chapter for permanent total
22 disability or continuous temporary total disability more than 24 months after the
23 date of injury resulting from an injury that occurred prior to January 1, 2001 2003,
24 shall receive supplemental benefits that shall be payable ~~in the first instance~~ by the
25 employer or, subject to par. (c), by the employer's insurance carrier, or in the case of

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1 benefits payable to an employee under s. 102.66, shall be paid by the department out
2 of the fund created under s. 102.65. Those supplemental benefits shall be paid only
3 for weeks of disability occurring after January 1, ~~2003~~ 2005, and shall continue
4 during the period of such total disability subsequent to that date.

5 **SECTION 57.** 102.44 (1) (ag) of the statutes, as affected by 2013 Wisconsin Act
6 (this act), is amended to read:

7 102.44 (1) (ag) Notwithstanding any other provision of this chapter, every
8 employee who is receiving compensation under this chapter for permanent total
9 disability or continuous temporary total disability more than 24 months after the
10 date of injury resulting from an injury that occurred prior to January 1, 2003, shall
11 receive supplemental benefits that shall be payable by the employer or, ~~subject to par.~~
12 ~~(e),~~ by the employer's insurance carrier, or in the case of benefits payable to an
13 employee under s. 102.66, shall be paid by the department out of the fund created
14 under s. 102.65. Those supplemental benefits shall be paid only for weeks of
15 disability occurring after January 1, 2005, and shall continue during the period of
16 such total disability subsequent to that date.

17 **SECTION 58.** 102.44 (1) (am) of the statutes is amended to read:

18 102.44 (1) (am) If the employee is receiving the maximum weekly benefits in
19 effect at the time of the injury, the supplemental benefit for a week of disability
20 occurring after ~~May 1, 2010~~ the effective date of this paragraph [LRB inserts
21 date], shall be an amount that, when added to the regular benefit established for the
22 case, shall equal ~~\$582~~ \$669.

23 **SECTION 59.** 102.44 (1) (b) of the statutes is amended to read:

24 102.44 (1) (b) If the employee is receiving a weekly benefit that is less than the
25 maximum benefit that was in effect on the date of the injury, the supplemental

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1 benefit for a week of disability occurring after ~~May 1, 2010~~ the effective date of this
2 paragraph [LRB inserts date], shall be an amount sufficient to bring the total
3 weekly benefits to the same proportion of \$582 ~~\$669~~ as the employee's weekly benefit
4 bears to the maximum in effect on the date of injury.

5 **SECTION 60.** 102.44 (1) (c) of the statutes is renumbered 102.44 (1) (c) 1. and
6 amended to read:

7 102.44 (1) (c) 1. ~~Subject to any certificate filed under s. 102.65 (4), an employer~~
8 ~~or~~ An insurance carrier paying the supplemental benefits required under this
9 subsection shall be entitled to reimbursement for each such case from the ~~fund~~
10 ~~established by s. 102.65~~ worker's compensation operations fund, commencing one
11 year after the date of the first payment of those benefits and annually thereafter
12 while those payments continue. To receive reimbursement under this paragraph, an
13 ~~employer or~~ insurance carrier must file a claim for that reimbursement with the
14 department by no later than 12 months after the end of the year in which the
15 supplemental benefits were paid and the claim must be approved by the department.

16 **SECTION 61.** 102.44 (1) (c) 2. of the statutes is created to read:

17 102.44 (1) (c) 2. After the expiration of the deadline for filing a claim under
18 subd. 1., the department shall determine the total amount of all claims filed by that
19 deadline and shall use that total to determine the amount to be collected under s.
20 102.75 (1g) from each licensed worker's compensation insurance carrier, deposited
21 in the worker's compensation operations fund, and used to provide reimbursement
22 to insurance carriers paying supplemental benefits under this subsection. The
23 department shall pay a claim for reimbursement approved by the department by no
24 later than 16 months after the end of the year in which the claim was received by the
25 department.

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1 **SECTION 62.** 102.44 (1) (c) 3. of the statutes is created to read:

2 102.44 (1) (c) 3. This paragraph does not apply to supplemental benefits paid
3 for an injury that occurs on or after July 1, 2015.

4 **SECTION 63.** 102.44 (1m) of the statutes is created to read:

5 102.44 (1m) Notwithstanding any other provision of this chapter, for an
6 employee who is receiving compensation under this chapter for permanent total
7 disability or continuous temporary total disability more than 24 months after the
8 date of injury resulting from an injury that occurs on or after July 1, 2015, payment
9 of compensation under this chapter for periods of disability occurring more than 6
10 years after the date of injury shall be made as follows:

11 (a) If the employee was entitled to the maximum weekly benefit that was in
12 effect at the time of the injury, payment of the weekly benefit for a week of disability
13 occurring more than 6 years after the date of injury shall be at the maximum rate
14 that is in effect at the time the benefit accrues and becomes payable.

15 (b) If the employee was entitled to less than the maximum weekly benefit that
16 was in effect at the time of the injury, payment of the weekly benefit for a week of
17 disability occurring more than 6 years after the date of injury shall be in an amount
18 that bears the same proportion to the maximum rate that is in effect at the time the
19 benefit accrues and becomes payable as the employee's weekly benefit at the time of
20 the injury bore to the maximum weekly benefit that was in effect at the time of the
21 injury.

22 **SECTION 64.** 102.44 (3) of the statutes is amended to read:

23 102.44 (3) For permanent partial disability not covered by ss. 102.52 to 102.56,
24 the aggregate number of weeks of indemnity shall bear such relation to 1,000 weeks
25 as the nature of the injury bears to one causing permanent total disability and.

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1 Subject to sub. (4m), the weekly indemnity for such permanent partial disability
2 shall be payable at the rate of two-thirds of the average weekly earnings of the
3 employee, the earnings to be computed as provided in s. 102.11.—The weekly
4 indemnity, shall be in addition to compensation for the healing period, and shall be
5 for the period that the employee may live, not to exceed 1,000 weeks.

6 **SECTION 65.** 102.44 (4) of the statutes is renumbered 102.44 (4) (intro.) and
7 amended to read:

8 102.44 (4) (intro.) ~~Where the~~ When a permanent disability is covered by ss.
9 102.52, 102.53, and 102.55, ~~such those~~ sections shall govern; ~~provided, that in no case~~
10 ~~shall the~~ except as follows:

11 (a) The percentage of permanent total disability may not be taken as more than
12 100 percent. *beginning with the 201st week* *permanent partial*

13 **SECTION 66.** 102.44 (4) (b) of the statutes is created to read:

14 102.44 (4) (b) The weekly indemnity for periods of disability ~~occurring more~~
15 ~~than 200 weeks after the first~~ week of permanent partial disability shall be as
16 provided in sub. (4m). *permanent partial* *permanent partial*

17 **SECTION 67.** 102.44 (4m) of the statutes is created to read:

18 102.44 (4m) Notwithstanding any other provision of this chapter, for an
19 employee who is receiving compensation under this chapter for permanent partial
20 disability, whether or not covered by ss. 102.52, 102.53, or 102.55, payment of
21 compensation under this chapter for periods of disability ~~occurring more than 200~~
22 ~~weeks after the first~~ week of permanent partial disability shall be made as follows:

23 (a) If the employee was entitled to the maximum weekly benefit that was in
24 effect at the time of the injury, payment of the weekly benefit for a week of disability
25 ~~occurring more than 200 weeks after the first~~ week of permanent partial disability

beginning with the 201st

beginning with the 201st

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1 shall be at the maximum rate that is in effect at the time the benefit accrues and
2 becomes payable.

beginning with the 2014

permanent partial

3 (b) If the employee was entitled to less than the maximum weekly benefit that
4 was in effect at the time of the injury, payment of the weekly benefit for a week of
5 disability ~~occurring more than 200 weeks after the first~~ week of permanent partial
6 disability shall be in an amount that bears the same proportion to the maximum rate
7 that is in effect at the time the benefit accrues and becomes payable as the employee's
8 weekly benefit at the time of the injury bore to the maximum weekly benefit that was
9 in effect at the time of the injury.

10 **SECTION 68.** 102.445 of the statutes is created to read:

11 **102.445 Continuation of health care coverage.** (1) In this section, "group
12 health care coverage" means health care coverage of an employee, or of an employee
13 and his or her dependents, under a group health benefit plan, as defined in s. 632.745
14 (9), a group health plan, as defined in s. 632.745 (10), or a self-insured health plan,
15 as defined in s. 632.745 (24).

16 (2) If at the time of injury the employer of an injured employee is providing the
17 injured employee with group health care coverage, the employer shall maintain that
18 coverage during the injured employee's period of temporary disability at the level
19 and under the conditions that the employer would have provided coverage if the
20 injured employee had continued in employment continuously during that period of
21 temporary disability, without regard to the injured employee's employment status
22 during that period. If during an injured employee's period of temporary disability
23 the injured employee continues making any contributions required of the injured
24 employee for participation in the plan providing that coverage, the employer shall
25 continue making any contributions required of the employer for the injured

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1 employee's participation in that plan as if the injured employee were not in a period
2 of temporary disability.

3 (3) Any employer that fails to maintain group health care coverage for an
4 injured employee as required under sub. (2) or such an employer's worker's
5 compensation insurance carrier is liable to the injured employee for an amount that
6 is equal to 100 percent of the contributions required of the employer under sub. (2)
7 that the employer failed to pay. That liability also applies to an employer that fails
8 to maintain group health care coverage provided at the time of injury for an injured
9 employee or to such an employer's worker's compensation insurance carrier in a case
10 in which the employer's liability under this chapter for the employee's injury or the
11 period of the employee's temporary disability is in dispute, if the injured employee
12 submits the dispute to the department and the injury or period of disability is found
13 to be compensable under this chapter. That liability is in addition to any temporary
14 disability benefits payable under this chapter and may not be considered in
15 computing the employee's average weekly earnings under s. 102.11, actual wage loss,
16 or benefits for temporary disability.

17 (4) Any injured employee whose employer fails to maintain group health care
18 coverage for the injured employee as required under sub. (2) may request a hearing
19 on the violation under s. 102.17. If, after hearing, the examiner finds that the
20 employer has violated sub. (2), the examiner may order the employer to pay the
21 injured employee the amount for which the employer is liable under sub. (3).

22 (5) If an injured employee ends his or her employment with an employer during
23 or at the end of a period of temporary disability, the time for conversion to individual
24 coverage under s. 632.897 (6) shall be calculated as beginning on the date on which
25 the injured employee began the period of temporary disability.

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1 **SECTION 69.** 102.65 (4) (intro.) of the statutes is amended to read:

2 102.65 (4) (intro.) The secretary shall monitor the cash balance in, and incurred
3 losses to, the work injury supplemental benefit fund using generally accepted
4 actuarial principles. If the secretary determines that the expected ultimate losses
5 to the work injury supplemental benefit fund on known claims exceed 85 percent of
6 the cash balance in that fund, the secretary shall consult with the council on worker's
7 compensation. If the secretary, after consulting with the council on worker's
8 compensation, determines that there is a reasonable likelihood that the cash balance
9 in the work injury supplemental benefit fund may become inadequate to fund all
10 claims under ss. 102.44 (1) (e), 102.49, 102.59, and 102.66, the secretary shall file
11 with the secretary of administration a certificate attesting that the cash balance in
12 that fund is likely to become inadequate to fund all claims under ss. 102.44 (1) (e),
13 102.49, 102.59, and 102.66 and specifying one of the following:

14 **SECTION 70.** 102.75 (1) of the statutes is amended to read:

15 102.75 (1) The department shall assess upon and collect from each licensed
16 worker's compensation insurance carrier and from each employer exempted under
17 s. 102.28 (2) ~~by special order or by rule, (b) or (bm) from the duty to carry insurance~~
18 under s. 102.28 (2) (a) the proportion of total costs and expenses incurred by the
19 council on worker's compensation for travel and research and by the department and
20 the commission in the administration of this chapter for the current fiscal year, plus
21 any deficiencies in collections and anticipated costs from the previous fiscal year,
22 that the total indemnity paid or payable under this chapter by each such carrier and
23 exempt employer in worker's compensation cases initially closed during the
24 preceding calendar year, other than for increased, double, or treble compensation,
25 bore to the total indemnity paid in cases closed the previous calendar year under this

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1 chapter by all carriers and exempt employers, other than for increased, double, or
2 treble compensation. The council on worker's compensation and the commission
3 shall annually certify any costs and expenses for worker's compensation activities
4 to the department at such time as the secretary requires.

5 **SECTION 71.** 102.75 (1g) of the statutes is created to read:

6 102.75 (1g) The department shall collect from each licensed worker's
7 compensation carrier the proportion of reimbursement approved by the department
8 under s. 102.44 (1) (c) 1. for supplemental benefits paid in the year before the
9 previous year that the total indemnity paid or payable under this chapter by the
10 carrier in worker's compensation cases initially closed during the preceding calendar
11 year, other than for increased, double, or treble compensation, bore to the total
12 indemnity paid in cases closed the previous calendar year under this chapter by all
13 carriers, other than for increased, double, or treble compensation. This subsection
14 does not apply to claims for reimbursement under s. 102.44 (1) (c) 1. for supplemental
15 benefits paid for injuries that occur on or after July 1, 2015.

16 **SECTION 72.** 102.75 (1m) of the statutes, as affected by 2013 Wisconsin Act 20,
17 is amended to read:

18 102.75 (1m) The moneys collected under ~~sub. subs.~~ (1) and (1g) and under ss.
19 102.28 (2) and 102.31 (7), together with all accrued interest, shall constitute a
20 separate nonlapsible fund designated as the worker's compensation operations fund.
21 Moneys in the fund may be expended only as provided in s. 20.445 (1) (ra), (rb), and
22 (rp) and (2) (ra) and may not be used for any other purpose of the state.

23 **SECTION 73.** 102.75 (2) of the statutes is amended to read:

24 102.75 (2) The department shall require ~~that payments for costs and expenses~~
25 ~~for each fiscal year shall be made on such dates as the department prescribes by each~~

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1 licensed worker's compensation insurance carrier and employer exempted under s.
2 102.28 (2) (b) or (bm) from the duty to insure under s. 102.28 (2) (a) to make the
3 payments required under sub. (1) for each fiscal year on such dates as the
4 department prescribes. The department shall also require each licensed worker's
5 compensation insurance carrier to make the payments required under sub. (1g) for
6 each fiscal year on those dates. Each such payment shall be a sum equal to a
7 proportionate share of the annual costs and expenses assessed upon each carrier and
8 employer as estimated by the department. Interest shall accrue on amounts not paid
9 within 30 days after the date prescribed by the department under this subsection at
10 the rate of 1 percent per month. All interest payments received under this subsection
11 shall be deposited in the fund established under s. 102.65.

12 **SECTION 74.** 102.75 (4) of the statutes is amended to read:

13 102.75 (4) From the appropriation under s. 20.445 (1) (ra), the department
14 shall allocate the amounts that it collects in application fees from employers
15 applying for exemption under s. 102.28 (2) (b) and the annual amount that it collects
16 from employers that have been exempted under s. 102.28 (2) (b) to fund the activities
17 of the department under s. 102.28 (2) (b) and (c) with respect to those employers.

18 **SECTION 75.** 102.80 (1) (f) of the statutes is created to read:

19 102.80 (1) (f) Amounts transferred to the uninsured employers fund from the
20 appropriation under s. 20.445 (1) (ra) as provided in s. 102.81 (1) (c).

21 **SECTION 76.** 102.81 (1) (a) of the statutes is amended to read:

22 102.81 (1) (a) If an employee of an uninsured employer, other than an employee
23 who is eligible to receive alternative benefits under s. 102.28 (3), suffers an injury for
24 which the uninsured employer is liable under s. 102.03, the department or the
25 department's reinsurer shall pay to or on behalf of the injured employee or to the

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1 employee's dependents an amount equal to the compensation owed them by the
2 uninsured employer under this chapter except penalties and interest due under ss.
3 102.16 (3), 102.18 (1) (b) 3. and (bp), 102.22 (1), 102.35 (3), 102.57, and 102.60.

4 **SECTION 77.** 102.81 (1) (c) of the statutes is created to read:

5 102.81 (1) (c) 1. The department shall pay a claim under par. (a) in excess of
6 \$1,000,000 from the uninsured employers fund in the first instance. If the claim is
7 not covered by excess or stop-loss reinsurance under sub. (2), the secretary of
8 administration shall transfer from the appropriation account under s. 20.445 (1) (ra)
9 to the uninsured employers fund as provided in subds. 2. and 3. an amount equal to
10 the amount by which payments from the uninsured employers fund on the claim are
11 in excess of \$1,000,000.

12 2. Each calendar year the department shall file with the secretary of
13 administration a certificate setting forth the number of claims in excess of
14 \$1,000,000 in the preceding year paid from the uninsured employers fund, the
15 payments made from the uninsured employers fund on each such claim in the
16 preceding year, and the total payments made from the uninsured employers fund on
17 all such claims and, based on that information, the secretary of administration shall
18 determine the amount to be transferred under subd. 1. in that calendar year.

19 3. The maximum amount that the secretary of administration may transfer
20 under subd. 1. in a calendar year is \$500,000. If the amount determined under subd.
21 2. is \$500,000 or less, the secretary of administration shall transfer the amount
22 determined under subd. 2. If the amount determined under subd. 2. exceeds
23 \$500,000, the secretary of administration shall transfer \$500,000 in the calendar
24 year in which the determination is made and, subject to the maximum transfer

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1 amount of \$500,000 per calendar year, shall transfer that excess in the next calendar
2 year or in subsequent calendar years until that excess is transferred in full.

3 **SECTION 78.** 108.10 (4) of the statutes is amended to read:

4 108.10 (4) The department or the employing unit may commence action for the
5 judicial review of a commission decision under this section, provided the department,
6 or the employing unit, after exhausting the remedies provided under this section, has
7 commenced such action within 30 days after such decision was mailed to the
8 employing unit's last-known address. The scope of judicial review, and the manner
9 thereof insofar as applicable, shall be the same as that provided in s. 108.09 (7). In
10 an action commenced by an employing unit under this section, the department shall
11 be ~~an adverse party~~ a defendant under s. 102.23 (1) (a) and shall be named as a ~~party~~
12 defendant in the summons and complaint commencing the action.

13 **SECTION 79.** 165.60 of the statutes is amended to read:

14 **165.60 Law enforcement.** The department of justice is authorized to enforce
15 ss. 101.123 (2), (2m), and (8), 175.60 (17) (e), 944.30, 944.31, 944.33, 944.34, 945.02
16 (2), 945.03 (1m), and 945.04 (1m) and ch. 108 and, with respect to a false statement
17 submitted or made under s. 175.60 (7) (b) or (15) (b) 2. or as described under s. 175.60
18 (17) (c), to enforce s. 946.32, is authorized to assist the department of workforce
19 development in the investigation and prosecution of suspected fraudulent activity
20 related to worker's compensation as provided in s. 102.125, and is invested with the
21 powers conferred by law upon sheriffs and municipal police officers in the
22 performance of those duties. This section does not deprive or relieve sheriffs,
23 constables, and other local police officers of the power and duty to enforce those
24 sections, and those officers shall likewise enforce those sections.

25 **SECTION 80. Nonstatutory provisions.**

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1 (1) FRAUD INVESTIGATION AND PROSECUTION; DEPARTMENT OF JUSTICE POSITION
2 AUTHORIZATION. The authorized FTE positions for the department of justice are
3 increased by 1.0 PR-S position, to be funded from the appropriation under section
4 20.455 (2) (k) of the statutes, for the purpose of investigating and prosecuting
5 fraudulent activity related to worker's compensation.

6 (2) MEDICAL EXPERT; DEPARTMENT OF WORKFORCE DEVELOPMENT POSITION
7 AUTHORIZATION. The authorized FTE positions for the department of workforce
8 development are increased by 1.0 SEG position, to be funded from the appropriation
9 under s. 20.445 (1) (ra) of the statutes, for the purpose of providing a medical expert
10 to assist in the administration of the worker's compensation program.

11 (3) STUDY OF TREATMENT OUTCOMES. The secretary of workforce development
12 shall create a committee under section 15.04 (1) (c) of the statutes to review and
13 evaluate the outcomes of treatment provided to injured employees by health care
14 providers under the worker's compensation program. The committee shall include
15 representatives of employers, employees, health care providers, worker's
16 compensation insurers authorized to do business in this state, and the department
17 of workforce development. Upon completion of the study, the committee shall report
18 its findings, conclusions, and recommendations to the department of workforce
19 development and the council on worker's compensation, after which the committee
20 shall terminate its activities and cease to exist.

SECTION 81. Fiscal changes.

21 (1) TRANSFER TO UNINSURED EMPLOYERS FUND. In the schedule under section
22 20.005 (3) of the statutes for the appropriation to the department of workforce
23 development under section 20.445 (1) (ra) of the statutes, as affected by the acts of
24 2013, the dollar amount is increased by \$500,000 for the first fiscal year of the fiscal
25

BILL

1 biennium in which this subsection takes effect to provide funding for transfer to the
2 uninsured employers fund in reimbursement of claims paid from that fund in excess
3 of \$1,000,000 in 2013. In the schedule under section 20.005 (3) of the statutes for the
4 appropriation to the department of workforce development under section 20.445 (1)
5 (ra) of the statutes, as affected by the acts of 2013, the dollar amount is increased by
6 \$500,000 for the second fiscal year of the fiscal biennium in which this subsection
7 takes effect to provide funding for transfer to the uninsured employers fund in
8 reimbursement of claims paid from that fund in excess of \$1,000,000 in 2014.

9 (2) INDEXING OF PERMANENT PARTIAL DISABILITY PAYMENTS; INFORMATION
10 TECHNOLOGY. In the schedule under section 20.005 (3) of the statutes for the
11 appropriation to the department of workforce development under section 20.445 (1)
12 (ra) of the statutes, as affected by the acts of 2013, the dollar amount is increased by
13 \$160,000 for the second fiscal year of the fiscal biennium in which this subsection
14 takes effect for the purpose of updating the department's information technology
15 system to enable that system to monitor the payment of permanent partial disability
16 benefits under section 102.44 (4m) of the statutes, as created by this act.

SECTION 82. Initial applicability.

17
18 (1) TRANSFER TO UNINSURED EMPLOYERS FUND. The treatment of sections 20.445
19 (1) (ra) (with respect to the transfer of moneys to the uninsured employers fund) and
20 102.81 (1) (c) of the statutes first applies to claims paid from the uninsured employers
21 fund in 2013.

22 (2) FEE DISPUTES. The treatment of section 102.16 (2) (d) of the statutes first
23 applies to a fee dispute submitted to the department of workforce development on the
24 effective date of this subsection.

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1 (3) REIMBURSEMENT OF SUPPLEMENTAL BENEFITS PAID. The renumbering and
2 amendment of section 102.44 (1) (c) of the statutes and the creation of section 102.44
3 (1) (c) 2. and 3. of the statutes first apply to supplemental benefits paid under section
4 102.44 (1) (ag) of the statutes on the effective date of this subsection.

5 (4) CONTINUATION OF HEALTH CARE COVERAGE. The treatment of section 102.445
6 of the statutes first applies to injuries occurring on the effective date of this
7 subsection.

8 (5) JUDICIAL REVIEW OF WORKER'S COMPENSATION DECISIONS. The treatment of
9 sections 102.23 (1) (a), (c), and (cm) and 108.10 (4) of the statutes first applies to an
10 action for the review of an order or award of the labor and industry review
11 commission commenced in circuit court on the effective date of this subsection.

12 (6) ADMINISTRATIVE REVIEW OF WORKER'S COMPENSATION DECISIONS. The treatment
13 of section 102.18 (3) and (4) (b) of the statutes first applies to a petition for the review
14 of a decision of a department of workforce development hearing examiner filed with
15 the labor and industry review commission on the effective date of this subsection.

16 **SECTION 83. Effective dates.** This act takes effect on the day after publication,
17 except as follows:

18 (1) JUDICIAL REVIEW OF WORKER'S COMPENSATION DECISIONS. The treatment of
19 sections 102.23 (1) (a), (c), and (cm) and 108.10 (4) of the statutes and SECTION 82 (5)
20 of this act take effect on July 1, 2014.

21 (2) ADMINISTRATIVE REVIEW OF WORKER'S COMPENSATION DECISIONS. The treatment
22 of section 102.18 (3) and (4) (b) of the statutes and SECTION 82 (6) of this act take effect
23 on January 1, 2015.

24 (3) CONTINUATION OF HEALTH CARE COVERAGE. The treatment of section 102.445
25 of the statutes and SECTION 82 (4) take effect on July 1, 2015.

Barman, Mike

From: Barman, Mike
Sent: Monday, January 27, 2014 4:11 PM
To: 'BJ.Dernbach@dwd.wisconsin.gov'
Cc: O'Malley, Jim T - DWD; Malaise, Gordon
Subject: Jackets Ready For Pick-Up... FINAL DRAFT WCAC BILL

Your bill jackets are ready to go ... we are open 7:45 AM - 5:00 PM.

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Malaise, Gordon
Sent: Monday, January 27, 2014 3:49 PM
To: Barman, Mike
Cc: O'Malley, Jim T - DWD
Subject: FW: FINAL DRAFT WCAC BILL READY FOR INTRODUCTION

Mike:

DWD would like -3729/2 jacketed for the Assembly and -4097/2 jacketed for the Senate.

When those drafts are jacketed, please notify BJ Dernbach of DWD and he will come over and pick them up as indicated below.

Gordon

From: O'Malley, Jim T - DWD [<mailto:Jim.OMalley@dwd.wisconsin.gov>]
Sent: Monday, January 27, 2014 3:36 PM
To: Malaise, Gordon
Cc: Metcalf, John C - DWD
Subject: FINAL DRAFT WCAC BILL READY FOR INTRODUCTION

<< File: 13-3729_2.pdf >> The last draft of the WCAC "Agreed Upon Bill" is ready for introduction. All necessary corrections have been made.

Please have the bill prepared for introduction in the Assembly and Senate as a companion bill.

B J Dernbach, DWD Legislative Liaison, will pick up the jacketed bills after they are available.

Thank you for your assistance and perseverance in drafting this complex bill.

Let me know if you have any questions.