

and information to take a position on liability. Neither the holding of a hearing nor the filing of an application for a hearing alone may determine the existence of a dispute. However, a finding that a dispute exists shall not be precluded by an employer's or insurer's purposeful inactivity on the issue of liability.

(5) Where representation is the result of the representative's employment by an insurance carrier, an employer, a union, a social service agency or a public agency, the representative may not charge a fee on a contingency basis.

(6) Where there has been successive representation by various representatives, the division of fees by the department shall take into account the relative value of the services performed by each representative, any concessions of disability, offers of settlement and other matters.

(7) Where a claimant appears by an attorney of record any fee shall be payable to such attorney regardless of the cooperation or involvement of agents or other non-attorneys. The division of such fee with agents or other non-attorneys shall be at the discretion of the attorney of record. If there is disagreement among successive attorneys the department will make appropriate apportionment of any or all fees for services.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82; cr. (7), Register, September, 1986, No. 369, eff. 10-1-86.

Ind 80.44 Witness fees and travel reimbursement. The fees and travel reimbursement of witnesses and interpreters for attending a hearing before an examiner of the department, shall be the statewide rate currently paid under s. 885.05 (1) (bn), Stats., notwithstanding any local county variations.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.46 Contribution to support of unestranged surviving parent. In assessing support under s. 102.48, Stats., the payment of room and board by a child to his or her parent shall not be considered as contribution to support of the parent.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.47 Medical release of employe for restricted work in the healing period. Even though an employe could return to a restricted type of work during the healing period, unless suitable employment within the physical and mental limitations of the employe is furnished by the employer or some other employer, compensation for temporary disability shall continue during the healing period.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.48 Reassignment of death benefits. When a spouse who is entitled to death benefits remarries, the department shall reassign the death benefits to the children designated in ss. 102.51 (1) and 102.49, Stats., unless a showing is made that undue hardship would result for the spouse because of the reassignment.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.49 Vocational rehabilitation benefits. (1) The primary purpose of vocational rehabilitation benefits is to provide a method to restore an

injured worker as nearly as possible to the worker's preinjury earning capacity and potential.

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(2) The determination of eligibility for vocational rehabilitation training and whether a person is a suitable subject for training is the responsibility of the vocational rehabilitation division of the department of health and social services.

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(3) The determination of whether an industrial injury creates a necessity for vocational rehabilitation training is the responsibility of the worker's compensation division of the department. The division shall utilize the following presumptions:

(a) If an injury causes permanent disability entitling an employe to compensation for permanent disability of 100 or more weeks, it shall be presumed that the injury necessitates vocational rehabilitation training unless a showing is made to the contrary.

(b) If an injury causes no permanent disability or a permanent disability entitling an employe to less than 100 weeks of compensation for permanent disability, it shall be presumed that the injury did not necessitate vocational rehabilitation training unless a showing is made to the contrary.

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(4) Extension of vocational rehabilitation benefits beyond 40 weeks may not be authorized if the purpose of such further training is primarily to improve upon preinjury earning capacity rather than restoring it.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82.

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Ind 80.50 Computation of permanent disabilities. (1) In computing permanent partial disabilities, the number of weeks attributable to more distal disabilities shall be deducted from the number of weeks in the schedule for more proximal disabilities before applying the percentage of disability for the more proximal injury, except that:

(a) Such a deduction shall not include multiple injury factors under s. 102.53, Stats.; and

(b) Such a deduction shall include preexisting disabilities.

(2) The number of weeks attributable to scheduled disabilities shall be deducted from 1,000 weeks before computing the number of weeks due for a non-scheduled disability resulting from the same injury. This deduction shall not include multiple injury factors under s. 102.53, Stats.

(3) Multiple injury factors under 102.53, Stats., do not apply to compensation for disfigurement under s. 102.56, Stats.

History: Cr. Register, August, 1981, No. 308, eff. 9-1-81; r. and recr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.51 Computation of weekly wage. Pursuant to s. 102.11, Stats. (1) In determining daily earnings, if the number of hours a full-time employe worked had been either decreased or increased for a period of at least 90 total days prior to the injury, then this revised schedule worked during those 90 days shall be considered to be normal full-time employment.

(2) When an employe furnishes his or her truck to the employer and is paid by the employer in gross to include operating expenses, one-third of Register, July, 1987, No. 379