



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0610/P1
GMM:kjfrs

IN 1121
Wanted Friday 1/23

P2
RBR
RMR

DOA:.....Kirschbaum, BB0209 - Transfer of Worker's Compensation
Division functions to OCI and DHA

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

testimony by electronic means rather than by a stenographer
and to provide notices by electronic delivery in addition to ~~mail~~ notices providing notices by mail

Sec affid ✓

Don't Gen

(necessity of
necessity of
treatment)

1 AN ACT ...; relating to: the budget.

**Analysis by the Legislative Reference Bureau
EMPLOYMENT**

Under current law, DWD performs certain administrative functions relating to worker's compensation. Those administrative functions include enforcement of the requirement that employers are insured for their worker's compensation liability; granting exemptions from that duty to insure to self-insured employers; administering the self-insured employers fund, from which DWD pays benefits to the injured employees of insolvent self-insured employers; administering the uninsured employers fund, from which DWD pays benefits to the injured employees of uninsured employers; and administering the work injury supplemental benefits fund, from which DWD pays supplemental benefits to certain injured employees with permanent total disability. This bill transfers the administrative functions of DWD relating to worker's compensation to OCI.

Under current law, DWD performs certain adjudicatory functions relating to worker's compensation. Those adjudicatory functions include adjudicating/disputed worker's compensation claims, adjudicating disputes over the reasonableness of fees charged for health services provided to an injured employee and of the amount charged for prescription drugs dispensed to an injured employee, and adjudicating disputes over the necessity of treatment provided to an injured employee. This bill transfers the adjudicatory functions of DWD relating to worker's compensation to the Division of Hearings and Appeals in DOA.

(reasonableness
of fees)

disputed

claims

(DHA) and the adjudicatory functions of DWD relating to ^(the) reasonableness of health service fees and ~~prescription drug charges~~ and the necessity of treatment ~~to~~ OCI. The bill also permits DHA to record.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 15.227 (4) of the statutes is renumbered 15.737 (4) and amended
2 to read:

3 15.737 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the
4 ~~department of workforce development~~ office of the commissioner of insurance a
5 council on worker's compensation appointed by the ~~secretary of workforce~~
6 ~~development~~ commissioner of insurance to consist of a designated employee of the
7 ~~department of workforce development~~ office of the commissioner of insurance as
8 chairperson, 5 representatives of employers, and 5 representatives of employees.
9 The ~~secretary of workforce development~~ commissioner of insurance shall also
10 appoint 3 representatives of insurers authorized to do worker's compensation
11 insurance business in this state as nonvoting members of the council.

12 SECTION 2. 15.227 (11) of the statutes is renumbered 15.737 (11) and amended
13 to read:

14 15.737 (11) SELF-INSURERS COUNCIL. There is created in the ~~department of~~
15 ~~workforce development~~ office of the commissioner of insurance a self-insurers
16 council consisting of 5 members appointed by the ~~secretary of workforce development~~
17 commissioner of insurance for 3-year terms.

18 SECTION 3. 15.737 (title) of the statutes is created to read:

19 **15.737 (title) Same; councils.**

20 SECTION 4. 16.865 (4) of the statutes is amended to read:

1 16.865 (4) Manage the state employees' worker's compensation program and
 2 the statewide self-funded programs to protect the state from losses of and damage
 3 to state property and liability and, if retained by the ~~department of workforce~~
 4 development office of the commissioner of insurance under s. 102.65 (3), process,
 5 investigate, and pay claims under ss. 102.44 (1), 102.49, 102.59, and 102.66 as
 6 provided in s. 102.65 (3).

7 **SECTION 5.** 20.145 (6) (title) of the statutes is created to read:

8 20.145 (6) (title) WORKER'S COMPENSATION ADMINISTRATION.

 ****NOTE: This SECTION involves a change in an appropriation that must be
 reflected in the revised schedule in s. 20.005, stats.

9 **SECTION 6.** 20.145 (6) (ga) of the statutes is created to read:

10 20.145 (6) (ga) *Auxiliary services.* All moneys received from fees collected

11 under s. 102.16 (2m) (d) for the delivery of services under s. 102.16 (2m) (f).

 ****NOTE: This SECTION involves a change in an appropriation that must be
 reflected in the revised schedule in s. 20.005, stats.

12 **SECTION 7.** 20.445 (1) (aa) of the statutes is renumbered 20.145 (6) (aa).

 ****NOTE: This SECTION involves a change in an appropriation that must be
 reflected in the revised schedule in s. 20.005, stats.

13 **SECTION 8.** 20.445 (1) (ga) of the statutes is amended to read:

14 20.445 (1) (ga) *Auxiliary services.* All moneys received from fees collected
 15 under ss. ~~102.16 (2m) (d)~~, 103.005 (15) and 106.09 (7) for the delivery of services
 16 under ss. ~~102.16 (2m) (f)~~, 103.005 (15) and 106.09 and ch. 108.

17 **SECTION 9.** 20.445 (1) (p) of the statutes is renumbered 20.145 (6) (p) and
 18 amended to read:

19 20.145 (6) (p) *Worker's compensation; federal moneys.* All federal moneys
 20 received for the worker's compensation activities of the ~~department~~ office, to be used
 21 for those purposes.

11
 Insert
 3-11

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 10.** 20.445 (1) (ra) of the statutes is renumbered 20.145 (6) (ra) and
2 amended to read:

3 20.145 (6) (ra) *Worker's compensation operations fund; administration.* From
4 the worker's compensation operations fund, the amounts in the schedule for the
5 administration of the worker's compensation program by the department office and
6 for transfer to the appropriation accounts under par. (rp) and ~~sub. (2) s. 20.505 (4)~~ *Plan*
7 (ra). All moneys received under ss. 102.28 (2) (b) and 102.75 shall be credited to this
8 appropriation account. From this appropriation, an amount not to exceed \$5,000
9 may be expended each fiscal year for payment of expenses for travel and research by
10 the council on worker's compensation, the amount in the schedule under par. (rp)
11 shall be transferred to the appropriation account under par. (rp), and the amount in
12 the schedule under ~~sub. (2) s. 20.505 (4)~~ (ra) shall be transferred to the appropriation
13 account under ~~sub. (2) s. 20.505 (4)~~ (ra). *Plan*

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14 **SECTION 11.** 20.445 (1) (rb) of the statutes is renumbered 20.145 (6) (rb).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 12.** 20.445 (1) (rp) of the statutes is renumbered 20.145 (6) (rp).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

16 **SECTION 13.** 20.445 (1) (s) of the statutes is renumbered 20.145 (6) (s).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

17 **SECTION 14.** 20.445 (1) (sm) of the statutes is renumbered 20.145 (6) (sm) and
18 amended to read:

1 20.145 (6) (sm) *Uninsured employers fund; payments.* From the uninsured
2 employers fund, a sum sufficient to make the payments under s. 102.81 (1) and to
3 obtain reinsurance under s. 102.81 (2). No moneys may be expended or encumbered
4 under this paragraph until the first day of the first July beginning after the day that
5 the ~~secretary of workforce development~~ commissioner of insurance files the
6 certificate under s. 102.80 (3) (a).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

7 **SECTION 15.** 20.445 (1) (t) of the statutes is renumbered 20.145 (6) (t).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

8 ~~**SECTION 16.** 20.445 (2) (ra) of the statutes is renumbered 20.505 (4) (ra) and~~
9 ~~amended to read:~~

10 ~~20.505 (4) (ra) *Worker's compensation operations fund; worker's compensation*~~
11 ~~*activities.* From the worker's compensation operations fund, the amounts in the~~
12 ~~schedule for the worker's compensation activities of the labor and industry review~~
13 ~~commission division of hearings and appeals. All moneys transferred from the~~
14 ~~appropriation account under sub. (1) s. 20.145 (6) (ra) shall be credited to this~~
15 ~~appropriation account.~~

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

16 **SECTION 17.** 40.63 (6) of the statutes is amended to read:

17 40.63 (6) Any person entitled to payments under this section who may
18 otherwise be entitled to payments under s. 66.191, 1981 stats., may file with the
19 department and the ~~department of workforce development~~ office of the commissioner
20 of insurance a written election to waive payments due under this section and accept
21 in lieu of the payments under this section payments as may be payable under s.

15

[insert]

5-15

16

17

18

19

20

21

1 66.191, 1981 stats., but no person may receive payments under both s. 66.191, 1981
2 stats., and this section. However any person otherwise entitled to payments under
3 this section may receive the payments, without waiver of any rights under s. 66.191,
4 1981 stats., during any period as may be required for a determination of the person's
5 rights under s. 66.191, 1981 stats. Upon the final adjudication of the person's rights
6 under s. 66.191, 1981 stats., if waiver is filed under this section, the person shall
7 immediately cease to be entitled to payments under this section and the system shall
8 be reimbursed from the award made under s. 66.191, 1981 stats., for all payments
9 made under this section.

10 **SECTION 18.** 40.65 (2) (a) of the statutes is amended to read:

11 40.65 (2) (a) This paragraph applies to participants who first apply for benefits
12 before May 3, 1988. Any person desiring a benefit under this section must apply to
13 ~~the department of workforce development~~ office of the commissioner of insurance,
14 which ~~department~~ office shall determine whether the applicant is eligible to receive
15 the benefit and the participant's monthly salary. Appeals from the eligibility decision
16 shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an
17 applicant is eligible, the ~~department of workforce development~~ office of the
18 commissioner of insurance shall notify the department of employee trust funds and
19 shall certify the applicant's monthly salary. If at the time of application for benefits
20 an applicant is still employed in any capacity by the employer in whose employ the
21 disabling injury occurred or disease was contracted, that continued employment
22 shall not affect that applicant's right to have his or her eligibility to receive those
23 benefits determined in proceedings before the ~~department of workforce development~~
24 division of hearings and appeals in the department of administration or the labor and
25 industry review commission or in proceedings in the courts. The ~~department of~~

1 ~~workforce development office of the commissioner of insurance~~ may promulgate
2 rules needed to administer this paragraph.

3 SECTION 19. 40.65 (2) (b) 3. of the statutes is amended to read:

4 40.65 (2) (b) 3. The department shall determine whether or not the applicant
5 is eligible for benefits under this section on the basis of the evidence in subd. 2. An
6 applicant may appeal a determination under this subdivision to the ~~department of~~
7 ~~workforce development~~ division of hearings and appeals in the department of
8 administration.

9 SECTION 20. 40.65 (2) (b) 4. of the statutes is amended to read:

10 40.65 (2) (b) 4. In hearing an appeal under subd. 3., the department of
11 workforce development division of hearings and appeals in the department of
12 administration shall follow the procedures under ss. 102.16 to 102.26.

13 SECTION 21. 73.0301 (1) (d) 3m. of the statutes is amended to read:

14 73.0301 (1) (d) 3m. A license or certificate issued by the department of
15 workforce development under s. ~~102.17 (1) (c)~~, 103.275 (2) (b), 103.34 (3) (c), 103.91
16 (1), 103.92 (3), 104.07 (1) or (2), or 105.13 (1).

17 SECTION 22. 73.0301 (1) (d) 3p. of the statutes is created to read: ✓

18 73.0301 (1) (d) 3p. A license issued by the division of hearings and appeals in
19 the department of administration under s. 102.17 (1) (c).

20 SECTION 23. 102.01 (2) (a) of the statutes is renumbered 102.01 (2) (af).

21 SECTION 24. 102.01 (2) (ad) of the statutes is created to read:

22 102.01 (2) (ad) "Administrator" means the administrator of the division of
23 hearings and appeals in the department of administration.

24 SECTION 25. 102.01 (2) (ag) of the statutes is amended to read:

✓ Insert 7-19

1 102.01 (2) (ag) "Commissioner" means ~~a member of the commission~~ the
2 commissioner of insurance.

3 **SECTION 26.** 102.01 (2) (ap) of the statutes is repealed.

4 **SECTION 27.** 102.01 (2) (ar) of the statutes is created to read:

5 102.01 (2) (ar) "Division" means the division of hearings and appeals in the
6 department of administration.

7 **SECTION 28.** 102.01 (2) (bm) of the statutes is amended to read:

8 102.01 (2) (bm) "General order" means ~~such order as~~ an order that applies
9 generally throughout the state to all persons, employments, places of employment,
10 or public buildings, or to all persons, employments ~~or~~, places of employment, or public
11 buildings of a class under the jurisdiction of the ~~department~~ office. All other orders
12 of the ~~department~~ office shall be considered special orders.

13 **SECTION 29.** 102.01 (2) (dg) of the statutes is created to read:

14 102.01 (2) (dg) "Office" means the office of the commissioner.

15 **SECTION 30.** 102.01 (2) (dm) of the statutes is amended to read:

16 102.01 (2) (dm) "Order" means any decision, rule, regulation, direction,
17 requirement, or standard of the ~~department~~ office, or any other determination
18 arrived at or decision made by the ~~department~~ office.

19 **SECTION 31.** 102.01 (2) (em) of the statutes is repealed.

20 **SECTION 32.** 102.05 (1) of the statutes is amended to read:

21 102.05 (1) An employer who has had no employee at any time within a
22 continuous period of 2 years shall be ~~deemed~~ considered to have effected withdrawal,
23 which shall be effective on the last day of ~~such~~ that period. An employer who has not
24 usually employed 3 employees and who has not paid wages of at least \$500 for
25 employment in this state in every calendar quarter in a calendar year may file a

1 withdrawal notice with the ~~department~~ office, which withdrawal shall take effect 30
2 days after the date of ~~such~~ that filing or at such later date as is specified in the notice.
3 If an employer who is subject to this chapter only because the employer elected to
4 become subject to this chapter under sub. (2) cancels or terminates his or her contract
5 for the insurance of compensation under this chapter, that employer is deemed
6 considered to have effected withdrawal, which shall be effective on the day after the
7 contract is canceled or terminated.

8 **SECTION 33.** 102.05 (3) of the statutes is amended to read:

9 102.05 (3) ~~Any~~ If a person engaged in farming who has become subject to this
10 chapter has not employed 6 or more employees, as defined in s. 102.07 (5), on 20 or
11 more days during the current or previous calendar year, the person may withdraw
12 by filing with the ~~department~~ office a notice of withdrawal, ~~if the person has not~~
13 ~~employed 6 or more employees as defined by s. 102.07 (5) on 20 or more days during~~
14 ~~the current or previous calendar year. Such~~ which withdrawal shall be effective take
15 effect 30 days after the date of receipt of the notice by the ~~department,~~ office or at such
16 later date as is specified in the notice. ~~Such~~ A person who withdraws under this
17 subsection may again become subject to this chapter as provided by in s. 102.04 (1)
18 (c) and (e).

19 **SECTION 34.** 102.06 of the statutes is amended to read:

20 **102.06 Joint liability of employer and contractor.** An employer shall be
21 liable for compensation to an employee of a contractor or subcontractor under the
22 employer who is not subject to this chapter, or who has not complied with the
23 conditions of s. 102.28 (2) in any case ~~where such~~ in which the employer would have
24 been liable for compensation if ~~such~~ the employee had been working directly for the
25 employer, including also work in the erection, alteration, repair, or demolition of

1 improvements or of fixtures upon premises of ~~such~~ the employer ~~which~~ that are used
2 or to be used in the operations of ~~such~~ the employer. The contractor or subcontractor,
3 if subject to this chapter, shall also be liable for ~~such~~ that compensation, but the
4 employee shall not recover compensation for the same injury from more than one
5 party. ~~The~~ An employer who becomes liable for and who pays ~~such~~ that compensation
6 may recover the ~~same~~ amount of compensation paid from ~~such~~ that contractor, or
7 subcontractor, or from any other employer for whom the employee was working at
8 the time of the injury, if ~~such~~ that contractor, subcontractor, or other employer was
9 an employer, as defined in s. 102.04. This section does not apply to injuries occurring
10 on or after the first day of the first July beginning after the day ~~that~~ on which the
11 secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the
12 secretary commissioner files the certificate under s. 102.80 (3) (ag) this section does
13 apply to claims for compensation filed on or after the date specified in that certificate.

14 **SECTION 35.** 102.07 (1) (a) of the statutes is amended to read:

15 102.07 (1) (a) Every person, including all officials, in the service of the state,
16 or of any municipality ~~therein~~ in this state, whether elected or under any
17 appointment, or contract of hire, express or implied, and whether a resident of this
18 state or employed or injured within or without the state. The state ~~and~~ or any
19 municipality may require a bond from a contractor to protect the state or
20 municipality against compensation to employees of ~~such~~ the contractor or employees
21 of a subcontractor under the contractor. This paragraph does not apply beginning
22 on the first day of the first July beginning after the day ~~that~~ on which the secretary
23 commissioner files the certificate under s. 102.80 (3) (a), except that if the secretary
24 commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply
25 to claims for compensation filed on or after the date specified in that certificate.

1 **SECTION 36.** 102.07 (1) (b) of the statutes is amended to read:

2 102.07 (1) (b) Every person, including all officials, in the service of the state,
3 or of any municipality ~~therein~~ in this state, whether elected or under any
4 appointment, or contract of hire, express or implied, and whether a resident of this
5 state or employed or injured within or without the state. This paragraph first applies
6 on the first day of the first July beginning after the day ~~that~~ on which the secretary
7 commissioner files the certificate under s. 102.80 (3) (a), except that if the secretary
8 commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply
9 to claims for compensation filed on or after the date specified in that certificate.

10 **SECTION 37.** 102.07 (7) (b) of the statutes is amended to read:

11 102.07 (7) (b) The ~~department~~ office may issue an order under s. 102.31 (1) (b)
12 permitting the county within which a volunteer fire company or fire department
13 organized under ch. 213, a legally organized rescue squad, an ambulance service
14 provider, as defined in s. 256.01 (3), or a legally organized diving team is organized
15 to assume full liability for the compensation provided under this chapter of all
16 volunteer members of that company, department, squad, provider or team.

17 **SECTION 38.** 102.07 (8) (c) of the statutes is amended to read:

18 102.07 (8) (c) The ~~department~~ office may not admit in evidence any state or
19 federal laws, ~~regulations, documents~~ law, regulation, or document granting
20 operating authority, or licenses license when determining whether an independent
21 contractor meets the conditions specified in par. (b) 1. or 3.

22 **SECTION 39.** 102.07 (11) of the statutes is amended to read:

23 102.07 (11) The ~~department~~ office may by rule prescribe classes of volunteer
24 workers who may, at the election of the person for whom the service is being
25 performed, be deemed considered to be employees for the purposes of this chapter.

1 Election shall be by endorsement upon ~~the~~ that person's worker's compensation
2 insurance policy with written notice to the ~~department~~ office. In the case of an
3 employer that is exempt from insuring liability, election shall be by written notice to
4 the ~~department~~ office. The ~~department~~ office shall by rule prescribe the means and
5 manner in which notice of election by the employer is to be provided to the volunteer
6 workers.

7 **SECTION 40.** 102.076 (2) of the statutes is amended to read:

8 102.076 (2) If a corporation has not more than 10 stockholders, not more than
9 2 officers, and no other employees and is not otherwise required under this chapter
10 to have a policy of worker's compensation insurance, an officer of that corporation
11 who elects not to be subject to this chapter shall file a notice of that election with the
12 ~~department~~ office on a form approved by the ~~department~~ office. The election is
13 effective until the officer rescinds it the election by notifying the ~~department~~ office
14 in writing.

15 **SECTION 41.** 102.077 (1) of the statutes is amended to read:

16 102.077 (1) A school district or a private school, as defined in s. 115.001 (3r),
17 may elect to name as its employee for purposes of this chapter a student described
18 in s. 102.07 (12m) by an endorsement on its policy of worker's compensation
19 insurance or, if the school district or private school is exempt from the duty to insure
20 under s. 102.28 (2), by filing a declaration with the ~~department~~ office in the manner
21 provided in s. 102.31 (2) (a) naming the student as an employee of the school district
22 or private school for purposes of this chapter. A declaration under this subsection
23 shall list the name of the student to be covered under this chapter, the name and
24 address of the employer that is providing the work training or work experience for

1 that student, and the title, if any, of the work training, work experience, or work
2 study program in which the student is participating.

3 **SECTION 42.** 102.077 (2) of the statutes is amended to read:

4 102.077 (2) A school district or private school may revoke a declaration under
5 sub. (1) by providing written notice to the ~~department~~ office in the manner provided
6 in s. 102.31 (2) (a), the student, and the employer who is providing the work training
7 or work experience for that student. A revocation under this subsection is effective
8 30 days after the ~~department~~ office receives notice of that revocation.

9 **SECTION 43.** 102.08 of the statutes is amended to read:

10 **102.08 Administration for state employees.** The department of
11 administration has responsibility for the timely delivery of benefits payable under
12 this chapter to employees of the state and their dependents and other functions of
13 the state as an employer under this chapter. The department of administration may
14 delegate ~~this authority~~ that responsibility to employing departments and agencies
15 and require such reports as it ~~deems~~ considers necessary to accomplish this purpose.
16 The department of administration or its delegated authorities shall file with the
17 ~~department of workforce development~~ office the reports that are required of all
18 employers. The ~~department of workforce development~~ office shall monitor the
19 delivery of benefits payable under this chapter to state employees and their
20 dependents and shall consult with and advise the department of administration in
21 the manner and at the times necessary to ensure prompt and proper delivery of those
22 benefits.

23 **SECTION 44.** 102.11 (1) (am) 1. of the statutes is amended to read:

24 102.11 (1) (am) 1. The employee is a member of a class of employees that does
25 the same type of work at the same location and, in the case of an employee in the

1 service of the state, is employed in the same office, department, independent agency,
2 authority, institution, association, society, or other body in state government or, if the
3 ~~department~~ office determines appropriate, in the same subunit of an office,
4 department, independent agency, authority, institution, association, society, or other
5 body in state government.

6 SECTION 45. 102.12 of the statutes is amended to read:

7 **102.12 Notice of injury, exception, laches.** No claim for compensation may
8 be maintained unless, within 30 days after the occurrence of the injury or within 30
9 days after the employee knew or ought to have known the nature of his or her
10 disability and its relation to the employment, actual notice was received by the
11 employer or by an officer, manager, or designated representative of an employer. If
12 no representative has been designated by posters placed in one or more conspicuous
13 places where notices to employees are customarily posted, then notice received by
14 any superior is sufficient. Absence of notice does not bar recovery if it is found that
15 the employer was not misled ~~thereby~~ by that absence. Regardless of whether notice
16 was received, if no payment of compensation, other than medical treatment or burial
17 expense, is made, ~~and~~ and if no application is filed with the ~~department~~ office within
18 2 years ~~from~~ after the date of the injury or death, ~~or from~~ or the date the employee
19 or his or her dependent knew or ought to have known the nature of the disability and
20 its relation to the employment, the right to compensation ~~therefor~~ for the injury or
21 death is barred, except that the right to compensation is not barred if the employer
22 knew or should have known, within the 2-year period, that the employee had
23 sustained the injury on which the claim is based. Issuance of notice of a hearing on
24 the ~~department's~~ division's own motion has the same effect for the purposes of this

1 section as the filing of an application. This section does not affect any claim barred
2 under s. 102.17 (4).

3 **SECTION 46.** 102.125 of the statutes is amended to read:

4 **102.125 Fraudulent claims reporting and investigation.** If an insurer or
5 self-insured employer has evidence that a claim is false or fraudulent in violation of
6 s. 943.395 and if the insurer or self-insured employer is satisfied that reporting the
7 claim to the ~~department~~ office will not impede its ability to defend the claim, the
8 insurer or self-insured employer shall report the claim to the ~~department~~ office. The
9 ~~department~~ office may require an insurer or self-insured employer to investigate an
10 allegedly false or fraudulent claim and may provide the insurer or self-insured
11 employer with any records of the ~~department~~ office relating to that claim. An insurer
12 or self-insured employer that investigates a claim under this section shall report on
13 the results of that investigation to the ~~department~~ office. If based on the
14 investigation the ~~department~~ office has a reasonable basis to believe that a violation
15 of s. 943.395 has occurred, the ~~department~~ office shall refer the results of the
16 investigation to the district attorney of the county in which the alleged violation
17 occurred for prosecution.

18 **SECTION 47.** 102.13 (1) (c) of the statutes is amended to read:

19 102.13 (1) (c) So long as the employee, after a written request of the employer
20 or insurer ~~which~~ that complies with par. (b), refuses to submit to or in any way
21 obstructs the examination, the employee's right to begin or maintain any proceeding
22 for the collection of compensation is suspended, except as provided in sub. (4). If the
23 employee refuses to submit to the examination after direction by the ~~department~~
24 division or an examiner, or in any way obstructs the examination, the employee's

1 right to the weekly indemnity ~~which~~ that accrues and becomes payable during the
2 period of that refusal or obstruction, is barred, except as provided in sub. (4).

3 **SECTION 48.** 102.13 (1) (d) 2. of the statutes is amended to read:

4 102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist, physician
5 assistant, advanced practice nurse prescriber, or podiatrist who attended a worker's
6 compensation claimant for any condition or complaint reasonably related to the
7 condition for which the claimant claims compensation may be required to testify
8 before the ~~department~~ division when the ~~department~~ division so directs.

9 **SECTION 49.** 102.13 (1) (d) 3. of the statutes is amended to read:

10 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any
11 physician, chiropractor, psychologist, dentist, physician assistant, advanced
12 practice nurse prescriber, or podiatrist attending a worker's compensation claimant
13 for any condition or complaint reasonably related to the condition for which the
14 claimant claims compensation may furnish to the employee, employer, worker's
15 compensation insurer, ~~or the department~~ the office, or the division information and
16 reports relative to a compensation claim.

17 **SECTION 50.** 102.13 (1) (f) of the statutes is amended to read:

18 102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the
19 ~~department~~ office may require the employee to submit to physical or vocational
20 examinations under this subsection.

21 **SECTION 51.** 102.13 (2) (a) of the statutes is amended to read:

22 102.13 (2) (a) An employee who reports an injury alleged to be work-related
23 or who files an application for hearing waives any physician-patient,
24 psychologist-patient or chiropractor-patient privilege with respect to any condition
25 or complaint reasonably related to the condition for which the employee claims

1 compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any
2 physician, chiropractor, psychologist, dentist, podiatrist, physician assistant,
3 advanced practice nurse prescriber, hospital, or health care provider shall, within a
4 reasonable time after written request by the employee, employer, worker's
5 compensation insurer, ~~or department office, or division,~~ or its representative, provide
6 that person with any information or written material reasonably related to any
7 injury for which the employee claims compensation.

8 **SECTION 52.** 102.13 (2) (c) of the statutes is amended to read:

9 102.13 (2) (c) Except as provided in this paragraph, if an injured employee has
10 a period of temporary disability that exceeds 3 weeks or a permanent disability, if the
11 injured employee has undergone surgery to treat his or her injury, other than surgery
12 to correct a hernia, or if the injured employee sustained an eye injury requiring
13 medical treatment on 3 or more occasions off the employer's premises, the
14 department office may by rule require the insurer or self-insured employer to submit
15 to the department office a final report of the employee's treating practitioner. The
16 department office may not require an insurer or self-insured employer to submit to
17 the department office a final report of an employee's treating practitioner when the
18 insurer or self-insured employer denies the employee's claim for compensation and
19 the employee does not contest that denial. A treating practitioner may charge a
20 reasonable fee for the completion of the final report, but may not require prepayment
21 of that fee. An insurer or self-insured employer that disputes the reasonableness of
22 a fee charged for the completion of a treatment practitioner's final report may submit
23 that dispute to the department division for resolution under s. 102.16 (2).

24 **SECTION 53.** 102.13 (3) of the statutes is amended to read:

Office

1 102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists or
2 podiatrists disagree as to the extent of an injured employee's temporary disability,
3 the end of an employee's healing period, an employee's ability to return to work at
4 suitable available employment, or the necessity for further treatment or for a
5 particular type of treatment, the ~~department~~ division may appoint another
6 physician, chiropractor, psychologist, dentist or podiatrist to examine the employee
7 and render an opinion as soon as possible. The ~~department~~ division shall promptly
8 notify the parties of this appointment. If the employee has not returned to work,
9 payment for temporary disability shall continue until the ~~department~~ division
10 receives the opinion. The employer or its insurance carrier or both shall pay for the
11 examination and opinion. The employer or insurance carrier or both shall receive
12 appropriate credit for any overpayment to the employee determined by the
13 ~~department~~ division after receipt of the opinion.

14 **SECTION 54.** 102.13 (4) of the statutes is amended to read:

15 102.13 (4) ~~The rights of employees~~ right of an employee to begin or maintain
16 proceedings for the collection of compensation and to receive weekly indemnities
17 ~~which that~~ which that accrue and become payable shall not be suspended or barred under sub.
18 (1) when ~~an~~ the employee refuses to submit to a physical examination, upon the
19 request of the employer or worker's compensation insurer or at the direction of the
20 ~~department~~ division or an examiner, ~~which that~~ which that would require the employee to travel
21 a distance of 100 miles or more from his or her place of residence, unless the employee
22 has claimed compensation for treatment from a practitioner whose office is located
23 100 miles or more from the employee's place of residence or the ~~department~~ division
24 or examiner determines that any other circumstances warrant the examination. If
25 the employee has claimed compensation for treatment from a practitioner whose

1 office is located 100 miles or more from the employee's place of residence, the
2 employer or insurer may request, or the department division or an examiner may
3 direct, the employee to submit to a physical examination in the area where the
4 employee's treatment practitioner is located.

5 **SECTION 55.** 102.13 (5) of the statutes is amended to read:

6 102.13 (5) The department division may refuse to receive testimony as to
7 conditions determined from an autopsy if it appears that the party offering the
8 testimony had procured the autopsy and had failed to make reasonable effort to
9 notify at least one party in adverse interest or the department division at least 12
10 hours before the autopsy of the time and place ~~it~~ at which the autopsy would be
11 performed, or that the autopsy was performed by or at the direction of the coroner
12 or medical examiner or at the direction of the district attorney for purposes not
13 authorized by under ch. 979. The department division may withhold findings until
14 an autopsy is held in accordance with its directions.

15 **SECTION 56.** 102.14 (title) of the statutes is amended to read:

16 **102.14 (title) Jurisdiction of department office; advisory committee.**

17 **SECTION 57.** 102.14 (1) of the statutes is amended to read:

18 102.14 (1) ~~This~~ Except as otherwise provided, this chapter shall be
19 administered by the department office.

20 **SECTION 58.** 102.14 (2) of the statutes is amended to read:

21 102.14 (2) The council on worker's compensation shall advise the department
22 office in carrying out the purposes of this chapter.—~~Such council,~~ shall submit its
23 recommendations with respect to amendments to this chapter to each regular
24 session of the legislature, and shall report its views upon any pending bill relating
25 to this chapter to the proper legislative committee. At the request of the chairpersons

1 of the senate and assembly committees on labor, the ~~department~~ office shall schedule
2 a meeting of the council with the members of the senate and assembly committees
3 on labor to review and discuss matters of legislative concern arising under this
4 chapter.

5 **SECTION 59.** 102.15 (1) of the statutes is amended to read:

6 102.15 (1) Subject to this chapter, the ~~department~~ division may adopt its own
7 rules of procedure and may change the same from time to time.

8 **SECTION 60.** 102.15 (2) of the statutes is amended to read:

9 102.15 (2) The ~~department~~ division may provide by rule the conditions under
10 which transcripts of testimony and proceedings shall be furnished.

11 **SECTION 61.** 102.16 (1) of the statutes is amended to read:

12 102.16 (1) Any controversy concerning compensation or a violation of sub. (3),
13 including ~~controversies~~ a controversy in which the state may be a party, shall be
14 submitted to the ~~department office under s. 102.17 (1) (a) 1. and processed by the~~
15 division in the manner and with the effect provided in this chapter. Every
16 compromise of any claim for compensation may be reviewed and set aside, modified
17 or confirmed by the ~~department within~~ Within one year ~~from~~ after the date ~~the on~~
18 which a compromise of any claim for compensation is filed with the ~~department, or~~
19 ~~from~~ division or the date on which an award has been entered, ~~based thereon, or the~~
20 ~~department may take that action~~ based on a compromise, the division, on its own
21 motion or upon application made within one year that period, may review and set
22 aside, modify, or confirm the compromise. Unless the word “compromise” appears
23 in a stipulation of settlement, the settlement shall not be ~~deemed~~ considered a
24 compromise, and further claim is not barred except as provided in s. 102.17 (4)
25 regardless of whether an award is made. The employer, insurer, or dependent under

8
Insert
9
20-16
10

or electronic recordings

if such a determination has not yet been made, the

1 s. 102.51 (5) shall have equal rights with the employee to have review of a
2 compromise or any other stipulation of settlement reviewed under this subsection.
3 Upon petition filed with the department division, the department division may set
4 aside the award or otherwise determine the rights of the parties.

*made by the office
under sub. (2)*

5 SECTION 62. 102.16 (1m) (a) of the statutes is amended to read:

6 102.16 (1m) (a) If an insurer or self-insured employer concedes by compromise
7 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
8 employer is liable under this chapter for any health services provided to an injured
9 employee by a health service provider, but disputes the reasonableness of the fee
10 charged by the health service provider, the department division may include in its
11 order confirming the compromise or stipulation a determination, as to the
12 reasonableness of the fee or the department division may notify, or direct the insurer
13 or self-insured employer to notify, the health service provider under sub. (2) (b) that
14 the reasonableness of the fee is in dispute. The department division shall deny
15 payment of a health service fee that the department division determines under this
16 paragraph to be unreasonable. A health service provider and an insurer or
17 self-insured employer that are parties to a fee dispute under this paragraph are
18 bound by the department's division's determination under this paragraph on the
19 reasonableness of the disputed fee, unless that determination is set aside, reversed,
20 or modified by the department division under sub. (2) (f) or is set aside on judicial
21 review as provided in sub. (2) (f).

strike

22 SECTION 63. 102.16 (1m) (b) of the statutes is amended to read:

23 102.16 (1m) (b) If an insurer or self-insured employer concedes by compromise
24 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
25 employer is liable under this chapter for any treatment provided to an injured

if such a determination has not yet been made, the
made by the office
under sub. (2m)

1 employee by a health service provider, but disputes the necessity of the treatment,
2 the department division may include in its order confirming the compromise or
3 stipulation a determination as to the necessity of the treatment or the department
4 division may notify, or direct the insurer or self-insured employer to notify, the
5 health service provider under sub. (2m) (b) that the necessity of the treatment is in
6 dispute. *↓* ~~Before determining under this paragraph the necessity of treatment~~
7 ~~provided to an injured employee, the department division may, but is not required~~
8 ~~to, obtain the opinion of an expert selected by the department division who is~~
9 ~~qualified as provided in sub. (2m) (c). The standards promulgated under sub. (2m)~~
10 ~~(g) shall be applied by an expert and by the department division in rendering an~~
11 ~~opinion as to, and in determining, necessity of treatment under this paragraph. In~~
12 ~~cases in which no standards promulgated under sub. (2m) (g) apply, the department~~
13 ~~division shall find the facts regarding necessity of treatment. The department~~
14 ~~division shall deny payment for any treatment that the department division~~
15 ~~determines under this paragraph to be unnecessary. A health service provider and~~
16 ~~an insurer or self-insured employer that are parties to a dispute under this~~
17 ~~paragraph over the necessity of treatment are bound by the department's division's~~
18 ~~determination under this paragraph on the necessity of the disputed treatment,~~
19 ~~unless that determination is set aside, reversed, or modified by the department~~
20 ~~division under sub. (2m) (e) or is set aside on judicial review as provided in sub. (2m)~~
21 ~~(e).~~ *↓*

stnk

SECTION 64. 102.16 (1m) (c) of the statutes is amended to read:

102.16 (1m) (c) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for the cost of a prescription drug dispensed

made by the office
under s. 102.425 (4m)

if such a determination has not yet been made, the

1 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the
 2 reasonableness of the amount charged for the prescription drug, the department
 3 division may include in its order confirming the compromise or stipulation a
 4 determination as to the reasonableness of the prescription drug charge or ~~the~~
 5 ~~department~~ division may notify, or direct the insurer or self-insured employer to
 6 notify, the pharmacist or practitioner dispensing the prescription drug under s.
 7 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in
 8 dispute. The department ~~division~~ shall deny payment of a prescription drug charge
 9 that the department ~~division~~ determines under this paragraph to be unreasonable.
 10 A pharmacist or practitioner and an insurer or self-insured employer that are
 11 parties to a dispute under this paragraph over the reasonableness of a prescription
 12 drug charge are bound by the department's ~~division's~~ determination under this
 13 paragraph on the reasonableness of the disputed prescription drug charge, unless
 14 that determination is set aside, reversed, or modified by the department ~~division~~
 15 under s. 102.425 (4m) (e) or is set aside on judicial review as provided in s. 102.425
 16 (4m) (e).

SECTION 65. 102.16 (2) (a) of the statutes is amended to read:

17
 18 102.16 (2) (a) Except as provided in this paragraph, the department ~~division~~
 19 has jurisdiction [↓] under this subsection, sub. (1m) (a), and s. 102.17 [↓] to resolve a dispute
 20 between a health service provider and an insurer or self-insured employer over the
 21 reasonableness of a fee charged by the health service provider for health services
 22 provided to an injured employee who claims benefits under this chapter. A health
 23 service provider may not submit a fee dispute to the department ~~division~~
 24 subsection before all treatment by the health service provider of the employee's
 25 injury has ended if the amount in controversy, whether based on a single charge or

stroke
office

1 a combination of charges for one or more days of service, is less than \$25. After all
 2 treatment by a health service provider of an employee's injury has ended, the health
 3 service provider may submit any fee dispute to the department ~~division~~, regardless
 4 of the amount in controversy. The department ~~division~~ shall deny payment of a
 5 health service fee that the department ~~division~~ determines under this subsection to
 6 be unreasonable. *Office's*

7 **SECTION 66.** 102.16 (2) (am) of the statutes is amended to read:

8 102.16 (2) (am) A health service provider and an insurer or self-insured
 9 employer that are parties to a fee dispute under this subsection are bound by the
 10 department's ~~division's~~ determination under this subsection on the reasonableness
 11 of the disputed fee, unless that determination is set aside on judicial review as
 12 provided in par. (f).

13 **SECTION 67.** 102.16 (2) (b) of the statutes is amended to read:

14 102.16 (2) (b) An insurer or self-insured employer that disputes the
 15 reasonableness of a fee charged by a health service provider or the department
 16 ~~division~~ under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written
 17 notice to the health service provider that the fee is being disputed. After receiving
 18 reasonable written notice under this paragraph or under sub. (1m) (a) or s. 102.18
 19 (1) (bg) 1. that a health service fee is being disputed, a health service provider may
 20 not collect the disputed fee from, or bring an action for collection of the disputed fee
 21 against, the employee who received the services for which the fee was charged.

22 **SECTION 68.** 102.16 (2) (c) of the statutes is amended to read:

23 102.16 (2) (c) After a fee dispute is submitted to the department ~~division~~, the
 24 insurer or self-insured employer that is a party to the dispute shall provide to the
 25 department ~~division~~ information on that fee and information on fees charged by

*Office**Office*

office

use 8 times

1 other health service providers for comparable services. The insurer or self-insured
 2 employer shall obtain the information on comparable fees from a database that is
 3 certified by the department ~~division~~ under par. (h). Except as provided in par. (e) 1.,
 4 if the insurer or self-insured employer does not provide the information required
 5 under this paragraph, the department ~~division~~ shall determine that the disputed fee
 6 is reasonable and order that it be paid. If the insurer or self-insured employer
 7 provides the information required under this paragraph, the department ~~division~~,
 8 shall use that information to determine the reasonableness of the disputed fee.

9 **SECTION 69.** 102.16 (2) (d) of the statutes is amended to read:

10 102.16 (2) (d) The department ~~division~~ shall analyze the information provided
 11 to the department ~~division~~ under par. (c) according to the criteria provided in this
 12 paragraph to determine the reasonableness of the disputed fee. Except as provided
 13 in 2011 Wisconsin Act 183, section 30 (2) (b), the department ~~division~~ shall determine
 14 that a disputed fee is reasonable and order that the disputed fee be paid if that fee
 15 is at or below the mean fee for the health service procedure for which the disputed
 16 fee was charged, plus 1.2 standard deviations from that mean, as shown by data from
 17 a database that is certified by the department ~~division~~ under par. (h). Except as
 18 provided in 2011 Wisconsin Act 183, section 30 (2) (b), the department ~~division~~ shall
 19 determine that a disputed fee is unreasonable and order that a reasonable fee be paid
 20 if the disputed fee is above the mean fee for the health service procedure for which
 21 the disputed fee was charged, plus 1.2 standard deviations from that mean, as shown
 22 by data from a database that is certified by the department ~~division~~ under par. (h),
 23 unless the health service provider proves to the satisfaction of the department
 24 ~~division~~ that a higher fee is justified because the service provided in the disputed case
 25 was more difficult or more complicated to provide than in the usual case.

Office

Office

Use 8 items

1 SECTION 70. 102.16 (2) (e) 1. of the statutes is amended to read:

2 102.16 (2) (e) 1. Subject to subd. 2., if an insurer or self-insured employer that
3 disputes the reasonableness of a fee charged by a health service provider cannot
4 provide information on fees charged by other health service providers for comparable
5 services because the database to which the insurer or self-insured employer
6 subscribes is not able to provide accurate information for the health service
7 procedure at issue, the department ~~division~~ may use any other information that the
8 department ~~division~~ considers to be reliable and relevant to the disputed fee to
9 determine the reasonableness of the disputed fee.

10 SECTION 71. 102.16 (2) (e) 2. of the statutes is amended to read:

11 102.16 (2) (e) 2. Notwithstanding subd. 1., the department ~~division~~ may use
12 only a hospital radiology database that has been certified by the department ~~division~~
13 under par. (h) to determine the reasonableness of a hospital fee for radiology services.

14 SECTION 72. 102.16 (2) (f) of the statutes is amended to read:

15 102.16 (2) (f) Within 30 days after a determination under this subsection, the
16 department ~~division~~ may set aside, reverse, or modify the determination for any
17 reason that the department ~~division~~ considers sufficient. Within 60 days after a
18 determination under this subsection, the department ~~division~~ may set aside,
19 reverse, or modify the determination on grounds of mistake. A health service
20 provider, insurer, or self-insured employer that is aggrieved by a determination of
21 the department ~~division~~ under this subsection may seek judicial review of that
22 determination in the same manner that compensation claims are reviewed under s.
23 102.23.

24 SECTION 73. 102.16 (2) (h) of the statutes is amended to read:

Use 8 times

Office

1

102.16 (2) (h) The ~~department division~~ shall promulgate rules establishing
 2 procedures and requirements for the fee dispute resolution process under this
 3 subsection, including rules specifying the standards that health service fee
 4 databases must meet for certification under this paragraph. Using those standards,
 5 the ~~department division~~ shall certify databases of the health service fees that various
 6 health service providers charge. In certifying databases under this paragraph, the
 7 ~~department division~~ shall certify at least one database of hospital fees for radiology
 8 services, including diagnostic and interventional radiology, diagnostic ultrasound,
 9 and nuclear medicine.

10

SECTION 74. 102.16 (2m) (a) of the statutes is amended to read:

11

102.16 (2m) (a) Except as provided in this paragraph, the ~~department division~~
 12 has jurisdiction [↓] under this subsection, sub. (1m) (b), and s. 102.17 [↓] to resolve a dispute
 13 between a health service provider and an insurer or self-insured employer over the
 14 necessity of treatment provided for an injured employee who claims benefits under
 15 this chapter. A health service provider may not submit a dispute over necessity of
 16 treatment to the ~~department division~~ under this subsection before all treatment by
 17 the health service provider of the employee's injury has ended if the amount in
 18 controversy, whether based on a single charge or a combination of charges for one or
 19 more days of service, is less than \$25. After all treatment by a health service provider
 20 of an employee's injury has ended, the health service provider may submit any
 21 dispute over necessity of treatment to the ~~department division~~, regardless of the
 22 amount in controversy. The ~~department division~~ shall deny payment for any
 23 treatment that the ~~department division~~ determines under this subsection to be
 24 unnecessary.

25

SECTION 75. 102.16 (2m) (am) of the statutes is amended to read:

Office's

1 102.16 (2m) (am) A health service provider and an insurer or self-insured
2 employer that are parties to a dispute under this subsection over the necessity of
3 treatment are bound by the department's ~~division's~~ determination under this
4 subsection on the necessity of the disputed treatment, unless that determination is
5 set aside on judicial review as provided in par. (e).

6 SECTION 76. 102.16 (2m) (b) of the statutes is amended to read:

7 ^{Det} 102.16 (2m) (b) An insurer or self-insured employer that disputes the
8 necessity of treatment provided by a health service provider or the department
9 ~~division~~ ^{← stays} under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written
10 notice to the health service provider that the necessity of that treatment is being
11 disputed. After receiving reasonable written notice under this paragraph or under
12 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,
13 a health service provider may not collect a fee for that disputed treatment from, or
14 bring an action for collection of the fee for that disputed treatment against, the
15 employee who received the treatment.

Office

16 SECTION 77. 102.16 (2m) (c) of the statutes is amended to read:

17 102.16 (2m) (c) Before determining under this subsection the necessity of
18 treatment provided for an injured employee who claims benefits under this chapter,
19 the department ~~division~~ shall obtain a written opinion on the necessity of the
20 treatment in dispute from an expert selected by the department ~~division~~. To qualify
21 as an expert, a person must be licensed to practice the same health care profession
22 as the individual health service provider whose treatment is under review and must
23 either be performing services for an impartial health care services review
24 organization or be a member of an independent panel of experts established by the
25 department ~~division~~ under par. (f). The standards promulgated under par. (g) shall

Office

use 7 times

1 be applied by an expert and by the department ~~division~~ in rendering an opinion as
 2 to, and in determining, necessity of treatment under this paragraph. In cases in
 3 which no standards promulgated under sub. (2m) (g) apply, the department ~~division~~
 4 shall find the facts regarding necessity of treatment. The department ~~division~~ shall
 5 adopt the written opinion of the expert as the department's ~~division's~~ determination Office's
 6 on the issues covered in the written opinion, unless the health service provider or the
 7 insurer or self-insured employer present clear and convincing written evidence that
 8 the expert's opinion is in error.

SECTION 78. 102.16 (2m) (d) of the statutes is amended to read:

10 102.16 (2m) (d) The department ~~division~~ may charge a party to a dispute over
 11 the necessity of treatment provided for an injured employee who claims benefits
 12 under this chapter for the full cost of obtaining the written opinion of the expert
 13 under par. (c). The department ~~division~~ shall charge the insurer or self-insured
 14 employer for the full cost of obtaining the written opinion of the expert for the first
 15 dispute that a particular individual health service provider is involved in, unless the
 16 department ~~division~~ determines that the individual health service provider's
 17 position in the dispute is frivolous or based on fraudulent representations. In a
 18 subsequent dispute involving the same individual health service provider, the
 19 department ~~division~~ shall charge the losing party to the dispute for the full cost of
 20 obtaining the written opinion of the expert.

SECTION 79. 102.16 (2m) (e) of the statutes is amended to read:

22 102.16 (2m) (e) Within 30 days after a determination under this subsection, the
 23 department ~~division~~ may set aside, reverse, or modify the determination for any
 24 reason that the department ~~division~~ considers sufficient. Within 60 days after a
 25 determination under this subsection, the department ~~division~~ may set aside,

Office

leg time

office

[Handwritten scribbles]

1 reverse, or modify the determination on grounds of mistake. A health service
 2 provider, insurer, or self-insured employer that is aggrieved by a determination of
 3 the department ~~division~~ under this subsection may seek judicial review of that
 4 determination in the same manner that compensation claims are reviewed under s.
 5 102.23.

6 SECTION 80. 102.16 (2m) (f) of the statutes is amended to read:

7 102.16 (2m) (f) The department ~~division~~ may contract with an impartial health
 8 care services review organization to provide the expert opinions required under par.
 9 (c), or establish a panel of experts to provide those opinions, or both. If the
 10 department ~~division~~ establishes a panel of experts to provide the expert opinions
 11 required under par. (c), the department ~~division~~ may pay the members of that panel
 12 a reasonable fee, plus actual and necessary expenses, for their services.

13 SECTION 81. 102.16 (2m) (g) of the statutes is amended to read:

14 102.16 (2m) (g) The department ~~division~~ shall promulgate rules establishing
 15 procedures and requirements for the necessity of treatment dispute resolution
 16 process under this subsection, including rules setting the fees under par. (f) and rules
 17 establishing standards for determining the necessity of treatment provided to an
 18 injured employee. Before the department ~~division~~ may amend the rules establishing
 19 those standards, the department ~~division~~ shall establish an advisory committee
 20 under s. 227.13 composed of health care providers providing treatment under s.
 21 102.42 to advise the department ~~division~~ and the council on worker's compensation
 22 on amending those rules.

23 SECTION 82. 102.16 (4) of the statutes is amended to read:

24 102.16 (4) The department ~~division~~ *has* jurisdiction to pass on any question
 25 arising out of sub. (3) and has jurisdiction to order the employer to reimburse an

stet

← stays

1 employee or other person for any sum deducted from wages or paid by him or her in
2 violation of that subsection. In addition to the penalty provided in s. 102.85 (1), any
3 employer violating sub. (3) shall be liable to an injured employee for the reasonable
4 value of the necessary services rendered to that employee pursuant to under any
5 arrangement made in violation of sub. (3) without regard to that employee's actual
6 disbursements for ~~the same~~ those services.

7 SECTION 83. 102.17 (1) (a) 1. of the statutes is amended to read:

8 102.17 (1) (a) 1. Upon the filing with the ~~department office~~ by any party in
9 interest of any application in writing stating the general nature of any claim as to
10 which any dispute or controversy may have arisen, the ~~department office~~ shall mail
11 a copy of the application to all other parties in interest ~~and to the administrator~~ and
12 the insurance carrier ~~and the office~~ shall be considered ~~a party~~ parties in interest.

13 The ~~department office or the~~ division may bring in additional parties by service of
14 a copy of the application.

15 SECTION 84. 102.17 (1) (a) 2. of the statutes is amended to read:

16 102.17 (1) (a) 2. Subject to subd. 3., the department division shall cause notice
17 of hearing on the application to be given to each interested party, by service of that
18 notice on the interested party personally or by mailing a copy of that notice to the
19 interested party's last-known address at least 10 days before the hearing. If a party
20 in interest is located without this state, and has no post-office address within this
21 state, the copy of the application and copies of all notices shall be filed with the
22 department of financial institutions and shall also be sent by registered or certified
23 mail to the last-known post-office address of the party. Such filing and mailing shall
24 constitute sufficient service, with the same effect as if served upon a party located
25 within this state.

division
electronically delivered or

by electronically delivering ~~and~~
attach a copy of that notices the interested party

plan

1 **SECTION 85.** 102.17 (1) (a) 3. of the statutes is amended to read:

2 102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has
3 acted with malice or bad faith, as described in s. 102.18 (1) (b) or (bp), that party shall
4 provide written notice stating with reasonable specificity the basis for the claim to
5 the employer, the insurer, the office, and the ~~department~~ division before the
6 ~~department~~ division schedules a hearing on the claim of malice or bad faith.

7 **SECTION 86.** 102.17 (1) (a) 4. of the statutes is amended to read:

8 102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the
9 ~~department~~ division, and hearings may be held at such places as the ~~department~~
10 division designates, within or without the state. The ~~department~~ division may also
11 arrange to have hearings held by the commission, officer, or tribunal having
12 authority to hear cases arising under the worker's compensation law of any other
13 state, of the District of Columbia, or of any territory of the United States, with the
14 testimony and proceedings at any such hearing to be reported to the ~~department~~
15 division and to be made part of the record in the case. Any evidence so taken shall
16 be subject to rebuttal upon final hearing before the ~~department~~ division.

17 **SECTION 87.** 102.17 (1) (b) of the statutes is amended to read:

18 102.17 (1) (b) In any dispute or controversy pending before the ~~department~~
19 division, the ~~department~~ division may direct the parties to appear before an
20 examiner for a conference to consider the clarification of issues, the joining of
21 additional parties, the necessity or desirability of amendments to the pleadings, the
22 obtaining of admissions of fact or of documents, records, reports, and bills ~~which~~ that
23 may avoid unnecessary proof, and such other matters as may aid in disposition of the
24 dispute or controversy. After ~~this~~ that conference the ~~department~~ division may issue
25 an order requiring disclosure or exchange of any information or written material

1 ~~which it~~ that the division considers material to the timely and orderly disposition of
2 the dispute or controversy. If a party fails to disclose or exchange that information
3 within the time stated in the order, the department division may issue an order
4 dismissing the claim without prejudice or excluding evidence or testimony relating
5 to the information or written material. The department division shall provide each
6 party with a copy of any order issued under this paragraph.

7 SECTION 88. 102.17 (1) (c) of the statutes is renumbered 102.17 (1) (c) 1. and
8 amended to read:

9 102.17 (1) (c) 1. Any party shall have the right to be present at any hearing,
10 in person or by attorney or any other agent, and to present such testimony as may
11 be pertinent to the controversy before the department division. No person, firm, or
12 corporation, other than an attorney at law who is licensed to practice law in the state,
13 may appear on behalf of any party in interest before the department division or any
14 member or employee of the department division assigned to conduct any hearing,
15 investigation, or inquiry relative to a claim for compensation or benefits under this
16 chapter, unless the person is 18 years of age or older, does not have an arrest or
17 conviction record, subject to ss. 111.321, 111.322 and 111.335, is otherwise qualified,
18 and has obtained from the department division a license with authorization to
19 appear in matters or proceedings before the department division. Except as provided
20 under pars. (cm), (cr), and (ct), the license shall be issued by the department division
21 under rules promulgated by the department division. The department division shall
22 maintain in its office a current list of persons to whom licenses have been issued.

23 2. Any license issued under subd. 1. may be suspended or revoked by the
24 department division for fraud or serious misconduct on the part of an agent, any
25 license may be denied, suspended, nonrenewed, or otherwise withheld by the

office

1 department ~~division~~ for failure to pay court-ordered payments as provided in par.
2 (cm) on the part of an agent, and any license may be denied or revoked if the
3 department of revenue certifies under s. 73.0301 that the applicant or licensee is
4 liable for delinquent taxes or if the department of workforce development determines
5 under par. (et) s. 108.227 that the applicant or licensee is liable for delinquent
6 unemployment insurance contributions. Before suspending or revoking the license
7 of the agent on the grounds of fraud or misconduct, the department ~~division~~ shall give
8 notice in writing to the agent of the charges of fraud or misconduct and shall give the
9 agent full opportunity to be heard in relation to those charges. In denying,
10 suspending, restricting, refusing to renew, or otherwise withholding a license for
11 failure to pay court-ordered payments as provided in par. (cm), the department
12 ~~division~~ shall follow the procedure provided in a memorandum of understanding
13 entered into under s. 49.857. The license and certificate of authority shall, unless

14 3. Unless otherwise suspended or revoked, a license issued under subd. 1. shall
15 be in force from the date of issuance until the June 30 following the date of issuance
16 and may be renewed by the department ~~division~~ from time to time, but each renewed
17 license shall expire on the June 30 following the issuance of the renewed license.

18 **SECTION 89.** 102.17 (1) (cg) 1. of the statutes is amended to read:

19 102.17 (1) (cg) 1. Except as provided in subd. 2m., the department ~~division~~ shall
20 require each applicant for a license under par. (c) who is an individual to provide the
21 department ~~division~~ with the applicant's social security number, and shall require
22 each applicant for a license under par. (c) who is not an individual to provide the
23 department ~~division~~ with the applicant's federal employer identification number,
24 when initially applying for or applying to renew the license.

25 **SECTION 90.** 102.17 (1) (cg) 2. of the statutes is amended to read:

- 35 -
office

use of forms

1 102.17 (1) (cg) 2. If an applicant who is an individual fails to provide the
 2 applicant's social security number to the ~~department division~~ or if an applicant who
 3 is not an individual fails to provide the applicant's federal employer identification
 4 number to the ~~department division~~, the ~~department division~~ may not issue or renew
 5 a license under par. (c) to or for the applicant unless the applicant is an individual
 6 who does not have a social security number and the applicant submits a statement
 7 made or subscribed under oath or affirmation as required under subd. 2m.

8 **SECTION 91.** 102.17 (1) (cg) 2m. of the statutes is amended to read:

9 102.17 (1) (cg) 2m. If an applicant who is an individual does not have a social
 10 security number, the applicant shall submit a statement made or subscribed under
 11 oath or affirmation to the ~~department division~~ that the applicant does not have a
 12 social security number. The form of the statement shall be prescribed by the
 13 ~~department division~~. A license issued in reliance upon a false statement submitted
 14 under this subdivision is invalid.

15 **SECTION 92.** 102.17 (1) (cg) 3. of the statutes is amended to read:

16 102.17 (1) (cg) 3. The ~~department of workforce development office~~ may not
 17 disclose any information received under subd. 1. to any person except to the
 18 department of revenue for the sole purpose of requesting certifications under s.
 19 73.0301, the department of workforce development for the sole purpose of requesting
 20 certifications under s. 108.227, or the department of children and families for
 21 purposes of administering s. 49.22.

22 **SECTION 93.** 102.17 (1) (cm) of the statutes is amended to read:

23 102.17 (1) (cm) The ~~department of workforce development division~~ shall deny,
 24 suspend, restrict, refuse to renew, or otherwise withhold a license under par. (c) for
 25 failure of the applicant or agent to pay court-ordered payments of child or family

1 support, maintenance, birth expenses, medical expenses, or other expenses related
2 to the support of a child or former spouse or for failure of the applicant or agent to
3 comply, after appropriate notice, with a subpoena or warrant issued by the
4 department of children and families or a county child support agency under s. 59.53
5 (5) and related to paternity or child support proceedings, as provided in a
6 memorandum of understanding entered into under s. 49.857. Notwithstanding par.
7 (c), an action taken under this paragraph is subject to review only as provided in the
8 memorandum of understanding entered into under s. 49.857 and not as provided in
9 ch. 227.

10 **SECTION 94.** 102.17 (1) (cr) of the statutes is amended to read:

11 102.17 (1) (cr) The ~~department~~ office shall deny an application for the issuance
12 or renewal of a license under par. (c), or revoke such a license already issued, if the
13 department of revenue certifies under s. 73.0301 that the applicant or licensee is
14 liable for delinquent taxes. Notwithstanding par. (c), an action taken under this
15 paragraph is subject to review only as provided under s. 73.0301 (5) and not as
16 provided in ch. 227.

17 **SECTION 95.** 102.17 (1) (ct) of the statutes is repealed and recreated to read:

18 102.17 (1) (ct) The office shall deny an application for the issuance or renewal
19 of a license under par. (c), or revoke such a license already issued, if the department
20 of workforce development certifies under s. 108.227 that the applicant or licensee is
21 liable for delinquent unemployment insurance contributions. Notwithstanding par.
22 (c), an action taken under this paragraph is subject to review only as provided under
23 s. 108.227 (5) and not as provided in ch. 227.

24 **SECTION 96.** 102.17 (1) (d) 1. of the statutes is amended to read:

1 102.17 (1) (d) 1. The contents of certified medical and surgical reports by
2 physicians, podiatrists, surgeons, dentists, psychologists, physician assistants,
3 advanced practice nurse prescribers, and chiropractors licensed in and practicing in
4 this state, and of certified reports by experts concerning loss of earning capacity
5 under s. 102.44 (2) and (3), presented by a party for compensation constitute prima
6 facie evidence as to the matter contained in those reports, subject to any rules and
7 limitations the department division prescribes. Certified reports of physicians,
8 podiatrists, surgeons, dentists, psychologists, physician assistants, advanced
9 practice nurse prescribers, and chiropractors, wherever licensed and practicing, who
10 have examined or treated the claimant, and of experts, if the practitioner or expert
11 consents to being subjected to cross-examination, also constitute prima facie
12 evidence as to the matter contained in those reports. Certified reports of physicians,
13 podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of
14 the diagnosis, necessity of the treatment, and cause and extent of the disability.
15 Certified reports by doctors of dentistry, physician assistants, and advanced practice
16 nurse prescribers are admissible as evidence of the diagnosis and necessity of
17 treatment but not of the cause and extent of disability. Any physician, podiatrist,
18 surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice
19 nurse prescriber, or expert who knowingly makes a false statement of fact or opinion
20 in such a certified report may be fined or imprisoned, or both, under s. 943.395.

21 **SECTION 97.** 102.17 (1) (d) 2. of the statutes is amended to read:

22 102.17 (1) (d) 2. The record of a hospital or sanatorium in this state that is
23 satisfactory to the department division, established by certificate, affidavit, or
24 testimony of the supervising officer of the hospital or sanatorium, any other person
25 having charge of the record, or a physician, podiatrist, surgeon, dentist, psychologist,

1 physician assistant, advanced practice nurse prescriber, or chiropractor to be the
2 record of the patient in question, and made in the regular course of examination or
3 treatment of the patient, constitutes prima facie evidence as to the matter contained
4 in the record, to the extent that the record is otherwise competent and relevant.

5 **SECTION 98.** 102.17 (1) (d) 3. of the statutes is amended to read:

6 102.17 (1) (d) 3. The ~~department~~ division may, by rule, establish the
7 qualifications of and the form used for certified reports submitted by experts who
8 provide information concerning loss of earning capacity under s. 102.44 (2) and (3).
9 The ~~department~~ division may not admit into evidence a certified report of a
10 practitioner or other expert or a record of a hospital or sanatorium that was not filed
11 with the ~~department~~ division and all parties in interest at least 15 days before the
12 date of the hearing, unless the ~~department~~ division is satisfied that there is good
13 cause for the failure to file the report.

14 **SECTION 99.** 102.17 (1) (d) 4. of the statutes is amended to read:

15 102.17 (1) (d) 4. A report or record described in subd. 1., 2., or 3. that is admitted
16 or received into evidence by the ~~department~~ division constitutes substantial
17 evidence under s. 102.23 (6) as to the matter contained in the report or record.

18 **SECTION 100.** 102.17 (1) (e) of the statutes is amended to read:

19 102.17 (1) (e) The ~~department~~ division may, with or without notice to any party,
20 cause testimony to be taken, an inspection of the premises where the injury occurred
21 to be made, or the time books and payrolls of the employer to be examined by any
22 examiner, and may direct any employee claiming compensation to be examined by
23 a physician, chiropractor, psychologist, dentist, or podiatrist. The testimony so
24 taken, and the results of any such inspection or examination, shall be reported to the
25 ~~department~~ division for its consideration upon final hearing. All ex parte testimony

1 taken by the ~~department~~ division shall be reduced to writing, and any party shall
2 have opportunity to rebut that testimony on final hearing.

3 **SECTION 101.** 102.17 (1) (f) of the statutes is amended to read:

4 102.17 (1) (f) Sections 804.05 and 804.07 shall not apply to proceedings under
5 this chapter, except as to a witness who is any of the following:

6 1. ~~Who is beyond~~ Beyond reach of the subpoena of the ~~department; or~~ division.

7 2. ~~Who is about~~ About to go out of the state, not intending to return in time for
8 the ~~hearing; or~~ hearing.

9 3. ~~Who is so~~ So sick, infirm, or aged as to make it probable that the witness will
10 not be able to attend the ~~hearing; or~~ hearing.

11 4. ~~Who is a~~ A member of the legislature, if any committee of the ~~same or~~
12 legislature or of the house of which the witness is a member, is in session, provided
13 and the witness waives his or her privilege.

14 **SECTION 102.** 102.17 (1) (g) of the statutes is amended to read:

15 102.17 (1) (g) Whenever the testimony presented at any hearing indicates a
16 dispute or creates a doubt as to the extent or cause of disability or death, the
17 ~~department~~ division may direct that the injured employee be examined, that an
18 autopsy be performed, or that an opinion be obtained without examination or
19 autopsy, by or from an impartial, competent physician, chiropractor, dentist,
20 psychologist or podiatrist designated by the ~~department~~ division who is not under
21 contract with or regularly employed by a compensation insurance carrier or
22 self-insured employer. The expense of the examination, autopsy, or opinion shall be
23 paid by the employer or, if the employee claims compensation under s. 102.81, from
24 the uninsured employers fund. The report of the examination, autopsy, or opinion
25 shall be transmitted in writing to the ~~department~~ division and a copy of the report

1 shall be furnished by the ~~department~~ division to each party, who shall have an
2 opportunity to rebut ~~such~~ the report on further hearing.

3 **SECTION 103.** 102.17 (1) (h) of the statutes is amended to read:

4 102.17 (1) (h) The contents of certified reports of investigation, made by
5 industrial safety specialists who are employed, contracted, or otherwise secured by
6 the ~~department~~ division and who are available for cross-examination, if served upon
7 the parties 15 days prior to hearing, shall constitute prima facie evidence as to
8 matter contained in those reports. A report described in this paragraph that is
9 admitted or received into evidence by the ~~department~~ division constitutes
10 substantial evidence under s. 102.23 (6) as to the matter contained in the report.

11 **SECTION 104.** 102.17 (2) of the statutes is amended to read:

12 102.17 (2) If the ~~department shall have~~ division has reason to believe that the
13 payment of compensation has not been made, ~~it~~ the division may on its own motion
14 give notice to the parties, in the manner provided for the service of an application,
15 of a time and place when a hearing will be held for the purpose of determining the
16 facts. ~~Such~~ The notice shall contain a statement of the matter to be considered.
17 ~~Thereafter all other~~ All provisions of this chapter governing proceedings on an
18 application shall ~~attach~~ apply, insofar as ~~the same may be applicable, to a proceeding~~
19 under this subsection. When the ~~department~~ division schedules a hearing on its own
20 motion, the ~~department~~ division does not become a party in interest and is not
21 required to appear at the hearing.

22 **SECTION 105.** 102.17 (2m) of the statutes is amended to read:

23 102.17 (2m) ~~Any~~ The division or any party, including the ~~department~~ office,
24 may require any person to produce books, papers, and records at the hearing by
25 personal service of a subpoena upon the person along with a tender of witness fees

1 as provided in ss. 814.67 and 885.06. Except as provided in sub. (2s), the subpoena
2 shall be on a form provided by the ~~department~~ division and shall give the name and
3 address of the party requesting the subpoena.

4 **SECTION 106.** 102.17 (2s) of the statutes is amended to read:

5 102.17 (2s) A party's attorney of record may issue a subpoena to compel the
6 attendance of a witness or the production of evidence. A subpoena issued by an
7 attorney must be in substantially the same form as provided in s. 805.07 (4) and must
8 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
9 issuance, send a copy of the subpoena to the ~~appeal tribunal~~ hearing examiner or
10 other representative of the ~~department~~ division responsible for conducting the
11 proceeding.

12 **SECTION 107.** 102.17 (7) (b) of the statutes is amended to read:

13 102.17 (7) (b) Except as provided in par. (c), the ~~department~~ division shall
14 exclude from evidence testimony or certified reports from expert witnesses under
15 par. (a) offered by the party that raises the issue of loss of earning capacity if that
16 party failed to notify the ~~department~~ division and the other parties of interest, at
17 least 60 days before the date of the hearing, of the party's intent to provide the
18 testimony or reports and of the names of the expert witnesses involved. Except as
19 provided in par. (c), the ~~department~~ division shall exclude from evidence testimony
20 or certified reports from expert witnesses under par. (a) offered by a party of interest
21 in response to the party that raises the issue of loss of earning capacity if the
22 responding party failed to notify the ~~department~~ division and the other parties of
23 interest, at least 45 days before the date of the hearing, of the party's intent to provide
24 the testimony or reports and of the names of the expert witnesses involved.

25 **SECTION 108.** 102.17 (7) (c) of the statutes is amended to read:

1 102.17 (7) (c) Notwithstanding the notice deadlines provided in par. (b), the
2 ~~department~~ division may receive in evidence testimony or certified reports from
3 expert witnesses under par. (a) when the applicable notice deadline under par. (b) is
4 not met if good cause is shown for the delay in providing the notice required under
5 par. (b) and if no party is prejudiced by the delay.

6 **SECTION 109.** 102.17 (8) of the statutes is amended to read:

7 102.17 (8) Unless otherwise agreed to by all parties, an injured employee shall
8 file with the ~~department~~ division and serve on all parties at least 15 days before the
9 date of the hearing an itemized statement of all medical expenses and incidental
10 compensation under s. 102.42 claimed by the injured employee. The itemized
11 statement shall include, if applicable, information relating to any travel expenses
12 incurred by the injured employee in obtaining treatment including the injured
13 employee's destination, number of trips, round trip mileage, and meal and lodging
14 expenses. The ~~department~~ division may not admit into evidence any information
15 relating to medical expenses and incidental compensation under s. 102.42 claimed
16 by an injured employee if the injured employee failed to file with the ~~department~~
17 division and serve on all parties at least 15 days before the date of the hearing an
18 itemized statement of the medical expenses and incidental compensation under s.
19 102.42 claimed by the injured employee, unless the ~~department~~ division is satisfied
20 that there is good cause for the failure to file and serve the itemized statement.

21 **SECTION 110.** 102.175 (2) of the statutes is amended to read:

22 102.175 (2) If after a hearing or a prehearing conference the ~~department~~
23 division determines that an injured employee is entitled to compensation but that
24 there remains in dispute only the issue of which of 2 or more parties is liable for that
25 compensation, the ~~department~~ division may order one or more parties to pay

1 compensation in an amount, time, and manner as determined by the ~~department~~
2 division. If the ~~department~~ division later determines that another party is liable for
3 compensation, the ~~department~~ division shall order that other party to reimburse any
4 party that was ordered to pay compensation under this subsection.

5 **SECTION 111.** 102.18 (1) (b) of the statutes is amended to read:

6 102.18 (1) (b) Within 90 days after the final hearing and close of the record, the
7 ~~department~~ division shall make and file its findings upon the ultimate facts involved
8 in the controversy, and its order, which shall state ~~its~~ the division's determination as
9 to the rights of the parties. Pending the final determination of any controversy before
10 it, the ~~department may in its discretion~~ division, after any hearing, may, in its
11 discretion, make interlocutory findings, orders, and awards, which may be enforced
12 in the same manner as final awards. The ~~department~~ division may include in any
13 interlocutory or final award or order an order directing the employer or insurer to pay
14 for any future treatment that may be necessary to cure and relieve the employee from
15 the effects of the injury. If the ~~department~~ division finds that the employer or insurer
16 has not paid any amount that the employer or insurer was directed to pay in any
17 interlocutory order or award and that the nonpayment was not in good faith, the
18 ~~department~~ division may include in its final award a penalty not exceeding ~~25%~~ 25
19 percent of each amount that was not paid as directed. When there is a finding that
20 the employee is in fact suffering from an occupational disease caused by the
21 employment of the employer against whom the application is filed, a final award
22 dismissing the application upon the ground that the applicant has suffered no
23 disability from the disease shall not bar any claim the employee may ~~thereafter~~ have
24 for disability sustained after the date of the award.

25 **SECTION 112.** 102.18 (1) (bg) 1. of the statutes is amended to read:

If such a determination has not yet been made, the

made by the office under s. 102.16 (2)

1 102.18 (1) (bg) 1. If the department division finds under par. (b) that an insurer
 2 or self-insured employer is liable under this chapter for any health services provided
 3 to an injured employee by a health service provider, but that the reasonableness of
 4 the fee charged by the health service provider is in dispute, the department division
 5 may include in its order under par. (b) a determination, as to the reasonableness of
 6 the fee or ~~the department~~ division may notify, or direct the insurer or self-insured
 7 employer to notify, the health service provider under s. 102.16 (2) (b) that the
 8 reasonableness of the fee is in dispute. ~~The department division shall deny payment~~
 9 ~~of a health service fee that the department division determines under this~~
 10 ~~subdivision to be unreasonable. An insurer or self-insured employer and a health~~
 11 ~~service provider that are parties to a fee dispute under this subdivision are bound by~~
 12 ~~the department's division's determination under this subdivision on the~~
 13 ~~reasonableness of the disputed fee, unless that determination is set aside, reversed,~~
 14 ~~or modified by the department division under sub. (3) or by the commission under~~
 15 ~~sub. (3) or (4) or is set aside on judicial review under s. 102.23.~~

Strike

SECTION 113. 102.18 (1) (bg) 2. of the statutes is amended to read:

17 102.18 (1) (bg) 2. If the department division finds under par. (b) that an
 18 employer or insurance carrier is liable under this chapter for any treatment provided
 19 to an injured employee by a health service provider, but that the necessity of the
 20 treatment is in dispute, the department division may include in its order under par.
 21 (b) a determination, as to the necessity of the treatment or ~~the department~~ division
 22 may notify, or direct the employer or insurance carrier to notify, the health service
 23 provider under s. 102.16 (2m) (b) that the necessity of the treatment is in dispute.
 24 Before determining under this subdivision the necessity of treatment provided to an
 25 injured employee, the department division may, but is not required to, obtain the

made by the office under s. 102.16 (2m)

If such a determination has not yet been made, the

1 opinion of an expert selected by the department ~~division~~ who is qualified as provided
 2 in s. 102.16 (2m) (c). The standards promulgated under s. 102.16 (2m) (g) shall be
 3 applied by an expert in rendering an opinion as to, and in determining, necessity of
 4 treatment under this subdivision. In cases in which no standards promulgated
 5 under s. 102.16 (2m) (g) apply, the department ~~division~~ shall find the facts regarding
 6 necessity of treatment. The department ~~division~~ shall deny payment for any
 7 treatment that the department ~~division~~ determines under this subdivision to be
 8 unnecessary. An insurer or self-insured employer and a health service provider that
 9 are parties to a dispute under this subdivision over the necessity of treatment are
 10 bound by the department's ~~division's~~ determination under this subdivision on the
 11 necessity of the disputed treatment, unless that determination is set aside, reversed,
 12 or modified by the department ~~division~~ under sub. (3) or by the commission under
 13 sub. (3) or (4) or is set aside on judicial review under s. 102.23.

14 SECTION 114. 102.18 (1) (bg) 3. of the statutes is amended to read:

15 102.18 (1) (bg) 3. If the department division finds under par. (b) that an insurer
 16 or self-insured employer is liable under this chapter for the cost of a prescription
 17 drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but
 18 that the reasonableness of the amount charged for that prescription drug is in
 19 dispute, the department division may include in its order under par. (b) a
 20 determination as to the reasonableness of the prescription drug charge or ~~the~~
 21 department division may notify, or direct the insurer or self-insured employer to
 22 notify, the pharmacist or practitioner dispensing the prescription drug under s.
 23 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in
 24 dispute. The department ~~division~~ shall deny payment of a prescription drug charge
 25 that the department ~~division~~ determines under this subdivision to be unreasonable.

made by the office
 Under s. 102.425 (4m)

if such a determination has
 not yet been made, the

1 ~~An insurer or self-insured employer and a pharmacist or practitioner that are~~
2 ~~parties to a dispute under this subdivision over the reasonableness of a prescription~~
3 ~~drug charge are bound by the department's ~~division's~~ determination under par. (b)~~
4 ~~on the reasonableness of the disputed prescription drug charge, unless that~~
5 ~~determination is set aside, reversed, or modified by the department ~~division~~ under~~
6 ~~sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review~~
7 ~~under s. 102.23.~~ ✓

Sb/c

8 **SECTION 115.** 102.18 (1) (bp) of the statutes is amended to read:

9 102.18 (1) (bp) If the department division determines that the employer or
10 insurance carrier suspended, terminated, or failed to make payments or failed to
11 report an injury as a result of malice or bad faith, the department division may
12 include a penalty in an award to an employee for each event or occurrence of malice
13 or bad faith. ~~This~~ That penalty is the exclusive remedy against an employer or
14 insurance carrier for malice or bad faith. If ~~this~~ the penalty is imposed for an event
15 or occurrence of malice or bad faith that causes a payment that is due an injured
16 employee to be delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46
17 (1), the department division may not also order an increased payment under s.
18 102.22 (1) or the payment of interest under s. 628.46 (1). The department division
19 may award an amount that it the division considers just, not to exceed the lesser of
20 200 percent of total compensation due or \$30,000 for each event or occurrence of
21 malice or bad faith. The department division may assess the penalty against the
22 employer, the insurance carrier, or both. Neither the employer nor the insurance
23 carrier is liable to reimburse the other for the penalty amount. The department
24 division may, by rule, define actions which that demonstrate malice or bad faith.

25 **SECTION 116.** 102.18 (1) (bw) of the statutes is amended to read:

1 102.18 (1) (bw) If an insurer, a self-insured employer, or, if applicable, the
2 uninsured employers fund pays compensation to an employee in excess of its liability
3 and another insurer is liable for all or part of the excess payment, the department
4 division may order the insurer or self-insured employer that is liable for that excess
5 payment to reimburse the insurer or self-insured employer that made the excess
6 payment or, if applicable, the uninsured employers fund.

7 **SECTION 117.** 102.18 (1) (c) of the statutes is amended to read:

8 102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim
9 and are unable to agree on the order or award to be issued, the decision shall be the
10 decision of the majority. If the examiners are equally divided on the decision, the
11 ~~department~~ division may appoint an additional examiner who shall review the
12 record and consult with the other examiners concerning their ~~personal~~ impressions
13 of the credibility of the evidence. Findings of fact and an order or award may then
14 be issued by a majority of the examiners.

electronically delivered to the party or

15 **SECTION 118.** 102.18 (1) (e) of the statutes is amended to read:

16 102.18 (1) (e) Except as provided in s. 102.21, if the department division orders
17 a party to pay an award of compensation, the party shall pay the award no later than
18 21 days after the date on which the order is mailed to the last-known address of the
19 party, unless the party files a petition for review under sub. (3). This paragraph
20 applies to all awards of compensation ordered by the ~~department~~ division, whether
21 the award results from a hearing, the default of a party, or a compromise or
22 stipulation confirmed by the ~~department~~ division.

23 **SECTION 119.** 102.18 (2) of the statutes is amended to read:

24 102.18 (2) The ~~department~~ division shall have and maintain on its staff such
25 examiners as are necessary to hear and decide disputed claims and to assist in the

1 effective ~~administration of~~ adjudication of disputes under this chapter. ~~These~~ Those
 2 examiners shall be attorneys and may be designated as administrative law judges.
 3 ~~These~~ Those examiners may make findings and orders, and may approve, review, set
 4 aside, modify, or confirm stipulations of settlement or compromises of claims for
 5 compensation.

*electronically delivered a copy of the examiner's findings
 and order to the parties in interest or*

6 **SECTION 120.** 102.18 (3) of the statutes is amended to read:

7 102.18 (3) A party in interest may petition the commission for review of an
 8 examiner's decision awarding or denying compensation if the ~~department~~ division
 9 or commission receives the petition within 21 days after the ~~department~~ division
 10 mailed a copy of the examiner's findings and order to the party's last-known address

11 addresses of the parties in interest. The commission shall dismiss a petition ~~which~~
 12 that is not timely filed unless the petitioner shows probable good cause that the
 13 reason for failure to timely file was beyond the petitioner's control. If no petition is
 14 filed within 21 days ~~from~~ after the date ~~that~~ on which a copy of the findings or order
 15 of the examiner is ~~mailed~~ mailed to the last-known ~~address~~ addresses of the parties in
 16 interest, the findings or order shall be considered final unless set aside, reversed, or
 17 modified by the examiner within that time. If the findings or order are set aside by
 18 the examiner, the status shall be the same as prior to the setting aside of the findings
 19 or order ~~set aside~~. If the findings or order are reversed or modified by the examiner,
 20 the time for filing a petition commences ~~with~~ on the date ~~that~~ on which notice of
 21 reversal or modification is ~~mailed~~ mailed to the last-known ~~address~~ addresses of the parties
 22 in interest. The commission shall either affirm, reverse, set aside, or modify the
 23 findings or order, in whole or in part, or direct the taking of additional evidence. ~~This~~
 24 The commission's action shall be based on a review of the evidence submitted.

25 **SECTION 121.** 102.18 (4) (c) 3. of the statutes is amended to read:

electronically delivered to the parties in interest or

(use future)

7
 25
 KSWA
 48-24

1 102.18 (4) (c) 3. Remand the case to the ~~department~~ division for further
2 proceedings.

3 **SECTION 122.** 102.18 (4) (d) of the statutes is amended to read:

4 102.18 (4) (d) While a petition for review by the commission is pending or after
5 entry of an order or award by the commission, but before commencement of an action
6 for judicial review or expiration of the period in which to commence an action for
7 judicial review, the commission shall remand any compromise presented to it to the
8 ~~department~~ division for consideration and approval or rejection pursuant to under
9 s. 102.16 (1). Presentation of a compromise does not affect the period in which to
10 commence an action for judicial review.

11 **SECTION 123.** 102.18 (5) of the statutes is amended to read:

12 102.18 (5) If it ~~shall appear to the department~~ appears to the division that a
13 mistake may have been made as to cause of injury in the findings, order, or award
14 upon an alleged injury based on accident, when in fact the employee was suffering
15 from an occupational disease, within 3 years after the date of the findings, order, or
16 award the ~~department~~ division may, upon its own motion, with or without hearing,
17 ~~within 3 years from the date of such findings, order or award,~~ set aside such the
18 findings, order or award, or the ~~department~~ division may take ~~such~~ that action upon
19 application made within such those 3 years. ~~Thereafter, and after~~ After an
20 opportunity for hearing, the ~~department~~ division may, if in fact the employee is
21 suffering from disease arising out of the employment, make new findings, and a new
22 order or award, or ~~it~~ the division may reinstate the previous findings, order, or award.

23 **SECTION 124.** 102.18 (6) of the statutes is amended to read:

24 102.18 (6) In case of disease arising out of the employment, the ~~department~~
25 division may from time to time review its findings, order, or award, and make new

1 findings, or a new order or award, based on the facts regarding disability or otherwise
2 as ~~they~~ those facts may ~~then~~ appear at the time of the review. This subsection shall
3 not affect the application of the limitation in s. 102.17 (4).

4 SECTION 125. 102.19 of the statutes is amended to read:

5 **102.19 Alien dependents; payments through consular officers.** ~~In case~~
6 If a deceased employee, for whose injury or death compensation is payable, leaves
7 surviving alien dependents residing outside of the United States, the duly accredited
8 consular officer of the country of which ~~such~~ those dependents are citizens or ~~such~~
9 that officer's designated representative residing within the state shall, except as
10 otherwise determined by the ~~department~~ office, be the sole representative of the
11 deceased employee and dependents in all matters pertaining to their claims for
12 compensation. The receipt by ~~such officer or agent~~ of compensation funds and the
13 distribution ~~thereof~~ of those funds by a consular officer or representative shall be
14 made only upon order of the ~~department~~ office, and payment to ~~such~~ the officer or
15 ~~agent pursuant to any such representative under that~~ order shall be a full discharge
16 of the benefits or compensation. ~~Such~~ due the deceased employee and his or her
17 dependents. If required by the office, a consular officer or ~~such officer's~~
18 representative shall furnish, ~~if required by the department,~~ a bond to be approved
19 by it the office, conditioned upon the proper application of all moneys received by
20 ~~such person~~ the consular officer or representative. Before ~~such~~ that bond is
21 discharged, ~~such~~ the consular officer or representative shall file with the ~~department~~
22 a office an itemized and verified account of the items of his or her receipts and
23 disbursements receipt and disbursement of ~~such~~ that compensation. ~~Such~~ The
24 consular officer or representative shall make interim reports to the ~~department~~ office
25 as it the office may require.