

2019 DRAFTING REQUEST

Bill

For: **Administration-Budget** Drafter: **mduchek**
 By: **Bork** Secondary Drafters:
 Date: **1/9/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email:
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Pre Topic:

DOA:.....Bork, BB0196 -

Topic:

Transfer of Worker's Compensation Functions from DHA to DWD

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 1/15/2019	ccarmich 1/25/2019			
/P1	mduchek 2/14/2019	ccarmich 2/14/2019	lparisi 1/25/2019		State
/P2			dwalker 2/14/2019		State

FE Sent For: **<END>**

Duchek, Michael

From: Hanaman, Cathlene
Sent: Wednesday, January 09, 2019 3:22 PM
To: Duchek, Michael
Subject: FW: Statutory Language Drafting Request - 2019-21

From: Bork, Matthew - DOA <Matthew.Bork@wisconsin.gov>
Sent: Wednesday, January 09, 2019 3:16 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Kraus, Jennifer - DOA <Jennifer.Kraus@wisconsin.gov>; Bork, Matthew - DOA <Matthew.Bork@wisconsin.gov>
Subject: Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Transfer of Worker's Compensation Functions from DHA to DWD

Tracking Code: BB0196

SBO Team: GGCF

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Agency Acronym: 505

Agency Number: 505

Priority: High

Intent:

Return worker's compensation adjudicatory functions from the Division of Hearings and Appeals in the Department of Administration to the Department of Workforce Development, effective January 1, 2020. Transfer incumbents with the position numbers. Transfer all assets, liabilities and administrative rules to DWD. Allow DWD to promulgate new administrative rules without the finding of an emergency. If necessary, allow open cases to be transferred to DWD.

Attachments: False

Please send completed drafts to SBOSTatlanguage@spsmail.enterprise.wistate.us



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1323

MED:cdc

DOA:.....Bork, BB0196 - Transfer of Worker's Compensation Functions from
DHA to DWD

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT^φ; relating to: the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, DWD performs various administrative and adjudicatory functions relating to worker's compensation, except that the adjudicatory functions of DWD relating to disputed worker's compensation claims are performed the Division of Hearings and Appeals in DOA (DHA). This bill transfers the adjudicatory functions of DHA relating to disputed worker's compensation claims to DWD.

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:

2 SECTION 1. 40.65 (2) (a) of the statutes is amended to read:

3 40.65 (2) (a) This paragraph applies to participants who first apply for benefits

4 before May 3, 1988. Any person desiring a benefit under this section must apply to

1 the department of workforce development, which department shall determine
2 whether the applicant is eligible to receive the benefit and the participant's monthly
3 salary. Appeals from the eligibility decision shall follow the procedures under ss.
4 102.16 to 102.26. If it is determined that an applicant is eligible, the department of
5 workforce development shall notify the department of employee trust funds and
6 shall certify the applicant's monthly salary. If at the time of application for benefits
7 an applicant is still employed in any capacity by the employer in whose employ the
8 disabling injury occurred or disease was contracted, that continued employment
9 shall not affect that applicant's right to have his or her eligibility to receive those
10 benefits determined in proceedings before the ~~division of hearings and appeals in the~~
11 ~~department of administration~~ department of workforce development or the labor and
12 industry review commission or in proceedings in the courts. The department of
13 workforce development may promulgate rules needed to administer this paragraph.

History: 1981 c. 278; 1983 a. 9; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 255; 1985 a. 332 s. 251 (1); 1987 a. 363; 1989 a. 240, 357; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39, 173, 237; 2007 a. 131; 2009 a. 28; 2015 a. 55; 2017 a. 12, 59.

Cross-reference: See s. 891.45 for provision as to presumption of employment-connected disease for certain municipal fire fighters.

Cross-reference: See also LIRC and ss. ETF 52.01 and HA 4.16, Wis. adm. code.

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

15 40.65 (2) (b) 3. The department shall determine whether or not the applicant
16 is eligible for benefits under this section on the basis of the evidence in subd. 2. An
17 applicant may appeal a determination under this subdivision to the ~~division of~~
18 ~~hearings and appeals in the department of administration~~ department of workforce
19 development.

History: 1981 c. 278; 1983 a. 9; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 255; 1985 a. 332 s. 251 (1); 1987 a. 363; 1989 a. 240, 357; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39, 173, 237; 2007 a. 131; 2009 a. 28; 2015 a. 55; 2017 a. 12, 59.

Cross-reference: See s. 891.45 for provision as to presumption of employment-connected disease for certain municipal fire fighters.

Cross-reference: See also LIRC and ss. ETF 52.01 and HA 4.16, Wis. adm. code.

20 **SECTION 3.** 40.65 (2) (b) 4. of the statutes is amended to read:

1 40.65 (2) (b) 4. In hearing an appeal under subd. 3., the ~~division of hearings and~~
2 ~~appeals in the department of administration~~ department of workforce development
3 shall follow the procedures under ss. 102.16 to 102.26.

History: 1981 c. 278; 1983 a. 9; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 255; 1985 a. 332 s. 251 (1); 1987 a. 363; 1989 a. 240, 357; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39, 173, 237; 2007 a. 131; 2009 a. 28; 2015 a. 55; 2017 a. 12, 59.

Cross-reference: See s. 891.45 for provision as to presumption of employment-connected disease for certain municipal fire fighters.

Cross-reference: See also LIRC and ss. ETF 52.01 and HA 4.16, Wis. adm. code.

4 **SECTION 4.** 102.01 (2) (ad) of the statutes is repealed.

5 **SECTION 5.** 102.01 (2) (ar) of the statutes is repealed.

6 **SECTION 6.** 102.01 (2) (dm) of the statutes is amended to read:

7 102.01 (2) (dm) "Order" means any decision, rule, regulation, direction,
8 requirement, or standard of the department ~~or the division~~, or any other
9 determination arrived at or decision made by the department ~~or the division~~.

History: 1975 c. 147 ss. 7 to 13, 54; 1975 c. 200; 1979 c. 89, 278; 1981 c. 92; 1983 a. 98, 189; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1995 a. 27 ss. 3737 to 3741, 9130 (4); 1995 a. 117, 417; 1997 a. 3; 1999 a. 9, 14; 2001 a. 37; 2003 a. 139; 2007 a. 20; 2015 a. 55, 180.

10 **SECTION 7.** 102.04 (2r) (b) of the statutes is amended to read:

11 102.04 (2r) (b) The franchisor has been found by the department ~~or the division~~
12 to have exercised a type or degree of control over the franchisee or the franchisee's
13 employees that is not customarily exercised by a franchisor for the purpose of
14 protecting the franchisor's trademarks and brand.

History: 1975 c. 199; 1983 a. 98; 1989 a. 64; 1993 a. 112; 1997 a. 38; 1999 a. 9; 2001 a. 37; 2005 a. 172; 2007 a. 20; 2009 a. 206; 2015 a. 180, 203.

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

16 102.07 (8) (c) The ~~division~~ department may not admit in evidence any state or
17 federal law, regulation, ~~or~~ document granting operating authority, or license when
18 determining whether an independent contractor meets the conditions specified in
19 par. (b) 1. or 3.

History: 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42, 288; 2011 a. 123; 2013 a. 20; 2015 a. 55, 180, 258, 334; 2017 a. 59.

****NOTE: Note to editor - The comma before "or license" was inserted by 2015 Act 55 (along with other changes). Does it belong?

20 **SECTION 9.** 102.11 (1) (am) 1. of the statutes is amended to read:

Please confirm that this reads correctly.

1 102.11 (1) (am) 1. The employee is a member of a class of employees that does
2 the same type of work at the same location and, in the case of an employee in the
3 service of the state, is employed in the same office, department, independent agency,
4 authority, institution, association, society, or other body in state government or, if the
5 department or the division determines appropriate, in the same subunit of an office,
6 department, independent agency, authority, institution, association, society, or other
7 body in state government.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 195; 1979 c. 278; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1991 a. 85; 1993 a. 81, 492; 1995 a. 117; 1997 a. 38, 253; 2001 a. 37, 107; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 123, 183, 257; 2013 a. 165; 2015 a. 55, 180; 2017 a. 364 s. 49.

Cross-reference: See also s. DWD 80.51, Wis. adm. code.

8 **SECTION 10.** 102.12 of the statutes is amended to read:

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

1 within the 2-year period, that the employee had sustained the injury on which the
2 claim is based. Issuance of notice of a hearing on the motion of the department ~~or~~
3 ~~the division~~ has the same effect for the purposes of this section as the filing of an
4 application. This section does not affect any claim barred under s. 102.17 (4).

History: 1983 a. 98; 2015 a. 55.

5 **SECTION 11.** 102.13 (1) (c) of the statutes is amended to read:

6 102.13 (1) (c) So long as the employee, after a written request of the employer
7 or insurer that complies with par. (b), refuses to submit to or in any way obstructs
8 the examination, the employee's right to begin or maintain any proceeding for the
9 collection of compensation is suspended, except as provided in sub. (4). If the
10 employee refuses to submit to the examination after direction by the department, ~~the~~
11 ~~division~~, or an examiner, or in any way obstructs the examination, the employee's
12 right to the weekly indemnity that accrues and becomes payable during the period
13 of that refusal or obstruction, is barred, except as provided in sub. (4).

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

14 **SECTION 12.** 102.13 (1) (d) 2. of the statutes is amended to read:

15 102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist, physician
16 assistant, advanced practice nurse prescriber, or podiatrist who attended a worker's
17 compensation claimant for any condition or complaint reasonably related to the
18 condition for which the claimant claims compensation may be required to testify
19 before the division department when the division department so directs.

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

20 **SECTION 13.** 102.13 (1) (d) 3. of the statutes is amended to read:

21 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any
22 physician, chiropractor, psychologist, dentist, physician assistant, advanced

1 practice nurse prescriber, or podiatrist attending a worker's compensation claimant
2 for any condition or complaint reasonably related to the condition for which the
3 claimant claims compensation may furnish to the employee, employer, worker's
4 compensation insurer, or department, or division information and reports relative to
5 a compensation claim.

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

6 **SECTION 14.** 102.13 (1) (f) of the statutes is amended to read:

7 102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the
8 department ~~or the division~~ may require the employee to submit to physical or
9 vocational examinations under this subsection.

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

10 **SECTION 15.** 102.13 (2) (a) of the statutes is amended to read:

11 102.13 (2) (a) An employee who reports an injury alleged to be work-related
12 or files an application for hearing waives any physician-patient,
13 psychologist-patient, or chiropractor-patient privilege with respect to any condition
14 or complaint reasonably related to the condition for which the employee claims
15 compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any
16 physician, chiropractor, psychologist, dentist, podiatrist, physician assistant,
17 advanced practice nurse prescriber, hospital, or health care provider shall, within a
18 reasonable time after written request by the employee, employer, worker's
19 compensation insurer, or department, or division, or its representative, provide that
20 person with any information or written material reasonably related to any injury for
21 which the employee claims compensation.

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

22 **SECTION 16.** 102.13 (3) of the statutes is amended to read:

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 ~~or the 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 ~~or the division~~ shall
8 promptly notify the parties of this appointment. If the employee has not returned
9 to work, payment for temporary disability shall continue until the department ~~or the~~
10 ~~division~~ receives the opinion. The employer or its insurance carrier, or both, shall
11 pay for the examination and opinion. The employer or insurance carrier, or both,
12 shall receive appropriate credit for any overpayment to the employee determined by
13 the department ~~or the division~~ after receipt of the opinion.

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

14 **SECTION 17.** 102.13 (4) of the statutes is amended to read:

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

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

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

6 **SECTION 18.** 102.13 (5) of the statutes is amended to read:

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

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183; 2015 a. 55, 180.

16 **SECTION 19.** 102.14 (title) of the statutes is amended to read:

17 **102.14 (title) Jurisdiction of department and ~~division~~; advisory**
18 **committee council.**

History: 1975 c. 147 s. 54; 1979 c. 278; 2015 a. 55.

19 **SECTION 20.** 102.14 (1) of the statutes is amended to read:

20 102.14 (1) Except as otherwise provided, this chapter shall be administered by
21 the department ~~and the division~~.

History: 1975 c. 147 s. 54; 1979 c. 278; 2015 a. 55.

22 **SECTION 21.** 102.14 (2) of the statutes is amended to read:

1 102.14 (2) The council on worker's compensation shall advise the department
2 ~~and the division~~ in carrying out the purposes of this chapter, shall submit its
3 recommendations with respect to amendments to this chapter to each regular
4 session of the legislature, and shall report its views upon any pending bill relating
5 to this chapter to the proper legislative committee. At the request of the chairpersons
6 of the senate and assembly committees on labor, the department shall schedule a
7 meeting of the council with the members of the senate and assembly committees on
8 labor to review and discuss matters of legislative concern arising under this chapter.

History: 1975 c. 147 s. 54; 1979 c. 278; 2015 a. 55.

9 **SECTION 22.** 102.15 (1) of the statutes is amended to read:

10 102.15 (1) Subject to this chapter, the ~~division~~ department may ~~adopt its own~~
11 promulgate rules of procedure ~~and may change the same from time to time.~~

History: 1977 c. 418; 1989 a. 64; 2015 a. 55.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

12 **SECTION 23.** 102.15 (2) of the statutes is amended to read:

13 102.15 (2) The ~~division~~ department may provide by rule the conditions under
14 which transcripts of testimony and proceedings shall be furnished.

History: 1977 c. 418; 1989 a. 64; 2015 a. 55.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

15 **SECTION 24.** 102.16 (1) of the statutes is repealed and recreated to read:

16 102.16 (1) Any controversy concerning compensation or a violation of sub. (3),
17 including a controversy in which the state may be a party, shall be submitted to the
18 department in the manner and with the effect provided in this chapter. Every
19 compromise of any claim for compensation may be reviewed and set aside, modified,
20 or confirmed by the department within one year after the date on which the
21 compromise is filed with the department, the date on which an award has been
22 entered based on the compromise, or the date on which an application for the

1 department to take any of those actions is filed with the department. Unless the
2 word "compromise" appears in a stipulation of settlement, the settlement shall not
3 be considered a compromise, and further claim is not barred except as provided in
4 s. 102.17 (4) regardless of whether an award is made. The employer, insurer or
5 dependent under s. 102.51 (5) shall have equal rights with the employee to have a
6 compromise or any other stipulation of settlement reviewed under this subsection.
7 Upon petition filed with the department under this subsection, the department may
8 set aside the award or otherwise determine the rights of the parties.

****NOTE: Please review this. This attempts to return to the pre-2015 Act 55
version of this subsection with the language cleanups.

9 **SECTION 25.** 102.16 (1m) (a) of the statutes is amended to read:

10 102.16 (1m) (a) If an insurer or self-insured employer concedes by compromise
11 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
12 employer is liable under this chapter for any health services provided to an injured
13 employee by a health service provider, but disputes the reasonableness of the fee
14 charged by the health service provider, the department ~~or the division~~ may include
15 in its order confirming the compromise or stipulation a determination made by the
16 department under sub. (2) as to the reasonableness of the fee or, if such a
17 determination has not yet been made, the department ~~or the division~~ may notify, or
18 direct the insurer or self-insured employer to notify, the health service provider
19 under sub. (2) (b) that the reasonableness of the fee is in dispute. The department
20 ~~or the division~~ shall deny payment of a health service fee that the department
21 determines under sub. (2) to be unreasonable. A health service provider and an
22 insurer or self-insured employer that are parties to a fee dispute under this
23 paragraph are bound by the department's determination under sub. (2) on the

1 reasonableness of the disputed fee, unless that determination is set aside, reversed,
2 or modified by the department under sub. (2) (f) or is set aside on judicial review as
3 provided in sub. (2) (f).

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

4 **SECTION 26.** 102.16 (1m) (b) of the statutes is amended to read:

5 102.16 (1m) (b) If an insurer or self-insured employer concedes by compromise
6 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
7 employer is liable under this chapter for any treatment provided to an injured
8 employee by a health service provider, but disputes the necessity of the treatment,
9 the department ~~or the division~~ may include in its order confirming the compromise
10 or stipulation a determination made by the department under sub. (2m) as to the
11 necessity of the treatment or, if such a determination has not yet been made, the
12 department ~~or the division~~ may notify, or direct the insurer or self-insured employer
13 to notify, the health service provider under sub. (2m) (b) that the necessity of the
14 treatment is in dispute. Before determining under sub. (2m) the necessity of
15 treatment provided to an injured employee, the department may, but is not required
16 to, obtain the opinion of an expert selected by the department who is qualified as
17 provided in sub. (2m) (c). The standards promulgated under sub. (2m) (g) shall be
18 applied by an expert and by the department in rendering an opinion as to, and in
19 determining, necessity of treatment under this paragraph. In cases in which no
20 standards promulgated under sub. (2m) (g) apply, the department shall find the facts
21 regarding necessity of treatment. The department ~~or the division~~ shall deny
22 payment for any treatment that the department determines under sub. (2m) to be
23 unnecessary. A health service provider and an insurer or self-insured employer that
24 are parties to a dispute under this paragraph over the necessity of treatment are

1 bound by the department's determination under sub. (2m) on the necessity of the
2 disputed treatment, unless that determination is set aside, reversed, or modified by
3 the department under sub. (2m) (e) or is set aside on judicial review as provided in
4 sub. (2m) (e).

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

5 **SECTION 27.** 102.16 (1m) (c) of the statutes is amended to read:

6 102.16 (1m) (c) 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 the cost of a prescription drug dispensed
9 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the
10 reasonableness of the amount charged for the prescription drug, the department ~~or~~
11 ~~the division~~ may include in its order confirming the compromise or stipulation a
12 determination made by the department under s. 102.425 (4m) as to the
13 reasonableness of the prescription drug charge or, if such a determination has not
14 yet been made, the department ~~or the division~~ may notify, or direct the insurer or
15 self-insured employer to notify, the pharmacist or practitioner dispensing the
16 prescription drug under s. 102.425 (4m) (b) that the reasonableness of the
17 prescription drug charge is in dispute. The department ~~or the division~~ shall deny
18 payment of a prescription drug charge that the department determines under s.
19 102.425 (4m) to be unreasonable. A pharmacist or practitioner and an insurer or
20 self-insured employer that are parties to a dispute under this paragraph over the
21 reasonableness of a prescription drug charge are bound by the department's
22 determination under s. 102.425 (4m) on the reasonableness of the disputed
23 prescription drug charge, unless that determination is set aside, reversed, or

1 modified by the department under s. 102.425 (4m) (e) or is set aside on judicial review
2 as provided in s. 102.425 (4m) (e).

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

3 **SECTION 28.** 102.16 (2) (a) of the statutes is amended to read:

4 102.16 (2) (a) Except as provided in this paragraph, the department has
5 jurisdiction under this subsection, ~~the department and the division have jurisdiction~~
6 ~~under sub. (1m) (a), and the division has jurisdiction under s. 102.17 to resolve a~~
7 dispute between a health service provider and an insurer or self-insured employer
8 over the reasonableness of a fee charged by the health service provider for health
9 services provided to an injured employee who claims benefits under this chapter. A
10 health service provider may not submit a fee dispute to the department under this
11 subsection before all treatment by the health service provider of the employee's
12 injury has ended if the amount in controversy, whether based on a single charge or
13 a combination of charges for one or more days of service, is less than \$25. After all
14 treatment by a health service provider of an employee's injury has ended, the health
15 service provider may submit any fee dispute to the department, regardless of the
16 amount in controversy. The department shall deny payment of a health service fee
17 that the department determines under this subsection to be unreasonable.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

18 **SECTION 29.** 102.16 (2) (b) of the statutes is amended to read:

19 102.16 (2) (b) An insurer or self-insured employer that disputes the
20 reasonableness of a fee charged by a health service provider or the department ~~or the~~
21 ~~division~~ under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written
22 notice to the health service provider that the fee is being disputed. After receiving
23 reasonable written notice under this paragraph or under sub. (1m) (a) or s. 102.18

1 (1) (bg) 1. that a health service fee is being disputed, a health service provider may
2 not collect the disputed fee from, or bring an action for collection of the disputed fee
3 against, the employee who received the services for which the fee was charged.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

4 **SECTION 30.** 102.16 (2m) (a) of the statutes is amended to read:

5 102.16 (2m) (a) Except as provided in this paragraph, the department has
6 jurisdiction under this subsection, ~~the department and the division have jurisdiction~~
7 ~~under sub. (1m) (b), and the division has jurisdiction under s. 102.17~~ to resolve a
8 dispute between a health service provider and an insurer or self-insured employer
9 over the necessity of treatment provided for an injured employee who claims benefits
10 under this chapter. A health service provider may not submit a dispute over
11 necessity of treatment to the department under this subsection before all treatment
12 by the health service provider of the employee's injury has ended if the amount in
13 controversy, whether based on a single charge or a combination of charges for one or
14 more days of service, is less than \$25. After all treatment by a health service provider
15 of an employee's injury has ended, the health service provider may submit any
16 dispute over necessity of treatment to the department, regardless of the amount in
17 controversy. The department shall deny payment for any treatment that the
18 department determines under this subsection to be unnecessary.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

19 **SECTION 31.** 102.16 (2m) (b) of the statutes is amended to read:

20 102.16 (2m) (b) An insurer or self-insured employer that disputes the
21 necessity of treatment provided by a health service provider or the department ~~or the~~
22 ~~division~~ under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written
23 notice to the health service provider that the necessity of that treatment is being

1 disputed. After receiving reasonable written notice under this paragraph or under
2 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,
3 a health service provider may not collect a fee for that disputed treatment from, or
4 bring an action for collection of the fee for that disputed treatment against, the
5 employee who received the treatment.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

6 **SECTION 32.** 102.16 (4) of the statutes is amended to read:

7 102.16 (4) The department ~~and the division have~~ has jurisdiction to pass on any
8 question arising out of sub. (3) and to order the employer to reimburse an employee
9 or other person for any sum deducted from wages or paid by him or her in violation
10 of that subsection. In addition to the penalty provided in s. 102.85 (1), any employer
11 violating sub. (3) shall be liable to an injured employee for the reasonable value of
12 the necessary services rendered to that employee under any arrangement made in
13 violation of sub. (3) without regard to that employee's actual disbursements for those
14 services.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183; 2015 a. 55; 2017 a. 366.

15 **SECTION 33.** 102.17 (1) (a) 1. of the statutes is amended to read:

16 102.17 (1) (a) 1. Upon the filing with the department by any party in interest
17 of any application in writing stating the general nature of any claim as to which any
18 dispute or controversy may have arisen, the department shall mail a copy of the
19 application to all other parties in interest, and the insurance carrier shall be
20 considered a party in interest. The department ~~or the division~~ may bring in
21 additional parties by service of a copy of the application.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

22 **SECTION 34.** 102.17 (1) (a) 2. of the statutes is amended to read:

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

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

11 **SECTION 35.** 102.17 (1) (a) 3. of the statutes is amended to read:

12 102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has
13 acted with malice or bad faith as described in s. 102.18 (1) (b) 3. or (bp), that party
14 shall provide written notice stating with reasonable specificity the basis for the claim
15 to the employer, the insurer, and the department, ~~and the division~~ before the ~~division~~
16 department schedules a hearing on the claim of malice or bad faith.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

17 **SECTION 36.** 102.17 (1) (a) 4. of the statutes is amended to read:

18 102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the ~~division~~
19 department, and hearings may be held at such places as the ~~division~~ department
20 designates, within or without the state. The ~~division~~ department may also arrange
21 to have hearings held by the commission, officer, or tribunal having authority to hear
22 cases arising under the worker's compensation law of any other state, of the District

1 of Columbia, or of any territory of the United States, with the testimony and
2 proceedings at any such hearing to be reported to the ~~division~~ department and to be
3 made part of the record in the case. Any evidence so taken shall be subject to rebuttal
4 upon final hearing before the ~~division~~ department.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

5 **SECTION 37.** 102.17 (1) (b) of the statutes is amended to read:

6 102.17 (1) (b) In any dispute or controversy pending before the ~~division~~
7 department, the ~~division~~ department may direct the parties to appear before an
8 examiner for a conference to consider the clarification of issues, the joining of
9 additional parties, the necessity or desirability of amendments to the pleadings, the
10 obtaining of admissions of fact or of documents, records, reports, and bills that may
11 avoid unnecessary proof, and such other matters as may aid in disposition of the
12 dispute or controversy. After that conference the ~~division~~ department may issue an
13 order requiring disclosure or exchange of any information or written material that
14 the ~~division~~ department considers material to the timely and orderly disposition of
15 the dispute or controversy. If a party fails to disclose or exchange that information
16 within the time stated in the order, the ~~division~~ department may issue an order
17 dismissing the claim without prejudice or excluding evidence or testimony relating
18 to the information or written material. The ~~division~~ department shall provide each
19 party with a copy of any order issued under this paragraph.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

20 **SECTION 38.** 102.17 (1) (c) 1. of the statutes is amended to read:

21 102.17 (1) (c) 1. Any party shall have the right to be present at any hearing,
22 in person or by attorney or any other agent, and to present such testimony as may

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

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

13 **SECTION 39.** 102.17 (1) (d) 1. of the statutes is amended to read:

14 102.17 (1) (d) 1. The contents of certified medical and surgical reports by
15 physicians, podiatrists, surgeons, dentists, psychologists, physician assistants,
16 advanced practice nurse prescribers, and chiropractors licensed in and practicing in
17 this state, and of certified reports by experts concerning loss of earning capacity
18 under s. 102.44 (2) and (3), presented by a party for compensation constitute prima
19 facie evidence as to the matter contained in those reports, subject to any rules and
20 limitations the ~~division~~ department prescribes. Certified reports of physicians,
21 podiatrists, surgeons, dentists, psychologists, physician assistants, advanced
22 practice nurse prescribers, and chiropractors, wherever licensed and practicing, who
23 have examined or treated the claimant, and of experts, if the practitioner or expert

1 consents to being subjected to cross-examination, also constitute prima facie
2 evidence as to the matter contained in those reports. Certified reports of physicians,
3 podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of
4 the diagnosis, necessity of the treatment, and cause and extent of the disability.
5 Certified reports by doctors of dentistry, physician assistants, and advanced practice
6 nurse prescribers are admissible as evidence of the diagnosis and necessity of
7 treatment but not of the cause and extent of disability. Any physician, podiatrist,
8 surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice
9 nurse prescriber, or expert who knowingly makes a false statement of fact or opinion
10 in a certified report may be fined or imprisoned, or both, under s. 943.395.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

11 **SECTION 40.** 102.17 (1) (d) 2. of the statutes is amended to read:

12 102.17 (1) (d) 2. The record of a hospital or sanatorium in this state that is
13 satisfactory to the ~~division~~ department, established by certificate, affidavit, or
14 testimony of the supervising officer of the hospital or sanatorium, any other person
15 having charge of the record, or a physician, podiatrist, surgeon, dentist, psychologist,
16 physician assistant, advanced practice nurse prescriber, or chiropractor to be the
17 record of the patient in question, and made in the regular course of examination or
18 treatment of the patient, constitutes prima facie evidence as to the matter contained
19 in the record, to the extent that the record is otherwise competent and relevant.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

20 **SECTION 41.** 102.17 (1) (d) 3. of the statutes is amended to read:

21 102.17 (1) (d) 3. The ~~division~~ department may, by rule, establish the
22 qualifications of and the form used for certified reports submitted by experts who

1 provide information concerning loss of earning capacity under s. 102.44 (2) and (3).
2 The ~~division~~ department may not admit into evidence a certified report of a
3 practitioner or other expert or a record of a hospital or sanatorium that was not filed
4 with the ~~division~~ department and all parties in interest at least 15 days before the
5 date of the hearing, unless the ~~division~~ department is satisfied that there is good
6 cause for the failure to file the report.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

7 **SECTION 42.** 102.17 (1) (d) 4. of the statutes is amended to read:

8 102.17 (1) (d) 4. A report or record described in subd. 1., 2., or 3. that is admitted
9 or received into evidence by the ~~division~~ department constitutes substantial
10 evidence under s. 102.23 (6) as to the matter contained in the report or record.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

11 **SECTION 43.** 102.17 (1) (e) of the statutes is amended to read:

12 102.17 (1) (e) The ~~division~~ department may, with or without notice to any party,
13 cause testimony to be taken, an inspection of the premises where the injury occurred
14 to be made, or the time books and payrolls of the employer to be examined by any
15 examiner, and may direct any employee claiming compensation to be examined by
16 a physician, chiropractor, psychologist, dentist, or podiatrist. The testimony so
17 taken, and the results of any such inspection or examination, shall be reported to the
18 ~~division~~ department for its consideration upon final hearing. All ex parte testimony
19 taken by the ~~division~~ department shall be reduced to writing, and any party shall
20 have opportunity to rebut that testimony on final hearing.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

1 **SECTION 44.** 102.17 (1) (f) 1. of the statutes is amended to read:

2 102.17 (1) (f) 1. Beyond reach of the subpoena of the ~~division~~ department.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

3 **SECTION 45.** 102.17 (1) (g) of the statutes is amended to read:

4 102.17 (1) (g) Whenever the testimony presented at any hearing indicates a
5 dispute or creates a doubt as to the extent or cause of disability or death, the ~~division~~
6 department may direct that the injured employee be examined, that an autopsy be
7 performed, or that an opinion be obtained without examination or autopsy, by or from
8 an impartial, competent physician, chiropractor, dentist, psychologist or podiatrist
9 designated by the ~~division~~ department who is not under contract with or regularly
10 employed by a compensation insurance carrier or self-insured employer. The
11 expense of the examination, autopsy, or opinion shall be paid by the employer or, if
12 the employee claims compensation under s. 102.81, from the uninsured employers
13 fund. The report of the examination, autopsy, or opinion shall be transmitted in
14 writing to the ~~division~~ department and a copy of the report shall be furnished by the
15 division department to each party, who shall have an opportunity to rebut the report
16 on further hearing.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

17 **SECTION 46.** 102.17 (1) (h) of the statutes is amended to read:

18 102.17 (1) (h) The contents of certified reports of investigation made by
19 industrial safety specialists who are employed, contracted, or otherwise secured by
20 the department ~~or the division~~ and who are available for cross-examination, if
21 served upon the parties 15 days prior to hearing, shall constitute prima facie
22 evidence as to matter contained in those reports. A report described in this

1 paragraph that is admitted or received into evidence by the ~~division~~ department
2 constitutes substantial evidence under s. 102.23 (6) as to the matter contained in the
3 report.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

4 **SECTION 47.** 102.17 (2) of the statutes is amended to read:

5 102.17 (2) If the ~~division~~ department has reason to believe that the payment
6 of compensation has not been made, the ~~division~~ department may on its own motion
7 give notice to the parties, in the manner provided for the service of an application,
8 of a time and place when a hearing will be held for the purpose of determining the
9 facts. The notice shall contain a statement of the matter to be considered. All
10 provisions of this chapter governing proceedings on an application shall apply,
11 insofar as applicable, to a proceeding under this subsection. When the ~~division~~
12 department schedules a hearing on its own motion, the ~~division~~ department does not
13 become a party in interest and is not required to appear at the hearing.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

14 **SECTION 48.** 102.17 (2m) of the statutes is amended to read:

15 102.17 (2m) ~~The division or any~~ Any party, including the department, may
16 require any person to produce books, papers, and records at the hearing by personal
17 service of a subpoena upon the person along with a tender of witness fees as provided
18 in ss. 814.67 and 885.06. Except as provided in sub. (2s), the subpoena shall be on
19 a form provided by the ~~division~~ department and shall give the name and address of
20 the party requesting the subpoena.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

1 **SECTION 49.** 102.17 (2s) of the statutes is amended to read:

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

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

8 **SECTION 50.** 102.17 (7) (b) of the statutes is amended to read:

9 102.17 (7) (b) Except as provided in par. (c), the ~~division~~ department shall
10 exclude from evidence testimony or certified reports from expert witnesses under
11 par. (a) offered by the party that raises the issue of loss of earning capacity if that
12 party failed to notify the ~~division~~ department and the other parties of interest, at
13 least 60 days before the date of the hearing, of the party's intent to provide the
14 testimony or reports and of the names of the expert witnesses involved. Except as
15 provided in par. (c), the ~~division~~ department shall exclude from evidence testimony
16 or certified reports from expert witnesses under par. (a) offered by a party of interest
17 in response to the party that raises the issue of loss of earning capacity if the
18 responding party failed to notify the ~~division~~ department and the other parties of
19 interest, at least 45 days before the date of the hearing, of the party's intent to provide
20 the testimony or reports and of the names of the expert witnesses involved.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

21 **SECTION 51.** 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 ~~division~~ department 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.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

6 **SECTION 52.** 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 ~~division~~ department 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 ~~division~~ department 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 ~~division~~
17 department and serve on all parties at least 15 days before the date of the hearing
18 an itemized statement of the medical expenses and incidental compensation under
19 s. 102.42 claimed by the injured employee, unless the ~~division~~ department is satisfied
20 that there is good cause for the failure to file and serve the itemized statement.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36; 2015 a. 55, 180; s. 35.17 correction in (1) (d) 2.

Cross-reference: See also ch. DWD 80, Wis. adm. code.

21 **SECTION 53.** 102.175 (2) of the statutes is amended to read:

1 102.175 (2) If after a hearing or a prehearing conference the ~~division~~
2 department determines that an injured employee is entitled to compensation but
3 that there remains in dispute only the issue of which of 2 or more parties is liable for
4 that compensation, the ~~division~~ department may order one or more parties to pay
5 compensation in an amount, time, and manner as determined by the ~~division~~
6 department. If the ~~division~~ department later determines that another party is liable
7 for compensation, the ~~division~~ department shall order that other party to reimburse
8 any party that was ordered to pay compensation under this subsection.

History: 1979 c. 278; 1993 a. 81; 2015 a. 55, 180; s. 35.17 correction in (3) (a).

9 **SECTION 54.** 102.175 (3) (c) of the statutes is amended to read:

10 102.175 (3) (c) Upon request of the department, ~~the division~~, the employer, or
11 the employer's worker's compensation insurer, an injured employee who claims
12 compensation for an injury causing permanent disability shall disclose all previous
13 findings of permanent disability or other impairments that are relevant to that
14 injury.

History: 1979 c. 278; 1993 a. 81; 2015 a. 55, 180; s. 35.17 correction in (3) (a).

15 **SECTION 55.** 102.18 (1) (b) 1. of the statutes is amended to read:

16 102.18 (1) (b) 1. Within 90 days after the final hearing and close of the record,
17 the ~~division~~ department shall make and file its findings upon the ultimate facts
18 involved in the controversy, and its order, which shall state the ~~division's~~
19 department's determination as to the rights of the parties. Pending the final
20 determination of any controversy before it, the ~~division~~ department, after any
21 hearing, may, in its discretion, make interlocutory findings, orders, and awards,
22 which may be enforced in the same manner as final awards.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

1 SECTION 56. 102.18 (1) (b) 2. of the statutes is amended to read:

2 102.18 (1) (b) 2. The ~~division~~ department may include in any interlocutory or
3 final award or order an order directing the employer or insurer to pay for any future
4 treatment that may be necessary to cure and relieve the employee from the effects
5 of the injury or to pay for a future course of instruction or other rehabilitation
6 training services provided under a rehabilitation training program developed under
7 s. 102.61 (1) or (1m).

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

8 SECTION 57. 102.18 (1) (b) 3. of the statutes is amended to read:

9 102.18 (1) (b) 3. If the ~~division~~ department finds that the employer or insurer
10 has not paid any amount that the employer or insurer was directed to pay in any
11 interlocutory order or award and that the nonpayment was not in good faith, the
12 ~~division~~ department may include in its final award a penalty not exceeding 25
13 percent of each amount that was not paid as directed.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

14 SECTION 58. 102.18 (1) (bg) 1. of the statutes is amended to read:

15 102.18 (1) (bg) 1. If the ~~division~~ department finds under par. (b) that an insurer
16 or self-insured employer is liable under this chapter for any health services provided
17 to an injured employee by a health service provider, but that the reasonableness of
18 the fee charged by the health service provider is in dispute, the ~~division~~ department
19 may include in its order under par. (b) a determination made by the ~~division~~
20 department under s. 102.16 (2) as to the reasonableness of the fee or, if such a
21 determination has not yet been made, the ~~division~~ department may notify, or direct

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1 the insurer or self-insured employer to notify, the health service provider under s.
2 102.16 (2) (b) that the reasonableness of the fee is in dispute.

History: 1974 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

3 **SECTION 59.** 102.18 (1) (bg) 2. of the statutes is amended to read:

4 102.18 (1) (bg) 2. If the ~~division~~ department finds under par. (b) that an
5 employer or insurance carrier is liable under this chapter for any treatment provided
6 to an injured employee by a health service provider, but that the necessity of the
7 treatment is in dispute, the ~~division~~ department may include in its order under par.
8 (b) a determination made by the department under s. 102.16 (2m) as to the necessity
9 of the treatment or, if such a determination has not yet been made, the ~~division~~
10 department may notify, or direct the employer or insurance carrier to notify, the
11 health service provider under s. 102.16 (2m) (b) that the necessity of the treatment
12 is in dispute.

History: 1974 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

13 **SECTION 60.** 102.18 (1) (bg) 3. of the statutes is amended to read:

14 102.18 (1) (bg) 3. If the ~~division~~ department finds under par. (b) that an insurer
15 or self-insured employer is liable under this chapter for the cost of a prescription
16 drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but
17 that the reasonableness of the amount charged for that prescription drug is in
18 dispute, the ~~division~~ department may include in its order under par. (b) a
19 determination made by the department under s. 102.425 (4m) as to the
20 reasonableness of the prescription drug charge or, if such a determination has not
21 yet been made, the ~~division~~ department may notify, or direct the insurer or
22 self-insured employer to notify, the pharmacist or practitioner dispensing the

1 prescription drug under s. 102.425 (4m) (b) that the reasonableness of the
2 prescription drug charge is in dispute.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

3 **SECTION 61.** 102.18 (1) (bp) of the statutes is amended to read:

4 102.18 (1) (bp) If the ~~division~~ department determines that the employer or
5 insurance carrier suspended, terminated, or failed to make payments or failed to
6 report an injury as a result of malice or bad faith, the ~~division~~ department may
7 include a penalty in an award to an employee for each event or occurrence of malice
8 or bad faith. That penalty is the exclusive remedy against an employer or insurance
9 carrier for malice or bad faith. If the penalty is imposed for an event or occurrence
10 of malice or bad faith that causes a payment that is due an injured employee to be
11 delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46 (1), the ~~division~~
12 department may not also order an increased payment under s. 102.22 (1) or the
13 payment of interest under s. 628.46 (1). The ~~division~~ department may award an
14 amount that the ~~division~~ department considers just, not to exceed the lesser of 200
15 percent of total compensation due or \$30,000 for each event or occurrence of malice
16 or bad faith. The ~~division~~ department may assess the penalty against the employer,
17 the insurance carrier, or both. Neither the employer nor the insurance carrier is
18 liable to reimburse the other for the penalty amount. The ~~division~~ department may,
19 by rule, define actions that demonstrate malice or bad faith.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.

20 **SECTION 62.** 102.18 (1) (bw) of the statutes is amended to read:

21 102.18 (1) (bw) If an insurer, a self-insured employer, or, if applicable, the
22 uninsured employers fund pays compensation to an employee in excess of its liability

1 and another insurer or self-insured employer is liable for all or part of the excess
2 payment, the department ~~or the division~~ may order the insurer or self-insured
3 employer that is liable for that excess payment to reimburse the insurer or
4 self-insured employer that made the excess payment or, if applicable, the uninsured
5 employers fund.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code. ✓

6 **SECTION 63.** 102.18 (1) (c) of the statutes is amended to read:

7 102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim
8 and are unable to agree on the order or award to be issued, the decision shall be the
9 decision of the majority. If the examiners are equally divided on the decision, the
10 ~~division~~ department may appoint an additional examiner who shall review the
11 record and consult with the other examiners concerning their impressions of the
12 credibility of the evidence. Findings of fact and an order or award may then be issued
13 by a majority of the examiners.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code. ✓

14 **SECTION 64.** 102.18 (1) (e) of the statutes is amended to read:

15 102.18 (1) (e) Except as provided in s. 102.21, if the department ~~or the division~~
16 orders a party to pay an award of compensation, the party shall pay the award no
17 later than 21 days after the date on which the order is mailed to the last-known
18 address of the party, unless the party files a petition for review under sub. (3). This
19 paragraph applies to all awards of compensation ordered by the department ~~or the~~
20 ~~division~~, whether the award results from a hearing, the default of a party, or a
21 compromise or stipulation confirmed by the department ~~or the division~~.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38; 1999 a. 14; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2015 a. 55, 180.

Cross-reference: See also LIRC and s. HA 4.04, Wis. adm. code.