

# **STATEMENT OF SCOPE**

## **Department of Workforce Development**

**Rule No.**

DWD 80

**Relating to:**

Minor and Technical changes to the Worker's Compensation Program

**Rule Type:**

Permanent

**Finding/nature of emergency (Emergency Rule only)**

N/A

**Detailed description of the object of the proposed rule**

The proposed rule will update ch. DWD 80 (worker's compensation) and make minor and technical changes in response to 2015 Wis. Act 180 (Act 180) and 2011 Wis. Act 165 (Act 165) relating to:

- Self-insurance approval for local government units with independent taxing authority.
- Self-insured employer liability fund.
- Reasonableness of fee disputes.

In addition to the minor and technical changes needed to conform to state statute. The rule will also eliminate outdated provisions and terminologies, clarify language and update references for accuracy to ensure the rule is consistent with current practices and applicable state statute.

**Description of the existing policies relevant to the rule, new policies to be included in the rule, and an analysis of the policy alternatives**

Section DWD 80.40 currently provides the first assessment against a self-insured employer to fund the Self-Insured Employers Liability Fund will be based on an equal amount against each self-insured employer, and further assessments will be made on a pro rata basis according to the gross payroll in this state of each self-insured employer reported to the department for the previous calendar year for unemployment insurance purposes under ch. 108, Stats. The proposed rule will specify that self-insured local government units with independent taxing authority are not liable to pay into the Self-Insured Employers Liability Fund, payments from this fund cannot be made to employees who were injured while employed by self-insured local government units with independent taxing authority, and that all assessments into this fund will be made on a pro rata basis according to gross payroll in this state as reported to the department for the previous calendar year for unemployment insurance purposes under ch. 108, Stats.

Section DWD 80.60 currently provides the process for employers to be approved to become self-insured for worker's compensation purposes, including the state and its political subdivisions. The proposed rule will make some minor changes to conform to state statute.

Section DWD 80.61 currently provides the process for employers to be approved for divided-insurance and partial-insurance coverage including approval of divided insurance coverage for designated carrier wrap-up construction projects. The proposed rule will make a minor change to conform to state statute.

Under s. DWD 80.72 (2) (i), the definition of "formula amount" specifies 1.4 standard deviations from the mean for a procedure as shown from a certified database. The rule will update the definition of "formula amount" to specify that 1.2 standard deviations from the mean for a procedure as shown from a certified database for use in resolving reasonableness of fee disputes involving health care services provided to injured employees.

The policy alternative is to do nothing. If the department does not move forward with the proposed rule, the rule will not be in conformity with state statute.

**Detailed explanation of statutory authority for the rule (including the statutory citation and the language)**

*Section 102.28 (2) (e), Stats.*

"...the department shall promulgate rules to implement this subsection."

*Section 102.28 (7) (d), Stats.*

"The department shall promulgate rules to implement this subsection."

*Section 102.16 (2) (h), Stats.*

"The department shall promulgate rules establishing procedures and requirements for the fee dispute resolution process under this subsection, including rules specifying the standards that health service fee databases must meet for certification under this paragraph. Using those standards, the department shall certify databases of the health service fees that various health service providers charge. ..."

**Estimate the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule**

The estimated time is 160 hours.

**List with description of all entities that may be affected by the proposed rule**

The proposed rule will affect self-insured employers, self-insured local government units with independent taxing authority, employers seeking approval for divided-insurance and partial-insurance coverage and employers that use the "formula amount" for health service fee dispute resolutions. The entities affected may include all of the following:

Chiropractic Society of Wisconsin  
Self-Insurers Council  
Wisconsin Manufacturers and Commerce  
Wisconsin Insurance Alliance  
Wisconsin Chiropractic Association  
Wisconsin Hospital Association  
Wisconsin Medical Society  
Wisconsin Physical Therapy Association

Worker's Compensation Advisory Council

**Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule**

There are no existing or proposed federal regulations related to the proposed rule.

**Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small business)**

The proposed rule will have no economic impact locally or state wide. The proposed rule is procedural in nature and will have no economic impact on small business.

**Contact Person**

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