

# **STATEMENT OF SCOPE**

## **Department of Workforce Development**

**Rule No.**

DWD 80.32

**Relating to**

Worker's Compensation Minimum Permanent Partial Disability Ratings

**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 make changes to s. DWD 80.32, relating to minimum permanent partial disability ratings. 2015 Wis. Act 180 directs the Department to establish minimum permanent disability ratings for amputation levels, losses of motion, sensory losses, and surgical procedures resulting from injuries for which permanent partial disability is claimed. Under Act 180, the Department is required to review and revise the ratings as necessary to reflect advances in the science of medicine.

**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 80.32 currently provides the minimum percentages of loss of use for amputation levels, losses of motion, sensory losses, and surgical procedures for permanent disabilities to employees who sustained compensable work-related injuries. The minimum permanent partial disability ratings primarily cover some amputation levels, losses of motion, sensory losses and surgical procedures to the upper extremities including the shoulder, lower extremities, and back. The proposed rule will update s. DWD 80.32 to provide clarity and revise the minimum permanent partial disability ratings to reflect advances in the science of medicine as recommended by a medical advisory committee established under s. 227.13, Stats. The medical advisory committee is composed of physicians practicing in one or more areas of specialization or treating disciplines within the medical profession. For about six years, the Department met quarterly with the medical advisory committee for the committee to review and recommend revisions of the current minimum permanent partial disability ratings based on loss of function.

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 statutes. In addition, the current

ratings may not accurately reflect typical losses of function based on current state of the art of medical practice.

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

*Section 102.15 (1) (a), Stats.*

"The department may promulgate rules as necessary to carry out its duties and functions under this chapter."

*Section 102.44 (4m) (a), Stats.*

"The department shall promulgate rules establishing minimum permanent disability ratings for amputation levels, losses of motion, sensory losses, and surgical procedures resulting from injuries for which permanent partial disability is claimed under sub. (3) or (4). ...."

**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 that state employees will spend developing the rule is 200 hours.

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

The proposed rule will affect employees who sustain work-related injuries and incur permanent disability for which a minimum permanent disability rating is applicable. The proposed rule will also affect all of the following:

- Attorneys who represent injured employees
- 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
- Worker's compensation insurance carriers and employers that are self-insured for worker's compensation liability in Wisconsin who are liable to make payments for permanent partial disability

**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 significant impact locally or statewide. The proposed rule will have no significant impact on small business.

**Contact Person**

James T. O'Malley, Director, Bureau of Legal Services, Worker's Compensation Division, (608) 267-6704 or email [Jim.OMalley@dwd.wisconsin.gov](mailto:Jim.OMalley@dwd.wisconsin.gov).