



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0459/P3  
MIM:cdc

DOA:.....Kirschbaum, BB0124 - Electronic transmission of records and payments under Worker's Compensation

**FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

**WORKER'S COMPENSATION**

***Electronic transmission of records and payments***

Under current law, in actions regarding worker's compensation claims, most information, forms, and documents must be mailed using the U.S. mail or provided in-person. This bill allows DWD, the division of hearings and appeals in DOA, and the labor and industry review commission to send certain information, forms, notices, and documents regarding worker's compensation actions electronically, rather than exclusively by U.S. mail, including information regarding all of the following: hearings, findings and awards, preference for claims under bankruptcy, employer penalties, hazardous exposure, levies for delinquent payments, and citations. Under the bill, DWD, the division of hearings and appeals, and LIRC must get consent to provide the information, forms, notices, and documents electronically.

Also, the bill requires payments for worker's compensation awards to be made by direct deposit or electronic funds transfer unless the claimant cannot receive payments electronically, does not want to receive the payment electronically, or if the

insurer, self-insured employer, or third-party payer is not able to issue payments electronically.

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

**SECTION 1.** 102.15 (4) of the statutes is created to read:

102.15 (4) The department, division, or commission may not electronically deliver any information, notice, filing, or other document required to be provided by the department, division, or commission under this chapter unless the department, division, or commission receives the written consent of the interested party to receive such electronic delivery.

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

**102.15 (title) Rules of procedure; transcripts; electronic delivery.**

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

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

**SECTION 4.** 102.17 (1) (a) 2. of the statutes is amended to read:

102.17 (1) (a) 2. Subject to subd. 3., the division shall cause notice of hearing on the application to be given to each interested party by service of that notice on the interested party personally or by electronic delivery or by mailing a copy of that notice to the interested party's last-known address at least 10 days before the

hearing. If a party in interest is located without this state, and has no post-office address within this state, the copy of the application and copies of all notices shall be filed with the department of financial institutions and shall also be sent by registered or certified mail to the last-known post-office address of the party. Such filing ~~and, mailing, and electronic delivery~~ shall constitute sufficient service, with the same effect as if served upon a party located within this state.

**SECTION 5.** 102.17 (1) (ct) 2. of the statutes is amended to read:

102.17 (1) (ct) 2. If the department denies an application or revokes a license under subd. 1., the department shall electronically deliver or mail a notice of denial or revocation to the applicant or license holder. The notice shall include a statement of the facts that warrant the denial or revocation and a statement that the applicant or license holder may, within 30 days after the date on which the notice of denial or revocation is delivered electronically or mailed, file a written request with the department to have the determination that the applicant or license holder is liable for delinquent contributions reviewed at a hearing under s. 108.227 (5) (a).

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

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

**SECTION 7.** 102.18 (3) of the statutes is amended to read:

102.18 (3) A party in interest may petition the commission for review of an examiner's decision awarding or denying compensation if the department, the division, or the commission receives the petition within 21 days after the department or the division electronically delivered or mailed a copy of the examiner's findings and order to the last-known addresses of the parties in interest. The commission shall dismiss a petition that is not filed within those 21 days unless the petitioner shows that the petition was filed late for a reason that was beyond the petitioner's control. If no petition is filed within those 21 days, the findings or order shall be considered final unless set aside, reversed, or modified by the examiner within that time. If the findings or order are set aside by the examiner, the status shall be the same as prior to the setting aside of the findings or order. If the findings or order are reversed or modified by the examiner, the time for filing a petition commences on the date on which notice of the reversal or modification is delivered electronically or mailed to the last-known addresses of the parties in interest. The commission shall either affirm, reverse, set aside, or modify the findings or order, in whole or in part, or direct the taking of additional evidence. The commission's action shall be based on a review of the evidence submitted.

**SECTION 8.** 102.23 (1) (b) of the statutes is amended to read:

102.23 (1) (b) In such an action a complaint shall be served with an authenticated copy of the summons. The complaint need not be verified, but shall state the grounds upon which a review is sought. Service upon a commissioner or agent authorized by the commission to accept service constitutes complete service on all parties, but there shall be left with the person so served as many copies of the summons and complaint as there are defendants, and the commission shall deliver electronically or mail one copy to each other defendant.

**SECTION 9.** 102.26 (3) (b) 3. of the statutes is amended to read:

102.26 (3) (b) 3. The claimant may request the insurer or self-insured employer to pay any compensation that is due the claimant by depositing the payment directly into an account maintained by the claimant at a financial institution. If the insurer or self-insured employer agrees to the request, the insurer or self-insured employer may deposit the payment by direct deposit, electronic funds transfer, or any other money transfer technique approved by the department or the division. The claimant may revoke a request under this subdivision at any time by providing appropriate written notice to the insurer or self-insured employer. If a claimant requests payment by check under this chapter, the insurer or self-insured employer shall make the payment by check.

**SECTION 10.** 102.26 (3) (d) and (e) of the statutes are created to read:

102.26 (3) (d) Except as provided in par. (e), an award to an employer made under this chapter shall be paid by electronic money transfer to the employer. Payment may be made by direct deposit, electronic funds transfer, automated clearinghouse transfer, or any other secure electronic money transfer procedure.

(e) If an employer cannot receive payments as provided in par. (d), elects to not receive payments as set forth in par. (d), or if the insurer, self-insured employer, or 3rd-party payer does not have the capacity to issue payments as set forth in par. (d), the payment shall be made by other means acceptable to the employer and payer.

**SECTION 11.** 102.28 (6) of the statutes is amended to read:

102.28 (6) **REPORTS BY EMPLOYER.** Every employer shall upon request of the department report to it the number of employees and the nature of their work and also the name of the insurance company with whom the employer has insured liability under this chapter and the number and date of expiration of such policy.

Failure to furnish such report within 10 days from the making of a request by secure electronic delivery or certified mail shall constitute presumptive evidence that the delinquent employer is violating sub. (2).

**SECTION 12.** 102.35 (1) of the statutes is amended to read:

102.35 (1) Every employer and every insurance company that fails to keep the records or to make the reports required by this chapter or that knowingly falsifies such records or makes false reports shall pay a work injury supplemental benefit surcharge to the state of not less than \$10 nor more than \$100 for each offense. The department may waive or reduce a surcharge imposed under this subsection if the employer or insurance company that violated this subsection requests a waiver or reduction of the surcharge within 45 days after the date on which notice of the surcharge is electronically delivered or mailed to the employer or insurance company and shows that the violation was due to mistake or an absence of information. A surcharge imposed under this subsection is due within 30 days after the date on which notice of the surcharge is electronically delivered or mailed to the employer or insurance company. Interest shall accrue on amounts that are not paid when due at the rate of 1 percent per month. All surcharges and interest payments received under this subsection shall be deposited in the fund established under s. 102.65.

**SECTION 13.** 102.565 (2) of the statutes is amended to read:

102.565 (2) Upon application of any employer or employee the department or the division may direct any employee of the employer or an employee who, in the course of his or her employment, has been exposed to toxic or hazardous substances or conditions to submit to examination by one or more physicians appointed by the department or the division to determine whether the employee has developed any abnormality or condition under sub. (1), and the degree of that abnormality or

condition. The cost of the medical examination shall be borne by the person making application. The physician conducting the examination shall submit the results of the examination to the department or the division, which shall submit copies of the reports to the employer and employee, who shall have an opportunity to rebut the reports if a request to submit a rebuttal is made to the department or the division within 10 days after the department or the division electronically delivers or mails the report to the parties. The department or the division shall make its findings as to whether it is inadvisable for the employee to continue in his or her employment.

**SECTION 14.** 102.835 (12) of the statutes is amended to read:

102.835 (12) NOTICE BEFORE LEVY. If no proceeding for review ~~permitted~~ allowed by law is pending, the department shall make a demand to the debtor for payment of the debt which is subject to levy and give notice that the department may pursue legal action for collection of the debt against the debtor. The department shall make the demand for payment and give the notice at least 10 days prior to the levy, personally ~~or~~, by any type of mail service which requires a signature of acceptance, at the address of the debtor as it appears on the records of the department, or by secure electronic delivery that requires a unique verifiable signature. The demand for payment and notice shall include a statement of the amount of the debt, including costs and fees, and the name of the debtor who is liable for the debt. The debtor's failure to accept or receive the notice does not prevent the department from making the levy. Notice prior to levy is not required for a subsequent levy on any debt of the same debtor within one year after the date of service of the original levy.

**SECTION 15.** 102.835 (13) (a) of the statutes is amended to read:

102.835 (13) (a) The department shall serve the levy upon the debtor and 3rd party by personal service or by any type of electronic delivery or mail service which requires a signature of acceptance or unique verifiable signature.

**SECTION 16.** 102.835 (13) (c) of the statutes is amended to read:

102.835 (13) (c) The department representative who serves the levy shall certify service of process on the notice of levy form and the person served shall acknowledge receipt of the certification by signing and dating it. If service is made by mail, the return receipt is the certificate of service of the levy. If service is made by electronic delivery, an electronic delivery receipt, as approved by the department, is the certificate of service of the levy.

**SECTION 17.** 102.87 (1) (b) of the statutes is amended to read:

102.87 (1) (b) The citation may be served on the defendant by registered mail with a return receipt requested or by electronic delivery, which requires a unique verifiable signature of the defendant.

(END)