



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 180
[2015 Assembly Bill 724]

Worker's Compensation

2015 Wisconsin Act 180 makes various changes, as described below, to the Worker's Compensation Law. The revisions were generally recommended to the Legislature by the Worker's Compensation Advisory Council.

TIME LIMITS TO REPORT INJURY OR DISPUTE CLAIMS

The Act reduces the statute of limitations from 12 years to six years to bring any dispute regarding a traumatic injury or the handling of a claim. The Act maintains the 12-year statute of limitations for a case of occupational disease. The Act also maintains the availability under prior law of payment from the work injury supplemental benefit fund after the six-year time limit for certain specified traumatic injuries and the 12-year time limit for occupational diseases.

COMPENSATION

Liability Reductions

The Act specifies that compensation for wages is not due when an employee violates a work policy concerning alcohol or drug use and the violation is a cause of the injury. Under prior law, the amount of worker's compensation was reduced by 15% (but no more than \$15,000 total) if intoxication by the employee caused the injury.

The Act also specifies that compensation for wages is not due during a temporary disability for any period in which the employee could return to restricted work, if the employee has been suspended or terminated for misconduct.

Lastly, the Act specifies that liability is reduced when a combination of an injury in the course of employment and other factors cause a permanent disability. If this combination of causes is certified by the care provider, the employer pays only the percentage of the permanent

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

disability that was caused by the accidental injury that occurred in the course of employment. This is commonly referred to as “apportionment.”

Compensation Rate for Permanent Partial Disability

The Act increases the maximum compensation rate for a permanent partial disability that occurs between March 2, 2016, and December 31, 2016, from \$322 per week to \$342 per week, and for an injury that occurs on or after January 1, 2017, to \$362 per week.

The Act also specifies that the permanent partial disability percentage ratings that are given by rule must be reviewed and revised at least once every eight years, under the recommendations of a medical advisory committee. By rule, the percentage rating for a permanent partial disability that results from various conditions, such as an amputation, loss of motion, sensory loss, and certain surgery results, is specified according to a schedule.

Supplemental Benefits

The Act expands eligibility for supplemental benefits to injuries that occur prior to January 1, 2003, rather than January 1, 2001. The Act also revises the maximum amount of the supplemental benefit when added to compensation for wages to a total of \$669 per week, rather than \$582 per week.

Vocational Rehabilitation

The Act reinstates the allowance that expired on April 30, 2014, for an employee who is receiving vocational rehabilitation training and services, to earn wages for working up to 24 hours per week. No expiration is given for this allowance.

The Act also specifies that an insurer or self-insured employer may be directed to pay for future vocational rehabilitation services or training.

MEDICAL RECORDS

The Act specifies that a copy of a care provider’s records may be provided electronically, for a flat fee of \$26 per request, when requested by an employee, employer, the insurer, or the Department of Workforce Development (DWD).

The Act also specifies that a care provider must complete a final report on a timely basis, and may charge a reasonable fee up to \$100 for the preparation of the report.

PRESCRIPTION DRUG COSTS

The Act specifies that the formula for liability applies equally to a prescription drug that is dispensed outside of a licensed pharmacy. The Act also specifies that if the named drug pricing index is discontinued and becomes unavailable, a different nationally recognized index may be used in the formula, as determined by DWD.

COVERED EMPLOYEE

The Act specifies that a person who is providing services under various long-term care programs in which an elderly or disabled person is self-directing those services is considered to be an employee of the entity that is providing financial management services to the elderly or disabled person, for purposes of worker's compensation coverage, if the person is not otherwise covered. The Act provides that a person who is covered by worker's compensation under this specific inclusion may not bring an action for the injury against the elderly or disabled person for whom the services were provided.

The Act also removes a provision from prior law that considered a person selling or distributing newspapers or magazines on the street or house-to-house to be an "employee."

PUBLIC EMPLOYER

Definition

The Act revises the terminology that refers to a municipal employer to refer instead to "a local governmental unit," including a political subdivision, a special purpose district or taxing jurisdiction, any subunit of those, and any other public or quasi-public corporation.

Self-Insured Governmental Unit

The Act codifies in statute the authority for the state or a local governmental unit to self-insure for worker's compensation costs, subject to the same procedural requirements as currently given by rule. Under current rule, the state and political subdivisions may self-insure for worker's compensation costs, with specific procedures for making an election to self-insure, and general standards that may be considered by DWD in reviewing self-insured status.

SELF-INSURED PRIVATE EMPLOYER

The Act revises the formula for determining the initial assessment that a self-insured private employer must pay to be an amount of the employer's payroll that is prorated to the gross payroll of the state, as reported for unemployment insurance purposes.

APPEAL

The Act specifies that an administrative decision must identify each person who is a party to the action, who then must be included in an action for review by a circuit court, and specifies that a circuit court may join any other person as a party unless joinder would unduly delay resolution of the action. The Act also revises the language in the standard for finding that the reason for a late filing was beyond a person's control, and the language in the timing to set aside a decision for reconsideration.

FRAUDULENT CLAIMS

The Act specifies that DWD may ask the Department of Justice (DOJ) for assistance in investigation of fraudulent claims, and, that, as an alternative to a referral to a district attorney,

DWD may refer the claim to DOJ for prosecution. The Act also adds specific crimes that may be prosecuted in addition to the charge of a fraudulent insurance claim, including theft, forgery, fraudulent writings, fraudulent data alteration, fraudulent destruction of writings, or any other criminal law violation.

APPROPRIATION FOR COMPUTER SYSTEM

The Act appropriates \$200,000 in the 2015-16 fiscal year, and \$796,000 in the 2016-17 fiscal year, for DWD to replace the computer system used for the accounting of collections and other moneys received, and payments made, from the uninsured employers fund.

Effective date: The Act generally took effect on March 2, 2016. The appeal provisions take effect on July 1, 2016.

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