

Modernization program close to selecting technology vendor

The Workers' Compensation Modernization Program is in the final stages of selecting a technology vendor. During the next several years, the selected vendor will partner with the Department of Labor and Industry and the Workers' Compensation Court of Appeals to replace the 20-year-old information technology system with one that emphasizes electronic communications and filing. The system will ultimately integrate with the new case management system of the Office of Administrative Hearings.



Throughout WCMP, the Department of Labor and Industry will:

- continue to steadily move toward a new state-of-the-art workers' compensation technology system; and
- remain committed to building a service delivery model that improves the experience and outcome for stakeholders.



Mileage rate increases

The standard IRS mileage rate for the business use of an employee's personal automobile increased from 53.5 cents to 54.5 cents effective Jan. 1, 2018.

Designated contact registration, database now available

As of Nov. 1, each workers' compensation insurer, self-insured employer, licensed third-party administrator, hospital and clearinghouse is required by Minnesota Statutes § 176.135, subd. 9, to provide the Department of Labor and Industry with the name and contact information of a designated employee to answer inquiries related to the submission or payment of workers' compensation medical bills.

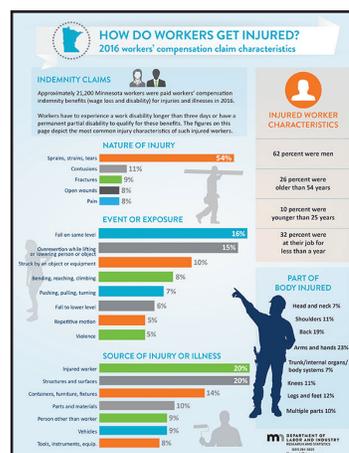
- For more information, visit www.dli.mn.gov/WC/DesignatedContact.asp.

How do workers get injured?

Claims characteristics flyer updated

Approximately 21,200 Minnesota workers were paid workers' compensation indemnity benefits (wage loss and disability) for injuries and illnesses in 2016. Sixty-two percent of these workers were men, 26 percent were older than 54 years, 10 percent were younger than 25 years and 32 percent were at their job for less than a year.

View the updated one-page flyer online at www.dli.mn.gov/RS/ClaimCharac.asp.



Workers' compensation system costs continue to trend downward

By David Berry, Research and Statistics

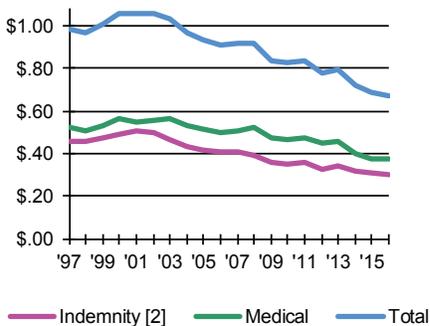
Workers' compensation benefits have been declining relative to payroll in Minnesota since the early 2000s. In the voluntary market (insured employers not in the Assigned Risk Plan), indemnity benefits declined from \$.49 to \$.30 per \$100 of payroll between injury years 2000 and 2016, while medical benefits declined from \$.56 to \$.37 per \$100 (Figure 1).

These decreases occurred because falling claim rates more than offset increases in benefits per claim. From 2000 to 2015 (the most recent year available), after adjusting for average wage growth, indemnity benefits per paid claim (including claims with and without indemnity benefits) increased 19 percent, medical benefits per claim increased 40 percent and total benefits per claim increased 31 percent.¹ However, total paid claims per 100 full-time-equivalent employees fell 48 percent from 2000 to 2015, more than offsetting the combined increase in indemnity and medical benefits per claim.

Because of decreasing costs of benefits per \$100 of payroll, the long-term trend in system cost relative to payroll has been downward (Figure 2). This is true even though system cost (primarily a premium-based figure) follows a nationwide insurance pricing cycle. The low-point of \$1.21 per \$100 of payroll reached in 2010 was significantly below the relative low of \$1.31 for 2000. Six years after the 2010 low-point, the 2016 figure was \$1.24; six years after the 2000 low-point, the 2006 figure was \$1.70.

One indicator of likely system cost reductions in the next few years is the 2017 and 2018 pure premium rate decreases of 12.1 and 6.7 percent, respectively, filed by the Minnesota Workers' Compensation Insurers Association (MWCIA) with the Minnesota Department of Commerce.²

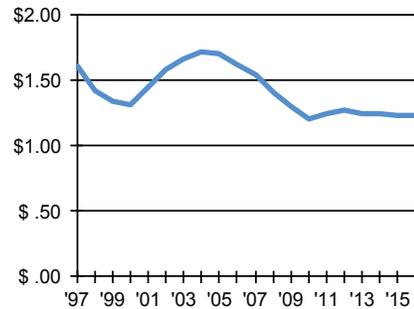
Figure 1. Benefits per \$100 of payroll in the voluntary market, accident years 1997-2016 [1]



Accident year	Indemnity benefits [2]	Medical benefits	Total benefits
1997	\$.46	\$.52	\$.98
2000	.49	.56	1.06
2001	.51	.55	1.05
2012	.33	.45	.78
2013	.34	.46	.80
2014	.32	.41	.72
2015	.31	.38	.69
2016	.30	.37	.68

- ¹ Developed statistics from data from the Minnesota Workers' Compensation Insurers Association. Excludes self-insured employers, the Assigned Risk Plan and those benefits paid through DLI programs (including supplementary and second-injury benefits).
- ² Includes vocational rehabilitation benefits.

Figure 2. System cost per \$100 of payroll, 1997-2016 [1]



Year	Cost per \$100 of payroll
1997	\$1.61
2000	1.31
2004	1.72
2006	1.62
2010	1.21
2012 [2]	1.27
2013 [2]	1.25
2014 [2]	1.25
2015 [2]	1.23
2016 [2]	1.24

- ¹ Data from several sources. Includes insured and self-insured employers.
- ² Subject to revision.

¹After adjusting for wage growth, benefits per claim have been stable since 2008. The growth in wage-adjusted benefits per claim occurred before that year.

²MWCIA is Minnesota's workers' compensation rating bureau and data service organization. Insurers use the pure premium rates as the starting point in setting their own workers' compensation insurance rates.

Department reports about DRG system for hospital reimbursement

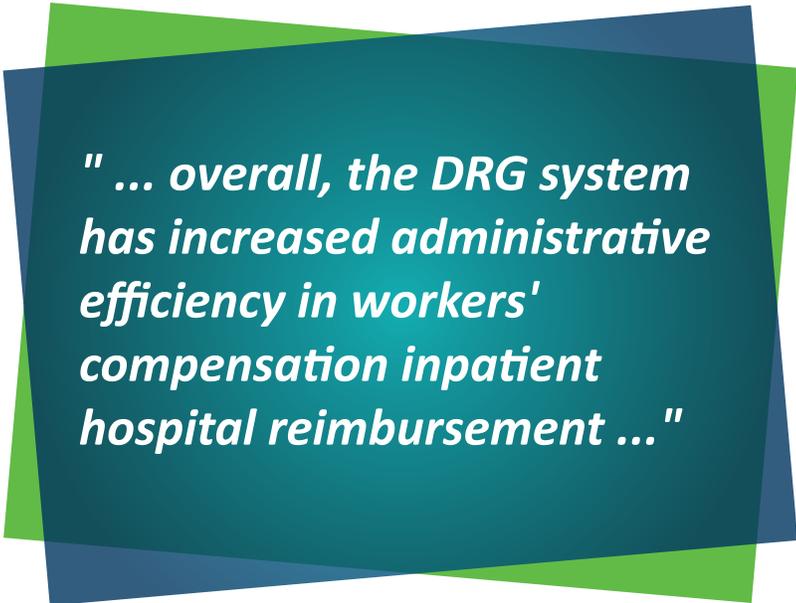
By David Berry, Research and Statistics

In January, the Department of Labor and Industry (DLI) released a report complying with a legislative mandate to evaluate Minnesota's new system for reimbursing hospitals for workers' compensation inpatient services. Minnesota Statutes § 176.1362, subd. 7, requires DLI to produce a report "analyzing the impact of the reforms under this section to determine whether the objectives have been met and whether further changes are needed." The report is available online at www.dli.mn.gov/RS/ReportsStudies.asp.

As provided by the Legislature (Minn. Stat. § 176.1362), on Jan. 1, 2016, Minnesota changed its system for paying for workers' compensation inpatient hospital services from a charge-based system to one based on Medicare's Inpatient Prospective Payment System (IPPS). In IPPS, a hospitalization is categorized – on the basis of principal diagnosis and primary treatment performed – into a Diagnosis-Related Group (DRG) and payment is then determined mainly from the DRG.¹ For this reason, IPPS – and other payment systems derived from it – are sometimes referred to as DRG systems.

Minnesota's DRG system provides for payment at 200 percent of the Medicare level, not to exceed the charged amount, with provision for payment at 75 percent of charges in

catastrophic (high-cost) cases and at 100 percent of charges for Medicare-designated Critical Access Hospitals. The DRG statute also contains provisions to promote prompt payment or denial of hospital bills and to reduce insurer requests for itemization of charges or additional documentation to support a bill.



" ... overall, the DRG system has increased administrative efficiency in workers' compensation inpatient hospital reimbursement ... "

The report's chief data source was a survey DLI administered to insurers and hospitals in the summer of 2017. The report summarizes its findings as follows.

1. Overall, the DRG system has increased administrative efficiency in workers' compensation inpatient hospital reimbursement, although there is still room for further improvement.
2. The survey results indicate insurer payments to hospitals are largely accurate under the DRG system.
3. Three different estimates of the effect of the DRG system on inpatient hospital payments indicate reductions ranging from 9 to 16 percent. The corresponding reductions in total workers' compensation system cost range from an estimated 0.5 percent to 0.8 percent, or \$8.1 to \$14.5 million a year.

On the basis of the study results, DLI does not recommend legislative changes. However, it has identified three general areas for further review: electronic transactions, prompt action and statutory basis of payment. This review may require additional records or information from insurers and hospitals.

DLI is planning to develop training to address all areas illuminated by the study where there may be noncompliance with or lack of knowledge of statute or rule on the part of insurers or hospitals or their representatives.

¹The software that performs these functions is known respectively as "grouper" and "pricer" software. Grouper software is available from private companies; pricer software is available from the U.S. Centers for Medicare and Medicaid Services.

Workers' compensation committees seek new members, alternates

Medical Services Review Board

The Medical Services Review Board currently has a member opening for a **labor representative**, as well as **alternate-member openings for hospital, labor and physician representatives**.

To apply for one of the positions, submit the application found at www.sos.state.mn.us/boards-commissions, on the Secretary of State website.

The Medical Services Review Board:

- advises the Department of Labor and Industry (DLI) about workers' compensation medical issues;
- is the liaison between DLI and the medical-provider community; and
- supports and engages in the education of the provider community about workers' compensation.



The Medical Services Review Board meets quarterly at DLI; the meeting schedule, agendas and minutes are online at www.dli.mn.gov/Msrb.asp.

Rehabilitation Review Panel

The Rehabilitation Review Panel currently has member openings for one **licensed chiropractor member** (four-year term), one **employer member** (three-year term) and one **union labor representative alternate member** (annual term). To apply for one of the positions, submit the application found at www.sos.state.mn.us/boards-commissions, on the Secretary of State website.

The panel of employer, insurer, rehabilitation, medical and labor representatives:

- advises the Department of Labor and Industry (DLI) about workers' compensation vocational rehabilitation issues;
- develops and recommends vocational rehabilitation rules;
- studies vocational rehabilitation services and their delivery;
- assists the DLI commissioner in accomplishing public education; and
- makes final decisions about certification approval or disciplinary matters of qualified rehabilitation consultants and vendors in conjunction with contested hearings.

Panel members participate in person or by telephone in quarterly meetings at DLI, which generally last one to two hours. If issues warrant, meetings may occur more often. The meeting schedule, agendas and minutes are online at www.dli.mn.gov/Rrp.asp.

Reconciliation, final determination of 2016 SCF assessment 'true-up'

By John Kufus, Financial Services

Minnesota Statutes § 176.129, subd. 2a, now provides for an adjustment, or "true-up," of the assessment paid by insurers for deposit into the Special Compensation Fund (SCF).



Currently, the Department of Labor and Industry commissioner *estimates* each insurer's share of the assessment using the insurer's earned standard premium from the previous calendar year. The commissioner must later make a final determination of the amount owed based on the insurer's *actual* earned standard workers' compensation premium for the current year, after those figures become available.

The insurer portion of the 2016 SCF assessment liability was unchanged at \$59,839,599, but the designated statistical reporting (DSR) pure premium assessment base increased, resulting in a decrease to the final insurer surcharge rate.

Insurer premium surcharge rate

The original insurer premium surcharge rate applied for the purpose of estimating the 2016 SCF assessment was 7.0704 percent. The rate was determined by dividing the insurer portion of the Special Compensation Fund state-fiscal-year 2016 liability (\$59,839,599) by the 2015 DSR pure premium reported by all insurers to the Minnesota Workers' Compensation Insurers Association (\$846,334,640).

The revised insurer premium surcharge rate applied for the purpose of determining the 2016 SCF assessment was 6.7474 percent. The rate was determined by dividing the insurer portion of the Special Compensation Fund state-fiscal-year 2016 liability (\$59,839,599) by the 2016 DSR pure premium reported by all insurers to the Minnesota Workers' Compensation Insurers Association (\$886,846,072).

	Estimated liabilities	DSR pure premium	Insurer surcharge rate
Insurers estimated rate	\$59,839,599	\$846,334,640	7.0704 percent
Insurers revised rate	\$59,839,599	\$886,846,072	6.7474 percent

As a result of this "true-up," 96 insurers owed an additional \$3,890,886 in assessment to the Special Compensation Fund and 84 insurers were refunded \$3,890,886 in overpaid assessment.

Invoices for additional funds were mailed to insurers by Nov. 15, with payment due Dec. 15. Refunds were processed by Dec. 1.

CompFact:

A closer look at hospital injuries

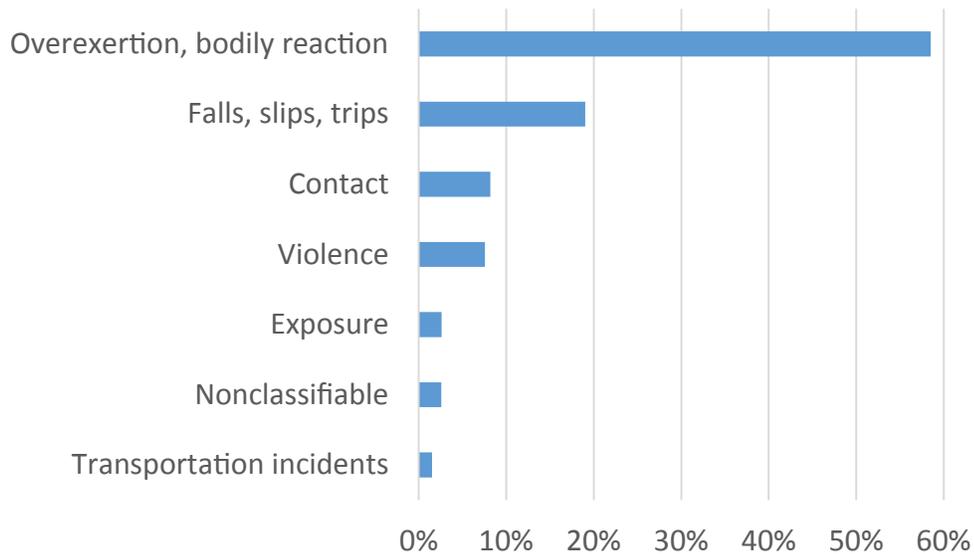
By Brian Zaidman, Research and Statistics

Hospitals regularly report more paid indemnity claims than any other detailed industry in Minnesota. In 2016 (as of Sept. 30, 2017), there were 1,250 indemnity claims for hospital workers, accounting for 6.6 percent of all indemnity claims. Hospitals had an average of 1,290 indemnity claims from 2011 through 2015, accounting for 6.0 percent of all indemnity claims.

As shown in Figure 1, the majority of the 2016 injuries were due to overexertion, with 20 percent due to falls, slips and trips, and 9 percent due to violence. These events result in sprains, strains and tears for 72 percent of the injured workers, followed by 8 percent with contusions and 8 percent with pain. Thirty percent of the injuries directly involved a hospital patient.



Figure 1. Event or exposure, indemnity claims to hospital workers, Minnesota, 2014 through 2016



Taking a closer look at injuries where the source was a hospital patient, 72 percent were overexertion events due to actions such as lifting, turning and holding the patient. The remaining 28 percent of patient-involved cases were coded as violence, where the patient either intentionally or unintentionally assaulted or caused injury to the hospital worker.

There were more hospital worker injuries caused by violence in 2016 – 113 claims – than in any year since 2012, when the current coding system was implemented. (It is also more claims than any year using the previous coding system.) The next highest year was 2014, with 98 violence claims. Hospital patients were the source of 93 percent of the violence claims.

Professional conduct complaint outcomes about registered rehabilitation providers

By Mike Hill, Rehabilitation Policy Specialist

If a party believes a rehabilitation provider is not following the statutes or rules, they can file a written complaint with the Minnesota Department of Labor and Industry (DLI). Upon receipt and review of the information provided, DLI may perform an investigation to determine if disciplinary action is warranted. Below: Table 1 details complaints received and where they originated; Table 2 details closed complaints and their outcomes.

Table 1. Source of complaints

Year	ER/IR	EE	Attorney	Rehabilitation	DLI	Other	Total
2017	1	0	2	0	5*	0	8
2016	1	0	1	0	15	0	17
2015	1	2	1	1	2	0	7
2014	1	2	0	3	24	1	31
2013	2	0	5	6	1	0	14
2012	5	3	3	18	27	0	56

*Of the five DLI-generated complaints, one was due to non-attendance at the mandatory September 2016 update.

Complaint outcomes

A single complaint may allege violations of workers' compensation statutes or rehabilitation rules. During the course of an investigation, additional issues may be identified. Outcomes are determined by the findings of the investigation. Possible outcomes include the following.

- **Unsubstantiated** – The allegations are not supported by the information obtained.
- **Letter of instruction** – A letter is not considered to be formal discipline. The letter is retained by DLI in case subsequent inquiries into a provider's conduct are undertaken.
- **Discipline/stipulation** – Discipline, in the form of a stipulated agreement, involves corrective action and a fine. The severity of the disciplinary action may be increased if the subject has a history of similar violations.
- **Inactive rehabilitation provider** – The rehabilitation provider's registration became inactive during the investigation. Before being allowed to re-register, the complaint must be resolved.

Table 2. Professional conduct and accountability outcomes

Year	No jurisdiction	Unsubstantiated	Letter of instruction	Stipulation/penalty	No appeal	Inactive	Total
2017	1	1	6	2	0	1	10
2016	1	7	4	1	0	2	15
2015	0	0	11	5	0	1	17
2014	1	45	40	7	0	6	99
2013	0	5	19	3	0	1	28
2012	0	13	23	4	3	6	47

Professional conduct, continues ...

Table 3. 2017 rehabilitation violations of Minnesota Statutes and Minnesota Rules

Violation	Statute, rule
A registered rehabilitation vendor knowingly provided and charged for services not under a rehabilitation plan	5220.0100, subp. 25, 27 and 28 5220.1250
A registered rehabilitation vendor provided services, other than job placement/development, which are performed by qualified rehabilitation firms	5220.1250 5220.0100, subp. 29 and 39
Failure of a registered rehabilitation vendor to be knowledgeable and informed about workers' compensation laws and rules	5220.1803, subp. 2
**Failure to cooperate with disciplinary proceedings, including providing requested documents	5220.1806, subp. 4
Failure to provide prompt and necessary services	5220.1801, subp. 1
Filing false information on the QRC application for purposes of obtaining registration with the department	5220.1801, subp. 9 A 5220.1805 A and B 5220.1803, subp. 2
Knowingly allowing a non-QRC staff person to work on behalf of the QRC, plus failure to then supervise that person	5220.1801, subp. 9 E, 9 J and 10
Failure to explain to injured workers their rights and responsibilities so they understood them	5220.0130, subp. 3 B(1) 5220.1803, subp. 1 and 1a
Failure to file R-8 Closure Report forms on a timely basis	5220.0510, subp. 7
**Reporting or filing false or misleading information in connection with a rehabilitation case	5220.1801, subp. 9 A
**Failure to disclose business referral or other arrangements (verbal or written) to the injured worker	176.102, subd. 4 (c) 5220.1803, subp. 1A, B
**Failure to file a rehabilitation consultation narrative report explaining the basis for the QRC's determination that the employee was qualified to receive rehabilitation services	5520.1500, subp. 3a
**Failure to list employee's name, worker identification (WID) number or Social Security number and date of injury on all required reports and progress records	5220.1802, subp. 1
**Failure to provide copies of all required reports and progress records, including email messages, to all parties	5220.1802, subp. 3 5220.0100, subp. 30 and 31
**Failure to file an R-3 Rehabilitation Plan Amendment form and to provide evidence the form was sent to the parties for their review	5220.0510, subp. 2d
**Failure of QRC intern supervisor to co-sign all QRC intern work, including fax, email and text; also failure to monitor a QRC intern	5220.1400, subp. 3a 5220.1801, subp. 9 E
Failure of registered rehabilitation provider to keep separate their role as QRC from insurer; rehabilitation providers shall not advise on claims or entitlement issues, or conduct claim investigation	5220.1801, subp. 8 A and B, and 8 B (2)

Table 3. 2017 rehabilitation violations of Minnesota Statutes and Minnesota Rules

Violation	Statute, rule
Registered rehabilitation provider invoiced insurer at the regular QRC rate for services provided by a QRC intern	5220.1900, subp. 1d
**Failure of the QRC, following a rehabilitation consultation, to file a rehabilitation consultation form and narrative report, rights and responsibilities form with the department and parties to the claim	5220.1803, subp. 2 5220.1801, subp. 9 E and 9 K (2), (3) 5220.1802, subp. 5
A registered rehabilitation provider shall only bill for reasonable and necessary services	5220.1900, subp. 2
A registered rehabilitation provider shall report all costs when transferring the rehabilitation file to the new assigned QRC	5220.1801, subp. 9 A, 9 E, 9 F, 9 H, 9 I and 9 K (3)
A registered rehabilitation provider shall maintain all required reports and progress records up to five years post closure of the case	5220.1803, subp. 5

**Similar professional conduct violations were reported in the February 2017 edition of *COMPACT*, for the year 2016.

Conclusion

The purpose of a professional conduct investigation is to determine if a violation of the rules and statutes has occurred so the behavior can be corrected, preventing future problems. Through outreach, education and compliance efforts, the department strives to work with rehabilitation providers to improve the quality of services provided to the stakeholders in Minnesota.

More information

DLI's web page, "Information for a rehabilitation provider" (www.dli.mn.gov/WC/RehabProv.asp), was developed to provide information to QRCs and placement vendors to enhance their work product. Stakeholders may also call DLI, at 1-800-342-5354, with their questions and concerns.

Turn to Office of Workers' Compensation Ombudsman for help with claims

The Department of Labor and Industry's Office of Workers' Compensation Ombudsman informs, assists and empowers injured workers and small businesses having difficulty navigating the workers' compensation system. It is a separate entity within the department.

The ombudsman assists injured workers by:

- providing information to help them protect their rights and to pursue a claim;
- contacting claims adjusters and other parties to resolve a dispute;
- assisting in preparing for settlement negotiations or mediations; and
- making appropriate referrals to other agencies or entities if needed.

The ombudsman assists small businesses by:

- providing information about what to do when an employee is injured;
- directing them to appropriate resources for assistance in obtaining and resolving issues regarding workers' compensation insurance; and
- responding to questions pertaining to employers' responsibilities under Minnesota's workers' compensation law.



For assistance, contact the Office of Workers' Compensation Ombudsman at (651) 284-5013, 1-800-342-5354 or dli.ombudsman@state.mn.us.

DLI offers variety of workers' compensation training opportunities

Employees, employers, health care providers and staff, insurers, rehabilitation providers

Workers' compensation training is offered about a variety of subjects by Department of Labor and Industry staff members. Some classes are sponsored by the department and take place at its 443 Lafayette Road N., St. Paul, location, but off-site training can be scheduled as well.



Employees – Contact Melissa Parish at dli.wctraining@state.mn.us or (651) 284-5431 for more information.

Employers – Learn about employer training opportunities at www.dli.mn.gov/WC/TrainingEr.asp.

Health care providers – Contact Melissa Parish at dli.wctraining@state.mn.us or (651) 284-5431 for more information.

Insurers – Learn about insurer training opportunities at www.dli.mn.gov/WC/TrainingIns.asp.

Rehabilitation providers – Learn about training opportunities at www.dli.mn.gov/WC/TrainingRp.asp.

Workers' compensation events calendar

February

Feb. 15 **Orientation training session**
www.dli.mn.gov/WC/TrainingRp.asp

March

March 20-21 **Basic adjuster training**
www.dli.mn.gov/WC/TrainingIns.asp

March 28 **Workers' Compensation Insurers' Task Force**
www.dli.mn.gov/Wcitif.asp

April

April 5 **Rehabilitation Review Panel**
www.dli.mn.gov/Rrp.asp

April 11 **Workers' Compensation Advisory Council**
www.dli.mn.gov/Wcac.asp

April 19 **Medical Services Review Board**
www.dli.mn.gov/Msrb.asp

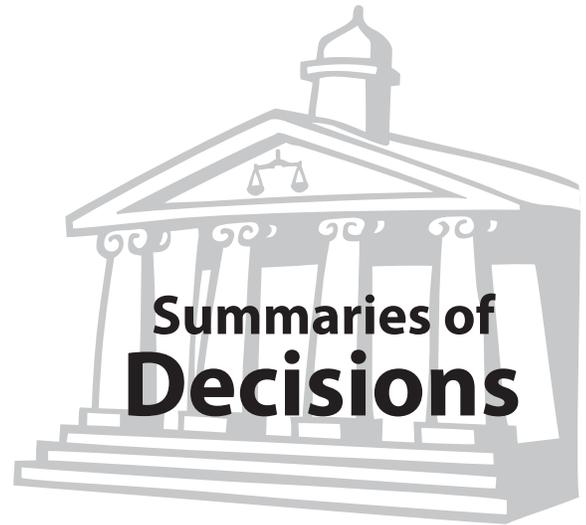
May

May 23 **Workers' Compensation Insurers' Task Force**
www.dli.mn.gov/Wcitif.asp

Workers' Compensation Court of Appeals

October through December 2017

Case summaries published are
those prepared by the WCCA



Douglas M. Katz v. Telcom Construction, Oct. 2, 2017

Maximum Medical Improvement – Substantial Evidence

Substantial evidence, including the employee's medical record, supports the compensation judge's finding that the employee had not reached maximum medical improvement from his compensable work injury.

Job Search – Substantial Evidence

Lack of job logs did not demonstrate a failure to diligently search for employment where testimony of the employee and employee's spouse identified job search efforts and the employee obtained part-time employment within restrictions.

Affirmed.

Julio Escobedo v. Archetype Signmakers, Oct. 9, 2017

Causation – Substantial Evidence

Substantial evidence, including expert opinion and medical records, supported the compensation judge's decision that the employee's 2015 work injury was not a substantial contributing cause of his need for right knee replacement surgery and to certain alleged periods of disability.

Affirmed

Larry D. Nelson v. Smurfit Stone Container Corp., Oct. 9, 2017

Causation – Gillette Injury Gillette Injury – Date of Injury

Where substantial evidence supports the compensation judge's finding that the employee's work-related activities contributed to his left shoulder condition, the fact that the employee did not seek medical treatment until after he was laid off does not negate that finding.

**Temporary Total Disability – Retirement
Temporary Total Disability – Withdrawal From Labor Market
Job Search**

Where the employee was laid off from work before he planned to retire, conducted a short job search and received Social Security benefits due to financial necessity, substantial evidence supports the compensation judge's finding that the evidence failed to establish that the employee had retired or withdrawn from the labor market. In addition, where the employer's vocational expert had opined that the employee could work at light machine operator and assembly jobs, but the employee also had surgery and restrictions from a work-related injury after being laid off, the compensation judge did not err by awarding temporary total disability benefits for a time period after the surgery.

Affirmed as modified.

Michael W. Burkett v. Randstad North America, Oct. 16, 2017

Causation – Gillette Injury

Substantial evidence in the record supports the compensation judge's determination that the employee sustained a Gillette-type injury as a result of his work activities and not as a result of a pre-existing condition.

Gillette Injury – Date of Injury

The compensation judge's determination that the employee's Gillette injury culminated on his last day worked was reasonable under the facts of the case and consistent with applicable law.

**Temporary Total Disability – Withdrawal From Labor Market
Job Search**

Substantial evidence supports the compensation judge's determination that the employee was obligated to conduct a reasonably diligent job search after May 4, 2015, after which he sought no medical treatment, had improved symptoms and was not under any work or activity restrictions.

Affirmed.

Joshua Samuda v. Minnesota Vikings Football Club, Oct. 16, 2017

Wages – Calculation

Where the employee was paid a yearly salary under a year-long contract and was injured during the term of the contract, the compensation judge did not err by including the contract salary amount in the weekly wage determination, not just the amount being paid only during training, which is not indicated in the contract and which does not approximate the employee's loss of probably earning power from the injury.

Affirmed as modified.

Lisa Bromwich v. Massage Envy Roseville, Oct. 18, 2017

Evidence – Expert Medical Opinion

The compensation judge's reliance on a treating physician's opinion regarding causation where the opinion does not express absolute certainty does not constitute error. The standard for reliance on a properly founded opinion is, based on the facts of the case, whether the offered opinion is probably true.

**Job Search
Rehabilitation – Cooperation
Temporary Total Disability**

Where the employee's qualified rehabilitation consultant notes showed the employee was not directed to search for employment through most of the period of disability and the employee had followed up on job leads provided to her, and that she had otherwise cooperated with rehabilitation assistance, the compensation judge's decision and award of temporary benefits was not clearly erroneous and unsupported by substantial evidence.

Affirmed.

Laurie Roller-Dick v. CentraCare Health Systems, Oct. 19, 2017

Arising Out Of And In The Course Of

That the employee was injured as a result of losing her footing and falling while descending a flight of stairs located on her employer's premises is sufficient to meet her burden to show the requisite causal connection to conclude that the injury arose out of employment.

Reversed and remanded.

Loretta R. (Schneider) Didrikson v. Jay Litman Construction, Nov. 2, 2017

Vacation of Award – Substantial Change in Condition

Where the employee has shown a change in diagnosis, has been unable to work and has needed more costly and extensive medical care that was causally related to her work injury, the employee has shown a substantial change in condition since the time of the pre-July 1992 stipulation for settlement.

Petition to vacate granted.

Ronald G. Rossbach v. Rossbach Construction, Inc., Nov. 2, 2017

**Vacation of Award – Voidable Award
Statutes Construed – Minnesota Statutes § 176.521**

Where a compensation judge relied improperly on the presumption of fairness and reasonableness contained in Minnesota Statutes § 176.521 in issuing an award on stipulation, the award is voidable by this court, after consideration of whether the settlement reflected the intent of the parties at the time of the stipulation and was fair, reasonable and in conformity with the Workers' Compensation Act when submitted, and of the equities involved. See Sondrol v. Del Hayes & Sons, Inc., 47 W.C.D. 659, 665 (W.C.C.A. 1992). We refer the

matter to the chief administrative law judge for assignment to a compensation judge to make findings on whether the settlement was fair, reasonable and inconformity with the Act.

Refers.

Lachlan P. Folstrom v. Northgate Liquors, Nov. 9, 2017

**Evidence – Credibility
Substantial Evidence**

The assessment of credibility is the unique function of the compensation judge and, despite alleged inconsistencies in the employee's testimony that are otherwise inconsequential, substantial evidence in the record supports the findings of the compensation judge.

Evidence – Expert Medical Opinion

Where the treating physician had enough facts to form a reasonable opinion, and his opinion does not appear to be based upon speculation or conjecture, that opinion was adequately founded and could be relied upon by the compensation judge.

Evidence – Admission

The compensation judge's disallowance of evidence of the employee's prior criminal conviction, which was more prejudicial than probative, was not an abuse of discretion.

Affirmed.

Lynn Trujillo v. Pride Construction, Inc., Dec. 4, 2017

**Job Search
Rehabilitation – Cooperation
Temporary Partial Disability**

Where the employee reasonably fails to complete GED program due to financial and other factors, and the QRC indicates the employee has been compliant with rehabilitation and job search efforts, substantial evidence supports the compensation judge's conclusion that the employee remains entitled to temporary partial disability benefits.

Temporary Partial Disability – Earning Capacity

Where the employee demonstrates that his part-time employment in a sedentary position consistent with his restrictions reflects his actual earning capacity through continuing job search efforts, substantial evidence supports the compensation judge's conclusion that the employee remains entitled to temporary partial disability benefits.

Affirmed.

Janet Hufnagel v. Deer River Health Care Center, Dec. 5, 2017

Attorney Fees – .191 Fees

The compensation judge improperly denied the request for attorney fees under Minnesota Statutes § 176.191 as the nature of the dispute between the employers and insurers was sufficient to render such fees payable.

Attorney Fees – Excess Fees

Where the employee's attorney successfully obtained benefits for his client, the compensation judge erred in his determination that the time spent on alternative theories of the case were unreasonable or excessive.

Vacated and remanded.

Einar J. Otterness v. Andersen Windows, Dec. 5, 2017

Evidence – Admission

The compensation judge did not abuse his discretion by excluding the employee's proposed Exhibit 11 as dealing with settlement negotiations and as irrelevant to the issues at the hearing. The employee was not prejudiced by the exclusion of the proposed exhibit, which contained nothing that would have assisted the employee in proving his workers' compensation claims.

Causation – Substantial Evidence

Substantial evidence, including expert medical testimony, medical records and lay testimony, supports the compensation judge's finding that the employee's work injuries in 2012 were temporary in nature and had resolved, and that the employee did not sustain a Gillette injury.

Appeals – Scope of Review

Where the employee's request for a prompt hearing following the matter being returned to the active calendar resulted in the removal of the first compensation judge and reassignment of the hearing to a second compensation judge, and where the employee failed to timely and formally object to the reassignment and proceeded to hearing before the new judge, this court does not conclude that the procedure in this case was improper.

Affirmed.

Kayla Lein v. Eventide, Dec. 29, 2017

Arising Out Of And In The Course Of

The employee's burden of proof to establish her injury arose out of her employment is met upon showing she fell and was injured on a stairway located on her employer's premises.

Reversed and remanded.