

## Nancy Leppink named Department of Labor and Industry commissioner

The Walz-Flanagan Administration announced Nancy Leppink as the Minnesota Department of Labor and Industry's (DLI's) commissioner-designee.

Leppink previously represented DLI as an assistant attorney general and then worked as the agency's general counsel from 1999 to 2009. After 24 years in state service, she was appointed by the Obama Administration to be the deputy administrator of the Wage and Hour Division of the U.S. Department of Labor and led the division as its acting administrator.

She recently served as a branch chief for the International Labour Organization, in Geneva, Switzerland, and was responsible for its international work to assist the governments and the employer and worker organizations of its 187 member states to improve their labor administration, labor inspections and occupational safety and health capacities.



Nancy Leppink

### Mileage rate increases for 2019

The standard IRS mileage rate for the business use of an employee's personal vehicle increased Jan. 1 from 54.5 cents to 58 cents a mile.

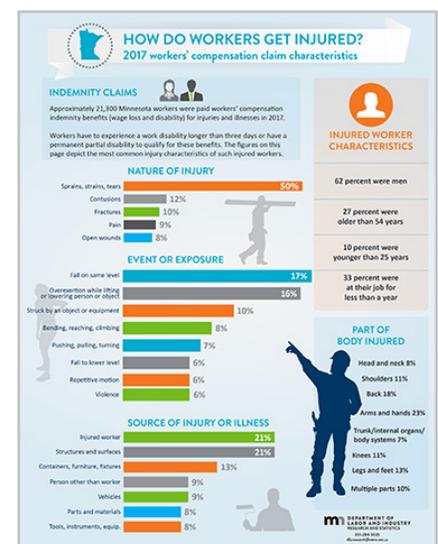


### How do workers get injured?

*Claim characteristics flyer updated with 2017 data*

Approximately 21,300 Minnesota workers were paid workers' compensation indemnity benefits (wage loss and disability) for injuries and illnesses in 2017.

- Sixty-two percent of these workers were men.
- Twenty-seven percent were older than 54 years.
- Ten percent were younger than 25 years.
- Thirty-three percent were at their job for less than a year.



View the updated one-page flyer online at [www.dli.mn.gov/business/workers-compensation/claim-characteristics](http://www.dli.mn.gov/business/workers-compensation/claim-characteristics).

# Annual Workers' Compensation System Report released:

## Long-term downward trends continue in claim rate, system cost

by David Berry, Research and Statistics

The number of paid workers' compensation claims fell 53 percent relative to the number of full-time-equivalent (FTE) employees from 1997 to 2017, according to the *2017 Minnesota Workers' Compensation System Report*, released in February 2019 by the Department of Labor and Industry. The following are among the report's findings.

- The rate of paid claims fell from 8.7 per 100 FTE employees in 1997 to 4.1 in 2017.
- The cost of the workers' compensation system for 2017 amounted to \$1.08 per \$100 of payroll. In Minnesota and elsewhere, this cost follows a multi-year pricing cycle. However, comparable points in the cycle for Minnesota indicate a long-term downward trend.
- Adjusted for average wage growth, average medical benefits per claim were 68 percent higher in 2016 than in 1997; indemnity benefits per claim were 50 percent higher. Medical and indemnity benefits per claim have shown little net change relative to average wages since 2003.
- Despite higher benefits per claim, costs are down relative to payroll because of the falling claim rate. Compared to 1997, indemnity benefits per \$100 of payroll were 31 percent lower in 2017 and medical benefits were 28 percent lower.
- In 2017, on a current-payment basis, medical benefits accounted for an estimated 35 percent of total system cost, followed by insurer expenses at 31 percent and indemnity benefits other than vocational rehabilitation at 29 percent.
- The percentage of indemnity benefit claimants receiving vocational rehabilitation services rose from 15 percent in 1997 to 25 percent in 2017.
- The percentage of indemnity claims with a dispute of any type rose from 16 percent in 1997 to 21 percent in 2008, but has been stable since then.



The number of paid claims fell from 8.7 per 100 FTE employees in 1997 to 4.1 in 2017

This report, part of an annual series, presents data from 1997 through 2017 about Minnesota's workers' compensation system. The purpose of the report is to describe the current status and direction of the system and to offer explanations, where possible, for recent developments. It will be available soon at [www.dli.mn.gov/business/workers-compensation/work-comp-minnesota-workers-compensation-system-report](http://www.dli.mn.gov/business/workers-compensation/work-comp-minnesota-workers-compensation-system-report).

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## Annual fines and penalties, prompt first action reports updated

The Department of Labor and Industry (DLI) is required to publish an annual report about the assessment and collection of fines and penalties under the workers' compensation law – Collection and Assessment of Fines and Penalties. DLI is also required to publish an annual report about the promptness of all insurers and self-insurers making first payments or denials on a claim for injury – Prompt First Action Report on Workers' Compensation Claims.

Both reports were recently updated and are available at [www.dli.mn.gov/business/workers-compensation/work-comp-reports-publications](http://www.dli.mn.gov/business/workers-compensation/work-comp-reports-publications).

## WCMP update: A good system requires strong stakeholder partnerships

When a worker is injured during the course of their employment, they rely on the Minnesota Department of Labor and Industry (DLI) workers' compensation system to help them get the medical treatment, vocational rehabilitation services and wage-loss compensation they need to support themselves and their families.



Through its Workers' Compensation Modernization Program (WCMP), DLI is partnering closely with Minnesota IT Services (MNIT) and consulting with the Workers' Compensation Court of Appeals (WCCA), Office of Administrative Hearings, additional key workers' compensation system stakeholders and the national information technology consulting firm CapTech to build a state-of-the-art workers' compensation system.

The new system is called Work Comp Campus – an acronym for Claims Access and Management Platform User System. It is a user-centered, data-driven, online portal that improves support for injured workers and provides greater insight into claims and disputes for all parties. Work Comp Campus will provide ready and easy access for all parties involved in a workers' compensation claim to manage their claim, on their terms, in real time online. The system will allow quicker access to claim information among employers, insurance companies, medical providers, injured workers and attorneys to ensure work injuries are reported, treated and compensated in a streamlined manner.

The implementation of this new workers' compensation system is the result of nearly five years of investigation and preparation work, including exploration of feasibility, strategic planning, discovery phases and a robust request-for-proposals process, to find the right implementation partner. The new system is currently planned to go live at the end of summer 2020.

DLI is committed to being a trusted partner for its Minnesota stakeholders and Work Comp Campus will support DLI in keeping that commitment. Knowing that moving toward a new system and processes will affect stakeholders, DLI has invested considerable resources to understand specific impacts and ensure users will be able to navigate the changes. DLI has researched impacts, created a detailed change strategy and plan, and begun stakeholder engagement activities to prepare user groups for the new system.

As a part of that stakeholder engagement, DLI is involving future system-users in building this system. DLI has already initiated robust engagement activities with several stakeholder groups to bring awareness of these changes. It has established the:

- Executive Modernization Advisory Committee (EMAC), with representatives from business, insurers, organized labor and the defense and plaintiffs bar;
- Legal Advisory Workgroup (LAW), a group of attorneys, paralegals and legal assistants; and
- Trading Partner Advisory Committee (TPAC), made up of insurers and trading partners that currently engage with DLI at a high volume, in preparation for the transition from paper-based filing to electronic data interchange (EDI) filing.

DLI will continue to reach out to various stakeholder groups as feedback and participation are needed. The participants in these groups will contribute significantly to the functionality of the future system by highlighting the specific needs of their communities, providing feedback and testing system functionality.

If you are interested in becoming involved with these groups or future opportunities, email WCMP Change Management Lead Valerie Brophy at [valerie.brophy@state.mn.us](mailto:valerie.brophy@state.mn.us).

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## Help for completing Annual Claim for Reimbursement of Benefits forms

The Department of Labor and Industry has added two new documents to its website – at [www.dli.mn.gov/business/workers-compensation/work-comp-submission-online-annual-claim-forms](http://www.dli.mn.gov/business/workers-compensation/work-comp-submission-online-annual-claim-forms) – in response to stakeholder requests for assistance with two forms:

- How to complete the Annual Claim for Reimbursement of Benefits forms; and
- Resources needed for filing annual claims for reimbursement.

## Recent WCRI reports look at Minnesota's workers' compensation system

Two reports published in the past few months by the Workers' Compensation Research Institute (WCRI) provide insight into various aspects of Minnesota's workers' compensation system – injured-worker outcomes and state policies about treatment guidelines and use. The full studies and results for all of the states involved can be purchased via WCRI's website at [www.wcrinet.org](http://www.wcrinet.org).



### Comparing Outcomes for Injured Workers in Minnesota, 2017 Interviews

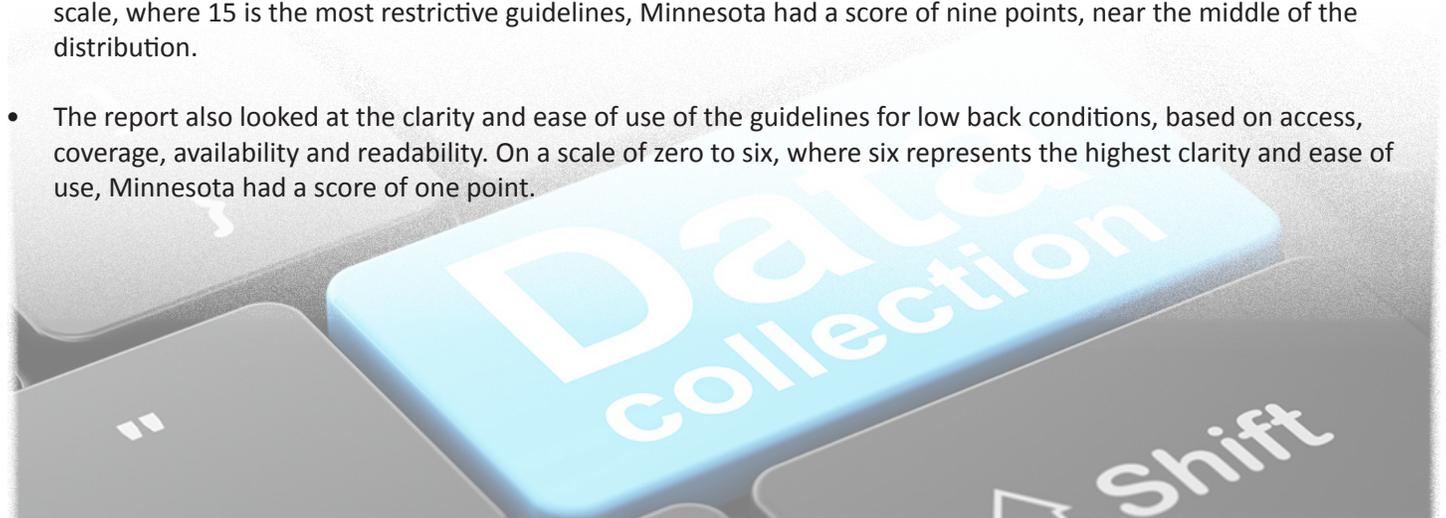
WCRI has an ongoing project to collect and examine data about injured workers' medical care outcomes. This study reports the outcomes of telephone interviews conducted in 2017 with 415 Minnesota workers injured in 2014. The results are compared to the outcomes of worker interviews in 14 other states. All the injured workers interviewed had more than seven days of lost time.

- Fourteen percent of the workers reported they never returned to work for at least one month following their injury three years earlier, similar to the median for all the states.
- Eight percent reported earning "a lot less" income due to the injury, similar to the median for all the states.
- Eighteen percent reported "big problems" getting the medical services they or their primary provider wanted, similar to the median for all the states.
- Eighty percent of the workers were "somewhat" or "very" satisfied with their health care, somewhat higher than the median, and 13 percent were "very dissatisfied" with their health care, somewhat lower than the median.

### State Policies on Treatment Guidelines and Utilization Management: A National Inventory

States adopted medical treatment guidelines to encourage effective and consistent medical care. This report describes the variations in the guidelines and how the guidelines are used in utilization review, reimbursement and dispute resolution in each state. WCRI collected the information through a state policy survey. The report describes and categorizes the information for the 23 states with medical treatment guidelines as of January 2019.

- The report shows Minnesota is one of only four states where medical treatment guidelines are mandatory for both utilization review and dispute resolution.
- WCRI created a guideline restrictiveness score to look at common procedures for low back pain. On a zero to 15 scale, where 15 is the most restrictive guidelines, Minnesota had a score of nine points, near the middle of the distribution.
- The report also looked at the clarity and ease of use of the guidelines for low back conditions, based on access, coverage, availability and readability. On a scale of zero to six, where six represents the highest clarity and ease of use, Minnesota had a score of one point.



# Outcomes of complaints 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 complaints and their outcomes; and Table 3 details the violations and the statutes or rules involved.

**Table 1. Source of complaints**

Year	ER/IR	EE	Attorney	Rehabilitation provider	DLI	Other	Total
2018	0	0	0	0	14*	0	14
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

\*Of the 14 DLI-generated complaints, 12 were due to non-attendance at the mandatory September 2018 update.

## Complaint outcomes

A 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 be 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
2018	0	1	7	4	0	3	15
2017	1	1	6	2	0	1	11
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

**Table 3. 2018 rehabilitation violations of Minnesota Statutes and Minnesota Rules**

Violation	Statute, rule
**Failure to attend DLI's mandatory September 2018 update in person or via simulcast	5220.0510, subp. 3a
**Failure of a registered rehabilitation provider to be knowledgeable and informed about workers' compensation laws	5220.1803, subp. 2
**Filing false information on the qualified rehabilitation consultant (QRC) firm application for the purpose of obtaining registration renewal with the department	5220.1801, subp. 9 (A) 5220.1801, subp. 8 (A)
**Failure to cooperate with disciplinary proceedings by not providing requested rehabilitation files and knowingly submitting fabricated documents to the department	5220.1806, subp. 4
Failure to suspend providing both disability case management (DCM) and QRC services to the same injured worker; closed QRC file to provide DCM services for same employee	176.102, subd. 10(b) 5220.1803, subp. 2 5220.1805 (A) 5220.1801, subp. 9 (E)
**Failure to provide copies of all required reports and progress records, including email messages, to the employee and all parties	5220.1802, subp. 3 5220.0100, subp. 30 and 31
**Failure to use an invoice form that is compliant with the rules and exemplar on DLI's website	5220.1900, subp. 1a 5220.1801, subp. 9 (E)
**Failure to explain to injured workers their rights and responsibilities so they understand them	5220.0130, subp. 3 B(1) 5220.1803, subp. 1 and 1a
**Failure to maintain separate roles between a claim agent and a rehabilitation provider by helping the insurer obtain a maximum medical improvement (MMI) declaration from the treating physician, investigated employee's statement about not being able to attend an independent medical examination (IME) and reported the outcome to the insurer	5220.1801, subp. 8B (1), (2), (4) 5220.1801, subp. 9 (F) 5220.1801, subp. 9 (E) 5220.1801, subp. 9K (1) 5220.1801, subp. 11
Disparaged an attorney by stating the attorney had altered the QRC's monthly report prior to submitting it as evidence at an administrative conference	5220.1801, subp. 10 5220.1801, subp. 9 (E) 5220.1801, subp. 9 K(3)
**Filing false or misleading rehabilitation consultation cost information on R-2 and R-8 forms to DLI and the parties	5220.1801, subp. 9 (A) 5220.1801, subp. 9 (E)
**Failure to disclose a business referral or other arrangements (verbal or written) to the injured worker and parties	176.102, subd. 4 (c) 5220.1803, subp. 1 (A), (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	5220.0130, subp. 3 C (4)
Failure to correctly file plan progress reports including identification of barriers and steps to overcome them, on a separate document, and six months after the R-2 form plan was filed	5220.0450, subp. 2 and 3

**Table 3. 2018 rehabilitation violations of Minnesota Statutes and Minnesota Rules**

Violation	Statute, rule
Advocated the insurer's position that only insurers may select placement vendors for an employee's job search	5220.1803, subp. 2 5220.1801, subp. 9K (3) 5220.1801, subp. 4a 5220.1801, subp. 9 (E)
Failure to file an R-2 Rehabilitation Plan form with initial evaluation reports, covering eight required points, within 45 days of the first in-person meeting	5220.0510, subp. 2d 5220.1801, subp. 9 (E)
**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 5220.1801, subp. 9 (E)
Failure to keep all required reports and progress records for five years after the closure of the rehabilitation file	5220.1803, subp. 5
**Failure, following a rehabilitation consultation, of the QRC 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 5220.1801, subp. 9 K (2), (3) 5220.1802, subp. 5
Failure to comply with data privacy laws, including disclosure of employee's medical information to a party not part of the claim and contacting a health care provider without a written release of information from the injured worker	5220.1802, subp. 5 5220.1801, subp. 9 (E)

\*\*Similar professional conduct violations were reported in the February 2018 edition of *COMPACT*, for the year 2017.

## 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 "Work comp: For rehabilitation providers" webpage ([www.dli.mn.gov/business/workers-compensation/work-comp-rehabilitation-providers](http://www.dli.mn.gov/business/workers-compensation/work-comp-rehabilitation-providers)) was developed to provide information to QRCs and placement vendors to enhance their work product. Stakeholders may also call DLI, at 800-342-5354, with their rehabilitation questions and concerns.

## OSHA recordkeeping training offered June 19: Learn the basics

Maintaining an accurate OSHA log of recordable work-related injuries and illnesses is an important skill that benefits employers, workers, safety professionals and government agencies. The Department of Labor and Industry is offering a free introductory-level OSHA recordkeeping training session June 19, from 9 to 11:30 a.m.

## Registration, more information

To register, visit <https://secure.doli.state.mn.us/events>. For more information about the training session, visit [www.dli.mn.gov/business/workplace-safety-and-health/mnosha-compliance-recordkeeping-standard](http://www.dli.mn.gov/business/workplace-safety-and-health/mnosha-compliance-recordkeeping-standard).

## CompFact:

# Return-to-work patterns related to injury, employer/insurer factors

By Brian Zaidman, Research and Statistics

One measure of the performance of the workers' compensation system is the rate at which injured workers return to work following severe injuries. Minnesota's workers' compensation vocational rehabilitation services provide an opportunity to measure returns to work and to look at some of the factors related to it.

About 25 percent of injured workers with indemnity claims use vocational rehabilitation services and 60 percent of these workers receive temporary total disability payments for longer than three months. Returning to work is related to worker, employer, insurer and workers' compensation system factors. The two charts below illustrate some of these relationships. The figures are based on analysis of the 16,957 vocational rehabilitation plans that closed from 2015 through 2017.

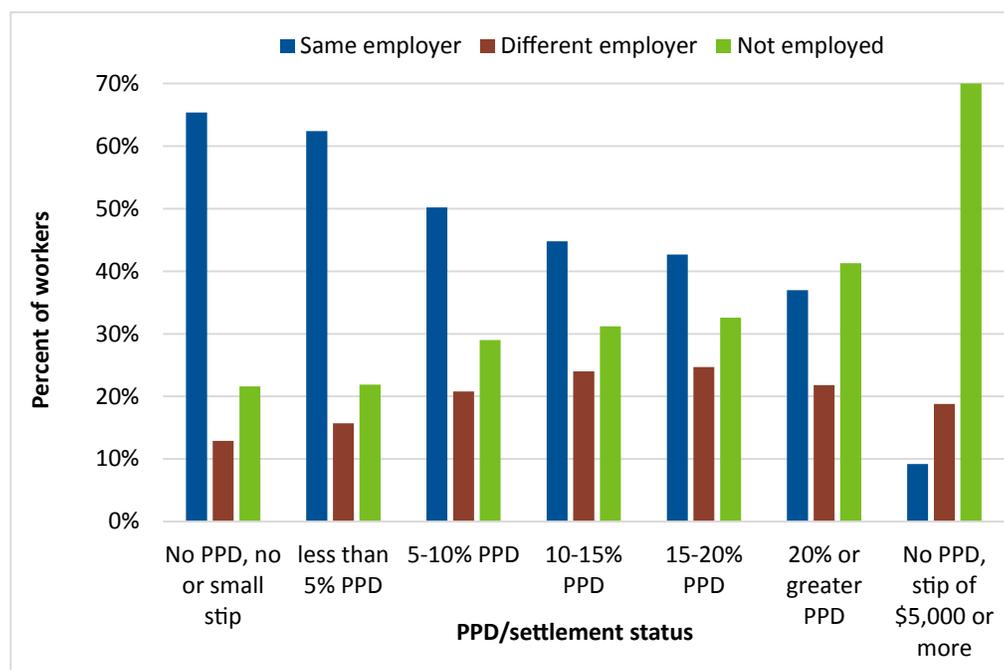
## Injury severity and disputes

The physical severity of a workers' compensation injury can be roughly measured using the permanent partial disability (PPD) percentage given to the injury. Although PPD severity might not affect job performance for some workers, those with more severe injuries may have less success returning to work because their impairments might leave them unable to perform their pre-injury work and they may have fewer options finding a different job that accommodates their needs.

Figure 1 shows the vocational rehabilitation return-to-work outcomes for workers based on their PPD percentage and whether they had a settlement agreement. PPD percentages are often subject to dispute, and cases without PPD benefits but with a settlement of at least \$5,000 probably had PPD benefits at issue. The figure shows that as the PPD level increases, and continuing through to workers with only a settlement of at least \$5,000, the percentage of workers returning to the pre-injury employer decreases and the percentage not returning to work at plan closure increases. The percentage returning to a job with a different employer increases up to the 15- to 20-percent PPD category before decreasing for workers with more severe injuries.

Workers with the least severe injuries had the best return-to-work outcomes, with 78 percent employed. Workers with settlement agreements and no PPD payments had the worst outcomes, with 72 percent not employed.

**Figure 1. Vocational rehabilitation return to work by injury severity and settlement, plans closed 2015-2017**



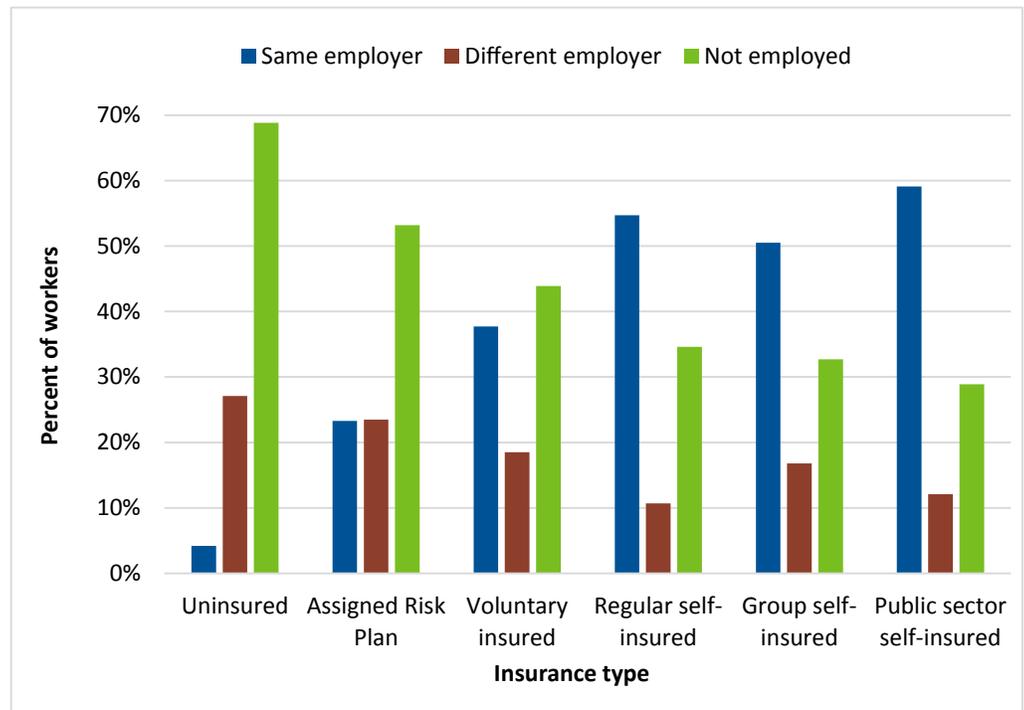
## Type of coverage

The type of workers' compensation insurance also shows a relationship to injured workers' return-to-work outcomes. Most employers use the voluntary insurance market to purchase their workers' compensation policies. The smallest businesses and new businesses are often insured through the Assigned Risk Plan. Many of Minnesota's largest employers are self-insured. Some other employers are insured through group self-insurance

plans arranged by industry associations. Many of Minnesota's public entities are individually self-insured or are insured through group plans. In addition to employer size, which affects the availability of alternative jobs for injured workers, self-insured employers have a more immediate financial stake in their workers' injuries.

Figure 2 shows the return-to-work outcomes by insurance type for plans closing from 2015 through 2017. Outcomes were the worst for workers whose employers were not insured (less than 1 percent of cases) and were slightly improved for workers whose employers were in the Assigned Risk Plan (3 percent of cases). Two-thirds of employers were insured through the voluntary insurance market, where the majority of workers return to work. Return-to-work outcomes were highest among workers for self-insured employers (26 percent for the combined types), where two-thirds of workers were employed at the close of vocational rehabilitation services.

**Figure 2. Vocational rehabilitation return to work by type of workers' compensation insurance, plans closed 2015-2017**



## Conclusion

These two figures illustrate how two different types of factors relate to achievement of a successful return-to-work outcome. Returning to work is a complex process that is affected by worker, injury and employer characteristics. Improving return-to-work outcomes will depend on a systematic approach that addresses these factors.

## Rehabilitation Review Panel seeks union labor representative alternate

The Rehabilitation Review Panel (RRP) currently has an alternate member opening for a union labor representative (annual term). An application may be found at <https://commissionsandappointments.sos.state.mn.us/position>, on the Secretary of State website.

Composed of employer, insurer, rehabilitation, medical and labor representatives, the RRP:

- 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/about-department/boards-and-councils/rehabilitation-review-panel](http://www.dli.mn.gov/about-department/boards-and-councils/rehabilitation-review-panel).

# Workers' compensation events calendar

## April 2019

- April 4                      **Rehabilitation Review Panel**
- April 10                    **Workers' Compensation Advisory Council**
- April 18                    **Medical Services Review Board**

## May 2019

- May 15                      **Workers' Compensation Insurers' Task Force**
- May 20 and 21            **Training for insurers: Basic adjuster's training**

## June 2019

- June 12                    **Workers' Compensation Advisory Council**

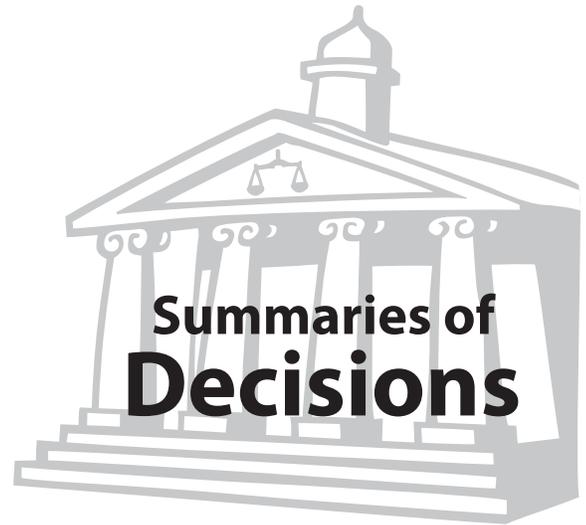
## July 2019

- July 11                     **Rehabilitation Review Panel**
- July 18                    **Medical Services Review Board**

# Workers' Compensation Court of Appeals

October 2018 through January 2019

Case summaries published are  
those prepared by the WCCA



## *Steven D. Wright v. Viking Coca-Cola Bottling Co., Oct. 1, 2018*

### **Temporary Total Disability Causation**

Substantial evidence supports the compensation judge's findings that the employee was off work due, in part, to his work-related shoulder condition and was therefore entitled to temporary total disability benefits through 90 days post-maximum-medical-improvement.

#### **Causation – Substantial Evidence**

Substantial evidence, including adequately founded expert medical opinion, supports the compensation judge's finding that the employee did not sustain a neurological injury as a result of his work injury.

Affirmed.

## *Angela M. Kronberger v. 3M Companies, Oct. 11, 2018*

### **Gillette Injury – Substantial Evidence**

Substantial evidence in the record, including adequately founded expert medical opinion and the employee's credible testimony, supports the compensation judge's finding that the employee sustained a Gillette injury to her right shoulder as a result of her work activities.

#### **Notice of Injury – Substantial Evidence**

Substantial evidence in the record supports the compensation judge's conclusion that the employee's delay in providing notice of her injury to her employer was excusable due to ignorance of the fact.

Affirmed in part, vacated and remanded in part.

***Lori Zabel v. Gustavus Adolphus College, Oct. 12, 2018***

**Evidence – Res Judicata  
Practice and Procedure – Dismissal**

The compensation judge erred in concluding that the employee's current claim for an unadjudicated, new and distinct injury was barred by res judicata pursuant to Schuette v. City of Hutchinson, 77 W.C.D. 157 (W.C.C.A. 2016), summarily aff'd (Minn. Mar. 8, 2017).

Reversed.

***Eddie Hudson v. Trillium Staffing, Oct. 25, 2018***

**Vacation of Award – Substantial Change in Condition**

Petition seeking vacation of Award on Stipulation denied where medical opinion upon which additional permanent partial disability and change in ability to work are based, lacks adequate foundation.

Denied.

***William Dodgson v. City of Minneapolis Public Works, Oct. 31, 2018***

**Temporary Total Disability  
Job Offer – Refusal**

The compensation judge's determination that the employee unreasonably refused an offer of employment consistent with the rehabilitation plan is supported by substantial evidence in the record.

Affirmed.

***Baldomero Sanchez-Rivera v. Swift Pork Co., Oct. 31, 2018***

**Causation – Substantial Evidence**

Substantial evidence, including medical records, lay testimony and expert medical opinion, supported the compensation judge's findings denying the employee's Gillette injury claims.

Affirmed.

***Tami L. Petrie v. Todd County, Nov. 9, 2018***

**Statutes Construed – Minnesota Statutes 176.011, subd. 15(d)  
Causation – Psychological Condition**

Minnesota Statutes 176.011, subd. 15(d), does not require that the diagnosis of post-traumatic stress disorder (PTSD) by a licensed psychiatrist or psychologist include an opinion regarding causation of that condition.

**Practice and Procedure**

The compensation judge erred by not addressing a contested issue of fact and law that had been submitted at the hearing.

Reversed in part, vacated in part, and remanded.

***Kevin D. Sather v. Newmech Companies, Inc., Nov. 9, 2018***

**Apportionment**

Substantial evidence supports the compensation judge's apportionment determination where there were varying apportionment opinions with adequate foundation.

Affirmed.

***Scott Roux v. R.J. Reynolds Tobacco, Nov. 28, 2018***

**Medical Treatment and Expense – Reasonable and Necessary**

Substantial evidence in the record supports the compensation judge's award of some, and denial of other, claimed medical treatment according to whether the claimed medical treatment was reasonable and necessary.

Affirmed.

***Aaron Crosby v. TAK Communications, Inc., Dec. 14, 2018***

**Evidence – Expert Medical Opinion**

Where the treating physician had enough facts to form a reasonable opinion which was not based upon speculation or conjecture, that opinion is considered adequately founded and may be relied upon by the compensation judge.

Affirmed.

***Joshua Cole v. Lametti and Sons, Inc., Dec. 20, 2018***

**Causation – Substantial Evidence**

Substantial evidence supports the compensation judge's findings that the employee had not sustained a left shoulder injury in 2014 and that the 2014 injury was not a substantial contributing cause of the employee's need for the recommended left shoulder surgery.

**Causation – Temporary Aggravation**

Substantial evidence supports the compensation judge's finding that the 2014 right shoulder injury was a temporary aggravation and had resolved.

Affirmed.

***Tyler Morgan v. Midwest Specialized Transportation, Dec. 20, 2018***

**Causation – Temporary Injury**

Substantial evidence, including medical records and expert medical opinion, supported the compensation judge's finding that the employee's work injury resulted only in a temporary hematoma and, at most, a mild and temporary aggravation of his right knee condition, both of which resolved no later than Nov. 30, 2016, with no ongoing restrictions.

Affirmed.

***Barbara J. Thaumert v. Honeywell International, Inc., Dec. 20, 2018***

**Medical Treatment and Expense – Reasonable and Necessary**

Substantial evidence in the record does not support the compensation judge's denial of claimed medical treatment according to whether the claimed medical treatment was reasonable and necessary.

**Evidence – Expert Medical Opinion**

Where the report prepared by the independent medical examiner relied on assumptions which are contradictory to the facts as found by the compensation judge and was otherwise unsupported by evidence in the record, reliance on the opinion of the independent medical examiner is error.

Vacated in part and remanded.

***Jacob Smith v. Kmart/Sears Holding Company, Jan. 3, 2019***

**Rehabilitation – Qualified Employee**

Substantial evidence in the record, including the testimony of the employee, supports the compensation judge's determination that the employee is not a qualified employee under Minnesota Rules 5220.0100, subp. 22, because the employee does not meet the criteria of the rule as a result of the effects of his work injury.

**Temporary Total Disability – Work Restrictions**

Substantial evidence in the record supports the compensation judge's denial of the employee's claim for temporary total disability benefits upon finding that the employee resigned from his employment because of a desire to focus on school and not because of his work injury or restrictions.

Affirmed.

***Kristina Franzen-Derrick v. Life Line Screening of America, Jan. 4, 2019***

**Vacation of Award – Substantial Change in Condition**

Where the evidence is not sufficient to support an unanticipated substantial change in condition, the employee's petition to vacate the award on stipulation is denied.

Petition to vacate denied.

***Chadd A. Smith v. Carver County, Jan. 4, 2019***

**Statutes Construed – Minnesota Statutes § 176.011, subd. 15(d)**

**Evidence – Expert Medical Opinion**

The compensation judge erred in relying on an expert medical opinion that did not comply with the requirements of Minnesota Statutes § 176.011, subd. 15(d).

Reversed in part, vacated in part and remanded.

***Bradley H. Swanson v. Kath Fuel Oil Service, Jan. 10, 2019***

**Vacation of Award**

Where there is no showing that the employee's worsening of his medical condition was clearly not anticipated and could not reasonably have been anticipated, his petition to vacate is denied.

Petition to vacate denied.

***Valerie Winstead v. Martin Luther Manor/Fairview Health Services, Jan. 16, 2019***

**Rehabilitation – Rehabilitation Request  
Practice and Procedure – Intervention  
Settlements – Exclusion**

A rehabilitation provider that filed a rehabilitation request that was not certified as a dispute and was dismissed for lack of jurisdiction, and who was advised to file a motion to intervene but failed to do so, was not a party. Its interests were extinguished by operation of statute and it was not entitled to a Parker-Lindberg hearing.

Affirmed.

***Michelle K. Johnson v. St. Paul Eye Clinic, P.A., Jan. 18, 2019***

**Medical Treatment and Expense – Reasonable and Necessary**

Substantial evidence in the record supports the compensation judge's award of the proposed right shoulder surgery because that medical treatment is reasonable, necessary and causally related to the work injury.

**Evidence – Expert Medical Opinion**

The compensation judge did not abuse her discretion in relying on portions of expert medical opinion offered where the medical opinions relied on were consistent with the judge's factual findings regarding the employee's condition.

Affirmed.

***Laura Daza Zaragoza v. Golden Employment Group, Inc., Jan. 31, 2019***

**Causation – Temporary Injury**

Substantial evidence, including medical records and expert medical opinion, supported the compensation judge's findings that the employee's work injury resulted in a right shoulder strain/sprain and a right bicep tear, both of which were temporary in nature and had resolved.

**Medical Treatment and Expense – Substantial Evidence**

Substantial evidence, including medical records and expert medical opinion, supported the compensation judge's findings that medical care rendered or recommended after the resolution of the temporary injury was not causally related to the work injury.

**Intervenors**

Where an intervenor provided evidence for only a portion of its claims, and failed to provide evidence at hearing or otherwise of the remainder of its claim, the compensation judge did not err in awarding that portion for which evidence was presented despite the intervenor failing to follow the order to attend the hearing.

Affirmed.

Minnesota  
**Supreme Court**

*October 2018 through January 2019*

Case summaries published are  
those prepared by the WCCA



***Kayla Lein v. Eventide and Meadowbrook Claims Services, A18-0138, Oct. 2, 2018***

Affirmed without opinion.

***Angela Rogers v. Compass Airlines, Inc., A18-0319, Dec. 10, 2018***

Considered and decided by the court without oral argument. Affirmed without opinion.

***Daniel S. James v. Duluth Clinic, A18-1498, Jan. 8, 2019***

Considered and decided by the court without oral argument. Affirmed without opinion.

***Ellen Forrest v. Children's Hospitals and Clinics of Minnesota, A18-1499, Jan. 8, 2019***

Considered and decided by the court without oral argument. Affirmed without opinion.

***Jennifer Krumwiede v. GGNSC Slayton, LLC, A18-1272, Jan. 15, 2019***

Considered and decided by the court without oral arguments. Affirmed without opinion.