

2022 Workers' Compensation System Report released

Claim rates and benefits paid continue to follow long-term trajectories; COVID-19 has major impact in 2020

The 2022 *Workers' Compensation System Report* presents trend data from 2000 to the present regarding several aspects of Minnesota's workers' compensation system. For the past couple years, the workers' compensation system has presented two faces: one for the whole system, including COVID-19 claims; and the other excluding the COVID-19 claims, showing a pattern more similar to prior years.

Significant findings

- Relative to the number of full-time-equivalent workers, the total number of paid claims dropped by 51%, indemnity claims by 16% and medical-only claims by 60% from 2000 to 2020.
 - Due to the influx of COVID-19 indemnity claims, there was a 46% increase in the indemnity claim rate from 2019 to 2020.
- Relative to total payroll, indemnity benefits were down 30%, while medical benefits were down 47% between 2000 and 2020. These trends are the result of the claim rate falling faster than increases in benefits per claim.
- The total cost of Minnesota's workers' compensation system relative to payroll follows a multi-year cycle, but a comparison of similar points in the cycle indicates a long-term decrease that extrapolates to 43% over a 20-year period.
- In 2020, on a current-payment basis, the three largest components of total workers' compensation system cost were medical benefits (33%), indemnity benefits other than vocational rehabilitation (32%) and insurer expenses (30%).
- Compared to 2000, the average duration of total disability benefits (temporary total disability benefits and permanent total disability benefits combined) increased 18% in 2020 for non-COVID-19 claims, while the average duration of temporary partial disability (TPD) benefits fell 21% by 2019 and 24% by 2020.
 - When COVID-19 claims were included, total disability duration decreased 39% from 2019 to 2020 due to the significantly shorter duration of COVID-19 claims, while TPD duration decreased 9%.



After adjusting for average wage growth, the following was found.

- Total disability benefits per paid indemnity claim were largely stable from 2000 to 2020 for non-COVID-19 claims.
 - When COVID-19 claims were included, total disability benefits per paid indemnity claim fell 30% from 2019 to 2020.
- TPD benefits per paid indemnity claim fell 41% from 2000 to 2020 for non-COVID-19 claims.
 - When COVID-19 claims were included, there was a 41% decrease in TPD benefits per paid indemnity claim from 2019 to 2020.



- Permanent partial disability (PPD) benefits per paid indemnity claim fell 63% from 2000 to 2020 for non-COVID-19 claims.
 - When COVID-19 claims were included, there was a 40% decrease in PPD benefits per paid indemnity claim from 2019 to 2020.
- Settlement benefits per paid indemnity claim rose 17% from 2000 to 2020 for non-COVID-19 claims.
 - When COVID-19 claims were included, settlement benefits per paid indemnity claim decreased 31% from 2019 to 2020.
- Participation in vocational rehabilitation rose from 19% of paid indemnity claims for injury-year 2000 to 24% for 2019 but decreased to 21% among non-COVID-19 indemnity claims. There was a 22% decrease in the estimated number of workers who will receive vocational rehabilitation services for their injuries and illnesses in 2020.
 - The 2020 vocational rehabilitation participation rate was 14% when COVID-19 indemnity claims are included.
- The denial rate for non-COVID-19 claims was 17%. This was above the rate of 15% for 2019 and equal to the rate of 17% in 2015, the previous high rate in the past 20 years.
 - The denial rate of filed indemnity claims, with COVID-19 claims included, was 23% for 2020. This was substantially above the rate of 15% for 2019. A large part of the 2020 increase was due to the influx of COVID-19 claims; the denial rate for COVID-19 claims was 28%.

The complete report is available on the [Work comp: Minnesota Workers' Compensation System Report](#) webpage.

Medical Services Review Board seeks new members

The Medical Services Review Board (MSRB) currently has openings for: one employee representative (four-year term); one hospital representative (four-year term); two physician alternates (annual term); one physical therapist alternate (annual term); one employee representative alternate (annual term); and one hospital representative alternate (annual term).

- To apply for a position, visit sos.state.mn.us/boards-commissions.

MSRB is composed of two chiropractic representatives, one hospital representative, one registered nurse, one physical therapist, one occupational therapist, six physicians of different specialties, one employee representative and one employer/insurer representative. Each discipline also has one alternate, except there are three physician alternates.

The board meets quarterly, from 4 to 6 p.m., and: advises the Department of Labor and Industry (DLI) about workers' compensation medical issues; is the liaison between the department and the medical-provider community; and supports and engages in the education of the provider community about workers' compensation.

Learn more about MSRB at dli.mn.gov/about-department/boards-and-councils/medical-services-review-board.

Traumatic Brain Injury Workgroup meeting

MSRB has appointed a work group to advise DLI and the full board regarding the adoption of new rules for treatment of traumatic brain injuries (TBIs).

The work group plans to meet monthly to discuss potential TBI rules. Meetings will include presentations from experts in the diagnosis and treatment of TBIs. DLI has not drafted rules at this time but will present draft versions to the work group for its review once available. The work group will report to the full MSRB at scheduled quarterly meetings.

For further information, email Lisa Wichterman at medical.policy.dli@state.mn.us.



Verify workers' compensation insurance coverage via online lookup tool

The Department of Labor and Industry's (DLI's) online workers' compensation insurance lookup tool, designed to allow users to verify workers' compensation insurance coverage for employers based on proof of coverage data filed with DLI, is always available at inslookup.doli.state.mn.us.

INSURANCE LOOKUP ▶

Minnesota workers' compensation law requires all employers, with limited exceptions, to purchase workers' compensation insurance or become self-insured. This is often referred to as "mandatory coverage."

If you cannot find an employer using the lookup tool, contact DLI's Special Compensation Fund at 651-284-5324 or dli.scf.insver@state.mn.us to request insurance coverage verification about any employer in the state.

Rehabilitation Review Panel seeks new members

The Rehabilitation Review Panel (RRP) currently has openings for:

- two union labor members (four-year term);
- one insurer member (four-year term);
- one health care provider member (four-year term);
- one union labor representative alternate member (annual term);
- one employer/insurer representative alternate member (annual term); and
- one chiropractor/health care provider/rehabilitation provider alternate member (annual term).



To apply for a position, visit the Secretary of State website at sos.state.mn.us/boards-commissions.

RRP is composed of employer, insurer, labor, medical and rehabilitation representatives, and: advises the Department of Labor and Industry (DLI) about workers' compensation vocational rehabilitation issues and rules; is a liaison between DLI and interested people about workers' compensation vocational rehabilitation; and makes final decisions about certification approval or disciplinary matters of qualified rehabilitation consultants and vendors in conjunction with contested hearings.

Learn more about RRP at dli.mn.gov/about-department/boards-and-councils/rehabilitation-review-panel.

Training: OSHA recordkeeping basics offered Jan. 13, Jan. 20

The Department of Labor and Industry is offering free, online introductory-level training seminars about OSHA recordkeeping requirements Friday, Jan. 13, and Friday, Jan. 20, from 8:30 to 11 a.m.

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.

Topics will include: recordability of injuries and illnesses; differences between OSHA cases and workers' compensation claims; classifying cases; counting time; privacy cases; how many logs to keep; maintaining logs; creating a log summary; reporting log data to OSHA; and recording COVID-19 cases.

- Learn more about the sessions and register to attend (required) on the [MNOSHA Compliance: Recordkeeping standard webpage](#).

Work Comp Campus training series underway

The Work Comp Campus training series provides live, half-hour, virtual sessions focused on dispute-resolution filings and associated actions. The goal is to provide practical training in an interactive and efficient manner. The sessions are geared toward attorneys, claim handlers, medical providers and employer representatives, whether they are new to Campus or an experienced user looking to refresh their skills.



The sessions are designed for efficiency: each will have a single planned topic or issue for discussion and live demonstrations; and sessions will be no more than 30 minutes. At the end each session there will be some time for general questions. Sessions will be delivered by Campus experts from the DLI's Alternative Dispute Resolution unit.

The sessions are free and will be conducted via Microsoft Teams. Registration is simple and can be done anytime via the link below. The next scheduled session is noon to 12:30 p.m.

Date, topic, link

- Wednesday, Dec. 21: [Notices to potential intervenors and filing a Motion to Intervene](#)

Note: To add the meeting to your electronic calendar after you register, open the confirmation email message and click on the .ics attachment.

Additional training sessions will be scheduled in 2023.

Work Comp Campus EDI changes XML formats next year

On Feb. 9, 2023, the Department of Labor and Industry (DLI) Work Comp Campus will update the electronic data interchange (EDI) program to adopt the International Association of Industrial Accident Boards and Commissions (IAIABC) Claims Release Standard Version 3.1.5 (R3.1) XML format.

The change will retire the ACORD XML format and mandate that all trading partners reporting EDI will use only the IAIABC XML format. The format change will not affect eform trading partners. Testing is tentatively planned for the fourth quarter of 2022.

While nearly all EDI edits will remain the same as in the current format, DLI will adopt two new Minnesota specific data elements.

1. **DN0438 – Collective Bargaining Agreement Code** used to report Union Construction Workers' Compensation Program (UCWCP) claims only.
2. **DN0440 – Withheld Attorney Fees – Current**, and the associated DN0092 – Benefit Adjustment Code valid value 4, which equals withheld attorney fees to report potential contingent attorney's fees.

How to prepare

Stakeholders should prepare for sending EDI in the new XML format by working with their EDI vendor or contacting DLI directly.

Guidance from ADR: Notices of right to intervene

By Aaron Frederickson, *Alternative Dispute Resolution, arbitrator/mediator*

All stakeholders should be mindful of the statutory and administrative rules (Minnesota Statutes § 176.361 and Minnesota Rules 1415.1250) that govern the process for placing entities on notice of the right to intervene in a dispute at the Department of Labor and Industry (DLI) and how this is accomplished with Work Comp Campus.

A notice of right to intervene (or intervention notice) is not a Campus-generated webform such as the Request for Assistance webform. Parties must create their own intervention notices, send them and upload them to a dispute in Campus. The guidance below will help you ensure notices provide necessary information to potential intervenors.

Ensure the caption is correct

Anyone sending an intervention notice should ensure they include the relevant information about the dispute, including the following.

- **Names of the parties:** Include the name of the employee, the employer and the insurer or third-party administrator (TPA).
- **Date of injury:** Include all dates of injury in the dispute.
- **Campus dispute number:** This is the number used in Campus that starts with “DS.” Additional information about Campus basics and naming conventions can be found in [Work Comp Campus: Back to the basics for effective navigation](#) in the June 2022 edition of *COMPACT*.
- **Venue:** If the dispute is pending at DLI, include that information on the notice to ensure the potential intervenor is advised that any Motion to Intervene form should be filed at DLI. If the dispute is transferred to the Office of Administrative Hearings (OAH), the motion will need to be filed at OAH. Anyone can contact DLI's Alternative Dispute Resolution (ADR) unit to confirm if a dispute is still under DLI jurisdiction.

Providing accurate information about the dispute is vital to ensuring the potential intervenor can file their motion promptly and seamlessly.

Additional helpful information for potential intervenors

The statute and administrative rules provide details about required information in a notice of right to intervene. Nothing prohibits a stakeholder from including additional information on a notice to assist parties who do not file motions frequently to complete the process with ease. Some suggestions for an effective notice include the following.

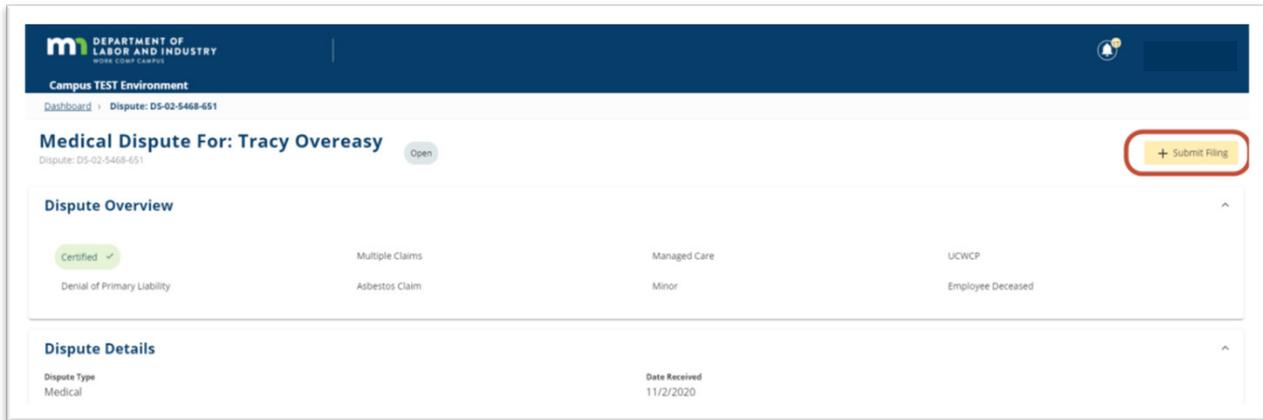
- State in the notice that parties who choose to file a motion at DLI need to do so via Campus. This is necessary because all paper copies received by DLI via U.S. mail will be returned to the sender.
- Include the Workers' Compensation Division Help Desk contact information in case a party has problems filing their motion – 651-284-5005 (press 3), 800-342-5354 (press 3) or helpdesk.dli@state.mn.us.
- Include a link to [Campus training materials about filing the Motion to Intervene](#).
- Include a link to the [Office of the Revisor of Statutes website](#) so a potential intervenor can review pertinent statutes and rules.

Guidance from ADR, continues ...

Filing intervention notices with DLI

To file a notice of right to intervene with DLI, it must be uploaded to the dispute in Campus. To avoid a delay in holding an administrative conference, the party filing a notice of right to intervene must file the notice with DLI at the time that copies of the notice are served on potential intervenors.

Notices of right to intervene should be filed on the Campus “Dispute Details” page through the “Submit Filing” button in the upper right corner (see screenshot below).



After the “Submit Filing” action screen appears, select “Other Filing” and upload the document(s). In the “Document Type” drop-down menu, select the “Correspondence to Department” option and include the following:

- in the “Description field,” enter an appropriate description, such as “Notice of right to intervene – Health Care Provider/Party Name”; and
- if any additional documents are being attached, repeat entering appropriate descriptions under the “Supporting Attachments” section.

After completing the necessary signatures and attestations, a confirmation page will display that will include a link to the document, which will be given a unique document number (DO-xx-xxxx-xxx) created within Campus. This will also be visible on the user’s Campus dashboard.

Conclusion

Proper and timely notice is required under statute and rules to ensure potential intervenors are aware of their rights. If a dispute is pending at DLI, file the notices in Campus. Attorneys and their legal team should review their templates to ensure they provide all interested stakeholders with accurate and helpful information. Following the steps outlined above will help ensure all parties are aware of litigation that impacts their interests.

Translated materials, Language Line available via DLI website

The Department of Labor and Industry (DLI) posts its available translated materials online at dli.mn.gov/about-department/about-dli/translated-materials. It has documents available in Chinese, Hmong, Karen, Somali and Spanish. A few other documents throughout the website are available in additional languages.

Also, the DLI website now provides Google Translate, allowing visitors to choose the language for the website text.

In addition, DLI has access to Language Line, a free language translation phone service for limited-English speakers. If DLI help is needed, view the contact information at dli.mn.gov/about-department/about-dli/contact-us, call and a DLI employee will get in touch with an interpreter in the needed language.

WCRI report compares Minnesota medical payments and use with 17 other states

By Brian Zaidman, Research and Statistics

The Workers' Compensation Research Institute's (WCRI) most recent report for Minnesota, *CompScope Medical Benchmarks for Minnesota, 23rd Edition*, was released in October. This report uses insurer claim files to compare Minnesota's medical payments and service use with those of 17 other states, including Iowa and Wisconsin. The report is available from the WCRI at wcrinet.org.



The report focuses on results for workers injured in 2020 (which covers Oct. 1, 2019, through Sept. 30, 2020) and on trends for claims from 2015 to 2020, with experience through March 2021. Most statistics relate to claims with more than seven days of lost time, measured at an average of one year following the injury. The report only includes non-COVID-19 claims.

- For claims with more than seven days of lost time, Minnesota's average adjusted medical payment for 2020 claims measured in 2021 was \$10,972, 21% lower than the median of the 18 study states.
 - Average payments per claim for nonhospital providers were 26% lower than the 18-state median.
 - Average hospital outpatient payments were 14% higher than the 18-state median.
 - Average payment for hospital inpatient services were 16% lower than the median.
- Medical payments per claim at 12 months showed little change for claims from 2015 through 2020. The average annual growth in medical payments in Minnesota was 1.7% for all claims and -0.4% for claims with more than seven days of lost time.
- Two-thirds of the 2020 Minnesota claims with more than seven days of lost time had payment to a hospital (typical of the study states) and hospitals accounted for 52% of the medical payments, above the median of 45%.
- Average hospital outpatient payments remained stable for 2020 claims compared with 2019 claims at one year's maturity (-1.1 percentage point change). The median value was a -0.2 percentage point change.
- Among 2019 claims (at two years average claim maturity), 5.5% of injured workers in Minnesota had hospital inpatient care, near the median value of 5.7%. Among workers with inpatient episodes, 40% involved surgery, which is 2.5% of all claims with more than seven days of lost time, slightly below the median value of 2.8%.
- Minnesota's average adjusted hospital inpatient payments per inpatient episode for 2019 claims (at two years average claim maturity), \$31,338, was 21% below the median state value (\$39,536).
- For arthroscopic knee surgeries performed in 2020, Minnesota's average payment to ambulatory surgical centers was 34% below the median value for the 18 states and the average payment to hospitals for outpatient surgeries was 29% below the median.
- For arthroscopic shoulder surgeries performed in 2020, Minnesota's average payment to ambulatory surgical centers was 48% below the median value for the 18 states and the average payment to hospitals for outpatient surgeries was 26% below the median.

About WCRI

Founded in 1983, WCRI is an independent, not-for-profit research organization that strives to help those interested in making improvements to the workers' compensation system by providing highly regarded, objective data and analysis.

Minnesota workplace injury and illness rate decreases

Minnesota’s estimated workplace injury and illness rate for 2021 decreased from that of 2020. According to the annual Survey of Occupational Injuries and Illnesses, the state had an estimated 3.4 OSHA-recordable, nonfatal, workplace injuries and illnesses per 100 full-time-equivalent (FTE) workers in 2021; the estimated rate for 2020 was 3.5 cases per 100 FTE workers.

The survey estimated Minnesota had 73,800 workers with OSHA-recordable, nonfatal, workplace injuries and illnesses in 2021, compared to 76,700 estimated cases for 2020. There were 13,500 illnesses in 2021 and, of these, 11,300 were respiratory illnesses, including COVID-19 cases. In 2020, there were 14,300 COVID-19 cases.

In 2021, Minnesota’s employment covered by the survey was approximately 2.69 million workers. In 2020, employment covered by the survey was 2.78 million workers.

“We are encouraged by these results,” said Department of Labor and Industry (DLI) Temporary Commissioner Nicole Blissenbach. “While this is good news overall, there is still much work to do to improve workplace safety and health to ensure more workers go home safe and healthy each night.”

Nationally, an estimated 3,250,700 nonfatal workplace injuries and illnesses were reported in private- and public-sector workplaces for 2021, resulting in a rate of 2.9 cases per 100 FTE workers.

Other results from the Minnesota survey

The industries with the highest total injury and illnesses rate were: local government nursing and residential care facilities (30.6 cases per 100 FTE workers); private industry hospitals (9.4); private industry couriers and messengers (9.4); and state government nursing and residential care facilities (9.2).

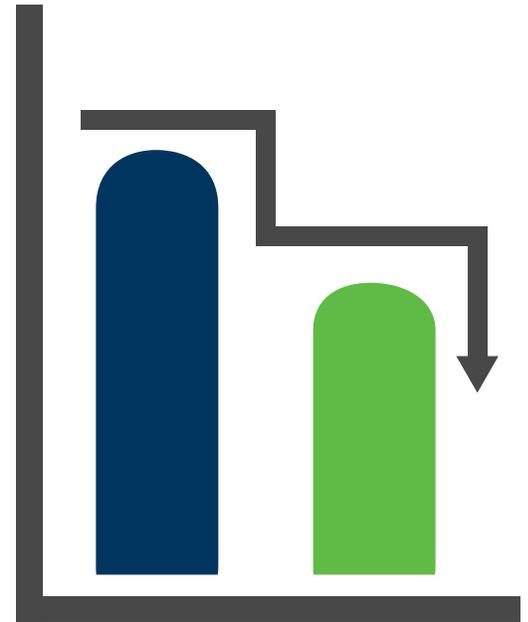
An estimated 33,300 injured workers had one or more days away from work after the day of injury, resulting in 1.5 cases per 100 FTE workers in Minnesota. In 2020, this rate was 1.6 cases per 100 FTE workers in Minnesota.

Starting with 2021 injuries and illnesses, the U.S. Bureau of Labor Statistics (BLS) will be releasing case and demographic results on a biennial basis. Therefore, 2021 case and demographic data will be combined with 2022 data and published in November 2023.

State agencies and BLS compile the survey data. This is the primary source of workplace injury and illness statistics at the state and national levels. DLI collects injury and illness records from randomly sampled Minnesota establishments in the private- and public-sectors (excluding federal agencies). Approximately 3,900 establishments provided usable responses for the 2021 survey.

The Minnesota Department of Labor and Industry appreciates the thousands of employers that fulfilled their mandate to make the survey a success and enabled the publication of injury and illness rates.

Minnesota data tables are available on the DLI website at dli.mn.gov/our-areas-service/research-and-statistics/survey-occupational-injuries-and-illnesses. National data tables are available on the BLS website at bls.gov/iif/oshsum.htm and bls.gov/iif/oshcdnew.htm.



Preparing for mediation: Tips from an ADR mediator

By Christie Ahern, mediator/arbitrator, Alternative Dispute Resolution

The Department of Labor and Industry (DLI) offers free, voluntary and confidential mediation services to parties for any workers' compensation matter, whether there is active litigation or not. Parties can request a specific mediator, if they wish, from the many DLI Alternative Dispute Resolution (ADR) mediators, who have a variety of backgrounds and are all professionally trained in mediation and negotiation techniques. Mediations can be scheduled on short notice or many months in advance. Mediations can take place at DLI, by telephone or at another location agreed upon by the parties. The following is some guidance to help prepare for a successful mediation.



Readiness

Assess whether you are ready for mediation, even if you already have a mediation date on the calendar. If you are waiting for an independent medical examination (IME) report and cannot proceed without it, you can easily reschedule your mediation. The same is true if you need a consultation with a surgeon, new parties need to be added to the litigation or for many other reasons. DLI mediators are flexible and will help schedule a new date to accommodate your needs.

The basics

Remind your client of the date and time of the mediation, and that they should be available for the entirety of the scheduled time (usually three hours). The majority of mediations are now by phone; make sure you have your client's current phone number. If the mediation is in person (usually at DLI or a law firm), make sure your client knows where to appear.

Expectations and settlement terms

Discuss with your client the pros and cons of the case, potential exposure and chances of success at trial to establish a reasonable settlement value. Recommend and obtain from your client authority to settle the case. Also discuss with your client the specific terms necessary to settle the case, such as whether future medical benefits will remain open or if resignation from a job will be required by the employer.

Others involved

Make sure all potential intervenors (medical providers, vocational rehabilitation providers, health insurers and other entities who have paid benefits to or on behalf of the employee) have been placed on notice of their potential right to intervene. If the employee is a Medicare beneficiary or is within the window of reasonable expectation of Medicare entitlement, has consideration been given to a Medicare set-aside?

Unique circumstances

Advise the mediator in advance of any special circumstances that may affect the mediation. Is there a friend or relative of the employee who will exert influence during the mediation? Is there an employer that does not want to lose a valuable employee as part of settlement? Is your client expressing unreasonable expectations about the value of the case? With advance notification, ADR mediators can assist in managing such issues more effectively.

Scheduling mediation, more information

To schedule a mediation or learn more about this service, contact ADR at mediation.dli@state.mn.us or 651-284-5030. More information is also available at dli.mn.gov/workers/workers-compensation/work-comp-alternative-dispute-resolution-services.

CompFact: Workers' Compensation Court of Appeals activity

By Brian Zaidman, Research and Statistics

Under Minnesota Statutes chapters 175A and 176, the Workers' Compensation Court of Appeals (WCCA) has exclusive, statewide authority to hear and determine questions of law and fact under the Workers' Compensation Act appealed from decisions issued by compensation judges at the Office of Administrative Hearings (OAH) and, in certain instances, cases decided by the Workers' Compensation Division at the Department of Labor and Industry, as well as to review petitions to vacate awards on stipulation. A panel of three or five judges decides each appeal. A written decision must be issued within 90 days after a case has been assigned to a panel. According to the WCCA website, the judges review the evidentiary record created at the initial hearing, preside over oral arguments, conduct legal research, decide the legal and factual issues appealed by the parties, and issue written orders, decisions and memoranda. Decisions are written to inform the parties and the public of the bases for the court's decisions and to create a body of law interpreting and applying Minnesota workers' compensation laws. Decisions of the WCCA are appealable directly to the Minnesota Supreme Court.

Data about WCCA cases is entered into Work Comp Campus. Summaries of WCCA decisions are printed in each edition of *COMPACT* and an online WCCA archive includes decisions issued by the court from 1999 to the present (see mn.gov/workcomp/decisions).

Figure 1 shows the number of cases filed at WCCA from 2000 through 2021. The number of decisions has been trending downward since 2004, falling from a high of 226 cases in 2004 to 56 cases in 2021.

Figure 2 shows the number of days between major activities in WCCA cases, for cases filed in 2019, 2020 and 2021. The average number of days from the OAH order to filing the appeal at WCCA has remained consistently near 23 days. The average number of days from the filing to the argument date decreased during this period, from 224 days in 2019 to 123 days in 2021. The average number of days from the WCCA argument to the publication of the decision has also decreased. However, the average from the WCCA filing to the decision has remained near 195 days. The pattern also holds when the median dates are considered.

Figure 1. Number of cases filed at WCCA by year filed

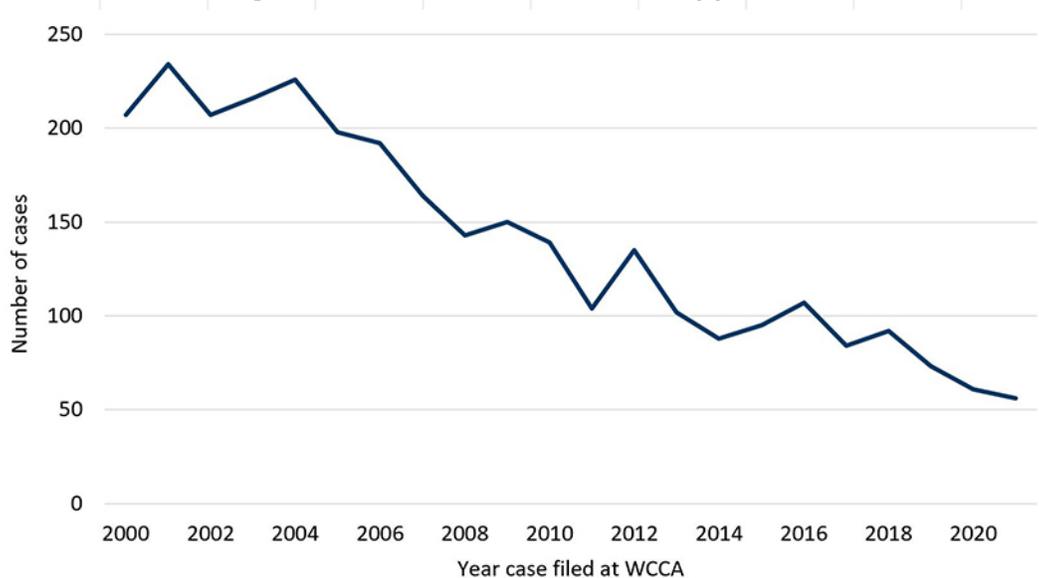
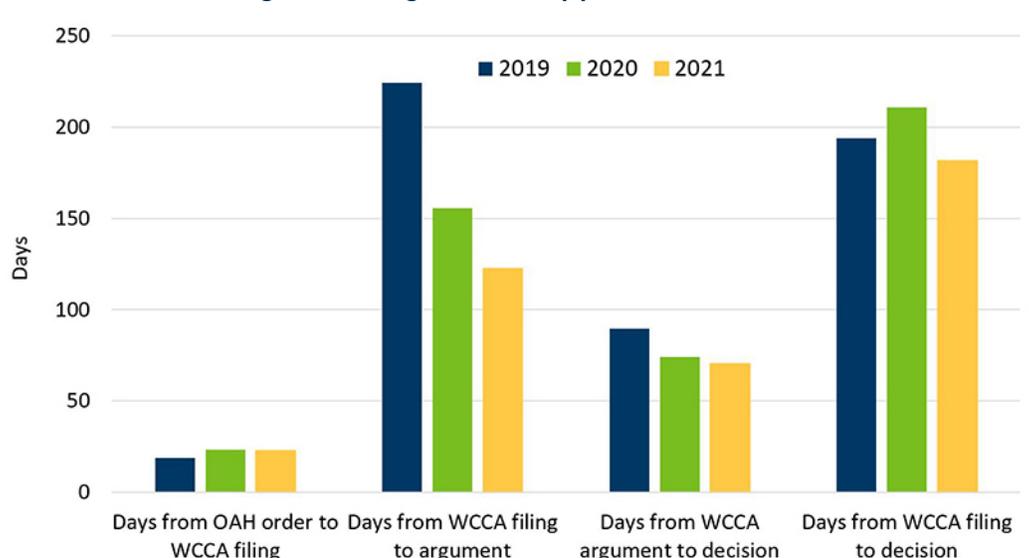


Figure 2. Average timelines by year filed at WCCA



Stay in the know: Subscribe for news from DLI

Did you know the Department of Labor and Industry offers more than two dozen email lists you can subscribe to receive news targeted to specific groups? (If you are reading this, you are probably on the *COMPACT* email list.)

Lists related to workers' compensation news include the following:

- Adjusters updates
- Employer updates
- Rehabilitation providers updates
- Attorney updates
- Medical providers updates
- Trading partner updates



Other email lists are available for:

- Agency news
- Construction codes, licensing and building trades
- Minnesota OSHA and workplace safety
- Apprenticeship, dual-training and Youth Skills Training
- Labor standards, worker rights, wage and hour
- Rulemaking

To learn more about the available email lists, visit dli.mn.gov/about-department/news-and-media/sign-news-department-labor-and-industry.

Work Comp Campus continues to support stakeholders, provide resources

Work Comp Campus, DLI's workers' compensation claims portal that launched in November 2020, continues to support internal and external stakeholders through:

- the Workers' Compensation Division Help Desk, available Monday through Friday from 8 a.m. to 4:30 p.m. at 651-284-5005 (press 3), 800-342-5354 (press 3) or helpdesk.dli@state.mn.us;
- stakeholder-specific newsletters (currently sent quarterly) that include recent system update information – sign up at www.dli.mn.gov/about-department/news-and-media/sign-news-department-labor-and-industry;
- FAQs specific to each stakeholder group – see www.dli.mn.gov/business/workers-compensation/work-comp-campus-faqs;
- online availability of training materials and video resources – see www.dli.mn.gov/business/workers-compensation/work-comp-campus-training; and
- an anonymous feedback form – see <https://secure.doli.state.mn.us/stakeholderfeedback/>.

m DEPARTMENT OF
LABOR AND INDUSTRY
WORK COMP CAMPUS

Sign In

Email *

Email

Password *

[Forgot password?](#)

Login Sign Up

Workers' compensation events calendar

Note: Event dates may change. Always check the online calendar at www.dli.mn.gov/about-department/about-dli/events-workers-compensation.

December 2022

Dec. 21 **Campus training series: Notices to potential intervenors and filing a Motion to Intervene**

January 2023

Jan. 5 **Rehabilitation Review Panel**

Jan. 19 **Medical Services Review Board**

February 2023

Feb. 3 **QRC intern, vendor, supervisor orientation session**

March 2023

March 15 **Workers' Compensation Insurers' Task Force**

April 2023

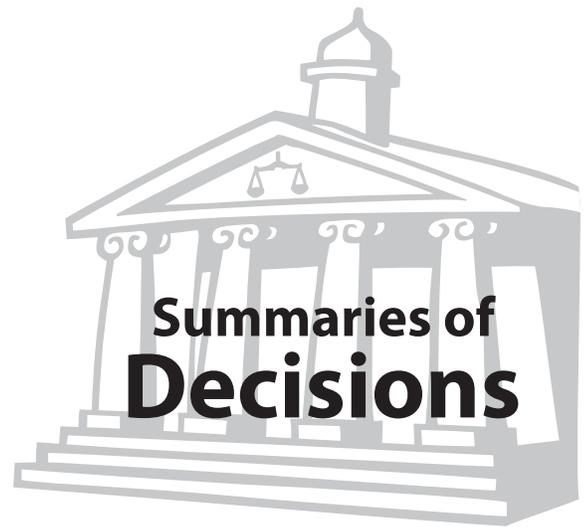
April 6 **Rehabilitation Review Panel**

April 20 **Medical Services Review Board**

Workers' Compensation Court of Appeals

August through October 2022

Case summaries published are
those prepared by the WCCA



Phillip M. Muchow v. State of Minnesota, Aug. 8, 2022

Vacation of Award – Substantial Change in Condition

The employee has established cause to vacate the 1995 and 1997 awards where the evidence demonstrates a change in his medical condition that was not and could not reasonably have been anticipated at the time of those settlements.

Petition to vacate granted.

Shanan S. Curtis v. Independent School District 721 New Prague Area Schools, Aug. 30, 2022

Substantial Evidence – Expert Medical Opinion

The compensation judge did not err in relying upon the adequately founded opinion of the employer and insurer's medical expert over those of the employee's medical expert in determining the employee's work injuries were temporary and had resolved.

Temporary Benefits – Job Refusal

When the employee was not receiving temporary total disability (TTD) benefits at the time of the suitable job offer, Minnesota Statutes 176.101, subdivision 1(i), cessation provision does not bar entitlement to TTD. Substantial evidence supports the denial of TTD benefits.

Affirmed as modified.

Brent Tweet v. Home Depot, Sept. 1, 2022

Causation – Medical Treatment Causation – Temporary Aggravation Causation – Preexisting Condition

The employee's medical record and the well-founded opinion of a medical expert constitutes substantial evidence to support the compensation judge's findings that the employee's work injury was temporary and resolved, and did not substantially aggravate the employee's preexisting medical condition.

Affirmed.

Lisa M. Guthmiller v. Advanced Circuits, Inc., Sept. 9, 2022

The disputed award of benefits in this case required payment of the costs of medical marijuana to address the employee's chronic pain condition. Having reviewed the record, the court agrees that the holdings in Musta and Bierbach resolve the issues presented in this appeal. As the parties have indicated that there are no additional issues requiring resolution and there is no objection, summary reversal of Order 2, is appropriate. The remaining order is affirmed.

Jason Witthus v. Harvey L. Noyes, Sept. 30, 2022

Exclusion From Coverage – Casual Employment

Where the employee was hired through a first-come, first-served third-party labor service, conducted temporary, day-to-day labor, intended for a homeowner's personal use, substantial evidence supports the compensation judge's finding that the employment was casual and not in the homeowner's usual trade or business.

Affirmed.

Isacc L. Faulkner v. Menards, Oct. 3, 2022

**Causation – Reflex Sympathetic Dystrophy
Evidence – Medical Expert Opinion**

Where two treating providers diagnosed CRPS and the employee's medical record contained numerous observations of many of the symptoms of that condition, the compensation judge's finding that the employee suffered from CRPS was not clearly erroneous and is supported by substantial evidence.

Job Offer – Refusal

Substantial evidence, including the report of the QRC, the employee's treating physician and the employee's credible testimony, supports the compensation judge's determination that the employee was medically unable to perform the job offered by the employer and the employee's failure to accept the job was not a basis to discontinue temporary total disability benefits.

Appeals – Scope of Review

When an issue regarding the adequacy of a second opinion meeting specific treatment parameters is not raised at the hearing, that issue may not be raised for the first time on appeal.

Affirmed.

Jerry B. Darvell v. Wherley Motors, Inc., Oct. 5, 2022

Petition To Vacate – Substantial Change In Condition

Where the record does not indicate there was a substantial change in the employee's medical condition that was not anticipated at the time of settlement, medical expenses were left open and continued to be paid by the employer, and the employee's ability to work had not changed significantly since the date of settlement, good cause was not established to vacate the 1999 award on stipulation.

Petition to vacate denied.

Jakob Ingalls v. Rose Electronic Systems, Inc., Oct. 7, 2022

**Causation – Temporary Aggravation
Causation – Substantial Evidence**

The compensation judge's findings that the employee's work injury no longer substantially contributed to his mental health condition is inconsistent with the medical evidence that the employee suffered from nightmares related to the work injury more than a month after the resolution date found by the judge.

Rehabilitation – Consultation

The compensation judge's denial of vocational rehabilitation benefits is inconsistent with her finding that the employee remained disabled and subject to work restrictions as of the date the QRC conducted the rehabilitation consultation.

Affirmed as modified in part, vacated in part and remanded.

Ray Appleby v. Minneapolis Park and Recreation Board, Oct. 10, 2022

Causation – Substantial Evidence

Where supported by medical records and not otherwise unreasonable, the compensation judge's conclusion that the employee's work injury was no longer a substantial contributing factor beyond specified dates of treatment was not clearly erroneous or unsupported by substantial evidence.

Affirmed as modified.

Bonnie Brandia v. LKQ Minnesota, Inc., Oct. 24, 2022

Jurisdiction – Subject Matter

This court does not have jurisdiction to determine whether the CBD content of medical cannabis obtained through the THC Act renders that medical cannabis outside of the Schedule 1 listing of the Controlled Substances Act (CSA), 21 U.S.C. §§ 801-971, for the purpose of determining compensability of that substance under the Workers' Compensation Act.

Constitutional Law

The doctrines of res judicata and collateral estoppel and the statutory mechanism for petitioning to vacate an award have no bearing on the compensability of medical cannabis where the only issue presented to the compensation judge was whether reimbursement for medical cannabis could be ordered and the Minnesota Supreme Court determined compelling such reimbursement was preempted by the Controlled Substances Act, (CSA), 21 U.S.C. §§ 801-971.

**Constitutional Law
Jurisdiction – Subject Matter**

This court is obligated to follow precedent established by the Minnesota Supreme Court and can only preserve arguments for appeal where a party seeks nullification of a Minnesota Supreme Court decision.

Affirmed.

Appeals – Briefs

Where the appellant has adequately communicated the objections to the underlying determination in the notice of appeal and appellate brief, dismissal of the appeal for failure to state a justiciable issue is not appropriate.

Causation

Substantial evidence, including medical records and well-founded expert testimony, supports the compensation judge’s findings that the employee did not sustain an injury to his right shoulder, neck or low back resulting from the employee’s claimed work injuries.

Affirmed.

**Practice And Procedure
Rules Construed – Minnesota Rules 1420.2250, subpart 3**

A hearing is not required for motions to dismiss but may be necessary where disputed factual issues must be resolved to determine the merits of the motion in order to provide notice to the parties and to afford a sufficient record to allow appellate review. In this case, there were no disputed material factual issues, and no basis to vacate and remand for an evidentiary hearing.

**Practice And Procedure
Statutes Construed – Minnesota Statutes § 176.371**

Minnesota Statutes § 176.371 does not provide a remedy to a party where a compensation judge’s decision is not issued within the prescribed period and the post-hearing delay in issuing a decision in this case does not require another hearing.

Practice and Procedure – Dismissal

Where all of the employee’s claims for disability, rehabilitation and medical treatment had been settled by the parties in a full, final and complete resolution of the employee’s claims and an award on stipulation had been filed, the compensation judge properly dismissed the employee’s claim petition on the basis that it did not set forth an actionable claim for benefits under the Workers’ Compensation Act.

Affirmed.