

Minutes: Workers' Compensation Insurers' Task Force

Date: May 19, 2021

Time: 9 to 10:30 a.m.

Location: Via Webex

Call to order

- Roll call by Gretchen Longbehn

Approval of agenda

- The agenda has been approved.

Department update: Commissioner Roslyn Robertson

Work Comp Campus update and status: Program Director Brad Morse

New procedure for medical provider penalties: Lisa Wichterman of Compliance, Records and Training

Overview of new language

- The 2021 Workers' Compensation Advisory Council bill added a new subdivision to Minnesota Statutes section 176.136 that allows the Department of Labor and Industry (DLI) to assess a penalty against a health care provider that bills an injured worker for treatment, in violation of workers' compensation law.

Summary of language

- The commissioner may assess penalties, costs and expenses against a health care provider that collects or attempts to collect payment from an employee, in violation of workers' compensation law.
- A violation occurs only if the health care provider or representative was informed the treatment or service was for a claimed workers' compensation injury or the bill should be submitted to a workers' compensation insurer.
- A violation occurs *each* time the health care provider attempts to collect payment after the provider is notified the employee's treatment is for a workers' compensation injury.

Penalties

- The penalty assessed against the health care provider for each violation shall be \$1,000 for each contact made in person, by U.S. mail, by telephone, by text, by email or by any other type of contact seeking payment.
- The penalty assessed amount shall be \$2,000 for each violation if the provider or their representative:
 - engages a collection agency or third party to collect from the employee;
 - files a claim in conciliation court;
 - attaches the employee's tax refund;
 - submits a report to a credit agency; or
 - if the employee paid the health care provider as a result of the violation.

Written notification provided once

- Before the commissioner assesses a penalty, there must be documentation that the health care provider or its representative has been provided with written notice that attempting to collect or collecting payment from an employee is a violation of workers' compensation law and that penalties may be assessed.
- The written notice can be provided by any agency or person, including: the employee; an insurer, self-insurer or third-party administrator; or an attorney.
- Written notification provided before the effective date satisfies the notice requirement.
- A model notice will be posted on DLI's website before the Aug. 1 effective date.

Costs and expenses

- In addition to any penalty assessed, the provider must reimburse the amount the employee paid to the health care provider, plus interest.
- For the other violations listed on slide 6, the provider must reimburse the employee a minimum lump-sum of \$500 without supporting documentation, in addition to other costs or expenses documented greater than that amount.
- Costs and expenses are payable regardless of whether the notice has been provided.
- Costs and expenses may include:
 - attorney fees;
 - lost wages;
 - filing fees;
 - court costs;
 - courier fees;
 - photocopying or fax charges;
 - telephone and postage charges;
 - computer or research costs;
 - witness fees;
 - records; and
 - travel expenses.

Task force update: WCITF co-chairman Rob Rangel

Supreme Court decision: Ethan Landy, Office of General Counsel

Next meeting

- The next Workers' Compensation Insurers' Task Force meeting is Wednesday, Aug. 18, 2021, 9 to 10:30 a.m.

Adjournment

[Play recording](#) (one hour, six minutes)