

'True-up' adjustment added to Special Compensation Fund assessment

When Gov. Mark Dayton signed the workers' compensation bill in April, Minnesota Statutes § 176.129, subd. 2a, was amended to provide an adjustment – or "true-up" – of the assessment paid by insurers for deposit into the Special Compensation Fund (SCF).

Now when the commissioner *estimates* each insurer's share of the assessment using the insurer's earned standard premium from the previous calendar year, the commissioner must also 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. As a result of this true-up, insurers may be refunded overpaid monies or owe additional monies to the SCF.

Invoices for additional funds will be mailed to insurers by Nov.

15, with payment due Dec. 1; refunds will be paid to insurers by Dec. 1. To be issued a refund, insurance companies that are not currently recorded as vendors with the state of Minnesota will be required to file a W-9 Request for Taxpayer Identification Number and Certification form.

More information

For more information, contact John Kufus at (651) 284-5179 or john.kufus@state.mn.us.

OFFICE OF WORKERS' COMPENSATION OMBUDSMAN

Providing advice, assistance for people navigating the work comp system

The Office of Workers' Compensation Ombudsman is a separate unit within the Department of Labor and Industry. The ombudsman is available to inform, assist and empower injured workers and small businesses having difficulty navigating the workers' compensation system, to resolve problems encountered in the system. The Office of Workers' Compensation Ombudsman also recommends statute or rule changes to improve the effectiveness of the workers' compensation system. For complete information, call (651) 284-5013 or visit www.dli.mn.gov/WC/Ombudsman.asp.

As part of the Office of Workers' Compensation Ombudsman, the Patient Advocate Program provides information and assistance to injured workers with serious low-back injuries to help them understand their treatment options in the workers' compensation system so they receive appropriate care and effective treatment by making informed decisions. For complete information, call (651) 284-5202 or visit www.dli.mn.gov/WC/OmbudsmanPatientAdvocate.asp.

Helpful resource

General information sheets from DLI's General Counsel

The Department of Labor and Industry's Office of General Counsel has updated many of its information sheets about workers' compensation matters – from insurance coverage to reporting a work injury to settlements and more.

The information sheets are online at www.dli.mn.gov/WC/InfoSheets.asp.

The information sheets are not to be considered legal advice; every situation is different and other laws may apply.



Results of 2013 Special Compensation Fund assessment

By John Kufus, Accounting Officer, Financial Services

The Special Compensation Fund (SCF) assessment funds Minnesota's workers' compensation programs. Most of the assessment dollars go to funding the supplementary and second-injury benefit programs. The assessment also pays the operating expenses of the Workers' Compensation Court of Appeals and the workers' compensation divisions of the Department of Labor and Industry and the Office of Administrative Hearings.

The Special Compensation Fund assessment is directly invoiced by the Minnesota Department of Labor and

Industry. The first half of the assessment is invoiced by June 30 of each year, and is due Aug. 1 of that year. The second billing is due Feb. 1 of the following year, and is mailed approximately 30 days before the due date.

	2013 indemnity	Ratio	Estimated liabilities	DSR pure premium
Insurers	\$309,650,808	75.89%	\$61,472,797	\$802,192,426
Self-insurers	\$ 98,363,759	24.11%	\$19,527,203	
Total	\$408,014,567	100.00%	\$81,000,000	\$802,192,426

The 2014 SCF assessment continues a downward trend in the amount of funding required with a corresponding reduction in the assessment rate. The 2014 assessment of \$81,000,000 is \$500,000 less than the 2013 assessment of \$81,500,000. During the past six years, the annual funding requirement has dropped \$10,000,000. The 2009 assessment was \$91,000,000 versus \$81,000,000 for the 2014 assessment. The assessment rate has dropped 15 percent from 23.3 percent for the 2009 assessment to 19.9 percent for the 2014 assessment.

The estimated state-fiscal-year 2015 funding requirement for the Special Compensation Fund was determined to be \$81,000,000. The liability was divided between the insurers and self-insurers by the ratio of their 2013 indemnity payments to the total indemnity reported by both groups.

Insurer premium surcharge rate

The insurer premium surcharge rate applied for the purpose of determining the Special Compensation Fund assessment was 7.6631 percent. The rate was determined by dividing the insurer portion of the Special Compensation Fund state-fiscal-year 2015 liability (\$61,472,797) by the 2013 designated statistical reporting pure premium reported by all insurers to the Minnesota Workers' Compensation Insurers Association (\$802,192,426).

Self-insured assessment rate

The imputed self-insured assessment rate was 19.8520 percent. It was determined by dividing the self-insured portion of the Special Compensation Fund state-fiscal-year 2015 liability (\$19,527,203) by the total 2013 indemnity reported by the self-insured employers (\$98,363,759).

Percentage for assessments due for insurers and self-insurers			
Year assessed	Basis for assessment	Insurers	Self-insurers
2003	2002	12.5457%	27.4374%
2004	2003	11.0335%	25.6801%
2005	2004	10.1742%	24.2958%
2006	2005	9.2312%	23.6870%
2007	2006	8.7176%	24.0396%
2008	2007	8.6050%	23.8969%
2009	2008	8.5347%	23.3185%
2010	2009	8.6636%	22.4319%
2011	2010	8.9013%	22.0264%
2012	2011	8.269%	21.631%
2013	2012	7.5211%	19.9725%
2014	2013	7.6631%	19.8520%

The current assessment is considered to be an estimate based on the prior year's data. The reconciliation and final determination (true-up) for insurers will be completed by Dec. 1, 2015. (See page one for more about the true-up.)

More information

For further information, contact John Kufus at (651) 284-5179 or john.kufus@state.mn.us.

New benefit and provider fee levels effective October 2014

By Brian Zaidman, Research and Statistics, and Kate Berger, General Counsel

The statewide average weekly wage (SAWW) effective Oct. 1, 2014, is \$961, a 1.69 percent increase from the current SAWW of \$945, which has been in effect since Oct. 1, 2013. (See the table below.) The levels for minimum and maximum weekly benefit payments are presented in the table on page 4. The statewide annual average wage will change to \$49,924 on Jan. 1, 2015.

The new SAWW is based on 2013 payroll and employment figures supplied by the Department of Employment and Economic Development and the calculation procedure in Minnesota Statutes § 176.011, subd. 1b. The change in the SAWW is the basis for the M.S. § 176.645 annual benefit adjustment. The time of the first adjustment is limited by M.S. § 176.645, subd. 2.

Pursuant to Minnesota Rules 5220.1900, subp. 1b, the maximum qualified rehabilitation consultant (QRC) hourly fee will increase by 1.69 percent, to \$101.15 on Oct. 1, 2014. The maximum hourly rate for rehabilitation job development and placement services, whether provided by rehabilitation vendors or by QRC firms, will increase to \$76.79 on Oct. 1, 2014. Notice of the increase will be published in the *State Register* in September 2014.

Conversion factor adjustments

This year there are two adjustments to the workers' compensation medical fee schedule conversion factors. Minnesota Statutes § 176.136, subd. 1a, paragraph (g)(1), provides for annual adjustment of the medical fee schedule conversion factors by no more than the percent change in the SAWW. As in previous years, the Department of Labor and Industry (DLI) is adjusting the new conversion factors by the 0.2 percent change in the Producer Price Index for Offices of Physicians (PPI-P) between 2012 and 2013 (average – annual basis).¹

In addition to the 0.2 percent adjustment based on the PPI-P, the conversion factors are adjusted to correct two minor programming errors in the calculation of the 2013 conversion factors when the relative value tables were updated. When the relative value tables are updated, the law requires the conversion factors to be adjusted to ensure that, for services in both the old and new fee schedules, there is no difference between the overall payment in each service category. One of the programming errors occurred because the calculations were performed on some physical medicine and chiropractic services that were not included in *both* the old and new workers' compensation fee schedules. The second error occurred because an updated Geographic Practice Cost Index for Minnesota for the relative value tables was not used. To correct these errors, the 2013 conversion factors are further adjusted as shown in the table prepared by DLI's Research and Statistics unit at www.dli.mn.gov/RS/Pdf/conversion_factors_2014.pdf.

For services provided on or after or after Oct. 1, 2014, the new conversion factors will be:

- medical/surgical services in part 5221.4030 \$64.73
- pathology/laboratory services in part 5221.4040 \$55.75
- physical medicine/rehabilitation services in part 5221.4050 \$48.89
- chiropractic services in part 5221.4060 \$48.80

IME fee adjustments

Minnesota Rules 5219.0500, subp. 4, provides for adjustment of the maximum fees for independent medical examinations (IMEs) in the same manner as the adjustment of the conversion factors. Therefore, the maximum IME fees will increase by 0.2 percent for services on or after Oct. 1, 2014.

Statewide average weekly wage Effective Oct. 1 of the indicated year

	Statewide average weekly wage	Percent change from prior year
2000	\$642	4.39%
2001	\$680	5.92%
2002	\$702	3.24%
2003	\$718	2.28%
2004	\$740	3.06%
2005	\$774	4.59%
2006	\$782	1.03%
2007	\$808	3.32%
2008	\$850	5.20%
2009	\$878	3.29%
2010	\$868	-1.14%
2011	\$896	3.23%
2012	\$916	2.23%
2013	\$945	3.17%
2014	\$961	1.69%

¹The PPI, produced by the U.S. Bureau of Labor Statistics, measures the average change over time in the selling prices received by producers for their output. The annual PPI-P and the associated annual changes (using industry code 62111 – offices of physicians) are available at www.bls.gov/ppi/data.htm.

Compensation rates as of Oct. 1, 2014

Statewide average weekly wage (SAWW) = \$961
Percentage change in SAWW from previous year = 1.69%
(Apply Minnesota Statutes §176.645 adjustment as necessary based on date of injury.)

Maximum under M.S. §§176.101 and 176.111	Minimum under M.S. §176.101, subd. 1(2)	Supplementary benefits under M.S. §176.132 (Minnesota Statutes 1994)
100% of SAWW	50% _____ 20%	M.S. §176.101, subd. 4 (for injuries 10-1-95 and later)
10-01-88.....\$391.00	10-01-88.....\$195.50 (gross wage – \$293.25)\$ 78.20	10-01-95..... \$328.25 (rounded to \$329)*
10-01-89.....\$413.00	10-01-89.....\$206.50 (gross wage – \$309.75)\$ 82.60	10-01-96.....\$340.60 (rounded to \$341)*
10-01-90.....\$428.00	10-01-90.....\$214.00 (gross wage – \$321.00)\$ 85.60	10-01-97.....\$359.45 (rounded to \$360)*
10-01-91.....\$443.00	10-01-91.....\$221.50 (gross wage – \$332.25)\$ 88.60	10-01-98.....\$376.35 (rounded to \$377)*
105% of SAWW	20% of the SAWW or the employee's actual weekly wage, whichever is less	10-01-99.....\$399.75 (rounded to \$400)*
10-01-92.....\$481.95	10-01-92.....\$91.80	10-01-00.....\$417.30 (rounded to \$418)*
10-01-93.....\$508.20	10-01-93.....\$96.80	10-01-01.....\$442.00 (round)
10-01-94.....\$516.60	10-01-94.....\$98.40	10-01-02.....\$456.30 (rounded to \$457)*
Set by statute	Set by statute, the listed amount or the employee's actual weekly wage, whichever is less	10-01-03.....\$466.70 (rounded to \$467)*
10-01-95.....\$615.00	10-01-95.....\$104.00	10-01-04.....\$481.00 (round)
10-01-00.....\$750.00	10-01-00 \$130.00	10-01-05.....\$503.10 (rounded to \$504)*
10-01-08.....\$850.00		10-01-06.....\$508.30 (rounded to \$509)*
102% of SAWW		10-01-07.....\$525.20 (rounded to \$526)*
10-01-13.....\$963.90		10-01-08.....\$552.50 (rounded to \$553)
10-01-14\$980.22		10-01-09.....\$570.70 (rounded to \$571)*
		10-01-10.....\$564.20 (rounded to \$565)*
		10-01-11.....\$582.40 (rounded to \$583)*
		10-01-12.....\$595.40 (rounded to \$596)*
		10-01-13.....\$614.25 (rounded to \$615)*
		10-01-14\$624.65 (rounded to \$625)*

*Rounding applies to supplementary benefits.

CompFact

Using work comp claims to complete the OSHA 300 log can cause problems

By Brian Zaidman, Research and Statistics

True or false? Your OSHA 300 log cases and your workers' compensation claims should be the same.

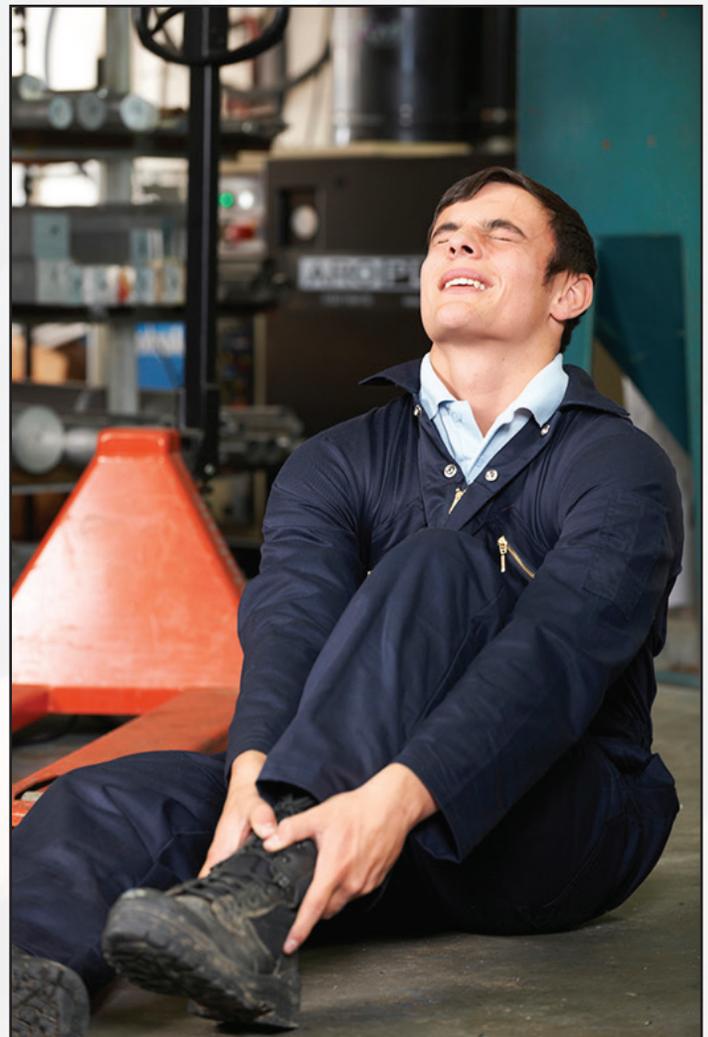
The correct answer is "false." Cases that may be compensable under Minnesota's workers' compensation laws may not meet the requirements for becoming an OSHA recordable case and some OSHA 300 log cases will not be compensable under Minnesota's workers' compensation laws. The recordability of work-related injuries and illnesses is determined by the federal government's OSHA recordkeeping requirements (29 CFR 1904), which are not related to Minnesota's workers' compensation laws.

At first glance, recording injuries and illnesses on an OSHA 300 log and filing workers' compensation claims appear to be two sides of the same coin. However, these two actions are part of two very different systems – with different backgrounds and personalities – and use the information for different purposes. Although many employers use the injury and illness cases interchangeably, the OSHA 300 log is not meant to be a mirror image of a workers' compensation claims report. A close reading of the OSHA recordkeeping requirements and workers' compensation laws shows there will be OSHA recordable cases that are not workers' compensation claims and there will be workers' compensation claims that are not OSHA recordable cases. Including an injury or illness on the OSHA 300 log is not an admission of work-relatedness for workers' compensation benefits.

The OSHA recordkeeping system was developed as a nationally standardized system for employers to keep track of the work-related injuries and illnesses for each business establishment. This tracking system provides a tool for employers to monitor the performance of their workplace safety programs and to compare their performance to state and national standards. The Bureau of Labor Statistics gathers an annual sample of OSHA 300 log data to compute national injury and illness

estimates, providing statistics for occupational safety and health researchers and incidence rate benchmarks for employers.

Workers' compensation systems were developed as administrative systems to provide predictable, equitable and timely benefits to injured workers. These systems require an insurance component to provide the funds to pay for the benefits and match business risks to insurance costs. Each state developed its own independent workers' compensation system and these systems were in place decades before the Occupational Safety and Health Act, which mandated use of the OSHA log for most workplaces, became law.



Cases that should not appear in both systems

While the majority of workplace injuries and illnesses that are reported to one system should also be reported to the other system, there are some types of injuries and illnesses that do not belong in both systems. Here is a short list of some of the reasons that injuries and illnesses that are reported to one system shouldn't be reported to the other system.

1. Injuries and illnesses that do not result in any days away from work, do not result in any job restriction or transfer, and are treated with only first aid are not recordable on the OSHA 300 log, with a few exceptions. Diagnostic testing, regardless of cost or where it is done, is not considered medical treatment for OSHA purposes. Even though some injury cases might have involved hundreds of dollars of medical diagnostic testing, which may be compensable as workers' compensation medical treatments, they do not belong as recordable cases on the OSHA 300 log.
2. The Minnesota workers' compensation system defines work-relatedness based on the increased risk standard for injuries and illnesses arising out of and in the course of employment. OSHA uses the positional risk standard to determine work-relatedness, which presumes injuries and illnesses that occur in the workplace are work-related, even where work may be only one of many contributing factors. The OSHA recordkeeping requirements provide a set of exceptions. Even in cases where workers' compensation benefits have been denied by the insurer and where primary liability has never been accepted, the injury or illness may meet the requirements for OSHA 300 log recordability.
3. In Minnesota, post-traumatic stress disorder is the only mental impairment that is compensable without any physical harm to the worker. However, if a worker voluntarily provides information from a physician or other licensed health care professional stating the employee has a work-related mental illness, then the illness is recordable on the OSHA 300 log if the worker has one or more days away from work, has job restriction or transfer, requires medical care beyond first aid or suffers a loss of consciousness.
4. When a worker returns to work following an injury and re-injures the same body part that may not have been fully healed, it is not recordable as a new OSHA recordable case, but it may generate a new workers' compensation claim.
5. All instances where a worker loses consciousness, regardless of the duration of the episode, must be recorded on the OSHA log.

Another situation for reporting errors occurs with temporary workers and leased employees. If the establishment where they are working controls the employees on a day-to-day basis, even if they are not on the employer's payroll, their injuries and illnesses must be entered on the establishment's log. For workers' compensation purposes, the temporary help agency or employee leasing company often has responsibility for reporting the injury or illness to the workers' compensation insurer. Thus, the same injury or illness case may show up on the OSHA 300 log for one company and become part of the workers' compensation record for a different company.

For help determining whether an injury or illness is recordable on an OSHA 300 log, contact the Department of Labor and Industry's Research and Statistics unit – at dli.research@state.mn.us or (651) 284-5025 – or Minnesota OSHA Compliance unit at osha.compliance@state.mn.us or (651) 284-5050.

The text of the OSHA recordkeeping requirements is available on the department's website at www.dli.mn.gov/OSHA/Recordkeeping.asp. The OSHA Recordkeeping Handbook, which provides detailed guidance about completing and maintaining the OSHA 300 log is available on the federal OSHA website at www.osha.gov/recordkeeping/handbook.

ADR welcomes three new mediators to its ranks

The Alternative Dispute Resolution (ADR) unit seeks early intervention in workers' compensation disputes through conference and mediation. It handles calls from the workers' compensation hotline and responds to questions from injured workers, employers, health care providers, attorneys and qualified rehabilitation consultants.

Meet the newest mediators

Steven Gilmore joins ADR with more than 25 years of experience as a workers' compensation attorney. He is a graduate of Carleton College and Drake University Law School.

Christopher Raymond has worked as a mediator for ADR previously, from 1996 to 2002. His most recent work experience has been as a claims adjuster in the insurance industry. Raymond has a master's degree from Minnesota State University – Moorhead.

Molly Tyroler is an experienced workers' compensation attorney. She is a graduate of the University of Wisconsin – Green Bay and the William Mitchell College of Law.

ADR mediators/arbitrators can be reached directly through the workers' compensation hotline at (651) 284-5032 or 1-800-342-5354, press 3, then press 1.

In addition to the three new employees, ADR mediators/arbitrators include: Amy Borgeson, Walter Bowser, Tom Germscheid, Bill Hauck, Lee Keller, Frances Li, Keith Maurer, Dennis Mitchell, Nell Nere, Susan Whitten and Eduardo Wolle.

Back to school: *Training opportunities for employers, rehabilitation providers*

Employer training – new dates announced

- Minnesota workers' compensation training for employers – offered at St. Paul College by the Department of Labor and Industry – is designed for business owners, human resources managers and supervisors to better understand workers' compensation in Minnesota.

You will learn valuable information related to what to do before an injury occurs, how to report injuries, what is covered by workers' compensation and employer do's and don'ts.

– Dates offered: Oct. 24, 2014; March 19, 2015; May 14, 2014

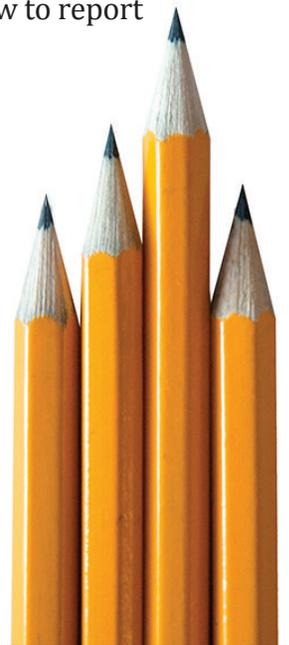
– Learn more, register by visiting www.dli.mn.gov/WC/TrainingEr.asp

Rehabilitation providers – qualified rehabilitation consultant (QRC) interns, QRC intern supervisors and newly registered job placement vendors

- The 2014 Orientation session is Wednesday, Aug. 20 at the Minnesota Department of Labor and Industry's St. Paul location.

– Topics include workers' compensation 101; rehabilitation issues; medical aspects; rehabilitation review/ethics; registration renewal, internship completion; intern qualifying criteria; and alternative dispute-resolution.

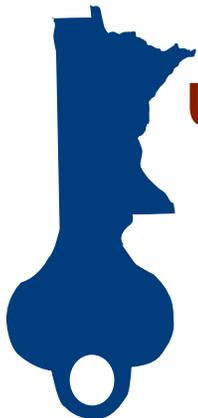
– Learn more, register by visiting www.dli.mn.gov/WC/TrainingRp.asp



Take our website **SURVEY**

www.dli.mn.gov/Survey.asp

2014 Rehabilitation Update Conference



Unlocking Barriers to Success

Conference and Video-stream event

Sept. 25, 2014 • 8:30 a.m. to 3:45 p.m.

Topics

- Retraining – Advocating for the plan
- Ethics – Now more than ever
- MNsure vs. Minnesota workers' compensation
- Job placement – A criminal history
- Social media: An employment nightmare
- Online R-form filing review
- DLI's Ombudsman and Patient Advocate Programs

This year, the conference is being offered in two ways to accommodate busy schedules – participants may attend in person or via the Internet! **All** participants must pre-register; the cost is \$75.

Attendance at the rehabilitation update session is required of all qualified rehabilitation consultants (QRCs) and QRC interns. Registered placement vendors must have at least one representative from their firm participate in the session.

Seating at the conference is limited to 200 participants; all other registered rehabilitation providers wishing to receive CEUs may participate through live video streaming in the convenience of their office that same day. (Video-stream participants will be provided with a Web address and access code to sign in; viewing of the video stream will be available through Oct. 23, 2014.)

The cost includes access for those choosing video streaming and includes parking, continental breakfast, lunch and refreshments for those attending in person. Training is at the Continuing Education and Conference Center, University of Minnesota, St. Paul campus. For complete information and access to registration, visit the Training for Rehabilitation Providers Web page at www.dli.mn.gov/WC/TrainingRp.asp.



MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

Basic Adjuster Training 2014

• Oct. 6 and 7 •
8:30 a.m. to 4 p.m.

Recommended for claim adjusters who have less than one year of experience in Minnesota workers' compensation

Session topics

- Overview of Minnesota workers' compensation
- Rehabilitation benefits and issues
- Medical benefits and issues
- Waiting period
- Liability determination
- Indemnity benefits
- Penalties
- Dispute resolution
- How to file forms

CEU credits

This educational offering is recognized by the Minnesota commissioner of commerce as satisfying 10.5 hours of credit toward continuing insurance education requirements.

Location

Minnesota Department of Labor and Industry, 443 Lafayette Road N., St. Paul, MN 55155

Cost

\$150 for the two-day session (includes lunch)

Early registration is encouraged. The session is limited to 30 people and the class will be filled on a first-come, first-served basis. The Department of Labor and Industry reserves the right to cancel this session if there are not enough participants registered.

Take the pre-test

Do you administer Minnesota workers' compensation claims? Not sure if you need training? Take the pre-test at www.dli.mn.gov/WC/PDF/quiz.pdf and see how you do.

If you need special accommodations to enable you to participate or have questions about this training, call Lisa Smith at (651) 284-5273 or toll-free at 1-800-342-5354.



More resources from DLI: newsletters, specialty email lists, rulemaking lists

Newsletters – The Minnesota Department of Labor and Industry (DLI) offers three quarterly publications in addition to *COMPACT: Apprenticeship Works, CCLD Review* and *Safety Lines*.

- ***Apprenticeship Works*** is the newsletter from DLI's Apprenticeship unit. Its purpose is to inform the public of the goals, plans and progress of the Apprenticeship unit. Learn more or subscribe online at www.dli.mn.gov/Appr/Works.asp.
- ***CCLD Review*** is the newsletter from DLI's Construction Codes and Licensing Division. Its purpose is to promote safe, healthy work and living environments in Minnesota and to inform construction and code professionals about the purpose, plans and progress of the division. Learn more or subscribe online at www.dli.mn.gov/CCLD/Review.asp.
- ***Safety Lines***, from Minnesota OSHA, promotes occupational safety and health, and informs readers of the purpose, plans and progress of Minnesota OSHA. Learn more or subscribe online at www.dli.mn.gov/OSHA/SafetyLines.asp.



Breaking news – Stay up-to-date with the Department of Labor and Industry by signing up for its email newsletter at www.dli.mn.gov/Email.asp. The agency sends occasional messages to subscribers to share news about DLI activities.

Specialty and rulemaking news – DLI also maintains five specialty email lists and 11 rulemaking lists to which interested parties may subscribe. The specialty email lists are: prevailing-wage information; workers' compensation adjuster information; workers' compensation EDI trading partners; workers' compensation medical providers information; and workers' compensation rehabilitation information. Learn more about DLI's specialty email lists, subscribe or review previously sent messages online at www.dli.mn.gov/EmailLists.asp.

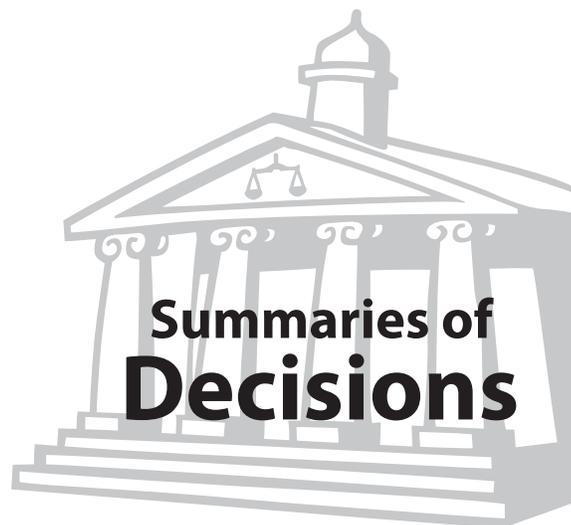
The rulemaking lists are required to be maintained for people who have registered with the agency to receive notices of agency rule proceedings via email or U.S. mail. The rulemaking lists topic areas are: apprenticeship; boats/boats-for-hire; electrical; fire code; high-pressure piping; independent contractor; labor standards/prevaling wage; Minnesota OSHA; plumbing; state building code; and workers' compensation. Learn more or subscribe at www.dli.mn.gov/Rulemaking.asp.

Subscribing to *COMPACT* – Interested parties may subscribe or unsubscribe from the *COMPACT* email list at <https://webmail.mnet.state.mn.us/mailman/listinfo/wc-compact>. Subscribers receive emailed notices about editions of the quarterly workers' compensation newsletter and other periodic updates from DLI.

Workers' Compensation Court of Appeals

April through June 2014

Case summaries published are those prepared by the WCCA



Sumner v. Jim Lupient Infiniti, April 3, 2014

Temporary Benefits – Fully Recovered

Where the compensation judge stated he was relying on a doctor's opinion from a certain date in support of a finding of a date of recovery at that time, but the doctor's report stating that opinion is from a later date, we cannot determine whether substantial evidence supports the judge's finding, and remand.

Temporary Total Disability – Substantial Evidence

Where the compensation judge did not consider the employee's hourly restrictions, which had not been rejected by the doctor relied upon by the judge, or that the doctor had also recommended a gradual return to work, or whether the employer would accommodate any hourly restrictions or a gradual return to work, we cannot determine whether substantial evidence supports the compensation judge's finding that the employee was not entitled to additional temporary total disability benefits, and remand.

Intervenors

Practice and Procedure – Intervention

Where the employer and insurer have filed objections to the intervenors' claims, the claims are not considered established and the compensation judge may deny their claims for lack of appearance.

Causation – Medical Treatment

Medical Treatment – Reasonable and Necessary

Where medical treatment remains at issue under the employee's claim petition, the compensation judge must determine the reasonableness, necessity and causal relationship of the medical treatment provided by all of the medical providers, even where we have affirmed the order denying reimbursement to those intervenors.

Affirmed in part, reversed in part, vacated in part and remanded in part.

Renwick v. Halverson & Blaiser Group, April 10, 2014

Arising Out Of And In The Course Of

Substantial evidence supports the compensation judge's determination that the employee's injury arose out of and in the course and scope of his employment as an apartment caretaker when he slipped in a rut and fell in the snow-covered tenant parking lot while walking back from discarding debris, which he found in the back entryway of an apartment building, in the dumpster behind the apartment buildings.

Affirmed.

Anderson v. Crossmark, Inc., April 16, 2014

Wages – Multiple Employments

Wages from multiple additional employers may be included in the employee's average weekly wage calculation where the employee had established an ongoing pattern of obtaining grocery demonstration work through those other employers, and where the employee testified she did expect additional work from those employers and she had actually scheduled work with one of the employers at the time of her injury.

Affirmed.

Eisenschenk v. Anoka Turf Farms, Inc., April 16, 2014

Permanent Partial Disability – Schedule
Evidence – Expert Medical Opinion

Where the expert medical opinion relied on by the compensation judge failed to rate permanent partial disability in compliance with the applicable rule, the compensation judge's decision lacked evidentiary support and is reversed.

Reversed.

Vogt v. Westinghouse Elec., April 22, 2014

Gillette Injury – Substantial Evidence

Substantial evidence, including expert medical opinion, supports the compensation judge's finding that the employee had sustained a Gillette injury to the low back and left hip in August 2011.

Causation – Permanent
Causation – Temporary

Substantial evidence supports the decision of the compensation judge that the 1978 neck injury was temporary; that the employee's injury in January 2002 was a permanent aggravation of the employee's low back condition; and that the employee's injury in November 2002 was a permanent aggravation of the employee's neck and left shoulder condition and a new permanent injury to the right shoulder.

Permanent Total Disability – Substantial Evidence

Substantial evidence, including expert medical opinion and expert vocational opinion, supports the compensation judge's finding that the employee was permanently totally disabled as a result of his multiple disabilities from multiple work injuries.

Apportionment – Equitable

Substantial evidence supports the compensation judge's determination of the permanent total disability apportionment. There is no requirement that the permanent total disability apportionment ratings correlate with the apportionment of the permanent partial disability ratings.

Medical Treatment and Expense

Substantial evidence supports the compensation judge's finding that the chiropractic care at issue was reasonable and necessary and the corresponding mileage award.

Affirmed.

Noble v. St. Paul Arena Co., LLC, April 29, 2014

Earning Capacity – Substantial Evidence

Substantial evidence supported the compensation judge's award of temporary partial disability benefits based on the employee's actual earnings where the employee had restrictions related to his work injury, he was unable to perform his pre-injury job, there was no evidence he failed to cooperate with his qualified rehabilitation consultant, he testified he looked for other work and even the temporary job offered by the employer and rejected by the employee paid less than the employee's pre-injury wage.

Medical Treatment and Expense – Surgery

Substantial evidence, including the recommendation of the employee's treating physician, supported the compensation judge's approval of recommended surgery.

Affirmed.

Tomford v. Mark's Welding, Inc., April 30, 2014

Statutes Construed – Minnesota Statutes § 176.155, subd. 2 Practice and Procedure – Neutral Physician

Under the circumstances of this case, where the employer and insurer requested appointment of a neutral physician shortly after the employee's renewed request for surgery based on additional testing, the appointment was mandatory pursuant to Reider v. Anoka-Hennepin Sch. Dist. No. 11, 728 N.W.2d 246, 67 W.C.D. 112 (Minn. 2007), and the judge erred in denying the request.

Medical Treatment and Expense – Treatment Parameters

The compensation judge did not err in concluding the medical treatment parameters applicable to lumbar spine surgery were not applicable to proposed fusion of the employee's sacroiliac joint. That joint is *not* part of the lumbar spine.

Affirmed in part, reversed in part and remanded.

Lange v. Resource Recovery Techs., May 13, 2014

Medical Treatment and Expense – Diagnostic Testing

Substantial evidence supports the compensation judge's award of a repeat cervical MRI scan.

Affirmed.

Sanden v. Northern Contours, May 13, 2014

Permanent Total Disability – Substantial Evidence

Substantial evidence, including expert medical testimony and vocational evidence, supports the compensation judge's findings that the employee is capable of working within the restrictions established by the October 2011 functional capacity evaluation and that the employee is not permanently and totally disabled.

Affirmed.

Corradi v. Mesabi Reg'l Med. Ctr., May 13, 2014

Vacation of Award – Substantial Change in Condition

The employee established good cause to vacate the Award on Stipulation of March 6, 1990, on the grounds of a substantial change in condition pursuant to Minnesota Statutes § 176.461 and Fodness v. Standard Café, 41 W.C.D. 1054 (W.C.C.A. 1989).

Petition to vacate award on stipulation granted.

Mude v. Fox Bros. of Sanborn, June 2, 2014

Settlements Vacation of Award

An insurer not a party to a stipulation for settlement between the employee and another employer and insurer lacks standing to seek vacation of the award absent a showing of prejudice to the nonsettling party. Midwest Family Mutual Insurance failed to establish actual prejudice and therefore lacks standing to seek vacation of the Award on Stipulation between the employee and the employer and State Fund Mutual Insurance on the facts of this case.

Appeal dismissed.

Gornenier v. Original Mattress Factory, June 4, 2014

Practice and Procedure – Matters at Issue

Based on the procedural history, the compensation judge's description, at hearing, of the issues she would decide, and the record presented in this case, including the medical evidence and the Stipulation for Settlement, the compensation judge did not improperly expand the scope of the hearing when she determined the employee's injuries were temporary in nature.

Causation – Temporary Injury

Substantial evidence, including the independent medical examiner's opinions, supported the compensation judge's determination the employee sustained temporary injuries at work in December 2007.

Affirmed.

Reding v. Kraft Foods, Inc., June 16, 2014

Medical Treatment and Expense – Substantial Evidence

Substantial evidence in the form of a well-founded medical opinion supports the compensation judge's award of medical expenses.

Affirmed.

Jech Dehn v. Star Tribune/Cowles Media Co., June 17, 2014

Vacation of Award – Substantial Change In Medical Condition

Where the employee has shown a change in diagnosis, change in ability to work, additional permanent partial disability, more extensive medical treatment and a causal relationship to the work injury, the employee has shown a substantial change in medical condition that was not and could not be anticipated and has established cause to vacate the award on stipulation.

Petition to vacate award on stipulation granted.

Nugent v. Seven Clans Casino, June 17, 2014

Jurisdiction – Subject Matter

The compensation judge correctly concluded the employer, the Red Lake Band of Chippewa Indians, was immune from liability for Minnesota workers' compensation benefits pursuant to Tibbetts v. Leech Lake Reservation Bus. Comm., 397 N.W.2d 883 (Minn. 1986).

Affirmed.

Orth v. ABF Freight Sys., Inc., June 18, 2014

Causation – Substantial Evidence

Substantial evidence, including the credible testimony of the employee and the expert medical opinion of the employee's orthopedist, supports the compensation judge's finding that the employee sustained a work-related injury to his right knee on Aug. 23, 2012, and that the Oct. 5, 2012, incident was a continuing manifestation of the Aug. 23, 2012 injury.

Notice of Injury – Actual Knowledge

Substantial evidence supports the compensation judge's determination that the employee gave verbal notice of his Aug. 23, 2012, injury to his supervisor on the day of the injury.

Maximum Medical Improvement – Substantial Evidence

Substantial evidence supports the compensation judge's finding that the employee has not yet reached maximum medical improvement from the effects of his right knee injury.

Affirmed.

Omdahl v. Polaris Indus., Inc., June 24, 2014

Causation – Permanent Aggravation

Given evidence concerning the change in the employee's condition following his work injury, including the need for restrictions and eventual recommendations for surgery, substantial evidence supported the compensation judge's conclusion that the employee's work injury permanently aggravated the employee's pre-existing low back condition.

Affirmed.