Updates about health care provider penalty for billing injured workers

In April 2021, the Minnesota Legislature passed new language in Minnesota Statutes § 176.136, subdivision 2a, related to penalties, costs and expenses for improper collection or attempts to collect payment for workers’ compensation medical services from an employee. The Department of Labor and Industry (DLI) may assess penalties for any violations on or after Aug. 1, 2021, under this language.

As part of the new language, a penalty may not be assessed unless there is documentation that the health care provider or health care provider's representative has been provided with written notice that the attempted collection or collection of payment from an employee is prohibited by workers’ compensation law and that penalties may be assessed.

DLI has posted a model notice on its website at www.dli.mn.gov/business/workers-compensation/work-comp-improper-collection-attempts-collect-payment. The model notice is presumed to provide sufficient notice under Minn. Stat. § 176.136, subd. 2a, when provided to a health care provider’s billing office by any agency or person. DLI encourages parties to provide DLI’s medical policy staff with a copy of the notice so that DLI can track if the notice has been sent to a health care provider.

If you have questions about attempts to collect payment for medical services from an injured worker, contact DLI’s medical policy staff at 651-284-5052 or medical.policy.dli@state.mn.us.

Work Comp Campus continues to support stakeholders, provide resources

Work Comp Campus, DLI’s workers’ compensation claims portal that launched Nov. 2, continues to support internal and external stakeholders through:

- stakeholder-specific newsletters that include recent system update information – sign up at www.dli.mn.gov/about-department/news-and-media/sign-news-department-labor-and-industry;
- posting of 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;
- an anonymous feedback form – see https://secure.doli.state.mn.us/stakeholderfeedback/; and
- staffing the Workers’ Compensation Division Help Desk, which is available by phone or email Monday through Friday from 8 a.m. to 4:30 p.m. Contact the help desk at 651-284-5005 (press 3), 800-342-5354 (press 3) or helpdesk.dli@state.mn.us.

Are you registered to vote?

The Minnesota Secretary of State website has everything you need to know about voting in Minnesota. Visit www.sos.state.mn.us/elections-voting to register to vote, find out where and how you can cast your vote, what’s on your ballot and more.
As previously communicated (see FAQs at right), an insurer's inability to timely file a workers' compensation report with the Department of Labor and Industry (DLI) because of a technical issue related to Work Comp Campus will continue to be a lower priority for review by DLI Compliance, Records and Training (CRT). This particular aspect of penalties will continue to be a lower priority at this time and DLI will communicate when it begins assessing penalties for late filing of forms that have not been requested by CRT. However, DLI reiterates statutory obligations to make timely determinations of liability, commencement of benefit payments and filings have not changed.

CRT will be reviewing claims for both timeliness of liability determinations and timeliness of initial payments and assessing penalties as appropriate. CRT has also continued to track and will be reviewing the response to written inquiries from DLI. A failure to respond or supply information requested by CRT is prohibited conduct under Minnesota Statutes § 176.194, subdivision 3 (6), or can be considered a failure to file a requested or required form under Minn. Stat. § 176.231, subd. 3, 4, 6, 7 and 10.

DLI’s review will focus mainly on claims filed beginning Nov. 2, 2020, but may also include claims filed before that date.

If a penalty is issued, a notice will be sent via encrypted email or via U.S. mail. If a recipient for penalties has not been designated in Campus, the group administrator will be served.

For payment
The payor can mail a check to DLI and reference the penalty number (PN) from Campus to satisfy the penalty. As an alternative, the payor may pay the penalty online referencing the same PN by going to the payment center on the DLI website.

For objections
Objections must be filed via Campus (if the party has a Campus account) or paper (if the party does not have a Campus account) and must be received by DLI no later than 30 days after the penalty notice was served. Objections received late, will be returned and the penalty is payable.

Two new provisions effective July 1
There are two new provisions to the prohibited practices statute, Minn. Stat. § 176.194, subd. 3: paragraph 10, providing fraudulent written information to the department or an employee pertaining to a workers' compensation matter; and paragraph 11, failing to pay a claim, or otherwise correct behavior on a claim, for which a penalty assessed has been paid or has become a final order. For these two provisions, the first through fifth violation carries a $3,000 penalty for each violation; six or more violations carry a $6,000 penalty for each violation in excess of five. These statutory changes became effective July 1, 2021.
Dr. Emily Bannister named new DLI medical consultant

Emily Bannister, M.D., MPH, CPH, FACOEM, has been named the Minnesota Department of Labor and Industry’s (DLI’s) new medical consultant.

Bannister is the president of Bannister Occupational Consulting. She previously worked as an occupational and environmental medicine physician at HealthPartners. Bannister is a member of the American College of Occupational and Environmental Medicine. She previously served on the Medical Services Review Board (MSRB).

The medical consultant assists DLI in developing, implementing and evaluating the effective delivery of workers’ compensation benefits, the regulation of medical services currently provided to injured workers, and the development and monitoring of treatment guidelines. Bannister will work primarily with DLI’s Workers’ Compensation Division, including the Special Compensation Fund, MSRB, the DLI Research and Statistics unit and the DLI Minnesota OSHA units.

Bannister earned a master of public health degree from the University of Illinois at Chicago School of Public Health and a doctor of medicine degree from the Washington University School of Medicine in St. Louis.

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

The Department of Labor and Industry’s Office of Workers’ Compensation Ombudsman informs, assists and empowers injured workers and small businesses having difficulty navigating the workers’ compensation system.

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

The ombudsman assists small businesses by:
• providing information about what to do when an employee is injured;
• directing them to appropriate resources for assistance in obtaining and resolving issues regarding workers’ compensation insurance; and
• responding to questions pertaining to employers’ responsibilities under Minnesota’s workers’ compensation law.

The Office of Workers’ Compensation Ombudsman also recommends statute or rule changes to improve the effectiveness of the workers’ compensation system.

To request assistance, contact the Office of Workers’ Compensation Ombudsman at 651-284-5013, 800-342-5354 or dli.ombudsman@state.mn.us.
**CompFact: Trends in intentional assaults**

*By Brian Zaidman, Research and Statistics*

The Occupational Injury and Illness Classification System,¹ used by the Department of Labor and Industry to code workers’ compensation claims, has three categories of injuries due to violence and other injuries by persons or animals: intentional injury by person; injury by person – unintentional or intent unknown; and animal and insect related incidents. Intentional injury by person is further divided into injury by another person and self-inflicted injury. This article is about indemnity claims resulting from an intentional injury by another person. Workers’ compensation claims are classified as indemnity claims when the work-related injury results in a disability of more than three calendar days, payment of permanent partial disability benefits or payment of a claims settlement.

Figure 1 shows the trend in the number of indemnity claims resulting from intentional injury by another person. There was a total of 3,972 indemnity claims resulting from an intentional injury by another person from 2012 through 2020. The number of claims increased from 359 in 2012 to 503 in 2018, then decreased to 419 in 2020. In four of these nine years, there were more than 450 workers injured in assaults.

Figure 2 shows the industry sectors with the greatest number of claims. The rankings of the industries remained very consistent during this time period. Health care and social assistance accounted for nearly 2,300 claims, 57% of the total. Workers in general medical and surgical hospitals, psychiatric and substance abuse hospitals, and residential intellectual and developmental disability facilities accounted for the majority of the claims in this sector. Educational services was the next highest industry sector, with 820 claims, followed by public administration with just more than 300 claims. Most of the public administration claims involved police and corrections workers.

![Figure 1. Number of indemnity claims from intentional assaults by other persons](image1)

![Figure 2. Indemnity claims from intentional assaults by other persons, by industry sector, 2012 through 2020](image2)

¹See [www.bls.gov/iif/oshoiics.htm](http://www.bls.gov/iif/oshoiics.htm) for a detailed description.
New benefit, provider fee levels, fee schedules effective Oct. 1

The statewide average weekly wage (SAWW) effective Oct. 1, 2021, is $1,232, a 7.69% increase from the current SAWW of $1,144, which has been in effect since Oct. 1, 2020. The levels for minimum and maximum weekly benefit payments are presented in the table on page 7. The statewide annual average wage will change to $64,017 on Jan. 1, 2022.

The new SAWW is based on 2020 payroll and employment figures supplied by the Department of Employment and Economic Development and the calculation procedure in Minnesota Statutes § 176.011, subdivision 1b. The change in the SAWW is the basis for the Minn. Stat. § 176.645 annual benefit adjustment. The time and amount of the adjustments are limited by Minn. Stat. § 176.645.

Vocational rehabilitation maximum hourly fee adjustments

Tables showing the historical value of workers' compensation benefits, reimbursements, medical services conversion factors, maximum hourly vocational rehabilitation rates and independent medical examination (IME) fees are posted on the Department of Labor and Industry (DLI) website at www.dli.mn.gov/business/workers-compensation/work-comp-rate-information-statewide-average-weekly-wage-saww.

Annual maximum hourly rehabilitation fee adjustment – pursuant to Minnesota Rules, part 5220.1900, subpart 1b:
• the maximum qualified rehabilitation consultant (QRC) hourly rate increased by 3.00% to $115.91 for rehabilitation services provided on or after Oct. 1, 2021; and
• the maximum hourly rate for rehabilitation job development and placement services, whether provided by rehabilitation vendors or by QRC firms, increased by 3.00% to $92.83 on Oct. 1, 2021.

Relative value medical fee schedule adjustments

The following annual adjustments to the workers' compensation medical fee schedule conversion factors in Minn. R., part 5219.0500, subp. 4, have been approved by an administrative law judge. The rule amendments, which are effective for services provided on or after Oct. 1, 2021, are available on the DLI website at www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-5221-2021.

Minnesota Statutes § 176.136, subd. 1a, paragraph (c)(1), provides for annual adjustment by no more than the percentage change of the SAWW. The conversions factors are adjusted by the percent change in the Producer Price Index for Offices of Physicians (PPI-P) because it reflects the percent change in payments per service made by other payers of physician services and because it does not exceed the increase in SAWW. This change is 1.18%. Therefore, for services provided on or after Oct. 1, 2021, the new conversion factors are:
• for medical/surgical services described in Minn. R. 5221.4030.................................................................$71.70
• for pathology and laboratory services described in Minn. R. 5221.4040 ......................................................$60.81
• for physical medicine/rehabilitation services described in Minn. R. 5221.4050 ............................................$59.37
• for chiropractic services described in Minn. R. 5221.4060 ...........................................................................$51.30

Independent medical examination fee adjustment

Minnesota Rules, part 5219.0500, subp. 4, provides for adjustment of the maximum fees for IMEs in the same manner as the adjustment of the conversion factors. Therefore, the maximum fees increased by 1.18% for IME services provided on or after Oct. 1, 2021.

A table of the maximum IME fee adjustments from Dec. 1, 1993, to present is available on DLI's website at www.dli.mn.gov/business/work-comp-ime-fees.

New benefit, provider fee levels, continues ...

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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.
Link to inpatient PPS Web Pricer under Minn. Stat. § 176.1362, subd. 1
Beginning Oct. 1, 2021, payment of inpatient services, articles and supplies must be calculated using the inpatient PPS Web Pricer available on Medicare's website using the applicable dates of inpatient hospitalization. DLI must publish the link to the inpatient PPS Web Pricer on its website.


Hospital catastrophic injury threshold adjustment
The threshold for payment of inpatient hospital services, articles and supplies provided to patients with catastrophic, high-cost injuries is adjusted pursuant to Minn. Stat. § 176.362, subd. 2. For hospital discharges on or after Oct. 1, 2021, the threshold amount is adjusted to $253,752. If a hospital's usual and customary charges exceed this amount, payment is 75% of the hospital's charges instead of the MS-DRG amount calculated using the inpatient PPS Web Pricer.

Notice of availability of ambulatory surgical center addenda
The fee schedule for workers' compensation ambulatory surgical center (ASC) services is based on the Medicare Ambulatory Surgical Center Payment System (ASCPs) addenda AA, BB and DD1, available on the Medicare website as of July 1, 2021, and the corresponding Medicare rules and claims processing manual. Payment for workers' compensation procedures and services is the ASCPS amount on the total bill multiplied by 320% or the ASC's total usual and customary charges, whichever is less.

The June 25, 2021, addenda AA, BB and DD1 are the most recent ASCPS addenda available on Medicare's website as of July 1, 2021. Links to the addenda are available on the DLI website at www.dli.mn.gov/business/workers-compensation/work-comp-medical-fee-schedules-ascps. They are effective for services provided by an ASC on or after Oct. 1, 2021.

Notice of availability of hospital outpatient fee schedule
The workers' compensation hospital outpatient fee schedule (HOF) establishes payment rates for workers' compensation outpatient hospital services that are listed in the HOF. See Minn. Stat. § 176.1364. The updated HOF table, effective for services from Oct. 1, 2021 through Sept. 30, 2022, is available on the DLI website at www.dli.mn.gov/business/workers-compensation/work-comp-medical-fee-schedules-hofs.

As required by Minnesota Statutes § 176.1364, subd. 3(e), DLI is updating the HOF to incorporate new services with a J1 or J2 status indicator, and corresponding relative weights, listed in the addenda A and B most recently available on Medicare's website as of July 1, 2021 – currently, the June 21, 2021 addenda.

The HOF provides two separate payment rates, one for hospitals with more than 100 licensed beds and one for non-Critical Access Hospitals with 100 or fewer licensed beds.

Each time the HOF is updated under this subdivision, the DLI commissioner must adjust the separate conversion factors for each hospital category so there is no difference between the overall payment under the new HOF and the overall payment under the HOF most recently in effect, for services in both HOF categories. The conversion factor adjustments under paragraph (e) must be made before making any additional annual adjustment under paragraph (d).

Considering both adjustments, for the HOF in effect for services provided from Oct. 1, 2021, through Sept. 30, 2022, the Minnesota conversion factors are decreased by 0.97% for hospitals with more than 100 licensed beds and decreased by 0.54% for non-critical access hospitals of 100 or fewer licensed beds. The adjusted conversion factors are $205.53 for hospitals with more than 100 licensed beds and $388.16 for non-critical access hospitals of 100 or fewer licensed beds. An explanation of these calculations is available on the DLI website (link above). The payment rates in the HOF table posted on the DLI website reflect these adjusted conversion factors.

The HOF does not apply to Medicare-designated Critical Access Hospitals, which continue to be paid at the Critical Access Hospital's usual and customary charge, unless the commissioner or a compensation judge determines the charge is unreasonably excessive.
## Compensation rates as of Oct. 1, 2021

**Statewide average weekly wage (SAWW) = $1,232**

Percentage change in SAWW from previous year = 7.69%

*(Apply Minnesota Statutes § 176.645 adjustment as necessary based on date of injury.)*

<table>
<thead>
<tr>
<th>Date</th>
<th>Maximum under Minn. Stat. § 176.101, subd. 1(b)(1)</th>
<th>Supplementary benefits under Minn. Stat. § 176.132</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-01-95</td>
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<td>10-01-00</td>
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<td>10-01-08</td>
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<td>10-01-16</td>
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<td>10-01-20</td>
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<tr>
<td><strong>10-01-21</strong></td>
<td><strong>$1,256.64</strong></td>
<td><strong>(rounded to $1,257)</strong></td>
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</table>

**Set by statute**

<table>
<thead>
<tr>
<th>Date</th>
<th>Minimum under Minn. Stat. § 176.101, subd. 1(c)</th>
<th>20% of the maximum weekly benefit or the employee’s actual weekly wage, whichever is less</th>
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<td><strong>$251.33</strong></td>
<td><strong>(rounded to $251)</strong></td>
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</table>

**Set by statute, the listed amount or the employee’s actual weekly wage, whichever is less**

**20% of the maximum weekly benefit or the employee’s actual weekly wage, whichever is less**

<table>
<thead>
<tr>
<th>Date</th>
<th>Supplementary benefits under Minn. Stat. § 176.132</th>
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<tr>
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<td><strong>$800.80</strong></td>
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</table>

*Rounding applies to supplementary benefits.

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**Training: Two sessions of OSHA recordkeeping basics offered in January**

The Department of Labor and Industry is offering two sessions of its free, introductory-level training seminars about OSHA recordkeeping requirements: **Wednesday, Jan. 12, at 4 p.m.; and Friday, Jan. 14, at 8 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.

Annual claim submission process now improved

An improved annual claim reimbursement submission process has been rolled out in Work Comp Campus by the Department of Labor and Industry Workers' Compensation Division's Special Compensation Fund.

The webform submission process has been streamlined to make reimbursement requests easier to complete. If you are a third-party administrator that services an insured entity, you will now be able to submit reimbursement requests on behalf of the insurer. Stakeholders will continue to use the "Submit a Filing" button from the insurer details page.

Users will then be taken to the webform submission page; options to submit will now be limited to either second-injury (SI) benefits or supplemental benefits (SB). If claiming both SI benefits and SB, users will submit two webforms.

Simplification of the webform includes elimination of unnecessary fields and allowing users to submit benefit periods without mandated calculations. Apportionment fields are now more clear and will display for the user to see exactly what dollar amount is being claimed.

Stakeholders will still obtain a confirmation number upon successful submission of the Annual Claim for Reimbursement webform in Campus. Reimbursement submissions will be processed in the order of date received.

Rehabilitation Review Panel seeks new members

The Rehabilitation Review Panel (RRP) currently has openings for: one chiropractor member (four-year term); two union labor members (four-year term); one employer member (four-year term); one union labor representative alternate member (annual term); and one employer/insurer alternate member (annual term). To apply for one of these positions, visit [www.sos.state.mn.us/boards-commissions](http://www.sos.state.mn.us/boards-commissions) on the Secretary of State website.

About RRP

The Rehabilitation Review Panel is composed of employer, insurer, labor, medical and rehabilitation representatives and: advises the Department of Labor and Industry (DLI) about workers' compensation vocational rehabilitation and its 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 via Webex online meetings. Members of the public may also attend meetings in person or via Webex. The meetings are quarterly and generally last one to two hours. If issues warrant, meetings may occur more often. The panel's 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

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

October 2021

- Oct. 7  Rehabilitation Review Panel
- Oct. 13 Workers' Compensation Advisory Council
- Oct. 14 Medical Services Review Board

November 2021

- Nov. 10 Workers' Compensation Advisory Council
- Nov. 17 Workers' Compensation Insurers' Task Force

December 2021

- Dec. 8 Workers' Compensation Advisory Council

January 2022

- Jan. 6 Rehabilitation Review Panel
- Jan. 12 Training: The basics of OSHA recordkeeping
- Jan. 14 Training: The basics of OSHA recordkeeping
- Jan. 20 Medical Services Review Board

Evidence – Credibility

Assessment of the employee’s credibility was within the purview of the compensation judge and this court will not disturb the compensation judge’s credibility determination or his reasonable inferences and findings made based upon that determination.

Evidence – Expert Medical Opinion

The expert medical opinion was based upon enough facts to form a reasonable opinion and not speculation or conjecture, and, therefore, was adequately founded and could be relied upon by the compensation judge.

Affirmed.

James Senftner v. Bimbo Bakeries USA, Inc., May 4, 2021

Gillette Injury – Date of Injury
Gillette Injury – Ultimate Breakdown
Notice of Injury – Gillette Injury

The record of the employee’s medical treatment together with his knowledge of the compensability of his work injury constitutes substantial evidence supporting the compensation judge’s findings regarding the culmination date of the employee’s Gillette-type knee injury and the beginning of the notice period for that injury.

Affirmed.

Joann Luther, deceased employee, by Tom Harold Luther and Trina Hofbauer, respondents, v. Independent School District 535, May 5, 2021

Appeals – Interlocutory Order

The compensation judge’s order denying a motion to dismiss a claim petition is not an appealable order.

Dismissed.
**Mark Price v. Listful Erection Corp., May 7, 2021**

**Appeals – Notice of Appeal**

An employee’s appeal must be dismissed if it is not filed within the 30-day statutory limit for perfecting an appeal, but where the final day for filing falls on a Saturday, Sunday or legal holiday, Minnesota Statutes § 645.151 extends the period for perfecting the appeal to the next eligible day.

**Evidence – Burden of Proof**

Substantial evidence supports the compensation judge’s determination that the employee failed to meet his burden of proof regarding a claimed miscalculation of his average weekly wage.

Affirmed.


**Occupational Disease – Asthma**

**Causation – Substantial Evidence**

Substantial evidence, including expert opinion, supported the compensation judge’s conclusion that the employee developed occupational asthma due to exposure to aerosolized oils in the workplace.

Affirmed.

**Ronald Brand v. United Road Services Midwest, May 12, 2021**

**Appeals – Interlocutory Order**

This court dismisses the appeal from the compensation judge’s order by denying the employee and insurer’s motion to dismiss because it did not conclude the action nor affect the merits of the case.

Dismissed.

**Wilhemin C. Adika v. ABM Janitorial Services, May 21, 2021**

**Statutes Construed – Minnesota Statutes § 176.2611; Minn. Stat. § 176.106**

Minnesota Statutes § 176.2611, subdivision 2, indicates Minn. Stat. § 176.2611 prevails over any conflicting provision in chapter 176, including Minn. Stat. § 176.106, subd. 7(a). The compensation judge did not err by denying a request for formal hearing for failure to file the request at the Office of Administrative Hearings as required by Minn. Stat. § 176.2611, subd. 3.

Affirmed.

**Leann Bosquez v. Super America, May 26, 2021**

**Causation – Substantial Evidence**

Substantial evidence, including expert medical opinion and medical records, supports the compensation judge’s finding that the employee’s work injury resulted in a mild concussion that resolved without the need for ongoing medical treatment or restrictions.

Affirmed.
**Tami L. Petrie v. Todd County, May 28, 2021**

**Causation – Psychological Condition**

Causation – Substantial Evidence

Substantial evidence supports the compensation judge’s findings that the employee had been diagnosed with post-traumatic stress disorder (PTSD) by a licensed psychologist and that the claimed work injuries were substantial contributing factors to the employee’s development of PTSD.

**Temporary Total Disability – Substantial Evidence**

Substantial evidence supports the compensation judge’s finding that the employee had been restricted from working and the award of 130 weeks of temporary total disability (TTD) benefits.

Affirmed.

**Sharon Sobczak v. Walmart Stores, Inc., June 2, 2021**

**Settlements – Interpretation**

Where a settlement closes out “inpatient or outpatient chemical dependency treatment” and makes no mention of closing out prescription medication, the settlement is ambiguous. A reasonable interpretation of that language is that prescription medication to address symptoms of chemical dependency was not closed out in the settlement.

**Medical Treatment And Expense – Treatment Parameters**

The treatment parameter for prescription medication does not require the written prescription to be admitted into evidence to demonstrate the medication must be dispensed as written, so long as substantial evidence in the record supports a reasonable inference that the “dispense as written” requirement of Minnesota Statutes § 151.21 was met.

Affirmed.

**Bobbi Quandt v. State of Minnesota, Bureau of Criminal Apprehension, June 3, 2021**

**Causation – Substantial Evidence**

Substantial evidence in the form of expert medical opinion supported the finding that the work injury was a permanent aggravation of the employee’s pre-existing condition.

**Practice and Procedure – Matters at Issue**

Where the record was left open for submission of an amended exhibit to withdraw certain expense claims that the parties had agreed were unwarranted, but the exhibit that was submitted post hearing instead listed more than $10,000 in previously unclaimed expenses in addition to the $670 claimed in the original exhibit, and where the compensation judge did not respond to an objection to the amended exhibit, an order awarding the expenses shown on the amended exhibit was an abuse of discretion.

Affirmed in part and vacated in part.
**Sergio Medina v. Paymasters, Inc., June 17, 2021**

**Practice and Procedure – Matters at Issue**

Where a party did not offer any competent, relevant evidence on an issue or submit an issue to the judge for analysis and decision at a hearing, and did not appeal the subsequent findings and order, the party may not raise the same issue as a defense to its failure to comply with the findings and order more than a year later.

**Penalties**

Where an employer relied on a defense to payment ordered by a compensation judge that had not been appealed and where the defense was not submitted as an issue to the compensation judge at the time of the hearing, the employer did not have a good faith defense to payment.

Reversed.

**Leocadio Villa Sanchez v. Golden Employment Group, June 22, 2021**

**Evidence – Expert Medical Opinion**

The compensation judge did not abuse his discretion in weighing the medical evidence and choosing one medical expert opinion over another when those opinions are supported by that expert’s treating records and other evidence in the record.

Affirmed.

**Dennis Sershen v. Metropolitan Council, June 24, 2021**

**Evidence – Expert Medical Opinion**

The compensation judge did not abuse her discretion in relying on only a portion of an offered expert medical opinion, and her apparent rejection of another portion of the opinion does not indicate an intention to reject the entire opinion.

**Statutes Construed – Minnesota Statutes 176.66, subdivision 10**
**Statutes Construed – Minn. Stat. 176.135, subd. 5**

The compensation judge did not err in ordering the appellant to pay for the employee’s medical expenses related to his occupational disease where the appellant was the insurer during the employee’s last exposure, even if not the last significant exposure.

Affirmed.

**Deborah Leadens v. Diversified Distributors, June 25, 2021**

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

Where the medical evidence submitted does not establish that the employee’s admitted low back and left knee injuries underwent a substantial worsening that were or could reasonably have been anticipated, and where the medical evidence submitted does not support a consequential injury, the employee has not established good cause under Minn. Stat. 176.461 to vacate the award on stipulation.

Denied.
Michael Domarus v. Yule Transport, June 29, 2021

Practice and Procedure – Adequacy of Findings

The compensation judge’s implicit conclusion that the employee did not suffer an ongoing soft tissue injury to his right lower extremity due to his work injury is supported by substantial evidence and does not require remand.

Evidence – Expert Medical Opinion

The compensation judge’s rejection of an expert medical opinion that was inconsistent, lacked foundation and was based upon facts unsupported by the record with respect to the employee’s onset of symptoms, prior symptoms and treatment, and unclear statements regarding the source of complaints, did not rise to the level of an abuse of her discretion.

Affirmed.

Kathleen A. Bradshaw v. EduServ Technologies, July 12, 2021

Causation – Substantial Evidence

Vacation of Award – Substantial Change in Condition

Substantial evidence, including expert medical opinion, supports the compensation judge’s finding that the employee has not sustained an ongoing injury or disability related to the work injury that required any medical treatment after settlement. Given this finding, the employee has not shown a substantial change in medical condition since the settlement.

Appeal affirmed. Petition to vacate denied.

Alia Black v. Essentia Health/SMDC, July 28, 2021

Medical Treatment and Expense – Treatment Parameters

The notice requirement for discontinuance of opioid medication under treatment parameters, Minnesota Rules 5221.6110, subpart 9, is met where the treatment parameters that were considered out of compliance are listed. The inclusion of the independent medical examination report indicating opioid medication was not necessary or reasonable treatment provided adequate notice for that issue to be considered at hearing.

Medical Treatment and Expense – Reasonable and Necessary

Substantial evidence in the record supports the decision of the compensation judge that the employee’s prescription for opioid medication was not reasonable and necessary treatment due to the employee’s consumption of alcohol.

Evidence – Admission

The compensation judge did not abuse her discretion by admitting evidence of the employee’s recent DWI conviction and related proceedings where the employee’s consumption of alcohol while taking opioid medications was at issue in the case.

Affirmed.