Work Comp Campus launched Nov. 2: Updates, outreach, resources
A message from Temporary Commissioner Roslyn Robertson

To our valued stakeholders,

Thank you for your partnership and the resources you are dedicating to the transition to Work Comp Campus. The Department of Labor and Industry (DLI) recognizes the transition continues to be a challenge and, while most elements of Campus are running smoothly, we understand there are areas we need to address.

Our staff members are listening to your feedback, tracking issue areas and working as quickly as possible to answer your questions and assist you as we all learn the new system. Some issues may take longer than anticipated, but we will work together to stabilize Campus and our business operations.

Based on your feedback, DLI is: expanding stakeholder-specific Campus Answer Hours; updating the Campus central webpage with news content and release notes (a list of issues and status updates); and adding more subject matter experts to reduce response times from the Workers’ Compensation Division Help Desk staff.

The move to a modernized information technology system during a pandemic is a huge lift and I appreciate your patience and dedication to this process.

Sincerely,
DLI Temporary Commissioner Roslyn Robertson

Campus updates, outreach, resources

- **Campus Answer Hours** – Additional Campus Answer Hour sessions are being scheduled for the months ahead. Dates, times and links are posted on the "Events: Workers’ compensation" webpage at [www.dli.mn.gov/about-department/about-dli/events-workers-compensation](http://www.dli.mn.gov/about-department/about-dli/events-workers-compensation). Video recordings of the sessions are posted online after the live presentation.

- **Campus central** – The "Campus central" webpage, at [www.dli.mn.gov/business/workers-compensation/campus-central](http://www.dli.mn.gov/business/workers-compensation/campus-central), features news and updates about Work Comp Campus, including known issues that are currently being worked on or have been resolved.

- **FAQs** – Frequently asked questions about Campus are answered and sorted by date and stakeholder group on the "Work Comp Campus FAQs" webpage at [www.dli.mn.gov/business/workers-compensation/work-comp-campus-faqs](http://www.dli.mn.gov/business/workers-compensation/work-comp-campus-faqs).


- **Workers’ Compensation Division Help Desk** – See top of next page.
New, dedicated workers' compensation help desk taking your calls, email

The Department of Labor and Industry (DLI) launched its new Workers' Compensation Division Help Desk on Tuesday, Aug. 25. The new help desk delivers high-quality customer service for workers' compensation stakeholders and is staffed by three Workers' Compensation Division staff members whose positions are dedicated to answering calls and responding to email messages.

The help desk is available from 8 a.m. to 4:30 p.m., Monday through Friday at:

- 651-284-5005 (press 3);
- 800-342-5354 (press 3); or
- helpdesk.dli@state.mn.us.

Those calling outside of help desk hours can leave a message and a staff member will respond the next business day.

Tracking questions to build division knowledge

The help desk staff will route a ticket for each correspondence. Tickets will be used to build a knowledge base so DLI will be poised to provide a more sophisticated software platform in the future. Every staff member in the Workers' Compensation Division will have the ability to edit and initiate tickets.

2020 Workers’ Compensation Advisory Council legislation

HF 19 and SF 27 (Article 2) (2020 7th Special Session)
Signed by the governor Dec. 16, 2020

Available at http://wdoc.house.leg.state.mn.us/leg/LS91/7_2020/HF0019.0.pdf

Overview

This legislation adopts recommendations made by the Workers’ Compensation Advisory Council in 2020 related to: implementation of the Workers’ Compensation Modernization Program (known as Work Comp Campus); Department of Commerce proposals related to self-insurers; occupations entitled to occupational disease presumptions; payment to the estate of a deceased employee using a simplified process; application of the workers’ compensation pharmacy fee schedule to second-injury claims reimbursed by the Special Compensation Fund; and access to workers’ compensation insurance coverage data for insurance verification purposes.

This document provides only a summary of new law; refer to the actual law for complete language and details.

Section 1. Amends Minnesota Statutes § 79A.02, subdivision 4, Recommendations to commissioner regarding revocation

- Strikes the language that currently would allow a workers’ compensation standard group self-insurer to maintain a negative balance in its common claims fund.

Section 2. Amends Minn. Stat. § 79A.04, subd. 2, Minimum deposit

- Limits the discount rate that may be applied to estimates of future workers’ compensation liabilities of self-insurers for the purposes of setting the self-insurer’s security posting requirement.
- Effective Jan. 1, 2022, and applies to actuarial opinions with a valuation date on or after that date.
Section 3. Amends Minn. Stat. § 79A.06, subd. 5, Private employers who have ceased to be self-insured

- Paragraph (b) prohibits the discounting of future workers’ compensation liabilities for self-insured entities that have exited the self-insurance program.

Section 4. Amends Minn. Stat. § 79A.22, subd. 13, Common claims fund; five-year exception

- Strikes the language that currently would allow a workers’ compensation commercial group self-insurer to maintain a negative balance in its common claims fund.

Section 5. Amends Minn. Stat. § 79A.24, subd. 2, Minimum deposit

- Limits the discount rate that may be applied to estimates of future workers’ compensation liabilities of commercial self-insurer groups for the purposes of setting the security posting requirement.
- Effective Jan. 1, 2022, and applies to actuarial opinions with a valuation date on or after that date.

Section 6. Amends Minn. Stat. § 176.011, subd. 15, Occupational disease

- Paragraph (b) includes correctional officers employed by cities and counties and security counselors employed by cities, counties and the state in the list of occupations for which myocarditis, coronary sclerosis, pneumonia or its sequel and infectious or communicable diseases are presumed to be occupational diseases due to employment, if certain conditions are met. Paragraph (e) clarifies the occupations covered by the post-traumatic stress disorder (PTSD) presumption consistent with paragraph (b). The presumptions are rebuttable by the payer due to substantial factors.

Section 7. Amends Minn. Stat. § 176.102, subd. 10, Rehabilitation; consultants, interns and vendors

- Paragraph (a) requires an employer or insurer to be approved by the commissioner as a qualified rehabilitation consultant (QRC) firm, and create an account in Work Comp Campus as a firm, to employ a QRC to provide vocational rehabilitation services to an injured worker.
- Paragraph (b) requires a plan of supervision signed by the QRC intern’s supervisor to be filed with the intern’s application in Campus. The supervisor must verify the intern’s compliance with all rehabilitation statutes and rules. The intern must verify all rehabilitation documents prepared by the intern were reviewed by the supervisor before they were filed with the commissioner.

Section 8. Amends Minn. Stat. § 176.111, subd. 22, Payments to estate; death of employee

- Paragraph (a) allows the use of an affidavit of collection or personal property according to Minn. Stat. § 524.3-1201 to 524.3-1202 for the $60,000 payment to a deceased employee’s estate where there are no dependents entitled to dependency benefits, no probate of the estate is required and no personal representative has been appointed. (Note the maximum amount that can be claimed using this process is $75,000, excluding jointly held property.)
- Paragraph (b) requires that, within 14 days of notice to the insurer of the death of the employee, the insurer must send notice to the estate, at the deceased employee’s last known address, that this payment will be made after receipt of documentation of appointment of a personal representative or an affidavit of collection of personal property and certified death record.

Section 9. Amends Minn. Stat. § 176.135, subd. 1, Medical, psychological, chiropractic, podiatric, surgical, hospital

- Paragraph (h) prohibits the Special Compensation Fund from reimbursing a payer from the second-injury fund under Minn. Stat. § 176.131 (repealed, but applies to grandfathered claims) for any medication charges that exceed the
pharmacy’s usual and customary charge or the maximum amount payable under the workers’ compensation
pharmacy fee schedule in Minnesota Rules, part 5220. 4070, subparts 3 and 4, notwithstanding any contract under
subpart 5 that provides for a different reimbursement amount.


Section 10. Amends Minn. Stat. § 176.181, subd. 2, Compulsory insurance; self-insurers

• Strikes a sentence that limits a third-party administrator license to two years, because it conflicts with Minn. Stat. § 60A.23, subd. 8, which provides for a three-year license period.


Section 11. Amends Minn. Stat. § 176.185, subd. 11, Employment and insurance data

• Paragraphs (a) and (b) describe what insurance policy data reported to the Department of Labor and Industry (DLI) by its contractor, the Minnesota Workers’ Compensation Insurance Association (MWClA), is public and how it may be requested for workers’ compensation insurance verification purposes. Requires a public website for public inquiries, which is the insurance look-up page on DLI’s website.

• Paragraph (b) prohibits the use of insurance coverage data obtained from DLI for commercial purposes, which is defined as the sale or use for marketing or profit. Provides the contractor with a private right of action to enforce a prohibition against a person who uses the data for commercial purposes.


Section 12. Amends Minn. Stat. § 176.223, Prompt first action report

• This section sets forth requirements for preparing and publishing the annual prompt first action report (currently called the prompt first payment report).

• Paragraph (a) defines “insurer,” “prompt first action” and “wage loss benefits.”

• Paragraph (b) requires DLI to publish the report for each workers' compensation insurer by March 15 annually. The report must include the number and percentage of claims in which each insurer commenced wage-loss benefits or filed a denial of liability within statutory time frames in the previous calendar year.

• Paragraph (c) requires DLI, on or before Jan. 15 of each year, to provide each insurer with notice of the data DLI plans to include in the report. By Feb. 15, the insurer must notify the department in writing of inaccurate data reported to the commissioner and of any corrections to the data for the report. The insurer must electronically file the corrected data with the commissioner in Work Comp Campus.


Section 13. Amends Minn. Stat. § 176.231, subd. 5, Electronic reports filed under this section

• This subdivision, initially enacted in 2019, describes the International Association of Industrial Accident Boards and Commissions (IAIABC) national standard by which workers’ compensation employers and insurers must file reports electronically in Campus with the commissioner.

• The amendments to subdivision 5, paragraphs (c) and (d), reflect that the Minnesota implementation guide for the national standard will also include requirements for service of reports about injured workers; and cross-reference the expedited rulemaking authority to amend or repeal rules that conflict with the IAIABC electronic reporting standard and Minnesota implementation guide.


Section 14. Amends Minn. Stat. § 176.231, subd. 6, Commissioner of labor and industry; duty to keep informed

• Paragraph (a) requires insurers and self-insured employers (insurers) to report to DLI all payments of compensation and attorney fees; and the amounts paid and withheld, whether paid voluntarily or by order. Requires reports to be made within 14 days of the date of the first payment, a denial of primary liability, a denial of any part of compensation, a change in the compensation amount or type, commencement of an additional compensation type,
reinstatement of compensation after previous discontinuance or final payment of compensation. Additional reporting requirements are provided in paragraphs (b) through (g).

- Paragraph (b) requires insurers to report compensation paid and amounts withheld from compensation paid, and any amounts paid for attorney fees, beginning 180 days after the date of injury and every six months thereafter.
- Paragraph (c) requires a report of permanent partial disability (PPD) benefits commenced or paid must include a copy of the medical report supporting the PPD benefit paid; and the prescribed form that was served on the employee showing the PPD benefit that was or will be paid.
- Paragraph (d) requires a final report must be filed within 180 days after an insurer has ceased payment of all indemnity and rehabilitation benefits (where no litigation is pending).
- Paragraph (e) requires an insurer to report a change in the number of dependents receiving benefits within 14 days of the change.
- Paragraph (f) requires an insurer to report when a claim is acquired from another insurer and whether benefits are currently being paid. A third-party administrator must report when it begins administering a claim and whether benefits are currently being paid. The reports under this paragraph must be filed within 30 days of the acquisition or change in the third-party administrator.
- Paragraph (g) requires the reports required under this section to be filed electronically, in the form and manner required by the commissioner, according to the requirements of subdivision 5. The reports must be served on or provided to the employee as follows.
  1) If service is required under the workers’ compensation law, the self-insured employer or insurer must serve the report on the employee or dependents within the time limits required, and must retain a proof of service as required by Minn. Stat. § 176.285, subd. 3.
  2) If a document is not required to be served on the employee, the self-insured employer or insurer must, no later than two business days of acceptance of the report by the commissioner, send the report to the employee by first class United States mail or another method agreed to by the employee, and must specify on the report the date it was sent.
  3) A report required to be served on or provided to the employee under the law must contain the information designated by the commissioner in the format required by the commissioner, according to the requirements specified under subdivision 5.

Section 15. Amends Minn. Stat. § 176.231, subd. 9, Uses that may be made of reports; access to division file

- Paragraphs (a) and (c) clarify who has access to the division file when the employee or deceased employee has a guardian, dependents or heirs. For purposes of authorization to access the division file under this subdivision and subdivision 9a, an “employee” includes the employee’s guardian under Minn. Stat. § 176.092, a dependent or representative of a deceased employee under Minn. Stat. §§ 176.111 or 13.10, and a legal heir of a deceased employee’s estate if a court order or other legal documentation is submitted that establishes the person’s legal status as a guardian, dependent, representative or legal heir.

Section 16. Amends Minn. Stat. § 176.231, subd. 9a, Access to the division file without an authorization; attorney access

- Paragraph (a) (1) cross-references representatives of an employee or a deceased employee who have access to the employee’s division file under the amendments to Minn. Stat. § 176.231, subd. 9.
- Paragraph (a) (7) adds that the program administrator for a collective bargaining agreement approved by the commissioner under Minn. Stat. § 176.1812 (the Union Construction Workers’ Compensation Program) has access to the Workers’ Compensation Division file for a claim covered by the agreement.
- Paragraph (b) is amended to specify an attorney who has filed in Campus a notice of representation of the persons and entities listed in paragraph (a) has the same access as the represented person, unless the attorney specifies representation is limited. A retainer agreement, written authorization or document initiating, responding to or intervening in a dispute must be attached to a notice of representation of an employee.
- Paragraph (c) refers to the documents in which the attorney may specify the attorney’s limited access.
Section 17. Amends Minn. Stat. § 176.2611, subd. 5, Form revision and access to documents and data

- Language in paragraphs (b) and (e) governing “read-only” access to documents in the case management systems of the Office of Administrative Hearings, Department of Labor and Industry and the Workers’ Compensation Court of Appeals is deleted because corresponding language in Minn. Stat. § 176.231, subd. 9b, was enacted in 2019.
- Paragraph (d) is deleted because documents sent from the Office of Administrative Hearings are no longer placed in the DLI’s imaged files after Campus implementation but are now available in Campus.
- Paragraph (f), governing each agency’s employees’ use of workers’ compensation data in the agencies’ case management systems, is deleted because corresponding language in Minn. Stat. § 176.231, subd. 9b, was enacted in 2019.

Section 18. Amends Minn. Stat. § 176.2612, subd. 1, Requirements

- Requires that Campus generate an audit trail when the division file is accessed.

Section 19. Amends Minn. Stat. § 176.2612, subd. 3, Creating a Campus account

- Paragraph (b) requires that a person creating an account in Campus must provide the commissioner of DLI with information needed to create the account, including authentication of the person’s identity, according to Minnesota IT Services (MNIT) and DLI requirements. Also requires the person to agree to terms and conditions needed to safeguard security and privacy of data and comply with other requirements in the workers’ compensation law related to Campus.
- Paragraph (c) adds representatives of a deceased employee’s estate to the list of persons who would need to create an account in Campus to electronically access or file documents, consistent with proposed amendments to Minn. Stat. § 176.231, subd. 9.
- Paragraph (e) requires the program administrator for a collective bargaining agreement approved by the commissioner under Minn. Stat. § 176.1812 (the Union Construction Workers’ Compensation Program) to create an account to view documents related to a claim that is covered by the agreement. It also requires a health care provider to create an account to file a request for an administrative conference to recover amounts deemed excessive by the employer or insurer.

Section 20. Minn. Stat. § 176.275, subd. 2, Proof of service; affidavits and notarized statements

- Paragraph (d) clarifies proof of service requirements when a party serves a document through an agency’s electronic system.
- Paragraph (e) identifies obligations of senders, recipients and agencies when a party to a claim uses an agency’s electronic system to file a document in the wrong file, or to serve or send a document to a recipient who is not entitled to receive the document.
  - Requires the party who made the error to, upon discovery, promptly notify the recipient, the subject of the data and the agency whose system was used to send it.
  - It also provides that the agency whose electronic system is used is not responsible under Minn. Stat. § 3.971 and chapter 13 for the improper release, but must promptly correct its files or remove the document upon discovery or notification.

Section 21. Minn. Stat. § 176.285, subd. 1, Service by mail

- Allows for service of workers’ compensation documents by personal service in addition to first class United States mail, except where electronic service is authorized or required.

Section 22. Repealer of Minn. Stat. § 176.181, subd. 6, Financial statements

- Repeals a provision that prohibits a group self-insurer from requiring an employer to provide financial statements certified by a CPA to be approved for group self-insurance. This conflicts with Minn. Stat. § 79A.03, subds. 6 and 9, which require an employer to provide financial statements that are certified or reviewed by a CPA.
COVID-19 claims have become the predominate type of workers’ compensation claims received by the Department of Labor and Industry (DLI) in 2020. (Claims received include lost-time and non-lost-time claims, including denied claims.) As shown in Figure 1, the number of COVID-19 claims received at DLI increased sharply in October, as COVID-19 cases surged throughout Minnesota’s population. In November, for the first time, the number of COVID-19 claims outnumbered the claims for all other injuries and illnesses, and in both November and December, the total number of claims received was more than double the number received in those respective months in 2019. DLI received 15,191 COVID-19 claims through Dec. 23, accounting for 36% of all claims filed in 2020.

Workers in industries where workers are potentially covered by the COVID-19 presumption of work-relatedness account for 82% of the claims. As shown in Figure 2, workers in hospitals and nursing homes account for nearly half of the claims filed. Correctional institutions, both at state and local governments, is the next highest detailed industry, although meat processing has more cases when poultry and non-poultry processing are combined. COVID-19 claims are very concentrated by industry; these 18 detailed industries account for 86% of the claims.

*December 2020 is through Dec. 23.

Figure 2. COVID-19 claims filed at Department of Labor and Industry by industries with 110 or more claims
Outcomes of complaints about registered rehabilitation providers, 2020

By Mike Hill, Rehabilitation Policy Specialist

If a party believes a rehabilitation provider is not following the statutes or rules, they can file a written complaint with the Minnesota Department of Labor and Industry (DLI). Upon receipt and review of the information provided, DLI may perform an investigation to determine if disciplinary action is warranted. Below: Table 1 details complaints received and where they originated; Table 2 details complaints and their outcomes; and Table 3 details the violations and the statutes or rules involved.

### Table 1. Source of complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>ER/IR</th>
<th>EE</th>
<th>Attorney</th>
<th>Rehabilitation provider</th>
<th>DLI</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>2019</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>14</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>2017</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2016</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>15</td>
<td>0</td>
<td>17</td>
</tr>
<tr>
<td>2015</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>7</td>
</tr>
</tbody>
</table>

### Complaint outcomes

A complaint may allege violations of workers’ compensation statutes or rehabilitation rules. During the course of an investigation, additional issues may be identified. Outcomes are determined by the findings of the investigation. Possible outcomes include the following.

- **Unsubstantiated** – The allegations are not supported by the information obtained.
- **Letter of instruction** – A letter is not considered to be formal discipline; the letter is retained by DLI in case subsequent inquiries into a provider's conduct are undertaken.
- **Discipline/stipulation** – Discipline, in the form of a stipulated agreement, involves corrective action and a fine. The severity of the disciplinary action may be increased if the subject has a history of similar violations.
- **Inactive rehabilitation provider** – The rehabilitation provider’s registration became inactive during the investigation. Before being allowed to be re-registered, the complaint must be resolved.

### Table 2. Professional conduct and accountability outcomes

<table>
<thead>
<tr>
<th>Year</th>
<th>No jurisdiction</th>
<th>Unsubstantiated</th>
<th>Letter of instruction</th>
<th>Stipulation</th>
<th>No appeal</th>
<th>Inactive</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>2019</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
<td>1</td>
<td>7</td>
<td>4</td>
<td>0</td>
<td>3</td>
<td>15</td>
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<tr>
<td>2017</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>2016</td>
<td>1</td>
<td>7</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>15</td>
</tr>
<tr>
<td>2015</td>
<td>0</td>
<td>0</td>
<td>11</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>17</td>
</tr>
</tbody>
</table>
Table 3. 2020 rehabilitation violations of Minnesota Statutes and Minnesota Rules

<table>
<thead>
<tr>
<th>Violation</th>
<th>Statute (ch. 176), rule (pt. 5220)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to cooperate with disciplinary proceedings by not providing requested rehabilitation files</td>
<td>5220.1806, subp. 4</td>
</tr>
</tbody>
</table>
| *Failure to be knowledgeable about workers’ compensation laws              | 5220.1803, subp. 2  
|                                                                           | 5220.1801, subp. 9 (E)              |
| Failure to comply with authorized request for information about employee’s rehabilitation | 5220.1801, subp. 9 (K)(4)           |
| *Failure to file an R-8 closure form and summary narrative report within 30 calendar-days knowledge the file should be closed | 5220.0510, subp. 7  
|                                                                           | 5220.1801, subp. 9 (E)              |
| Failure to recommend plan amendment, closure or another alternative when it may be reasonably known the plan’s objective is not likely to be achieved | 5220.1801, subp. 9 (P)  
|                                                                           | 5220.1801, subp. 9 (E)              |
| *Filing false or misleading rehabilitation consultation cost information on R-2 and R-8 forms to DLI and the parties | 5220.1801, subp. 9 (A)  
|                                                                           | 5220.1801, subp. 9 (E)              |
| *Failure to file an R-2 Rehabilitation Plan form with initial evaluation reports, covering eight required points, within 45 days of the first in-person meeting | 5220.0510, subp. 2d  
|                                                                           | 5220.1801, subp. 9 (E)              |
| Failure to notify DLI of any change in the firm address, telephone number or contact person within two weeks of the change | 5220.1600, subp. 1  
|                                                                           | 5220.1801, subp. 9 (E)              |
| *Failure to disclose business referral or other arrangements (verbal or written) to the injured worker | 176.102, subd. 4 (c)  
|                                                                           | 5220.1803, subp. 1 (A), (B)         |
| Failure to explain to injured workers their rights and responsibilities     | 5220.0130, subp. 3 B (1)            
|                                                                           | 5220.1803, subp. 1 and 1a           |
| *Failure of the qualified rehabilitation consultant, following a rehabilitation consultation, to file a rehabilitation consultation form and narrative report | 5220.1803, subp. 2  
|                                                                           | 5220.1801, subp. 9 (E) and 9 (K) (2) |
| *Failure to provide copies of all required reports and progress records, including email messages, to all parties | 5220.1802, subp. 3  
|                                                                           | 5220.0100, subp. 30 and 31          |
| A registered rehabilitation provider shall maintain all required reports and progress records up to five years post closure of the case | 5220.1803, subp. 5                  |
| A rehabilitation provider shall not provide both disability case management and qualified rehabilitation consultant services for the same injured worker | 176.102, subd. 10(b)                |
| *Similar professional conduct violations were reported in the June 2020 edition of COMPACT, for 2019.                       |                                     |

Conclusion

The purpose of a professional conduct investigation is to determine if a violation of the rules and statutes has occurred, so the behavior can be corrected, preventing future problems. Through outreach, education and compliance efforts the department strives to work with rehabilitation providers to improve the quality of services provided to the stakeholders in Minnesota.

More information

DLI's Work comp: For rehabilitation providers webpage was developed to provide information to QRCs and placement vendors to enhance their work product. Stakeholders with rehabilitation questions and concerns may also contact DLI's Workers' Compensation Division Help Desk at helpdesk.dli@state.mn.us, 651-284-5005 (press 3) or 800-342-5354 (press 3).
Workers' compensation coverage for farms

By Brian Zaidman, Research and Statistics

A farm operation must provide workers' compensation insurance for its employees, unless it paid or was obligated to pay cash wages to farm laborers during the previous calendar year less than a certain dollar amount. That threshold dollar amount depends on whether the farm operation maintains specified liability insurance.

If the farm operation has a farm liability insurance policy with $300,000 total liability coverage and $5,000 medical payment coverage for farm laborers, then the farm operation is not required to maintain workers' compensation insurance if the total wages to farm laborers during the previous calendar year were less than the statewide average annual wage.\(^1\) If the farm operation does not maintain the specified liability insurance, then the farm operation must maintain workers' compensation insurance unless the total wages to farm laborers during the previous calendar year were less than $8,000.\(^2\)

The chart below may be used to determine if the farm operation's wages to farm laborers (roughly payroll) during the previous calendar year are less than the statewide average annual wage for the year in which the farm liability policy is written.

\(^1\)The statewide average annual wage is received from the Department of Employment and Economic Development and is the number from which the statewide average weekly wage is derived.

\(^2\)Farm laborer does not include machine hire and other persons specified in Minnesota Statutes § 176.011, subsd. 11a and 12. Other farm employees excluded from workers' compensation coverage in certain circumstances are described in Minnesota Statutes § 176.041, subd. 1.

### Family farm coverage

Minnesota Statutes § 176.011, subd. 11a (a)(2)

<table>
<thead>
<tr>
<th>Average annual wage under M.S. § 176.011, subd. 20</th>
<th>Services rendered (roughly payroll) year</th>
<th>Policy written year</th>
</tr>
</thead>
<tbody>
<tr>
<td>$54,103</td>
<td>Jan. 1-Dec. 31, 2017</td>
<td>Jan. 1-Dec. 31, 2018</td>
</tr>
</tbody>
</table>

Workers' compensation committee seeks new members, alternates

The Medical Services Review Board currently has an opening for:
- a hospital representative member and alternate member; and
- a physician representative alternate member.

To apply for one of the positions, visit [www.sos.state.mn.us/boards-commissions](http://www.sos.state.mn.us/boards-commissions) on the Secretary of State website.

The Medical Services Review Board:
- advises the Department of Labor and Industry (DLI) about workers' compensation medical issues and treatment parameter rules;
- is a liaison between DLI and the medical provider community; and
- supports the education of the provider community about workers' compensation.

About the Medical Services Review Board

The Medical Services Review Board currently meets quarterly via Webex and members of the public may monitor the meetings by Webex. Future meetings may be in person at the Department of Labor and Industry. The quarterly meetings are generally two hours. If issues warrant, meetings and subcommittee meetings may occur more often. The meeting schedule, agendas and minutes are online at [www.dli.mn.gov/about-department/boards-and-councils/medical-services-review-board](http://www.dli.mn.gov/about-department/boards-and-councils/medical-services-review-board).
Survey shows workplace injury and illness rates remain at all-time low

Minnesota’s estimated workplace injury and illness rate for 2019 remains at its lowest since the measurement started in 1973. According to the annual Survey of Occupational Injuries and Illnesses, Minnesota had an estimated 3.2 OSHA-recordable nonfatal workplace injuries and illnesses per 100 full-time-equivalent (FTE) workers in 2019. The estimated rate for 2018 was also 3.2 cases per 100 FTE workers.

The survey estimated Minnesota had 73,000 workers with OSHA-recordable nonfatal workplace injuries and illnesses in 2019, compared to 71,600 estimated cases for 2018.

In 2019, Minnesota’s employment covered by the survey was approximately 2.87 million workers. In 2018 employment covered by the survey was 2.79 million.

“Though it’s reassuring to see the rate of injuries and illnesses has continued to decline, there’s still more work to be done to ensure every worker has the chance to leave their workday in the same condition in which they arrived,” said Roslyn Robertson, Department of Labor and Industry temporary commissioner. “Employers in Minnesota are required to provide a safe and healthful workplace for their employees and we are gratified by those that do so.”

The U.S. Bureau of Labor Statistics (BLS) estimates a national total of 2.8 million nonfatal workplace injuries and illnesses in private and public sector workplaces for 2019, resulting in a rate of 2.8 cases per 100 FTE workers.

Other results from the Minnesota survey

Construction was the industry sector with the highest total case injury and illness rate with 4.8 cases per 100 FTE workers. Transportation and warehousing (4.4) and local government (4.4) were the second highest industry sectors, followed by health care and social assistance (4.2).

An estimated 21,200 workers, 0.9 cases per 100 FTE workers, had one or more days away from work after the day of injury. In 2018, the rate was 1.0 cases per 100 FTE workers. Additional statistics are available about the characteristics of the cases with days away from work. Some highlights are shown below.

- For workers with one or more days away from work, the median duration was six days. This rate has remained unchanged since 2017.
- Sprains, strains and tears accounted for 34% of the injuries for workers with days away from work. The second-highest category was soreness and pain, accounting for 19% of the cases.
- The back (20%) was the most commonly injured body part. Hands and knees each accounted for 11% of the cases.
- The most common injury events were: overexertion and bodily reactions (36%); falls, trips and slips (30%); and contact with objects or equipment (19%).
- The most common sources of injury were: floors, walkways and ground surfaces (21%); bodily motion of the injured worker (16%); and persons, other than the injured worker (11%).

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 4,300 establishments provided usable responses for the 2019 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.

Recordkeeping training offered via webinar in January

Maintaining an accurate OSHA log of recordable work-related injuries and illnesses is an important skill that benefits employers, workers, safety professionals and government agencies. The Department of Labor and Industry is offering free introductory-level training sessions about OSHA recordkeeping in January. Registration is required.

Dates

- Jan. 22 – Webinar only, 8:30 to 11:30 a.m.

Topics

- 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
- Recording COVID-19 cases

Registration, more information

For more information about the training sessions and to register, visit www.dli.mn.gov/business/workplace-safety-and-health/mnosha-compliance-recordkeeping-standard.

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.
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.

January 2021

Jan. 20  Campus Answer Hour for Insurers, Self-Insurers, Third-party Administrators and Trading Partners
Jan. 21  Campus Answer Hour for Law Firms
Jan. 21  Medical Services Review Board
Jan. 22  Campus Answer Hour for Rehabilitation Providers
Jan. 22  Training: The basics of OSHA recordkeeping

February 2021

Feb. 10  Workers' Compensation Advisory Council
Feb. 12  QRC intern, vendor, supervisor orientation session

March 2021

March 10  Workers' Compensation Insurers' Task Force

April 2021

April 14  Workers' Compensation Advisory Council
April 15  Medical Services Review Board
**Workers’ Compensation Court of Appeals**

*August through October 2020*

Case summaries published are those prepared by the WCCA

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**Bruno L. Cates v. SPX Servs. Sols. f/k/a Owatonna Tool Company, Aug. 5, 2020**

**Vacation of Award – Referral for Hearing**

In view of the conflicting evidence submitted by the parties, the employee’s petition to vacate an award on stipulation is referred to the Office of Administrative Hearings for findings regarding medical causation for the employee’s conditions, the applicable work restrictions and permanency ratings both now and at the time of the settlement, and whether the employee is permanently and totally disabled.

Referred to Office of Administrative Hearings for factual findings.

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**Medical Treatment and Expense – Treatment Parameter**

Where the compensation judge determined the implantation of a spinal cord stimulator (SCS) did not result in significant pain relief and the medical provider did not comply with the requirement to obtain a second opinion from outside the provider’s practice, payment for the procedure was properly denied.

Affirmed.

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

Substantial evidence in the record, including well-founded medical opinion, supports the compensation judge’s denial of payment for medical treatment as that medical treatment was not reasonable, necessary or causally related to the work injury.

**Evidence – Expert Medical Opinion**

The compensation judge did not abuse her discretion in relying on expert medical opinion that had adequate foundation and was consistent with the employee’s medical record.

Affirmed.
Bradley S. Hanson v. Schleis Floor Covering, Inc., Sept. 23, 2020

Causation – Aggravation

Substantial evidence, including well-founded medical opinions, supports the compensation judge’s decisions regarding the nature and extent of the employee’s work injuries and corresponding allocation of responsibility for knee replacement surgery.

Evidence – Expert Medical Opinion

A determination of the nature and extent of a work injury by the compensation judge is not limited to the well-founded opinions of the medical experts in the record, so long as the judge’s determination is supported by substantial evidence.

Job Search – Substantial Evidence

The compensation judge’s determination that the employee conducted an adequate job search is supported by substantial evidence in the record where the employee’s physical limitations and specialized skills limited possible openings and the employee was released to work for only a short period.

Affirmed.

Louis Merrill v. Mille Lacs Band Family Services, Oct. 15, 2020

Jurisdiction – Subject Matter

The compensation judge correctly concluded that the employer, the Mille Lacs Band of Ojibwe, 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).

Jurisdiction – Subject Matter

The doctrine of pre-emption does not defeat an Indian tribe’s sovereign immunity against a Minnesota Workers’ Compensation Act claim, so long as the tribe has not waived that immunity for claims in workers’ compensation.

Affirmed.

Michelle Sayler v. Bethany Home, Oct. 15, 2020

Vacation of Award – Substantial Change in Condition

Where the employee’s diagnosed conditions had worsened but she had no new diagnoses, her ability to work had not substantially changed, her additional medical treatment expenses had been mostly paid and her additional permanent partial disability (PPD) ratings were anticipated or inaccurate, the employee did not establish good cause to vacate an award on stipulation.

Petition to vacate denied.

Barbara Bank v. Minnesota Department of Human Services, Oct. 20, 2020

Arising Out of and in the Course of – Traveling Employee

The compensation judge erred in applying the increased risk test to deny the employee’s claim related to an injury she suffered while protected by portal to portal coverage and while engaged in a reasonable activity.

Reversed and remanded.

Vacation of Award – Substantial Change in Condition

The employee established good cause to vacate the award on stipulation where his circumstances satisfied all factors outlined in Fodness v. Standard Cafe, 41 W.C.D. 1054 (W.C.C.A. 1989), and where the change in his medical condition was not and could not reasonably have been anticipated at the time of the settlement.

Petition to vacate granted.

Dawn Strohman v. Grand Casino, Oct. 23, 2020

Jurisdiction – Subject Matter

The compensation judge did not err in dismissing for lack of jurisdiction the employee’s claim for workers’ compensation benefits under Minnesota law against her employer, the Mille Lacs Band of Ojibwe Indians, whose sovereign immunity was not waived.

Affirmed.

George Hakomaki v. Braun Intertec, Oct. 30, 2020

Evidence – Expert Medical Testimony

Noting that a doctor makes no reference to an intervening incident in the employee’s medical history is part of the compensation judge’s weighing of evidence and does not constitute improper exclusion of evidence for lack of foundation by the compensation judge.

Causation – Substantial Evidence

Substantial evidence, including medical records and expert medical opinion, supports the denial of the employee’s claims in relation to a low back injury.

Affirmed.
Scott Koehnen v. Flagship Marine Company, A20-0053, Aug. 12, 2020


Affirmed.