

Worker's Compensation Advisory Council
Agreed bill package
8/23/2017

1. **Accept department proposals.**
2. **PPD Benefit Maximum Rates.** PPD benefit maximum rate increase of \$20/\$25 per week, resulting in a maximum PPD rate of \$382 for injuries after 1/1/2018 and \$407 for injuries after 1/1/2019. Additionally, management and labor council members will sign a letter of understanding developed by the department that the next agreed-bill will include shared savings with workers, including a weekly benefit increase above average that is based on actual savings reported by WCRB that employers/insurers realize because of the implementation of the medical fee schedule. (modified labor #1)
3. **Permanent Total Disability Supplemental Benefits.** Two year bump in eligible dates/rates. Current law provides for those injured prior to 1/1/2003 a supplement to max rate of \$669. A two year bump would take it to injuries prior to 1/1/2005 and increase the maximum benefits to \$711 per week. (labor #2)
4. **Increase Release of Unaccrued Benefits in Compromise Agreements.** Increase the amount of unaccrued compensation that may be released to the injured worker without restriction in a compromise settlement in pursuant to DWD 80.03(1)(d) from \$10,000 to \$50,000. (labor #6)
5. **Posting of injured worker WC rights.** Require DWD to develop a poster displaying worker's WC employee rights that employers would be required to display in the workplace. DWD to provide model form that can be printed for display. Effective 1/1/2019 (modified labor #10)
6. **Loss of Hearing Measurements.** Require DWD to review and report to the Council on loss of hearing measurements, how WI law compares to other states, how technology has improved, etc. to guide future decisions regarding statutory measurements (modified labor #14)
7. **Scheduled Injury Multiplier.** If worker suffers scheduled injury that results in PPD, and employer is unable to return worker to work with a wage within 15% of pre-injury wage, the worker will receive a 15% increase in the otherwise payable weeks of benefits.
8. **Medical Fee Schedule.** Require DWD to develop a medical fee schedule that approximates the average negotiated price of group health in Wisconsin. In developing the fee schedule, DWD shall utilize available data sources, including surveying self-insured employers to request price data by CMS CPT codes. The fee schedule shall be constructed initially by applying a percentage increase to Medicare rates that would result in the fee schedule approximating the average negotiated group health price. Annually thereafter, the fee schedule shall be adjusted by an amount equal to medical inflation. The department shall repeat the data collection and analysis in order to reset the medical fee schedule rates every ten years. Data collected by DWD under this section shall be considered proprietary information and not subject to open records requests. The fee schedule shall include a 2.5% increase above the DWD-determined average negotiated group health price to reimburse medical providers for administrative expenses associated with worker's compensation claims, unless providers bring data forward to DWD that proves the amount of uncompensated administrative expenses associated with worker's

compensation claims is higher than 2.5% but no higher than 10%. The fee schedule shall be in place 1/1/2019. (modified management #1)

9. **Electronic Billing/Payments.** Require electronic billing/payments by 2019 (management #4)
10. **Electronic Medical Records.** Require availability of electronic medical records by 2019 to people currently able to receive copies of medical records (modified management #5)
11. **PPD minimum ratings.** DWD shall report to Council on progress on item from 2015-16 agreed-bill within 3 months of the bill's effective date. (modified management #12)
12. **Opioids.** See separate Opioid proposal list.

WCAC OPIOID PROPOSAL

- 1) Limit physician dispensing of opioids for a workplace injury to a 7-day supply per claim. Opioids dispensed by a physician beyond a 7-day supply shall be deemed to be unnecessary treatment per 102.16 (2m).
- 2) The DWD shall coordinate with the DSPS to educate providers, and shall educate injured workers about FDA-approved treatments and FDA-approved devices for chronic pain, in lieu of or in combination with medication, is a medical expense that may be reasonably required to cure and relieve from the effects of the injury and a covered medical expense under the WC Act. FDA-approved treatments may include, but are not limited to, physical therapy, acupuncture, trigger point injections and chiropractic care.
- 3) If an injured worker is prescribed opioids by a treating physician, and the employer/insurer obtains an IME opinion that opioids are not needed but the claim is otherwise work-related, the following shall apply:
 - a. Any IME opinion regarding the cessation of opioid medications MUST contain:
 - i. A discussion of FDA-approved alternative treatments or devices other than opioid medication for the treatment of the injured worker's pain, and if opining that "alternative treatments" are also unnecessary, an explanation as to why alternatives are unnecessary;
 - ii. A proposed plan of discontinuation of opioid therapy consistent with the Wisconsin Medical Board Opioid Prescribing Guideline (http://dsps.wi.gov/Documents/Board%20Services/Other%20Resources/MEB/20161116_MEB_Guidelines_v4.pdf);
 - iii. That if the IME opines that the injured worker has developed behaviors indicative of opioid use disorder, affirmatively offer to pay for, and assist the worker in obtaining a physician referral for addiction treatment.
- 4) The employer/insurer shall advise the employee that currently prescribed opioids will be continued to be paid by the employer/insurer until the patient is referred for treatment. It is understood that opioids may continue to be prescribed for a time as a part of the addiction treatment process.
- 5) Educate injured workers regarding opioid therapies, opioid addiction, and alternatives treatments by providing information within the "Worker's Compensation Rights" poster to injured workers.