

Testing begins for new EDI trading partners

In preparation for the Jan. 1, 2014, mandatory EDI/eFROI implementation, the Department of Labor and Industry (DLI) has begun testing with new EDI trading partners, using the standards outlined in the Electronic Filing of First Report of Injury Implementation Guide. The guide may be found on the DLI website at www.dli.mn.gov/WC/Edi.asp.

To become a new EDI trading partner, see Section 4 of the implementation guide for the necessary steps to follow. The revised Minnesota electronic trading partner profile became available on the department's website May 3, 2013.

More information regarding the mandatory EDI/eFROI implementation, including frequently asked questions, can be found on the department's website at www.dli.mn.gov/WC/Edi.asp.

Questions, comments or concerns regarding implementation can be directed to the DLI EDI/eFROI Implementation Team at dli.edi@state.mn.us.

Stay informed

Subscribe to the trading partners email list on the DLI website at www.dli.mn.gov/EmailLists.asp.

WORKERS' COMPENSATION BILL PASSES

Enhanced benefit, cost containment, housekeeping items

The Minnesota Legislature passed a workers' compensation law that contains the most significant changes to the workers' compensation system in almost 20 years. The bill was negotiated by the AFL-CIO and the Minnesota Chamber of Commerce and approved by the Workers' Compensation Advisory Council. The governor sign the bill on May 16, 2013.

Article 1 of the law contains several housekeeping provisions proposed by the department. Article 2 contains enhanced benefits for injured workers and several cost containment measures for employers. For example, coverage will now be provided for post-traumatic stress disorder (PTSD) when diagnosed by a licensed psychologist or psychiatrist according to the Diagnostic and Statistical Manual of Mental Disorders and the maximum benefit for injured workers was increased from \$850 a week to 102 percent of the statewide weekly average wage. In addition, the cap on cost of living adjustment (COLA) increases was raised from 2 percent to 3 percent and the waiting period for COLA increases was reduced from four to three years. The law also directs the commissioner of the Department of Labor and Industry to implement a two-year patient advocate program for workers with back injuries who are considering spinal fusion surgery.

With respect to cost containment, limits were placed on certain job development services, and employers and insurers will no longer be required to reimburse workers for a percentage of attorneys' fees if the employee did not actually pay any such fees. In addition, the commissioner was given authority to adopt rules to require injured workers who are prescribed narcotics to enter into pain contracts with their physicians. The commissioner is also directed to conduct a study of the effects of potential reforms and barriers on workers' compensation medical and administrative costs, and make a report to the Workers' Compensation Advisory Council by Dec. 31, 2013.

The law is available on the Office of the Revisor of Statutes website as Session Law 70 at www.revisor.mn.gov/laws/?id=70&year=2013&type=0.



FACTS ABOUT FUSION

The Department of Labor and Industry, in collaboration with the Medical Services Review Board, has prepared a Spinal Fusion Information Fact Sheet. The fact sheet is intended to provide basic information about the potential risks and benefits of spinal fusion surgery. Physicians, surgeons, qualified rehabilitation consultants (QRCs), insurers and others are encouraged to share the fact sheet with injured workers who are considering lumbar fusion surgery.

The fact sheet is available on the department's website at www.dli.mn.gov/WC/Pdf/fact_sheet_lumbar_fusion.pdf.

Anyone with questions about the fact sheet or its use should contact Lisa Wichterman, DLI's medical policy specialist, at (651) 284-5173 or lisa.wichterman@state.mn.us.

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**MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY**

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Workers' compensation information fact sheet

What injured workers should know about lumbar fusion surgery as a treatment for degenerative disc disease

This information sheet is for injured workers with a Minnesota workers' compensation claim who are considering lumbar fusion surgery. It does not provide medical advice. Whether lumbar fusion is right for you is a choice you must make with your doctor.

What is lumbar fusion surgery?
Lumbar fusion surgery is performed as treatment for a number of different conditions that affect the structural integrity of the spine (for example, certain spinal fractures). Lumbar fusion surgery is also sometimes performed for treatment of severe chronic low back pain in patients with degeneration of one or more lumbar discs.

What are the results of lumbar fusion for injured workers with chronic low back pain and degenerative disc disease?
You might want to consider and discuss the following information¹ with your physician before making a decision about whether you will proceed with surgery.

- Studies of injured workers show about half of them get better after the surgery. However, up to one-third of patients report a "poor" result.
- In some studies, when lumbar fusion is compared to other treatments, patients who receive a fusion do better than those who just continue to get the same treatment they were already receiving. However, in other studies, patients who were referred for intensive medical management and interdisciplinary rehabilitation did as well as those who had fusion surgery.
- Ten to 20 percent of patients develop complications from the surgery. Complications include infection, deep vein thrombosis, pulmonary embolism, nerve injuries and problems with bone grafts or implanted devices.
- About one in every four injured workers who have a lumbar fusion will have another lumbar surgery. Subsequent surgeries are often done because the fusion doesn't "take" (become solid) or the hardware used in the fusion becomes a problem, or, because the spine above or below the fusion starts to deteriorate, causing more pain and disability.
- Most injured workers who are disabled by their back pain remain disabled after their fusion surgery, with fewer than 50 percent returning to work.
- Most injured workers continue to use strong pain medication after their surgery; some even require more medication.

Can I get a second opinion?
The workers' compensation law allows you to get a second opinion from a provider of your choice, paid for by the workers' compensation insurer.

This information can be provided to you in alternative formats (Braille, large print or audio).
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New online process streamlines submission of Medical, Rehabilitation Request/Response forms



The Department of Labor and Industry (DLI) has launched a new online process enabling employees, insurers, attorneys, rehabilitation providers and medical providers to complete and submit Medical Request, Medical Response, Rehabilitation Request and Rehabilitation Response forms electronically to the department. The process is intended to reduce delays caused by manually processing paper requests and responses. Use of this online filing process is optional; parties can continue to file these forms with the department in the conventional paper format.

According to the most recent *Minnesota Workers' Compensation System Report*, during calendar-year 2011, almost 5,000 Medical and Rehabilitation Request forms were filed. The system report also indicates that from 1997 to 2010, the overall dispute rate for Medical and Rehabilitation Request forms increased 92 percent and 69 percent, respectively.

The process became available April 19. All applicable statutes and rules regarding the filing of Medical and Rehabilitation Request forms apply to the forms available electronically from DLI's website. Data submitted electronically will be accepted as received only during regular DLI business hours, 8 a.m. to 4:30 p.m. (Central Time), Monday through Friday (excluding holidays). Data received after 4:30 p.m. or on a Saturday, Sunday or state holiday will be electronically date-stamped for the next business day DLI is open for business.

The form can be accessed at <https://secure.doli.state.mn.us/adrforms/main.aspx>. General instructions and directions for completion and submission of Medical and Rehabilitation Request forms can be accessed at www.dli.mn.gov/WC/PDF/mq03.pdf and www.dli.mn.gov/WC/PDF/rq03.pdf. If you have questions regarding the submission of these forms, call the DLI Alternative Dispute Resolution unit at (651) 284-5032 or 1-800-342-5354.

100 years of workers' compensation in Minnesota

100 years of helping injured workers get back to work

Prior to passage of the workers' compensation law in 1913, employees who became injured or ill at work often had little support and few options. Employers were not required to pay for medical help or to make concessions for those who needed to be off the job for a few days, indefinitely *or* permanently.

"Until 1913, when Minnesota passed its first workmen's compensation law, the injured industrial worker had four options," according to *The Origins of Workmen's Compensation in Minnesota* author Robert Asher. "He could sue his employer for damages; he could hope his employer would tender financial aid; he could fall back on an insurance policy if he had one; or he could turn for help to private and governmental [charitable] institutions."

"Industrial accidents were so common," he reports, "that in 1909 a manager of a manufacturing plant could tell investigators in an unemotional manner that 'When a man applies to us for work and says he has 10 years experience on, say a punch press, we ask him to show us his hands. We expect to find a few fingers off.'"

Employers, workers, labor groups and insurers were all in favor of some kind of workers' compensation system, but disagreed with the particulars of what should be enacted. Proposals to the 1911 Legislature failed, but the ideas resurfaced before the 1913 Legislature.

The 1913 Senate debated various amendments, compromises and objections to a bill proposing workers' compensation. One such objection was from the Minneapolis Trades and Labor Assembly "which called the Senate bill 'the most outrageous piece of legislation attempted to be passed against the interests of the working people in the state,'" according to *How Minnesota Adopted Workers' Compensation* by Shawn Everett Kantor and Price V. Fishback. "The Senate ignored the opposition to the bill and passed it unanimously."

When the bill passed to the House, more debate and compromise was underway. "For six hours," said Kantor and Fishback, "Representative Ernest Lundeen, a Republican and avid supporter of labor issues, proposed a litany of labor-supported amendments that effectively served as a filibuster."

After adoption of some, but not all, of the proposed amendments, the House passed the bill 102 to 6.

Within the workmen's compensation law, the labor commissioner was given the duty to advise employees of their rights, adjust "so far as possible" differences between the employee and employer, "observe in detail the operation of the act throughout the state" and report to the Legislature, including any suggestions or recommendations.

The original statute is about a dozen pages in length. Among other benefits for injured workers, an injury producing temporary total disability requires payment of: 50 percent of the wages received at the time of injury, subject to a maximum compensation of \$10 a week and a minimum of \$6 a week, paid for as many as 300 weeks.

Today, 100 years later, the Minnesota Department of Labor and Industry (DLI) oversees the workers' compensation system to assure it quickly and efficiently delivers indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of the law.

Examples of the schedule of compensation – 1913 and 2013

Type of disability	1913	2013
Temporary total disability	50 percent of wages – maximum \$10 a week and minimum \$6 a week; 100 percent of wages if making less than \$6 a week; for up to 300 weeks	66-2/3 percent of wages – maximum \$850 a week and minimum \$130 a week or the injured employee's actual wage; for up to 130 weeks
Temporary partial disability	50 percent of the difference between the before-injury wage earned and the wage that can be earned in a partially disabled condition – same minimum and maximum as above; for up to 300 weeks	66-2/3 percent of the difference between the before-injury wage earned and the wage that can be earned in a partially disabled condition – same maximum as above; for up to 225 weeks or, after 450 weeks after the date of injury, whichever comes first
Permanent partial disability	Compensation based on extent of such disability, from loss of a toe other than the great (or big) toe – 50 percent of daily wages for 10 weeks, to the loss of an arm – 50 percent of daily wages for 200 weeks	Compensation based on a percentage of the whole body – from less than 5.5 percent to 95.5-100 percent – multiplied by a dollar amount – ranging from \$75,000 to \$515,000; employee can request a lump-sum payment
Permanent total disability	50 percent of wages – maximum \$10 a week and minimum \$6 a week; 100 percent of wages if making less than \$6 a week; for up to 400 weeks	66-2/3 percent of wages – maximum \$850 a week and minimum weekly compensation equal to 65 percent of the statewide average weekly wage; ceases at age 67; coordinated with other government disability and retirement benefits

As of 2012, Minnesota Statutes Chapter 17, Workers' Compensation, stretches from 176.001 to 176.862 – covering everything from Appeals to Zero Ratings. An available PDF file is 142 pages in length.

Current benefits, which are paid regardless of any fault of either the employer or employee, include:

- medical care related to the injury, as long as it is reasonable and necessary;
- wage-loss benefits for part of the income loss;
- benefits for permanent damage to a body function;
- benefits to dependents in fatality cases;
- vocational rehabilitation services if the employee cannot return to the job or employer; and
- reimbursement for mileage to obtain medical treatment and certain vocational rehabilitation activities.

The Department of Labor and Industry's Safety and Workers' Compensation Division comprises four work units to oversee various areas of assistance for employers, insurers, injured workers and other stakeholders (see page 6 for more information about each unit).

In addition, DLI added an Office of Workers' Compensation Ombudsman a few years ago, tasked with informing, assisting and empowering injured workers and small businesses having difficulty navigating the workers' compensation system and recommending improvements to the effectiveness of the system.

The system continues to evolve and change, but the basic foundation of workers' compensation remains the same as it was 100 years ago – helping injured workers get back to work.

Information from *The Origins of Workmen's Compensation in Minnesota* was used with permission of the Minnesota Historical Society's *Minnesota History* magazine (Winter 1974). The complete text is online at www.mnhs.org/market/mhspress/minnesotahistory/index.html.

How Minnesota Adopted Workers' Compensation, published in the *Independent Review* (Spring 1998), is online at www.independent.org/publications/tir/article.asp?a=372.

Save the date: 2013 Workers' Compensation Summit

Looking Back, Moving Forward: 100 Years of Workers' Compensation in Minnesota

– Sept. 12, 2013 at Crowne Plaza Hotel in downtown St. Paul –

Registration will open soon for the 2013 Workers' Compensation Summit! Join the Minnesota Department of Labor and Industry on Thursday, Sept. 12, at the Crowne Plaza Hotel in St. Paul, Minn., for this one-day event packed with great information.

The conference will feature general sessions and breakout sessions that focus on current issues affecting the workers' compensation system and ways to improve processes and services that affect employers and injured workers. Topic to be addressed may include: recent changes to workers' compensation law; head injuries and traumatic brain injuries; alternative dispute-resolution options; workplace violence prevention; Medicare; chemical dependency; sleep deprivation; and more.

In previous years, the Workers' Compensation Summits in northern Minnesota attracted nearly 300 stakeholders, including employers, insurers, providers, employee representatives, public officials and others. An even bigger crowd is expected this year with the conference in the metropolitan area.



The complete schedule, with topics and speakers listed, plus registration information, will soon be online at www.dli.mn.gov/Summit.

Exhibitor and Sponsor Opportunities

The Department of Labor and Industry and the Workers' Compensation Advisory Council are excited to offer organizations two ways to showcase their company and support this important event.

- The Exhibitor's Package includes: an 8' x 10' booth with 8' skirted table, two chairs, electrical access and Wi-Fi connectivity; as well as two complimentary all-access passes to the conference, all conference materials and meals (additional exhibitor staff members must register and pay the conference fee); plus company description, contact information and logo listed in the conference program, with name/logo featured on signage throughout the conference area.
- The Sponsor's Package includes: the company's name/logo on signage throughout the conference area and in the conference program.

This opportunity closes at the end of business on Friday, Aug. 2, 2013. To become an exhibitor or sponsor contact Lisa Wichterman at lisa.wichterman@state.mn.us or (651) 284-5173.

Co-sponsored by the Minnesota Department of Labor and Industry and the Workers' Compensation Advisory Council. No taxpayer dollars will be used to fund this event.

Directors bring experience, knowledge to Workers' Compensation Division

Alternative Dispute Resolution (ADR) unit

The 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 and their employers.

ADR Director Chris Leifeld

Leifeld joined DLI in April 2011, serving as the director of the Vocational Rehabilitation unit for six months, until taking on the position of Alternative Dispute Resolution unit director. Prior to coming to DLI, he was the executive director of the Minnesota Catholic Conference for nine years. Leifeld has a master's degree in education from the University of Minnesota. He lives in St. Paul, Minn., with his two teenaged children. Besides the constant worrying about his children, his hobbies include biking, remodeling his 1920s house and reading mystery novels and historical nonfiction.



Back row: Chris Leifeld, Charles McKinstry-Luepke
Front row: Jessica Stimac, Karen Kask-Meinke

Compliance, Records and Training (CRT) unit

The CRT unit creates and maintains workers' compensation claim files. It ensures compliance with benefit provisions of workers' compensation law by auditing workers' compensation claims, penalizing insurers for late payment and providing educational outreach. It also certifies QRCs and provides analysis of medical and rehabilitation issues. Upon request, CRT mails the state's required workplace posters without charge.

CRT Director Jessica Stimac

Stimac's primary area of practice since 2004 has been workers' compensation. She started in the field as a defense attorney, representing insurers, self-insured employers and medical intervenors. She has been with the Department of Labor and Industry for six years. In that time, she has made benefit determinations and mediated disputes in the Alternative Dispute and Resolution unit; supervised the special claims of the Special Compensation Fund unit; and, since February 2012, has overseen operations as director of the Compliance, Records and Training unit. Stimac has a bachelor's degree in biological

sciences from the University of Notre Dame and graduated with honors from the University of St. Thomas School of Law. Her hobbies include trail running with her Great Dane, reading, watching Notre Dame football and spending time with family and friends.

Special Compensation Fund (SCF) unit

This work unit administers the workers' compensation claims of injured employees who worked for employers that did not carry workers' compensation insurance or that declared bankruptcy. SCF also administers the asbestosis program and the supplementary and second-injury reimbursement programs. It enforces the requirement that all state employers carry workers' compensation insurance.

SCF Director Karen Kask-Meinke

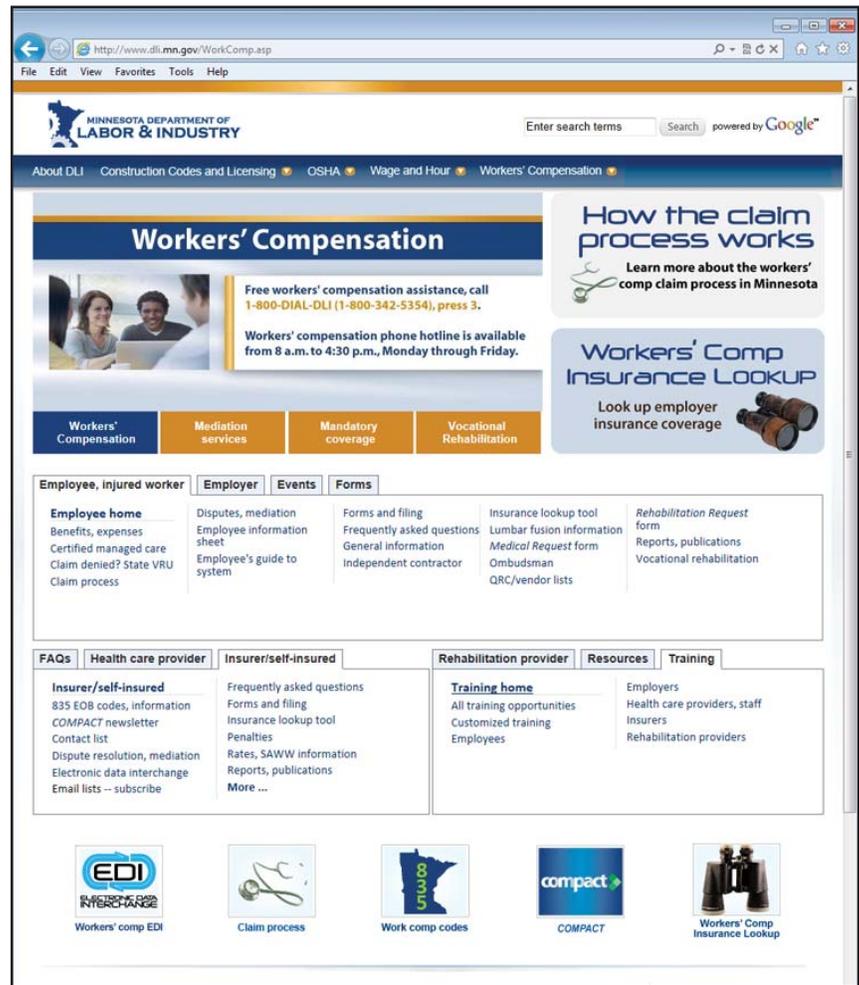
Kask-Meinke joined the Department of Labor and Industry (DLI) in 1989 as a claims administrator in the Special Compensation Fund unit, administering second-injury and supplemental benefit claims. Since then, she has gained valuable experience managing uninsured and bankrupt self-insured claims, and supervising all functions of the fund, including the mandatory-coverage investigation and penalty program. She is a St. Olaf College alumna and lifelong Green Bay Packers and Wisconsin Badgers fan.

Vocational Rehabilitation unit (VRU)

This work unit provides vocational rehabilitation services to help injured workers return to work. Its staff consists of qualified rehabilitation consultants (QRCs), placement specialists and placement assistants. Injured workers eligible for services include: those whose workers' compensation claims were denied; those whose rehabilitation services were suspended; those who qualify for services paid by insurance carriers or self-insured employers; and those who are awaiting a decision on eligibility for workers' compensation benefits.

VRU Director Charles McKinstry-Luepke

McKinstry-Luepke has been with DLI for almost 24 years. During that time, he has worked as a rehabilitation and medical specialist, rehabilitation policy analyst, mediator/arbitrator, qualified rehabilitation consultant (QRC) and QRC supervisor. He comes to the Vocational Rehabilitation unit with 30 years of experience in vocational rehabilitation, as well as experience in trucking and warehouse management prior to that. He has a master's degree in rehabilitation counseling from the University of Iowa and has maintained his Certified Rehabilitation Counselor certification since 1984. His hobbies include long-distance biking, reading and playing music.



CompFact

Vocational rehabilitation utilization

By Brian Zaidman, Research and Statistics

Vocational rehabilitation utilization measures the percentage of indemnity claims with a vocational rehabilitation plan filed. The first figure, based on developed numbers of claims and vocational rehabilitation plan filings, shows the estimated percentage of injured workers that are or will receive vocational rehabilitation services by their year of injury. The estimated rate for workers injured in 2011 was 23.8 percent, compared to estimated rates of 23.7 percent for 2010 and 2009. The 2001 rate was 20.3 percent.

The second figure shows the estimated number of injured workers who are receiving or will receive vocational rehabilitation services by their year of injury. For 2011, 4,960 workers are estimated to receive vocational rehabilitation services, compared to 5,110 workers injured in 2010 and 6,470 workers injured in 2001.

Figure 3 shows the utilization rate for workers injured during 2008, 2009 and 2010, based on reported plans and claims, by the length of temporary total disability (TTD) benefits paid. This figure shows vocational rehabilitation services are being provided to nearly all of the injured workers who have received more than six months of TTD benefits. For injured workers with up to three months of TTD benefit payments, 13 percent have received vocational rehabilitation services. For injured workers with more than 12 months of TTD benefit payments, 95 percent have received vocational rehabilitation services.



Figure 1. Percentage of paid indemnity claims with a VR plan filed, injury years 2001-2011

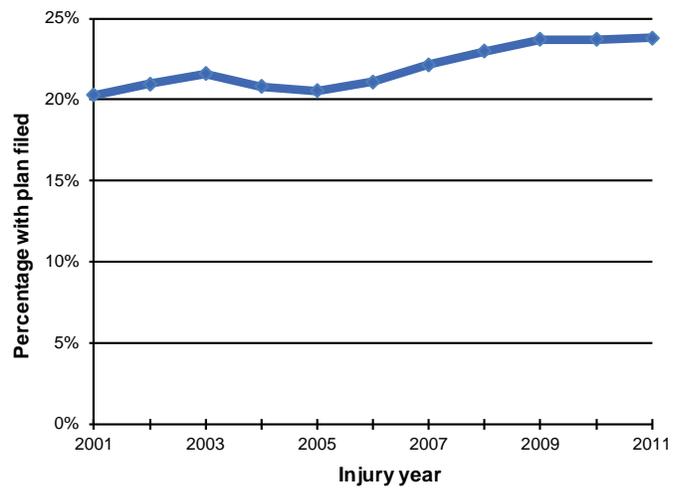


Figure 2. Number of paid indemnity claims with a VR plan filed, injury years 2001-2011

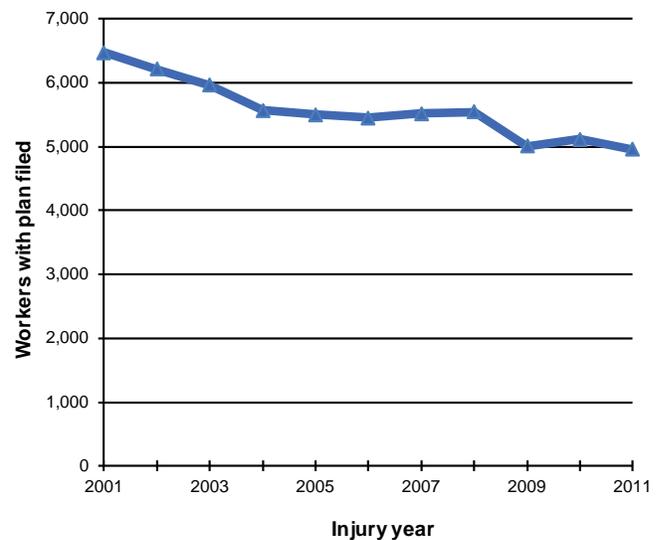
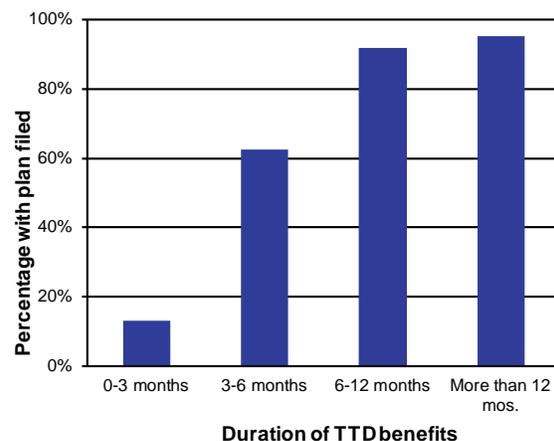


Figure 3 Percentage of paid indemnity claims with a VR plan filed by TTD duration, injury years 2008-2010 combined



Coverage requirements highlighted for businesses, organizations

By Dave Horning, Special Compensation Fund Outreach Project Manager

Minnesota workers' compensation law states all employers are required to purchase workers' compensation insurance or become self-insured, with some limited exceptions.

To bring awareness of the workers' compensation requirement to organizations and businesses, the Special Compensation Fund (SCF) unit of the Department of Labor and Industry (DLI) has initiated a workers' compensation outreach program.

SCF is collaborating with state licensing and permitting boards to provide current workers' compensation information and standardized forms to verify license applicants are in compliance with workers' compensation insurance requirements. Current information about workers' compensation coverage and who needs it is available on the DLI website at www.dli.mn.gov/WC/AboutCov.asp.

SCF's mandatory coverage enforcement team is providing support to state licensing personnel in determining workers' compensation coverage issues with license/permit holders.

Included in the outreach program is a 2013 revision to DLI's insurance verification lookup tool. The revised tool provides licensing personnel the opportunity to obtain – in real time – workers' compensation coverage information (if any) for a license/permit applicant.

The SCF outreach initiative is a first step in expanding and coordinating state government workers' compensation education and compliance efforts.



Open an account with workers' compensation file review



Those who use the services offered by the department's Workers' Compensation Division File Review section, such as obtaining copies of workers' compensation records, may want to consider opening an account with File Review.

Opening an account is as easy as contacting File Review to register the business and then sending a check or money order payable to the Department of Labor and Industry with "Financial Services/Workers' Comp File Review" on the memo line. The recommended starting amount depends on business needs; a File Review staff member can help estimate this amount.

Opening an account allows File Review to provide a client's copies in a more timely manner, because the account eliminates the need to invoice the business and receive payment before making copies available. Account holders have the benefit of copy availability immediately after preparation, with copy charges simply deducted from the account balance. The account holder will receive notification when the account needs to be replenished, to continue uninterrupted service.

For more information about this service, call File Review at (651) 284-5200.

Ask the ADR pro

DLI's Alternative Dispute Resolution unit answers frequently asked questions

Editor's note: The Alternative Dispute Resolution (ADR) unit at the Minnesota Department of Labor and Industry 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 and their employers.

Q. What can be done to ensure that medical bills incurred immediately after the claimed injury are properly processed in the workers' compensation system?

A. Medical bills incurred immediately after a work injury often seem to fall through the cracks. In part this is because the employer has up to 10 days to report a claim with disability exceeding three calendar-days to their workers' compensation insurer. "Medical only" claims are handled even less formally. In either case, a workers' compensation insurer will typically not have knowledge of a claimed work injury when an injured worker is first treated and there will be no workers' compensation claim number or adjuster yet assigned.

Because the only thing that triggers the workers' compensation insurer's responsibility to pay medical bills (or to deny them, ask for additional information or schedule an independent medical examination) is the actual receipt of the itemized bills, the importance of making sure the medical provider has the information about where to send the bills cannot be overstated. A medical provider may have difficulty obtaining this information from anyone other than the injured worker/patient due to data privacy laws.



Both employers and insurers can be helpful by reminding an injured worker of the need to furnish their medical providers with the workers' compensation insurance company contact information and the claim number as soon as it is available to make sure the providers send the medical bills directly to the workers' compensation insurer.

Employers and insurers should also feel free to give an injured worker DLI's Alternative Dispute Resolution hotline phone number (see below). Specialists are available to help explain this process to injured workers and how they play a critical role in ensuring the workers' compensation insurer will promptly process their medical bills.

Q. As an employee attorney, what can I do to expedite the certification of dispute process regarding medical bills?

A. When you file a request for certification, provide as many details as you can about the matter in dispute. For example: the bills or at least the amounts and dates of service; the explanations of review (EORs) or documentation showing denial of bills. Serving the insurer with the request for certification, although not required, is very helpful. ADR can then quickly contact the insurer and ascertain the current adjuster with some confidence they will be already aware of the issue being raised. Remember, the division files contain virtually no information about what bills were submitted, when and to whom. DLI relies on the information the parties provide in the certification process to determine whether a dispute is ripe for certification.

Do you have a question for DLI's ADR unit?

Contact ADR at (651) 284-5032, 1-800-342-5354 or dli.workcomp@state.mn.us if you have a question for DLI's ADR professionals. The question and answer may also be featured here at a later date.

From the State Register

Provider participation list available

Minnesota Statutes § 256B.0644 and Minnesota Rules parts 5221.0500, subp. 1, and 9505.5200 to 9505.5240, also known as the Department of Human Services (DHS) "Rule 101," require health care providers to provide medical services to an injured worker under the workers' compensation law to participate in the Medical Assistance Program, the General Assistance Medical Care Program and the MinnesotaCare Program.

Notice is hereby given that the Minnesota Health Care Programs provider participation list for April 2013 is now available. The provider participation list is a compilation of health care providers that are in compliance with DHS Rule 101. If a provider's name is not on the list, DHS considers the provider noncompliant.

The list of providers is separated by provider type, each section is in alphabetical order by provider name and there is no additional information on the list other than the provider's name. This list is distributed on a quarterly basis to Minnesota Management and Budget, the Department of Labor and Industry, and the Department of Commerce. To obtain the list, call the DHS Provider Call Center at (651) 431-2700 or 1-800-366-5411. Requests may also be faxed to (651) 431-7462 or mailed to the Department of Human Services, P.O. Box 64987, St. Paul, MN 55164-0987.

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

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/CCLDReview.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 at www.dli.mn.gov/OSHA/SafetyLines.asp.



DLI also maintains five specialty email lists and 11 rulemaking email 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. 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.

Updated brochures available:

Work comp claim characteristics; general industry, logging industry

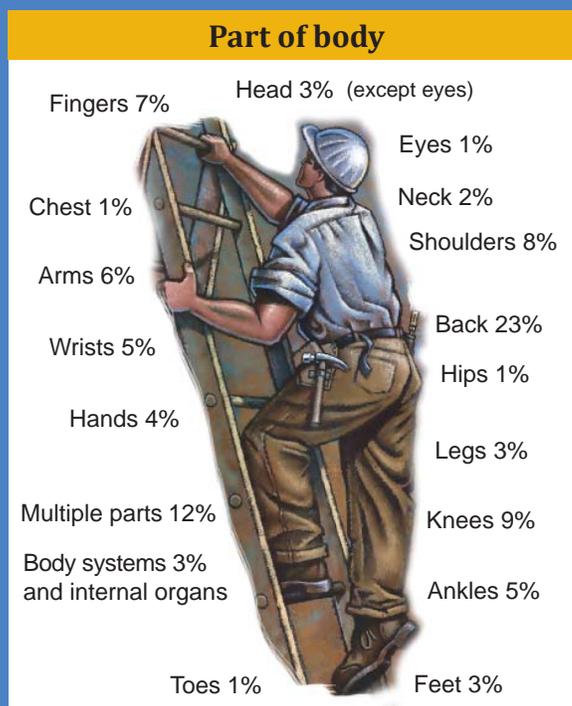
The Department of Labor and Industry's Research and Statistics unit has updated its annual Minnesota workers' compensation claims characteristics brochures for general industry and for the logging industry.

The general industry brochure provides statistics at a glance about injury, illness and fatality claims for 2011, such as the number of claims, nature of injury or disease, occupation of injured workers and other injured worker characteristics. The brochure also provides resources for further workers' compensation statistical information.

The second brochure includes statistics about workers' compensation indemnity claims in the logging industry from 2006 through 2011.

There were 71 indemnity claims (claims with more than three days of disability) in the logging industry during this six-year period. Falls were the most common injury-causing event, with 30 percent, and fractures were the most common injury type, with 29 percent.

Both brochures are available on the department's website at www.dli.mn.gov/RS/ClaimCharac.asp. For more information, contact the Research and Statistics unit at dli.research@state.mn.us or (651) 284-5025.



Watch the website: Fall 2013 possible out-of-state training opportunities

The Minnesota Department of Labor and Industry (DLI) is looking into providing training to adjusters in the Chicago, Kansas City and Wausau, Wis. areas.

Each location will have a full day of condensed basic adjuster's training, followed by a half day for questions and answers. At each location, participants can attend either session or both sessions.

Possible topics

Full day

- Waiting period
- Liability determination
- Indemnity benefits
- How/when to file forms
- Penalties
- And more ...

Half day

- Forms/filing refresher
- Denials of liability
- Communication with DLI
- Resolving disputes
- Participants questions
- And more ...



Watch www.dli.mn.gov/WC/TrainingIns.asp for further details.

Basic Adjuster Training 2013

June 13 and 14 • Oct. 17 and 18
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 28 people. Classes will be filled on a first-come, first-served basis. The Department of Labor and Industry reserves the right to cancel a 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.

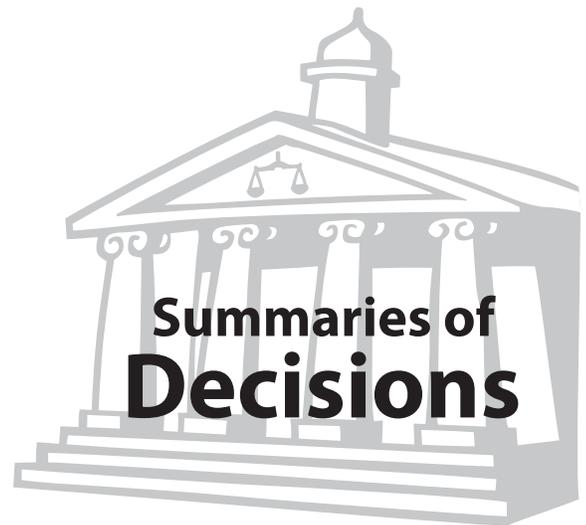
If you need special accommodations to enable you to participate or have questions about this training, call Jim Vogel at (651) 284-5265, toll-free at 1-800-342-5354 or TTY (651) 297-4198.



Workers' Compensation Court of Appeals

January through March 2013

Case summaries published are
those prepared by the WCCA



Majerus vs. Rochester City Lines Co., January 2, 2013

Evidence – Admission

Compensation judges are afforded considerable latitude in conducting evidentiary hearings, and they are trained in the law and presumed to properly weigh evidence admitted at hearing. Absent any indication that the compensation judge actually relied upon portions of exhibits or testimony containing allegedly prejudicial or irrelevant evidence, this court will not reverse or remand findings that have substantial support in the other relevant and material evidence of record.

Causation – Substantial Evidence

Even though the injury was not witnessed, and the employee could not corroborate the exact date of injury, substantial evidence, including medical records and the employee's testimony, supported the compensation judge's decision that the employee injured his low back at work as claimed.

Affirmed.

Paskett vs. Imation Corp., Jan. 3, 2013

Arising Out Of and In The Course Of – Recreational Activities

The compensation judge properly concluded that the employee's injury during a charitable fundraising flag-football game sponsored by the employer qualified for the exclusion for injuries occurring during voluntary employer-sponsored recreational activities pursuant to Minnesota Statutes § 176.021, subd. 9.

Affirmed.

DeMarais vs. United Parcel Servs., Inc., Jan. 3, 2013

Penalties – Substantial Evidence

Substantial evidence, including credible witnesses' testimony, supported the compensation judge's determination that the employer and insurer did not unreasonably or vexatiously delay payment of benefits due under an Award on Stipulation, and were not liable for a penalty under Minn. Stat. § 176.225.

Affirmed.

Mohamed vs. Viracon, Inc., Jan. 4, 2013

Permanent Partial Disability – Psychological Condition

Substantial evidence supports the compensation judge's award of a 27 percent permanent partial disability for the employee's psychological condition based on the employee's treating psychologist's rating pursuant to Weber v. City of Inver Grove Heights, 461 N.W.2d 918, 43 W.C.D. 471 (Minn. 1990) by analogy to Minnesota Rules 5223.0360, subp. 7.D., items (2) and (3).

Permanent Total Disability – Substantial Evidence

Substantial evidence, including the adequately founded opinion of the employee's treating psychologist, a licensed psychologist who conducted vocational psychometric testing, and a qualified rehabilitation consultant, supports the compensation judge's finding that the employee has been permanently and totally disabled since his work-related accident Dec. 18, 2008.

Affirmed in part and reversed in part.

Wittstock vs. McPhillips Bros., Roofing Co., Jan. 9, 2013

Causation – Gillette Injury
Gillette Injury – Date of Injury

Substantial evidence supports the compensation judge's decision that the employee sustained a Gillette injury to his low back from his job as a roofer that culminated on the last day of his employment.

Apportionment – Equitable

Substantial evidence in the form of a medical expert opinion with adequate foundation supports the compensation judge's apportionment of liability.

Affirmed.

DeNoma vs. City of St. Paul, Jan. 14, 2013

Causation – Substantial Evidence

Substantial evidence, including expert medical opinion, supports the compensation judge's finding that the employee sustained a low back injury as a result of a 1976 work injury.

Permanent Partial Disability – Weber Rating
Permanent Partial Disability – Substantial Evidence

Where there is no rating listed for the employee's condition under the permanent partial disability schedules in effect at the time of the injury, a Weber rating is appropriate, and need not be based on ratings listed in the schedule. Substantial evidence, including adequately founded medical opinion, supports the compensation judge's award of permanent partial disability benefits, excepting the award of permanent partial disability for a right foot injury, which is vacated since the record does not support the injury was claimed before the statute of limitations ran. Calculation of award of permanent partial disability for hearing loss is modified as agreed by the parties.

Medical Treatment and Expense – Substantial Evidence

Substantial evidence, including expert medical opinion, supports the compensation judge's finding that the claimed medical expenses, except those for the right foot injury, were causally related to the employee's work injuries.

Affirmed as modified in part and vacated in part.

Miller vs. Brambleberry Farm, Jan. 15, 2013

Causation – Temporary Aggravation

Substantial evidence, including expert medical opinion, supported the compensation judge's decision that the employee's work-related shoulder injuries temporarily aggravated the employee's underlying degenerative condition and did not contribute to the employee's need for shoulder replacement surgery.

Affirmed.

Fries vs. Independent Sch. Dist., #47 – Sauk Rapids, Jan. 17, 2013

Medical Treatment and Expense – Reasonable and Necessary

The judge properly considered factors relevant to the issue of the reasonableness and necessity of fusion surgery proposed by the employee's treating orthopedic surgeon, and substantial evidence supports the compensation judge's finding that the proposed decompression and fusion from T11 to L4 was reasonable and necessary.

Causation – Substantial Evidence

Substantial evidence, including medical expert testimony, supported the compensation judge's determination that the proposed surgery was causally related to the employee's April 25, 2002, work-related low back injury.

Affirmed.

Hansen vs. Dayton Hudson/Marshall Fields/Macy's, Jan. 22, 2013

Intervenors

Where the intervenor was not advised that a settlement was being discussed, there were no settlement discussions or negotiations with the intervenor, and no settlement offer was made to the intervenor, it was reasonable for the compensation judge to conclude that the intervenor was effectively excluded from settlement negotiations and that the intervenor is entitled to full reimbursement without a hearing on the merits, pursuant to Brooks v. A.M.F., Inc., 278 N.W.2d 310, 31 W.C.D. 521 (Minn. 1979).

Affirmed.

Gilbert (deceased) vs. Independent Sch. Dist. 615, Jan. 23, 2013

Arising Out Of and In The Course Of

Where the employee's cause of death was unexplained and substantial evidence supports the compensation judge's determination that the employee was not in the course of his employment at the time of his death, the compensation judge's denial of the claim for benefits is affirmed.

Affirmed.

House vs. Heartland Homecare, Jan. 28, 2013

Causation – Substantial Evidence

Substantial evidence supports the compensation judge's determination that the employee's current condition and need for treatment are related to the Feb. 10, 2010 injury.

Medical Treatment and Expense – Treatment Parameters

A party must specifically identify which treatment parameters it claims to be applicable and must raise these specific arguments at the trial level to the compensation judge.

Medical Treatment and Expense – Reasonable and Necessary

Where the treatment at issue had been prescribed by the employee's physicians for symptom management, the employee had not required any extensive medical care since the medication was prescribed, and the medication allowed the employee to manage her condition and to improve to a point where she was "fairly stable," substantial evidence supports compensation judge's finding that the employee's treatment, including prescription medications, was in compliance with Minnesota Rules 5221.6300, subp. 10, and had been reasonable and necessary to treat the employee's condition.

Practice and Procedure – Matters at Issue

Where the compensation judge was asked at hearing to address whether the treatment at issue was reasonable, necessary and causally related to the initial injury, it was not error for the compensation

judge to conclude that the employee's current condition and need for treatment is related to the initial injury and subsequent "overuse" as a result of continued work activities, and this conclusion did not result in the finding of a new Gillette-type injury.

Affirmed.

Kanable vs. Service Master of Rochester, Jan. 31, 2013

Arising Out Of and In The Course Of – Substantial Evidence

Substantial evidence supports the compensation judge's finding that the characteristics of the location of the employee's worksite placed her at an increased risk for injury from highway traffic and that her work injury accordingly arose out of her employment.

Affirmed.

Murschel vs. B.F. Nelson Folding Cartons, Inc., Feb. 2, 2013

Causation – Substantial Evidence
Evidence – Expert Medical Opinion

Substantial evidence, including expert medical opinion, supports the compensation judge's findings that the employee did not sustain a right shoulder injury, left carpal tunnel syndrome or a brain injury as a result of a work-related accident on Jan. 21, 2010.

Affirmed.

Todd vs. West Wind Village, Feb. 5, 2013

Causation – Substantial Evidence
Calculation of Benefits

Where substantial evidence supports the compensation judge's conclusion as to the injury responsible for the employee's disability, the compensation judge's finding that the employer and insurer had used the correct wage for the calculation of benefits and had not underpaid benefits is affirmed.

Affirmed.

Bogdanowicz vs. Target Corp., Feb. 12, 2013

Causation – Medical Treatment
Causation – Temporary Aggravation
Causation – Pre-existing Condition

Despite the lack of a specific anatomical diagnosis and the employee's pre-existing multiple sclerosis, there is substantial evidence, including medical opinions, to support the compensation judge's conclusion that the medical treatment at issue is reasonable, necessary and causally related to the employee's work injury.

Affirmed.

Janikowski vs. Ryan Janikowski, Feb. 14, 2013

Attorney Fees – Irwin Fees

The compensation judge properly applied the factors in Irwin v. Surdyk's Liquor, 599 N.W.2d 132, 59 W.C.D. 319 (Minn. 1999) to the facts in this case, and the compensation judge's award of attorney's fees for representation of the employee in recovering medical and rehabilitation benefits, in an amount less than that claimed by the employee's attorney, but greater than the contingent fees awarded, was reasonable and therefore is affirmed.

Affirmed.

Benedict vs. Polar Fab, Inc., Feb. 19, 2013

Causation – Gillette Injury

Substantial evidence, including the expert opinion, supported the compensation judge's decision that the employee's work activities did not aggravate the employee's pre-existing arthritis and that the employee did not sustain the claimed Gillette injuries to her fingers.

Affirmed.

Gunderson vs. Center for Diagnostic Imaging, Feb. 19, 2013

Causation – Substantial Evidence

Given the length of time before back pain was noted in the employee's treatment records, inconsistencies as to the onset of the employee's symptoms, as well as conflicting expert opinions, substantial evidence supported the compensation judge's conclusion that the employee did not injure her low back in a fall at work.

Affirmed.

Polzin vs. Canterbury Park, Feb. 20, 2013

Temporary Partial Disability – Work Restrictions

Substantial evidence, including medical records and expert medical opinion, supported the compensation judge's determination that the employee was able to work with no restrictions due to the work injury during the period in question.

Medical Treatment and Expense – Surgery

Substantial evidence, including medical records and expert medical opinion, supported the compensation judge's finding that diagnostic arthroscopy was not reasonable or necessary.

Affirmed.

Miller vs. Greyhound Lines, Inc., Feb. 22, 2013

Notice of Injury

Where the employee believed that she had provided medical information to the employer referring to the wrist injury and a first report of injury had been filed listing "multiple body parts" as part of the injury, and where the employer has not been prejudiced by any delay, the compensation judge could reasonably conclude that the employee's delay in specifically reporting a wrist injury was due to mistake or inadvertence and that the employee had given adequate notice under Minnesota Statutes § 176.141.

Causation – Substantial Evidence

Substantial evidence, including the employee's testimony and expert medical opinions, supports the compensation judge's finding that the employee sustained a right wrist injury as a result of a work incident.

Temporary Total Disability – Substantial Evidence

Where the employee was being treated for a wrist injury and had work restrictions related to that injury, substantial evidence supports the compensation judge's finding that the employee was temporarily totally disabled until she was released to work without restrictions.

Affirmed.

Moore vs. Big Timber Wood-Premier Resources, Feb. 28, 2013

Practice and Procedure – Matters at Issue

Where the compensation judge was presented with an overall dispute regarding mental health treatment provided by Primary Behavioral Health Clinic, which would have included a prescription for BuSpar, and said prescription was addressed in the IME doctor's opinions and the employer and insurer's closing arguments, the compensation judge did not err in determining that the BuSpar prescription was at issue as a part of the treatment provided by Primary Behavioral Health Clinic.

Evidence – Burden of Proof
Evidence – Expert Medical Opinion

The compensation judge did not apply an incorrect burden of proof or foundation standard where he considered all of the medical opinions presented along with the employee's testimony and found that a preponderance of the evidence established that the employee's August 2003 injury was a substantial contributing factor in his mental health condition.

Affirmed.

McCarney vs. Malt-O-Meal Co., March 5, 2013

Causation – Temporary Aggravation
Evidence – Expert Medical Opinion

When the expert relied on by the compensation judge seemingly held an erroneous view as to what constitutes an injury under Minnesota workers' compensation law, and where the compensation judge

failed to make other findings bearing on the issue of whether the employee sustained a compensable injury, the matter was remanded for reconsideration and further explanation.

Reversed and remanded.

Lann vs. Stan Koch & Sons Trucking, Inc., March 6, 2013

Attorney Fees – Subd. 7 Fees

The provision in Minnesota Statutes § 176.081, subd. 7, stating that the award to the employee is 30 percent of attorney fees after the fee is reduced by \$250 is applied only to the first award of fees arising out of an injury.

Reversed.

Larson vs. Herberger's, March 6, 2013

Causation – Substantial Evidence

Substantial evidence supports the compensation judge's conclusions and determination that the employee's work injuries did not result in temporary total disability or ongoing medical care.

Affirmed.

Jaynes vs. Golden Crest Nursing Home, March 13, 2013

Evidence – Expert Medical Opinion

The employee's objections regarding a medical expert's qualifications concern the weight to be given to that expert's opinions, which is a question for the compensation judge. Where an expert's opinions have sufficient foundation, this court will not disturb the compensation judge's decision with regard to the weight assigned to that expert's opinion.

Practice and Procedure – Matters at Issue

The compensation judge did not impermissibly expand the issues to include causation. The employee bears the burden of showing that medical treatment is not only reasonable and necessary but causally related to the injury as well, and although the compensation judge does include some implicit discussion of the causal relationship between the ongoing medical treatment at issue and the work injury, his decision may be upheld where it was based primarily on the reasonableness and necessity of the treatment at issue.

Appeals – Record

Where pharmacy records were available to the employee at the time of the hearing but were not presented to the compensation judge, those records will not be considered on appeal.

Affirmed.

Sammarco vs. Ford Motor Co., March 14, 2013

Vacation of Award

The supreme court's summary affirmance of this court's prior decision, affirming the compensation judge's determination that the employee failed to file her claim within the time prescribed by the statute of limitations, is final and conclusive, and this court has no authority to void or vacate the decision of this court or that of the compensation judge in this matter.

Petition to vacate dismissed.

Reinhard vs. Federal Cartridge Corp., March 18, 2013

Caution – Substantial Evidence
Evidence – Medical Expert Opinion

Substantial evidence, including adequately founded medical opinion, supported the compensation judge's determination that the employee did not sustain a Gillette-type injury in the nature of epididymitis. The compensation judge did not err in finding the opinion of the independent medical examiner more persuasive than the opinions of the employee's treating physicians where the opinions of all the medical experts were adequately founded.

Affirmed.

Morgan vs. Minnesota Wild Hockey Club, March 25, 2013

Wages – Calculation

The compensation judge did not err in accepting the calculations presented by the employer and insurer at the hearing to be a reasonable determination of the employee's earning capacity at the time of his injury.

Temporary Partial Disability – Earning Capacity

Substantial evidence, in the form of testimony by the employee found credible by the compensation judge, supports the determination by the compensation judge that the employee had sustained a loss in earning capacity as the result of his work injury.

Permanent Partial Disability – Substantial Evidence

The well-founded opinion of an evaluating doctor, in combination with the employee's testimony, provides substantial evidentiary support for the compensation judge's award of permanent partial disability benefits.

Affirmed.

Notice of Injury – Actual Knowledge

Substantial evidence, including the testimony of the employer's benefits administrator, supported the compensation judge's conclusion that the employer did not have timely notice or actual knowledge of the employee's injury as specified by Minnesota Statutes § 176.141.

Affirmed.