

Workers' compensation rule update: *opioid medications, ICD-10-CM*

(Adjustments to the relative value fee schedule conversion factors and the independent medical examination fees are described on page 10.)

Rules governing long-term treatment with opioid analgesic medication

The rules governing long-term treatment with opioid analgesic medication for workers' compensation injuries have been adopted. The rules are codified as Minnesota Rules, part 5221.6110, and are available at www.revisor.mn.gov/rules/?id=5221.6110. The following are answers to several frequently asked questions about the opioid rules.

What is the effective date of the rules?

The rules became effective July 13, 2015. If a health care provider is not in compliance with the rules, subpart 9 requires the payer, before denying payment, to send the patient and prescribing health care provider a copy of the rules and give the provider at least 30 days to initiate a plan to become compliant.



Subpart 10 governs application of the rules to patients who were already receiving long-term treatment with opioids when the rules became effective. That subpart requires the prescribing health care provider to comply with specific parts of the rules within three months after the provider and patient receive written notice of the rules from the payer.

Where can I find the model treatment contract between the patient and provider described in subpart 7?

The rules require the commissioner to develop a form for a model contract that includes the provisions specified in subpart 7. If a prescribing health care

provider uses this model contract, it is deemed to meet the requirements of the rules once completed and made a part of the patient's medical record. However, a health care provider is not required to use the commissioner's model contract. The commissioner may revise the model contract from time to time to address new issues or information. The current model contract is available on the Department of Labor and Industry website at www.dli.mn.gov/WC/Pdf/opioid_model_contract.pdf.

Do the rules provide that treatment of workers' compensation injuries with medical cannabis is now permitted in Minnesota?

No, a few online articles have made that incorrect statement by misapplying a new definition of "illegal substance," which was added in response to public comment about the opioid rules. The definition of "illegal substance" was added only for purposes of the opioid rules, where it is used in three circumstances:

1. A provider must determine that the patient is not using illegal substances before initiating a plan for long-term treatment with opioids (Minnesota Rules 5221.6110, subp. 4).

Rule update, continues ...

Rule update, continued ...

2. A patient receiving long-term treatment with opioids must agree to abstain from all illegal substances (Minn. R. 5221.6110, subp. 7).
3. Opioids must be discontinued if urine drug-testing shows the presence of an illegal substance (Minn. R. 5221.6110, subp. 8).

The new definition of "illegal substance" means only that a health care provider is not prohibited from prescribing opioids by the above three rules to a patient who is legally using medical cannabis under Minnesota Statutes ch. 152. The opioid rules do not address whether treatment with medical cannabis is compensable under the workers' compensation law.

ICD-10-CM rules

The commissioner is required to amend workers' compensation rules to replace references to ICD-9-CM codes with equivalent ICD-10 codes when ICD-10 codes are required for federal health care programs. The General Equivalence Mappings established by the Centers for Medicare and Medicaid Services (CMS) must be used to determine code equivalence (Minn. Stat. § 176.135, subd. 7(b)).

According to CMS, health care providers must use ICD-10 codes for services provided on or after Oct. 1, 2015. Therefore, the workers' compensation rules will be amended to reflect the ICD-10 codes for services provided on or after Oct. 1, 2015. The rules will be adopted using the exempt rule procedures in Minn. Stat. § 14.386 (a). The amended rules are expected to be published in the *State Register* in September 2015.

Extensive information about conversion to ICD-10 coding is on the CMS website, available at www.cms.gov/Medicare/Coding/ICD10/Medicare-Fee-For-Service-Provider-Resources.html.

This information below was updated Aug. 28, 2015.

Department seeks medical consultant

The Minnesota Department of Labor and Industry (DLI) seeks proposals from eligible physicians to serve as its medical consultant through June 2016, with an annual option to renew for up to four additional years. The DLI medical consultant works primarily with: DLI's Workers' Compensation Division, Research and Statistics unit and Minnesota OSHA units; the Special Compensation Fund; and the Medical Services Review Board. The medical consultant assists DLI in developing, implementing and evaluating the effective delivery of workers' compensation benefits, the regulation of medical services currently provided to injured workers, and the development and monitoring of treatment guidelines.

The request for proposals (RFP) is available on the DLI website at www.dli.mn.gov/MedConsultantRFP.pdf.

Those interested in submitting a proposal must first become a registered vendor with the state of Minnesota at <http://supplier.swift.state.mn.us>. If you need assistance obtaining a vendor I.D. or completing the registration process, call (651) 201-8100 and choose option 1.

The RFP closes Sept. 15, 2015, at 4 p.m.

Kimber joins ADR unit

Mediator Kenneth Kimber has joined the Department of Labor and Industry's Alternative Dispute Resolution (ADR) unit. He has more than 10 years experience as a workers' compensation attorney. He obtained his bachelor's degree at Colgate University in Hamilton, New York, and his juris doctor from Washington University School of Law in St. Louis, Missouri.

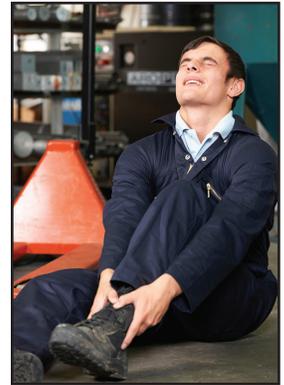
ADR seeks early intervention in workers' compensation disputes through conference and mediation. It handles calls from the workers' compensation hotline and responds to questions from injured workers, employers, health care providers, attorneys and qualified rehabilitation consultants. To speak with an ADR mediator/arbitrator, call (651) 284-5032 or 1-800-342-5354; press 3 and then press 1.

Introductory-level recordkeeping training:

Webinar offered for recordkeepers outside Twin Cities

The ability to maintain an accurate OSHA log of recordable work-related injuries and illnesses is an important skill that benefits employers, workers, safety professionals and government agencies. Recording the correct cases and accurately including the required information leads to higher quality injury and illness rates that enable employers to better understand their relation to the benchmark rates and help government agencies to properly direct resources.

The Department of Labor and Industry (DLI) is offering a webinar opportunity for free introductory-level OSHA recordkeeping training. This webinar is prioritized for people unable to attend in-person seminars in St. Paul, Minnesota.



Register now – at www.dli.mn.gov/OSHA/Recordkeeping.asp – for: Thursday, Sept. 17, from 10 to 11 a.m. via a webinar, with 30 minutes for questions afterward.

Topics for the session will include a review of the fundamental requirements of OSHA recordkeeping, a look at the most common OSHA log errors and a discussion about the new OSHA reporting requirements.

Helpful recordkeeping series online

If you are already beyond the introductory level of recordkeeping but want to learn more, see the Recordkeeping 101 and Recordkeeping 201 series at www.dli.mn.gov/OSHA/Recordkeeping.asp. These brief articles will take you from learning about classifying recorded injuries to knowing when to record injury recurrences and episodic illnesses.

If you have questions, call the DLI Research and Statistics unit at (651) 284-5025.

2015 summit a success, thanks to speakers, attendees, venue

The 2015 Workers' Compensation Summit – "Keeping Minnesota Safe and Healthy" – has been deemed another summit success. More than 200 attendees and speakers, along with a host of exhibitors and sponsors, gathered at Cragun's Conference Center in Brainerd, Minnesota, June 17 and 18.

During general sessions and breakout sessions, speakers addressed current issues affecting the workers' compensation system and ways to improve processes and services that affect employers and injured workers.

- View presentations at www.dli.mn.gov/Summit/Presentations.asp.

In a post-summit survey, attendees indicated what the highlight of the event was for them. Answers included: the keynote speakers (and motivational speaker Dick Beardsley specifically); the Medical Marijuana breakout session; networking with others in the industry; and the state demographer's presentation, Minnesota's Demographic Future. One attendee summed it all up by commenting, "Learned some interesting facts and had great networking with so many participants in the [workers' compensation] system. This was the best summit yet. Well done! Cragun's is a great venue because it is affordable and in a desirable location."

- View a slideshow from the event at www.dli.mn.gov/Images/Summit2015/index.html.



New, improved Notice of Benefit Payment form online

The Department of Labor and Industry has revised the Notice of Benefit Payment (NOBP) form and it is now available for use on the department's website at www.dli.mn.gov/WC/PDF/nb01.pdf. Stakeholders are encouraged to begin using this version as soon as possible.

Changes to the form include:

- a new field for the average weekly wage at the date of injury (DOI);
- a new field for the date the insurer received the medical report detailing the permanent partial disability (PPD) rating;
- removal of the reference to lump-sum payment of PPD instead of weekly payments for dates of injury on or after Oct. 1, 2000, and as a replacement, including the lump-sum payment of PPD for dates of injury on or after Oct. 1, 1995;
- removal of the reference to 26 weeks of economic recovery compensation;
- replacement of "dated" with "served and filed" for final payments made pursuant to an award on agreement of the parties, an administrative decision or a judge's decision;
- a new use for the NOBP – amending payment information at the request of the Workers' Compensation Division in follow-up to a Notice of Intention to Discontinue Benefits (NOID) form;
- replacement of "subd. 1 & 3 Paid" and "subd. 1 & 3 Still Withheld" in the Attorney fees and expenses section with "subd. 1 contingency fees paid" and "subd. 1 contingency fees still withheld," respectively; and
- clarified instructions to the employee.

Additional information about the NOBP form is available at www.dli.mn.gov/WC/Nb01info.asp.

For more information about workers' compensation forms, in general, contact Kathy Hanson in the Compliance, Records and Training unit at (651) 284-5299 or dli.wcrequest@state.mn.us.

Mail or fax to:
Department of Labor and Industry
Workers' Compensation Division
P.O. Box 84221
St. Paul, MN 55194-0221
(651) 284-5032 or 1-800-342-5354
Fax: (651) 284-5731

Notice of Benefit Payment
Print in ink or type
Enter dates in MM/DD/YYYY format



Do not use this space

WID number or SSN	Date of injury (DOI)	Average weekly wage at DOI	
Employee (last, first, MI)		Employer	
Employee address			
City		State	ZIP code
Insurer claim number			

The following permanent partial disability benefit will be paid to you:

_____ % of whole body according to Minnesota Workers' Compensation Permanent Partial Disability Schedule rule number(s): _____

The rating is based on the attached medical report of Dr. _____ dated _____, received by the insurer on _____ (date).

This payment is based on the preliminary rating. If your final disability rating is higher, additional payments may be made.

For injuries on or after 10/01/1995:

The initial payment of weekly benefits was or will be made on _____ (date). Benefits will be paid at a weekly rate of \$ _____ through _____ (date) for a total of \$ _____

A lump-sum payment of \$ _____ instead of weekly payments, was or will be made on _____ (date) as requested by the employee on _____ (date).

For injuries from 01/01/1984 through 09/30/1995 payment of:

\$ _____ for impairment compensation was or will be paid in a lump sum on _____ (date).

Periodic impairment compensation or Periodic economic recovery compensation will be paid at a weekly rate of \$ _____ through _____ (date) for a total of \$ _____.

Your final payment of \$ _____ for _____ benefits was or will be paid on _____ (date) according to:

A. An award on agreement of the parties **served and filed** on _____ (date).

B. A prior Notice of Benefit Payment form for periodic payment of permanent partial disability dated _____.

C. An administrative decision under Minnesota Statutes § 176.230 **served and filed** on _____ (date).

D. A judge's decision and order **served and filed** on _____ (date).

Amending payment information only at the request of the Workers' Compensation Division in follow-up to a Notice of Intention to Discontinue Benefits form served on the employee on _____ (date).

MN NB01 (5/15)
(over)

Instructions to employee

Review this form to make sure your benefits have been properly paid. You do not need to take any action if the benefits listed are correct.

If you have questions about your benefits, contact the claim representative whose telephone number is at the bottom of the page. If you still have questions after talking to the claim representative, contact either Workers' Compensation Division office:

525 Lake Ave. S., Suite 330
Duluth, MN 55802-2968
Telephone: (218) 733-7810
1-800-342-5354

445 Lafayette Road N.
St. Paul, MN 55155-4301
Telephone: (651) 284-5030
1-800-342-5354

This document can be given to you in Braille, large print or audio. To request, call (651) 284-5032 or 1-800-342-5354.

Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to M.S. § 609.52, subdivision 3.

The following benefits have been paid	From	Through	Weeks	Rate	*Total
<input type="checkbox"/> Temporary total disability or					
<input type="checkbox"/> Permanent total disability					
<input type="checkbox"/> Benefit addendum attached					
Temporary partial disability					
Retraining benefits					
Permanent partial disability _____ %					
<input type="checkbox"/> Injuries on or after 10/01/1995					
<input type="checkbox"/> Impairment compensation (injuries 01/01/1984 through 09/30/1995)					
<input type="checkbox"/> Economic recovery compensation (injuries 01/01/1984 through 09/30/1995)					
<input type="checkbox"/> _____ (part of body) (injuries before 01/01/1984)					
Attorney fees and attorney expenses			Benefit totals		
M.S. § 176.081, subd. 1 contingency fees paid			*Lump-sum payment under award or order		
M.S. § 176.081, subd. 1 contingency fees still withheld			Attorney fees reimbursed to employee (M.S. § 176.081, subd. 7)		
Heaton fees paid			Interest paid		
Roraff fees paid			*Total compensation paid		
M.S. § 176.191 fees paid			*Total supplementary benefits		
Other fees paid			Total medical expenses paid to date		
Costs and disbursements paid					
Insurer/self-insurer/TPA			Claim representative name		
Address			Phone number (include area code) Extension		
City			State		ZIP code
			Date served on employee		Date served on attorney

*Include attorney fees in these totals. Send to: Workers' Compensation Division, employer, employee, insurer

Withdrawing from a workers' compensation rehabilitation file and the role of the Vocational Rehabilitation unit

A qualified rehabilitation consultant (QRC) sometimes withdraws from providing vocational rehabilitation services to an injured worker when the workers' compensation insurer (including a self-insured employer) denies primary liability or further liability for an injury. Where the insurer has denied liability, the QRC must comply with the requirements of the rehabilitation rules (Minnesota Rules 5220.0510, subps. 3a (C) and 7a) before referring the file to the Minnesota Department of Labor and Industry (DLI) Vocational Rehabilitation unit (VRU).

Under the rule, the appropriate action the QRC should take depends on whether litigation is pending on the denial of liability. Compliance with the rule requirements governing QRC withdrawal helps avoid confusing the parties and helps avoid the need for communications from DLI about appropriate form filing.

Disputed denial of primary liability or further liability

Situation

- The insurer issued a written denial of primary liability or further liability;
- the injured worker is disputing the insurer's liability determination and wants to continue receiving rehabilitation services; and
- the injured worker has filed an Employee's Claim Petition form, an Employee's Objection to Discontinuance form, a request for administrative conference or another document initiating litigation disputing the insurer's liability determination.

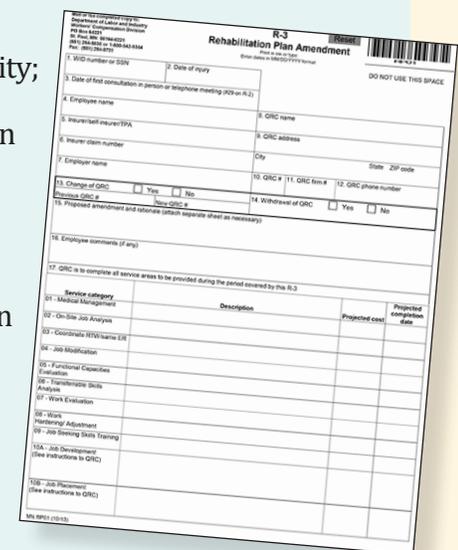
How to withdraw

- File with DLI the R-3 Rehabilitation Plan Amendment form with a copy of the insurer's written denial attached.
- Send copies of the R-3 form and attachment to the parties.
- Send a copy of the R-3 form, the attachment and the injured worker's file to VRU.* To ensure VRU has adequate time to provide meaningful rehabilitation services to the injured worker, the referral should be made as soon as possible and preferably well in advance of any scheduled conference or hearing.

After receipt of the R-3 form, the written denial and the injured worker's file, VRU will review the file to confirm current pending litigation regarding liability or medical causation.

If VRU confirms there is current pending litigation, a QRC will be assigned. The assigned QRC will contact the injured worker as soon as possible to develop an R-3 form and continue rehabilitation services until litigation has concluded, an Award on Stipulation is received or the injured worker has successfully returned to suitable gainful employment.

If there is no pending litigation, VRU will send a letter to the QRC with copies to the parties and DLI advising that VRU cannot provide a consultation or other rehabilitation services. VRU will not file any rehabilitation forms with DLI. If the QRC receives this letter, the steps outlined in the section titled "Uncontested denial of primary liability or further liability" should be followed.



The image shows a sample of the R-3 Rehabilitation Plan Amendment form. The form is titled "R-3 Rehabilitation Plan Amendment" and includes a barcode. It contains various fields for information such as "Date of first consultation", "Employee name", "Insurer name", "Employee address", "City", "State", "ZIP code", "Change of QRC", "Proposed amendment and rationale", and "Employee comments". There is also a table for "Service category" with columns for "Description", "Projected cost", and "Projected completion date".

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DISPUTED DENIAL

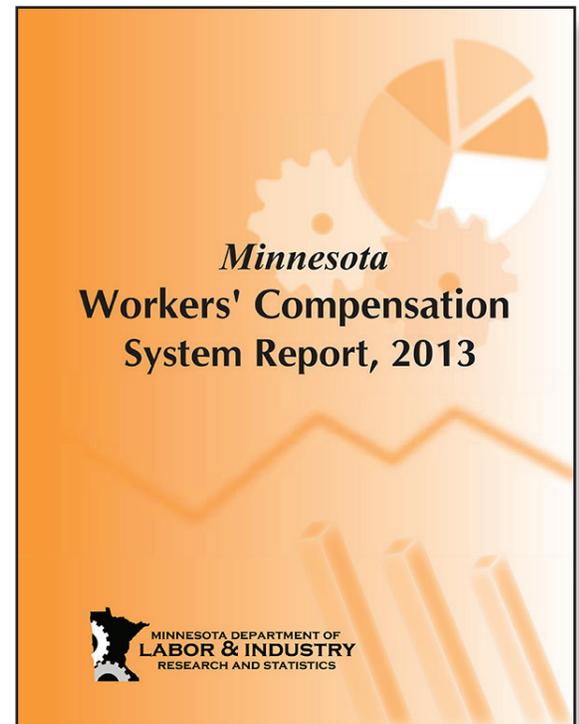
2013 Workers' Compensation System Report released

By David Berry, Research and Statistics

The Department of Labor and Industry (DLI) has released its *2013 Minnesota Workers' Compensation System Report*. The report is available at www.dli.mn.gov/Research.asp.¹ The report, part of an annual series, presents trend data about several aspects of Minnesota's workers' compensation system – claims, benefits and costs; vocational rehabilitation; and disputes and dispute resolution.²

These are some of the report's findings.

- The overall claim rate – the number of paid claims per 100 full-time-equivalent workers – declined from 8.7 to 4.6 from 1997 to 2013, a 47-percent decrease.
- The total cost of the workers' compensation system was an estimated \$1.35 per \$100 of payroll in 2013.
 - Total system cost partly reflects the cost of benefits and other expenses and partly reflects a nationwide insurance pricing cycle.
 - Comparing similar points in the multi-year cycle suggests a long-term downward trend in system cost per \$100 dollars of payroll, with a 13-percent decrease over 10 years.
 - Total system cost for 2013 was an estimated \$1.62 billion.
- On a current-payment basis, medical benefits accounted for an estimated 36 percent of total system cost in 2013, followed by insurer expenses at 31 percent and indemnity benefits (cash benefits to injured workers or survivors) at 29 percent.
- Regarding benefit levels:
 - Medical benefits averaged \$6,070 per insured claim in 2012, and indemnity benefits, \$4,050. After adjusting for average wage growth, medical benefits per insured claim were 97 percent higher in 2012 than in 1997; indemnity benefits were 43 percent higher.
 - Stipulated benefits – benefits paid under a claim settlement – rose 77 percent per paid indemnity claim from 1997 to 2011, after adjusting for average wage growth. This resulted from increases in the proportion of indemnity claims with stipulated benefits and in the average amount of these benefits where they were paid.
 - Relative to payroll, indemnity benefits were down 19 percent between 1997 and 2013, while medical benefits were down 2 percent, reflecting the net effect of a falling claim rate and higher benefits per claim.



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- Regarding vocation rehabilitation (VR):
 - The VR participation rate – the percentage of paid indemnity claims with a VR plan filed — increased from 15.1 percent to 24.2 percent between 1997 and 2013.
 - The average cost of VR services for each participant was \$8,830 for 2013. Adjusting for average wage growth, this was about the same as for 2000. VR service costs accounted for an estimated 2.7 percent of total workers' compensation system cost for 2013.
 - The percentage of VR plans closed because of plan completion fell from 54 to 47 percent between 2005 and 2013; during the same period, the percentage of closures resulting from claim settlement or agreement of the parties increased from 43 to 49 percent.
- Regarding disputes and dispute resolution:
 - The percentage of filed indemnity claims with a dispute of any type rose from 15.5 percent to 20.5 percent from 1997 to 2012, a 32-percent increase.
 - The percentage of paid indemnity claims with any type of claimant attorney involvement rose from 16.9 percent to 23.8 percent from 1997 to 2012. Claimant attorney fees account for an estimated 3.3 percent of total system cost. (DLI does not collect defense attorney fee data.)
 - The percentage of filed medical and vocational rehabilitation disputes that were certified by DLI dropped from 67 percent to 46 percent from 1999 to 2014. (In a medical or vocational rehabilitation dispute, before an attorney may charge for services, DLI must certify that a dispute exists and that informal intervention did not resolve the dispute.³) With medical disputes, this resulted primarily from an increase in the percentage of disputes not certified because they were resolved; with rehabilitation disputes, the decrease in certification reflected increases in the percentage not certified because of resolution and the percentage not certified for other reasons.
 - For 2012 to 2014 combined, 66 percent of DLI dispute resolutions were agreements by informal intervention (most of these occurring during or after the dispute certification process). Another 14 percent were agreements via conference or mediation; the remaining 20 percent were decision-and-orders from administrative conferences.
 - For 2012 to 2014 combined, 48 percent of the disputes at the Office of Administrative Hearings (OAH) were claim petition disputes; another 25 percent were discontinuance disputes (the majority of these being requests for administrative conference).
 - For 2012 to 2014 combined, 59 percent of dispute resolutions at OAH were awards on stipulation. Another 10 percent were administrative conference decisions; 7 percent were findings-and-orders. Most of the remaining OAH disputes were stricken from a proceeding calendar, dismissed altogether or withdrawn.

¹The report is also available by calling (651) 284-5025; for alternative formats, call 1-800-342-5354.

²Many of the trend statistics in the report are presented by year of injury or by "policy year" – the year the insurance policy under which the claim was covered took effect. The statistics so presented are projected to a uniform claim maturity for comparability over time. DLI periodically reviews these statistics to determine their stability over time and, thus, their suitability for publication. Through this process, DLI has determined some of the trend statistics from its own data for the most recent injury years are not sufficiently stable for publication. As a result, some of the trends from DLI data in the report extend only through 2011 or 2012.

³Minnesota Statutes § 176.081, subd. 1(c).

Results of 2015 Special Compensation Fund assessment

By John Kufus, Accounting Officer, Financial Services

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

	2014 indemnity	Ratio	Estimated liabilities	DSR pure premium
Insurers	\$320,071,191	76.09%	\$61,635,922	\$814,729,521
Self-insurers	\$100,557,709	23.91%	\$19,364,078	
Total	\$420,628,900	100.00%	\$81,000,000	\$814,729,521

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

The estimated state-fiscal-year 2016 funding requirement for the Special Compensation Fund was determined to be \$81,000,000. The liability was divided between the insurers and self-insurers by the ratio of their 2014 indemnity payments to the total indemnity reported by both groups.

Insurer premium surcharge rate

The insurer premium surcharge rate applied for the purpose of determining the Special Compensation Fund assessment was 7.5652 percent. The rate was determined by dividing the insurer portion of the Special Compensation Fund state-fiscal-year 2016 liability (\$61,635,922) by the 2014 designated statistical reporting pure premium reported by all insurers to the Minnesota Workers' Compensation Insurers Association (\$814,729,521).

Percentage for assessments due for insurers and self-insurers			
Year assessed	Basis for assessment	Insurers	Self-insurers
2003	2002	12.5457%	27.4374%
2004	2003	11.0335%	25.6801%
2005	2004	10.1742%	24.2958%
2006	2005	9.2312%	23.6870%
2007	2006	8.7176%	24.0396%
2008	2007	8.6050%	23.8969%
2009	2008	8.5347%	23.3185%
2010	2009	8.6636%	22.4319%
2011	2010	8.9013%	22.0264%
2012	2011	8.269%	21.631%
2013	2012	7.6546%	19.9725%
2014	2013	7.6631%	19.8520%
2015	2014	7.5652%	19.2567%

Self-insured assessment rate

The imputed self-insured assessment rate was 19.2567 percent. It was determined by dividing the self-insured portion of the Special Compensation Fund state-fiscal-year 2016 liability (\$19,364,078) by the total 2014 indemnity reported by the self-insured employers (\$100,557,709).

The current assessment is considered to be an estimate based on the prior year's data.

The reconciliation and final determination (true-up) for insurers will be completed by Dec. 1, 2016.

More information

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

New benefit and provider fee levels effective October 2015

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

The statewide average weekly wage (SAWW) effective Oct. 1, 2015, is \$989, a 2.91 percent increase from the current SAWW of \$961, which has been in effect since Oct. 1, 2014. (See the table below.) The levels for minimum and maximum weekly benefit payments are presented in the table on page 4. The statewide annual average wage will change to \$51,420 on Jan. 1, 2016.

The new SAWW is based on 2014 payroll and employment figures supplied by the Department of Employment and Economic Development and the calculation procedure in Minnesota Statutes § 176.011, subd. 1b. The change in the SAWW is the basis for the M.S. § 176.645 annual benefit adjustment. The time of the first adjustment is limited by M.S. § 176.645, subd. 2.

Pursuant to Minnesota Rules 5220.1900, subp. 1b, the maximum qualified rehabilitation consultant (QRC) hourly fee will increase by 2.91 percent to \$104.09 on Oct. 1, 2015. The maximum hourly rate for rehabilitation job development and placement services, whether provided by rehabilitation vendors or by QRC firms, will increase to \$79.02 on Oct. 1, 2015. Notice of the increase will be published in the *State Register* in September 2015.

Fee schedule adjustments

The adjustments to the workers' compensation medical fee schedule conversion factors and the independent medical examination fees are as follows and will be published in the *State Register* in September.

1. Conversion factor annual adjustment: Minnesota Statutes § 176.136, subd. 1a, paragraph (c)(1), provides for annual adjustment of the medical fee schedule conversion factors by no more than the percent change in the SAWW. As in previous years, DLI is adjusting the conversion factors by the percent change in the Producer Price Index for Offices of Physicians (PPI-P) between 2013 and 2014 (annual-average basis).^{*} This change is +0.6 percent.

Therefore, for services provided on or after Oct. 1, 2015, the new conversion factors will be:

- medical/surgical services described in Minnesota Rules 5221.4030 \$65.12
- pathology and laboratory services described in Minn. R. 5221.4040 \$56.08
- physical medicine/rehabilitation services described in Minn. R. 5221.4050 \$49.18
- chiropractic services described in Minn. R. 5221.4050 \$49.09

2. IME fee adjustment: Minnesota Rules, part 5219.0500, subp. 4, provides for adjustment of the maximum fees for independent medical examinations (IMEs) in the same manner as the adjustment of the conversion factors. Therefore, the maximum IME fees will increase by 0.6 percent for services provided on or after Oct. 1, 2015.

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

Statewide average weekly wage Effective Oct. 1 of the indicated year		
	Statewide average weekly wage	Percent change from prior year
2001	\$680	5.92%
2002	\$702	3.24%
2003	\$718	2.28%
2004	\$740	3.06%
2005	\$774	4.59%
2006	\$782	1.03%
2007	\$808	3.32%
2008	\$850	5.20%
2009	\$878	3.29%
2010	\$868	-1.14%
2011	\$896	3.23%
2012	\$916	2.23%
2013	\$945	3.17%
2014	\$961	1.69%
2015	\$989	2.91%

Compensation rates as of Oct. 1, 2015

Statewide average weekly wage (SAWW) = \$989 Percentage change in SAWW from previous year = 2.91%

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

Maximum under M.S. §§ 176.101 and 176.111	Minimum under M.S. § 176.101, subd. 1(2)	Supplementary benefits under M.S. § 176.132 (Minnesota Statutes 1994) and permanent total minimum under M.S. § 176.101, subd. 4 (for injuries 10-1-95 and later)
10-01-88\$391.00	50% of the SAWW or gross wage, whichever is less, but in no case less than 20% of the SAWW	10-01-96\$340.60 (rounded to \$341)*
10-01-89\$413.00	50%\$195.50 (gross wage - \$293.25)\$ 78.20	10-01-97\$359.45 (rounded to \$360)*
10-01-90\$428.00	50%\$206.50 (gross wage - \$309.75)\$ 82.60	10-01-98\$376.35 (rounded to \$377)*
10-01-91\$443.00	50%\$214.00 (gross wage - \$321.00)\$ 85.60	10-01-99\$399.75 (rounded to \$400)*
105% of SAWW	50%\$221.50 (gross wage - \$332.25)\$ 88.60	10-01-00\$417.30 (rounded to \$418)*
10-01-92\$481.95	20% of the SAWW or the employee's actual weekly wage, whichever is less	10-01-01\$442.00 (round)
10-01-93\$508.20	10-01-92\$91.80	10-01-02\$456.30 (rounded to \$457)*
10-01-94\$516.60	10-01-93\$96.80	10-01-03\$466.70 (rounded to \$467)*
Set by statute	10-01-94\$98.40	10-01-04\$481.00 (round)
10-01-95\$615.00	Set by statute, the listed amount or the employee's actual weekly wage, whichever is less	10-01-05\$503.10 (rounded to \$504)*
10-01-00\$750.00	10-01-95\$104.00	10-01-06\$508.30 (rounded to \$509)*
10-01-08\$850.00	10-01-00\$130.00	10-01-07\$525.20 (rounded to \$526)*
102% of SAWW		10-01-08\$552.50 (rounded to \$553)
10-01-13\$963.90		10-01-09\$570.70 (rounded to \$571)*
10-01-14\$980.22		10-01-10\$564.20 (rounded to \$565)*
10-01-15\$1,008.78		10-01-11\$582.40 (rounded to \$583)*
		10-01-12\$595.40 (rounded to \$596)*
		10-01-13\$614.25 (rounded to \$615)*
		10-01-14\$624.65 (rounded to \$625)*
		10-01-15\$642.85 (rounded to \$643)*

*Rounding applies to supplementary benefits.

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.

Recently, the Minnesota Department of Labor and Industry received a number of questions regarding electronic medical billing and the implementation of ICD-10 coding. A key to understanding ICD-10 is remembering the dates of services are controlling. ICD-10 coding is required to report medical diagnoses and inpatient procedures for dates of service on or after Oct. 1, 2015.



Q. Is Minnesota allowing a transition from the paper form CMS-1500?

A. No. Since 2009, Minnesota law has required that bills must be transmitted electronically (Minnesota Statutes § 62J.536).

Q. Does the state have a cutoff date for use of ICD-9?

A. The date of service is the operative date. ICD-9 coding is to be used for all dates of service before Oct. 1, 2015, ICD-10 coding for dates of service on or after Oct. 1, 2015.

Q. Does the state have regulatory language that allows a bill submitted after Oct. 1 to include ICD-9 codes?

A. No. The state does not have such regulatory language because it is not the date of submission that triggers the requirement to use ICD-10 codes. Some bills with dates of services prior to Oct. 1 will inevitably be submitted after Oct. 1 and these should still be coded with ICD-9 codes. However, all bills with dates of service on or after Oct. 1 must be coded with ICD-10 codes. There is no provision allowing bills with dates of service on or after Oct. 1 to be submitted using ICD-9 codes.

Q. Where can I get help and more information about the ICD-10 conversion?

A. The Minnesota ICD-10 Collaborative is a consortium of providers and payers brought together to identify and evaluate opportunities to minimize the disruption in health care billing, reporting and related processes for a variety of stakeholders in the health care industry in connection with the ICD-10 conversion. Its website contains valuable resources and links to make the transition to ICD-10 efficient and timely. For more information about the ICD-10 conversion, visit www.health.state.mn.us/auc/icd10/icd10index.html.

CompFact: Interplay of file duration, vocational rehabilitation, settlements

By Brian Zaidman, Research and Statistics

Most people familiar with workers' compensation understand that short duration claims are very different from multi-year claims. However, it is always enlightening to examine what seems obvious and quantify the extent of the differences. In this article, claim duration is used to examine vocational rehabilitation and claim settlement.

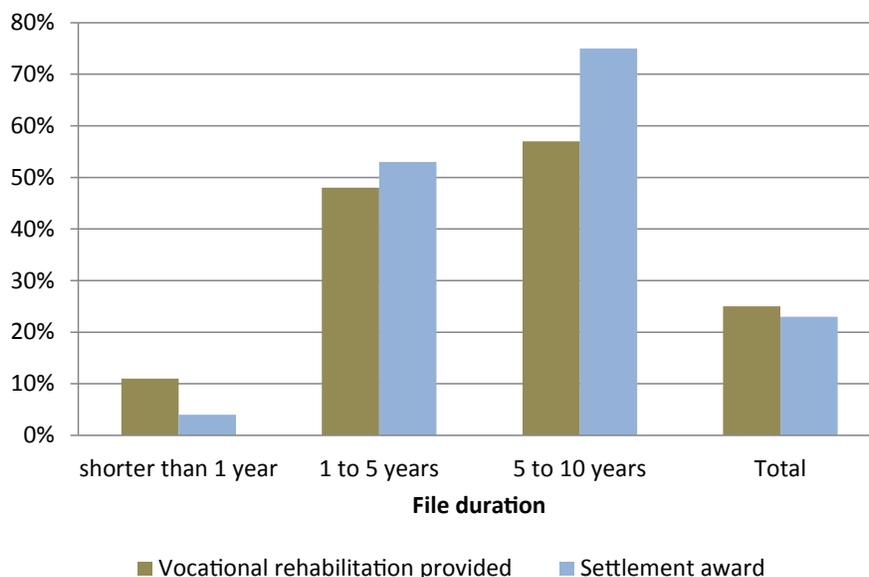
The analysis looks at claims that closed during the 2009 to 2013 period and that had been open no longer than 10 years. File closure is based on Department of Labor and Industry claim activity, using the most recent date when all indemnity benefits have concluded, a settlement agreement has been reached or all disputes have been resolved or withdrawn; many closed claims still have ongoing medical benefits. File duration is grouped into three categories: files open less than one year; files open from one year to less than five years; and files open from five to 10 years. The distribution of the claims by duration is shown in Figure 1. Almost two-thirds of the files were closed within one year of the injury date.

Figure 1. Distribution of claims by duration, claims closed in 2009-2013

File duration	Number of claims	Percentage of claims
Less than one year	72,200	63%
One to five years	36,400	32%
Five to 10 years	5,300	5%
Total	113,800	100%

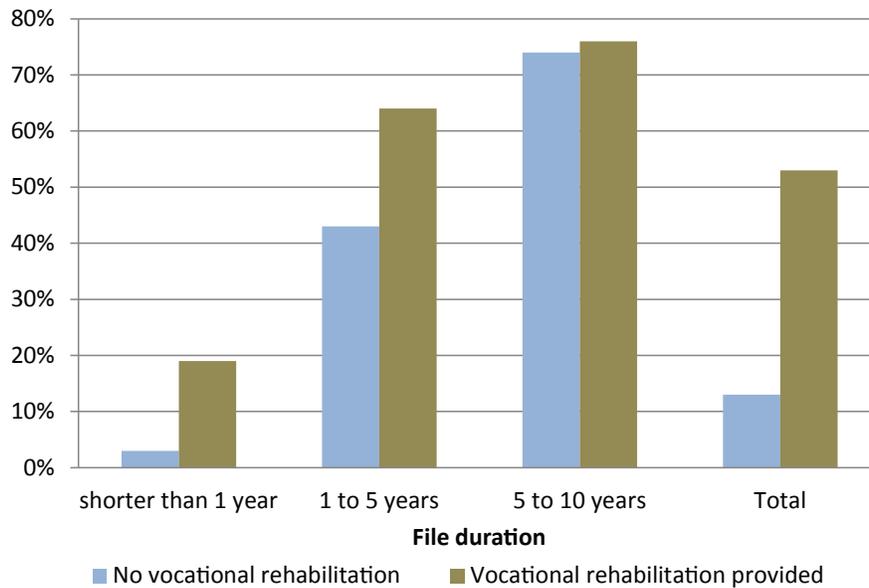
Among the injured workers within each of the file duration groups, an increasing percentage have used vocational rehabilitation benefits (indicated by presence of a vocational rehabilitation plan) and an even steeper increasing percentage involved a stipulation for settlement. Overall, 25 percent of the claims involved vocational rehabilitation and 23 percent involved a settlement.

Figure 2. Percentage of claims with vocational rehabilitation and settlement payment within file duration categories



There is also an interaction between vocational rehabilitation and claims settlement. Figure 3 shows that claims with vocational rehabilitation are more likely to have a claims settlement than do claims without vocational rehabilitation. This is especially noticeable among claims with less than one-year file duration. The difference largely disappears among claims with files open from five to 10 years.

Figure 3. Percentage of claims with settlement payment by vocational rehabilitation status and file duration



Overall, 13 percent of the injured workers with file closures during this time period had received vocational rehabilitation and had a claim settlement. As shown in Figure 4, most of these files were open from one to five years. However, as file duration increased, the receipt of both vocational rehabilitation and a claim settlement became much more common; 76 percent of the files closed five to 10 years after the injury included both events.

Figure 4. Percentage of files with both vocational rehabilitation and a claim settlement

Claim duration	Among all claims	Within duration group
Less than one year	1%	2%
One to five years	10%	31%
Five to 10 years	2%	76%
Total	13%	13%

Expo to showcase new workers' compensation technology



Come view the latest tools to help boost your reporting and analytic capabilities!

Workers' compensation stakeholders are encouraged to attend the free Minnesota Work Comp Tech Expo on Wednesday, Sept. 30, 8 a.m. to 1 p.m., at Embassy Suites Minneapolis – Airport in Bloomington, Minnesota. Exhibits at the Expo will demonstrate software products, showcase website services and provide information that various workers' compensation entities have to offer. The event, co-sponsored by the Minnesota Workers' Compensation Insurers Association (MWCIA) and the Workers' Compensation Reinsurance Association (WCRA), will also include exhibits from the Minnesota Assigned Risk Plan, Minnesota Department of Commerce and Minnesota Department of Labor and Industry.

The Expo will be a great opportunity for insurance company underwriters, claims adjusters, individuals responsible for reporting data, staff members from insurance agencies, third-party administrators and lawyers handling work comp insurance matters in Minnesota. Registration is not required but is recommended; register at www.mwcia.org/WCTechExpo. Attendees can enter to win a 32GB Apple iPad Mini 2 with Wi-Fi!

Basic Adjuster Training 2015

• **Sept. 24 and 25** •
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 this two-day session (includes lunch)

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

Take the pre-test

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

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



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

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

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



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

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

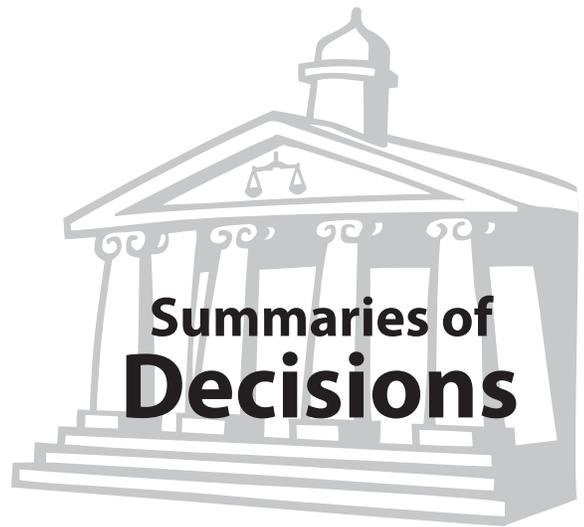
The rulemaking lists are required to be maintained for people who have registered with the agency to receive notices of agency rule proceedings via email or U.S. mail. The rulemaking lists topic areas are: apprenticeship; boats/boats-for-hire; electrical; fire code; high-pressure piping; independent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

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

Workers' Compensation Court of Appeals

April through June 2015

Case summaries published are those prepared by the WCCA



Mogard vs. Land O'Lakes, April 28, 2015

Permanent Partial Disability – Old Law
Substantial Evidence

For pre-1984 injuries, there is no rule or method of determining the extent of permanent partial disability and that determination is left to the trier of fact. Liberal construction of the workers' compensation provisions would not remove the compensation judge's discretion in weighing the evidence. Substantial evidence, including expert medical opinion, supports the compensation judge's finding on the employee's permanent partial disability.

Permanent Partial Disability – Simultaneous Injury Factor, Substantial Evidence
Statutes Construed – Minnesota Statutes § 176.101, subd. 3 (46) (1978)

Substantial evidence supports the compensation judge's finding that the employee did not sustain simultaneous injuries to his spine and lower extremities and is, therefore, not entitled to an additional 15 percent permanent partial disability under Minnesota Statutes § 176.101, subd. 3 (46) (1978).

Disposition

Affirmed.

Arbuckle vs. Napa Auto Parts, May 12, 2015

Vacation of Award – Substantial Change in Condition

Based on the record presented to the court, the employee has failed to establish a change in medical condition that would allow vacation of the award on stipulation.

Disposition

Petition to vacate denied.

Alli vs. Great Pacific Enters., May, 19, 2015

Attorney Fees – Genuine Dispute
Minnesota Statutes § 176.081, subd. 12

Where the employee's attorney filed a statement of attorney fees for obtaining approval of a surgery request when the surgery had already been approved by the insurer and had not been certified as disputed on the basis of that approval, the record does not support the compensation judge's award of attorney fees. The award of attorney fees is reversed and the matter remanded for determination of whether Minnesota Statutes § 176.081, subd. 12, Attorney Fees, should be awarded.

Disposition

Reversed and remanded.

Karstad vs. Myles Lorentz, Inc., May 20, 2015

Arising Out Of And In The Course Of

An employee's retrieval of personal property three weeks after layoff, solely upon his own volition and for his own purposes, and not in furtherance of any interest of the employer, does not constitute an activity sufficiently incidental to the employment to bring his injury within the course of the employment.

Disposition

Affirmed.

Schramel vs. Belgrade Nursing Home, May, 21, 2015

Causation – Substantial Evidence

Substantial evidence, including the employee's testimony and adequately founded medical expert opinion, supports the compensation judge's determination that the Feb. 17, 2012, incident at work was a substantial contributing cause of the employee's SI joint condition and a permanent aggravation of her pre-existing lumbar spine condition.

Medical Treatment and Expense – Substantial Evidence

Substantial evidence, including the opinions of the employee's treating physicians and medical expert, support the compensation judge's finding that the medical treatment provided to the employee was reasonable and necessary as a result of the Feb. 17, 2012, injury.

Intervenors

Practice and Procedure – Intervention

The compensation judge did not abuse his discretion by determining the employee's claims for rehabilitation services and ordering payment for services rendered by a qualified rehabilitation consultant who intervened but did not appear at the hearing below.

Rehabilitation – Substantial Evidence

There is sufficient evidence in the record to support the compensation judge's findings that the employee cooperated with rehabilitation, that a job search would have been futile and that the employee was a qualified employee for the purpose of rehabilitation services.

Temporary Total Disability – Substantial Evidence

Substantial evidence supports the compensation judge's finding that the employee was temporarily and totally disabled from Oct. 13, 2012, through June 3, 2014.

Disposition

Affirmed.

Gamble vs. Twin Cities Concrete Prods., May 29, 2015

Practice and Procedure – Intervenors

Where an employer is obligated to reimburse a benefit plan for payments made for medical treatment, and that medical treatment is determined to be unreasonable and unnecessary to cure and relieve the effects of the work injury, the medical provider is obligated to reimburse the employer for those payments pursuant to Minnesota Rules 5221 .0600, subp. 6.

Disposition

Affirmed.

Giel vs. Edelweiss Design, Inc., June 19, 2015

Causation – Temporary Injury

Substantial evidence, including expert medical opinion, medical records and lay testimony, support the compensation judge's findings that the employee's work injury was temporary in nature.

Disposition

Affirmed.

Peterson III vs. Independent School Dist. No 492, June 25, 2015

Causation – Temporary Aggravation Substantial Evidence

Substantial evidence, including expert medical opinion, supports the compensation judge's finding that the employee sustained a temporary aggravation of a pre-existing lumbar spine condition as a result of his March 22, 2012, work injury.

Disposition

Affirmed.

Van Riper vs. Interstate Packaging, Inc., June 26, 2015

Notice of Injury – Gillette Injury

Timely notice of a Gillette-type injury was provided where the employee, as a reasonable person, credibly testified that she was not aware that a compensable injury could arise through work activities absent a specific, identifiable incident and the employee promptly notified the employer upon obtaining a report from a physician that identified the employee's condition as a Gillette-type injury.

Permanent Partial Disability – Minnesota Rules 5223.0450

Where the employee relied on permanent partial disability (PPD) ratings given prior to surgery, substantial evidence does not support an award of PPD for limited range of motion under Minnesota Rules 5223.0450, subps. 4 A (1)(c) and 4 B (1)(c), where medical records post-surgery document improved range of motion to a degree inconsistent with the earlier PPD rating.

Temporary Total Disability – Controlling Wage

Where the parties agree that a finding of a consequential injury should be vacated, the average weekly wage of the underlying Gillette-type injury becomes the controlling wage for determination of benefits.

Disposition

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

Dunker vs. Securitas Security Services USA, Inc., June 29, 2015

Jurisdiction – Out-of-state Injury

Where an employee hired in Minnesota by a Minnesota employer had worked at locations in Minnesota and Wisconsin and had regularly performed duties of her employment in Minnesota, jurisdiction existed in Minnesota for a work-related injury the employee sustained in Wisconsin.

Disposition

Affirmed.