

2023 Workers' Compensation Advisory Council recommendations HF2988 (Wolgamott)/SF3193 (McEwen)

This bill adopts recommendations made by the Workers' Compensation Advisory Council (WCAC) on February 8, 2023, March 8, 2023, and April 20, 2023, related to: workers' compensation self-insurance; workers' compensation housekeeping and system efficiency proposals; permanent partial disability schedule updates; hospital outpatient fee schedule payments; and a Department-led study of work-related post-traumatic stress disorder.

Article 1. Workers' Compensation Self-insurance. Amends Minn. Stat. chapter 79A to require a private self-insurer to notify the Commissioner of Commerce prior to or immediately upon filing a bankruptcy petition and/or when it has been declared to be bankrupt. The bill requires the Commissioner of Commerce to call the private self-insurer's security deposit if that private self-insurer has not paid its workers' compensation benefits as required by chapter 176. If the private self-insurer has failed to pay its workers' compensation benefits, as verified in consultation with DLI, the Commissioner of Commerce may call the security deposit if they determine workers' compensation benefits would be delayed in any way.

Article 2. System efficiencies. Amends Minn. Stat. chapter 176 to generate greater efficiencies in the workers' compensation system as follows:

- Section 1: Amends Minn. Stat. § 176.081, subdivision 1, to outline the dispute certification process at the Department of Labor and Industry (DLI) and clarify when attorney fees are payable; effective August 1, 2023.
- Section 2: Amends Minn. Stat. § 176.135, subdivision 1, to clarify that items customized to the injured worker are the property of the injured worker; effective the day following final enactment.
- Section 3: Amends Minn. Stat. § 176.135, subdivision 1a, by adding response and request timelines for second opinions related to nonemergency surgery; effective August 1, 2023.
- Section 4: Amends Minn. Stat. § 176.135, subdivision 7, by creating a charge structure for copies of electronic medical records related to a workers' compensation claim; effective August 1, 2023.
- Section 5: Amends Minn. Stat. § 176.155, subdivision 1, to add a timeline by which a report produced by an employer's physician must be served and to describe when an examination by an employer's physician may be appropriate more than 120 days after an employee's claim petition has been filed; effective August 1, 2023.
- Sections 6 and 7: Amend Minn. Stat. § 176.239, subdivisions 6 and 7, to clarify what information and exhibits are considered during an administrative conference on benefit discontinuance; effective August 1, 2023.
- Section 8: Amends Minn. Stat. § 176.291, by clarifying the information required on a claim petition filing and the timing for when a party asks an employee to furnish a list of providers or an authorization to release information relevant to a claim for benefits; effective August 1, 2023.
- Section 9: Amends Minn. Stat. § 176.305, subd. 4, to allow a judge to dismiss a claim petition that has been stricken from the calendar for 180 days or more; effective August 1, 2023.
- Section 10: Amends Minn. Stat. § 176.331, to allow for a pretrial conference when an answer to a claim petition has not been timely filed; effective August 1, 2023.

Article 3. Permanent partial disability schedule. Amends the permanent partial disability (PPD) schedule in Minn. Stat. § 176.101, subd. 2a, with a weighted increase to the listed PPD amounts. The amendment also requires the WCAC to consider whether the PPD schedule represents adequate compensation for permanent impairment during the 2026 legislation session, and every even year thereafter. Effective for injuries occurring on or after October 1, 2023.

Article 4. Hospital outpatient fee schedule. Section 1 amends Minn. Stat. § 176.1364, subdivision 3, to provide for reductions over a period of three years, from 2023 through 2025, to the hospital outpatient fee schedule (HOFS) conversion factors used to determine payments under the HOFS. Section 2 repeals subdivision 6 of Minn. Stat. § 176.1364, which describes the criteria that must be met for the reductions in subdivision 3 to occur. Effective for services on or after October 1, 2023.

Article 5. Post-traumatic stress disorder study. Requires the commissioner of DLI to conduct a study to identify systemic or regulatory changes to improve the experience and outcomes of employees with work-related post-traumatic stress disorder. Includes a \$500,000 appropriation for the commissioner to contract with a third-party to complete part or all of the study and hire additional staff to support. Effective the day following final enactment.

Article 6. Housekeeping. Sections 1 and 2 amend Minn. Stat. § 176.011 with technical updates to two definitions. Section 3 amends Minn. Stat. § 176.102, subd. 3, to give the rehabilitation review panel oversight over appeals regarding approval of qualified rehabilitation consultant firms. Sections 4 and 5 amend Minn. Stat. § 176.111, subd. 16, and add a new subdivision 23, regarding required notice of cessation of dependency benefits. Section 6 amends Minn. Stat. § 176.1362, subd. 1, to clarify payment of inpatient hospital charges. And Section 7 repeals Minn. Stat. § 176.223, related to the prompt first action report from DLI. Sections 2 and 3 are effective the day following final enactment; sections 4 through 6 are effective on or after August 1, 2023.