

STATEMENT OF SCOPE

Department of Workforce Development

Rule No.

Chapter DWD 80, Wis. Admin. Code

Relating to

Minor and Technical changes to the Worker's Compensation Program

Rule Type

Permanent

1. Detailed Description of the Objective of the Proposed Rule

The proposed rule will make changes to ch. DWD 80, relating to reports by insurance carriers and self-insured employers, vocational rehabilitation training for injured employees, wrap-up insurance, uninsured employer's fund, notice of cancellation, termination and nonrenewal of insurance coverage, and necessity of treatment disputes.

2. Description of Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Reports by Insurance Companies and Self-Insured Employers

Section DWD 80.02 (2) identifies the reports that self-insured employers and insurance companies are required to submit to the department for injuries if there is a disability beyond the 3rd day after the employee leaves work as a result of the accident or disease.

Under the proposed rule, the following amendments will clarify that a self-insured employer or insurance company is required to report to the department when:

- Salary continuation payments to the employee are paid to an employee during the employee's healing period for injuries with disabilities that continue for more than three (3) days.
- Salary continuation payments to the employee are changed to payments for permanent disability.
- Salary continuation payments are reinstated during the employee's healing period.
- The final payment of salary continuation is made during the hearing period.

The proposed rule will also require a self-insured employer or insurance company to submit a final report of the employee's treating practitioner if the employee sustains an eye injury that requires medical treatment on three or more occasions off the employer's premises.

The proposed rule will create guidelines that require a self-insured employer or insurance company to file an update with the department, on form prescribed by the department, and to the newly retained claims handling office or third party administrator, for any open claim with more than 26 weeks of temporary disability, or permanent total disability. The proposed rule will also establish guidelines when the department may require submission of this information for any open claims with less than 26 weeks of temporary disability, or permanent total disability.

In addition, the proposed rule will require a self-insured employer or insurance company to submit to the department, on a form prescribed by the department, on an annual basis within six months of the beginning of a new calendar year any payments for permanent total disability and supplemental benefits made during the previous year.

Vocational Rehabilitation Benefits

Section DWD 80.49 references outdated terminology related to vocational specialists and retraining plans developed for injured employees pursuing vocational rehabilitation training. The proposed rule will repeal the obsolete terminology and use current terminology to define retraining plans developed for injured employees pursuing vocational rehabilitation training and describe vocational specialists.

Wrap-up Insurance

Section DWD 80.61 requires the use of department forms WKCA-19.4 W-U and WKCA-19.5 W-U, which are no longer utilized by the department. The proposed rule will repeal the requirement to file forms WKCA-19.4 W-U and WKCA-19.5 W-U which are obsolete and create language to authorize the use of forms prescribed by the department.

Uninsured Employers Fund

Section DWD 80.62 requires the department to submit to the Governor, and presiding officer of each house of the legislature, a report on the Uninsured Employers Fund on a quarterly basis. Under 1989 Wisconsin Act 64, this requirement sunset on April 15, 1992 and will be repealed.

Notice of Cancellation and Termination of Insurance Coverage

Section DWD 80.65 identifies specific methods of delivery to the Wisconsin Compensation Rating Bureau when a worker's compensation insurance company gives notice of a cancellation or terminates a policy. The proposed rule will allow methods of delivery which are approved by the department.

The proposed rule will also amend the section title to include nonrenewal of insurance coverage and create statutory cross-references for cancellations, terminations and non-renewals of insurance policies issued to professional employer organizations and employee leasing companies.

Necessity of Treatment Disputes

Section DWD 80.73 requires an insurer or self-insured employer to give written notice to a health care provider when the insurer or self-insured employer refuses to pay for treatment costs determined to be unnecessary. The insurer or self-insured employer is required to identify why it believes the treatment was unnecessary, including the organization and credentials of any person who provides supporting

medical documentation. The proposed rule will require an insurer or self-insured employer to also include all supporting medical documentation used to determine the treatment unnecessary.

The department did not prepare an analysis of policy alternatives since the proposed rulemaking is only intended to simplify, reduce, or increase the efficiency of certain requirements, or is of a clarifying nature.

3. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

The following statutory provisions provide authority for the proposed rulemaking:

Section 102.13 (2) (c), Stats.:

"...if the injured employee sustained an eye injury requiring medical treatment on 3 or more occasions off the employer's premises, the department may by rule require the insurer or self-insured employer to submit to the department a final report of the employee's treating practitioner..."

Section 102.15 (1), Stats.:

"(1) Subject to this chapter, the department may adopt its own rules of procedure and may change the same from time to time."

Section 102.16, (2m) (g), Stats.:

"The department shall promulgate rules establishing procedures and requirements for the necessity of treatment dispute resolution process under this subsection, including rules setting the fees under par. (f) and rules establishing standards for determining the necessity of treatment provided to an injured employee.... "

Section 102.31 (2) (a), Stats.:

"...The department may provide by rule that the notice of cancellation or termination be given to the Wisconsin compensation rating bureau rather than to the department in a medium approved by the department after consultation with the Wisconsin compensation rating bureau...."

Section 102.38, Stats.:

"Every insurance company that transacts the business of compensation insurance, and every employer who is subject to this chapter, but whose liability is not insured, shall keep a record of all payments made under this chapter and of the time and manner of making the payments and shall furnish reports based upon these records and any other information to the department as the department may require by rule or general order, in a format approved by the department."

Section 102.61 (1m) (f), Stats.:

"The department shall promulgate rules establishing procedures and requirements for the private rehabilitation counseling and rehabilitative training process under this subsection. Those rules shall include rules specifying the procedure and requirements for certification of private rehabilitation counselors."

4. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The estimated time is 120 hours.

5. List with Description of all Entities that May be Affected by the Proposed Rule

Injured employees with worker's compensation claims, worker's compensation insurance companies, self-insured employers, worker's compensation claims handling offices, third party administrators, health care providers and Wisconsin Compensation Rating Bureau.

6. Summary and Preliminary Comparison with Any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule.

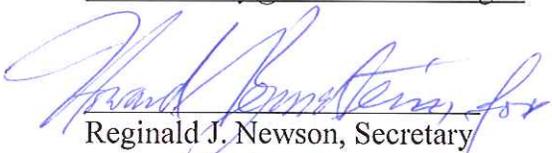
There are no existing or proposed federal regulations related to the proposed rules.

7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

The proposed rule will have no economic impact locally or statewide. The proposed rule is primarily procedural in nature and will have no economic impact on small businesses.

8. Contact Person

James T. O'Malley, Director, Worker's Compensation Bureau of Legal Affairs, (608) 267-6704, Jim.OMalley@dwd.wisconsin.gov.


Reginald J. Newson, Secretary

4/11/2014

Date Submitted