

Labor Proposals for 2019 Agreed Bill – May 23, 2019

- 1) **Permanent Partial Disability Benefit Maximum Rate:** Increase of approximately 5% per year from the rate established in negotiations for the 2017 agreed bill, which had provided for a maximum rate in 2019 of \$407 per week. That would result in a maximum PPD rate of \$427 for injuries after 1/1/2020, and \$448 for injuries after 1/1/2021.
- 2) **Temporary Disability Benefit:** Increase the rate for Temporary Disability Benefits from 66.67% of Average Weekly Wage to 80% of Average Weekly Wage beginning with dates of injury on or after 01/01/2020.
- 3) **Permanent Total Disability Supplemental Benefit:** Four year bump in eligible dates/rates. Current law provides for those injured prior to 1/1/2003 a supplement to max rate of \$669. A four year bump would take it to injuries prior to 1/1/2007, and increase the maximum benefit to \$777 per week.
- 4) **Scholarships:** Provide for a statutory scholarship benefit for injured worker's children, when a parent's injury causes death or permanent total disability. Scholarship amount for each child would be for the tuition, room and board, and book expense for up to four years at a Wisconsin State University System school, Wisconsin State Technical College System, or certified apprenticeship program of the child's choice.
- 5) **Statute of Limitations extended by payment of medical expense.** Current law, sec. 102.17(4), provides for a statute of limitations of 6 years for traumatic injuries, measured from the date of injury or the last payment of primary compensation (indemnity benefits to worker), whichever is later. Payment of medical expense currently does not extend the statute of limitations. This proposal would add the date of the last payment of medical expense as an additional measurement point for the start of the statute of limitations.
- 6) **Shoulder Replacement, Spinal Fusions:** Amend 102.17(4) to include shoulder replacement (reverse shoulder replacement) as well as spinal fusions as an additional serious traumatic injury with no statute of limitations.
- 7) **Physical Therapy Access:** In order to allow injured workers to go directly to a physical therapist following a work injury and have such treatment paid for under WC, amend 102.17 (1)(d) to allow Physical Therapists to opine on the necessity for PT treatment and causal relationship to injury but would not opine on the extent of disability.
- 8) **Increase Release of Unaccrued Benefits in Compromise Agreements:** Increase the amount of the unaccrued compensation that may be released to the injured worker without restriction in a compromise settlement in pursuant to DWD 80.03(1)(d) from \$10,000 to \$50,000.

- 9) **Eliminate Interest Credit on Advancements:** Amend sec. 102.32(6m) to change the interest credit to insurers for advancements of compensation from the current 5% to zero %.
- 10) **Injured Worker Choice of Third Party Settlements:** Amend sec. 102.29 (third party negligence cases) to change the law from the employer having an equal voice in whether a settlement offer should be accepted to the employee having the right to control the settlement or no settlement decision.
- 11) **Indexing of Permanent Total Disability Rate:** Indexing with 6 year lag. For injuries beginning 1/1/2020, index weekly benefits for permanent total disability or continuous temporary total disability for more than 24 months after the date of injury to the rate in effect at the time the benefit accrues for periods more than six years after the date of injury.
- 12) **Posting of Injured Worker WC Rights:** Require all employers to display a DWD approved poster of WC employee rights at the workplace, including information on opioids and alternative treatments.
- 13) **Continuation of Health Care Coverage:** If during the period of temporary disability an employer fails to continue to provide ongoing group health care coverage for an injured worker, or the injured worker and his dependents if such coverage was provided as of the time of injury, the employee is due an additional benefit equal to 100% of the employer contribution for such group health care that the worker (and his dependents, if applicable) had as of the date of injury. This additional benefit is in addition to any temporary disability benefits due, and is not subject to the maximum TTD rate.
- 14) **Loss of Earning Capacity for Scheduled Injuries:** If a worker suffers a scheduled injury, and if retraining has been attempted but fails to fully restore the injured worker's pre-injury earning capacity, or retraining is not feasible for the injured worker, allow a claim for loss of earning capacity in the same manner as currently allowed for unscheduled injuries.
- 15) **Opioids:** See the attached proposal on opioids and alternative treatments.

Labor reserves the right to amend or add to these proposals as may be necessary during the Agreed Bill process.