

WISCONSIN



DWD

Flow of a Claim with Wisconsin Highlights

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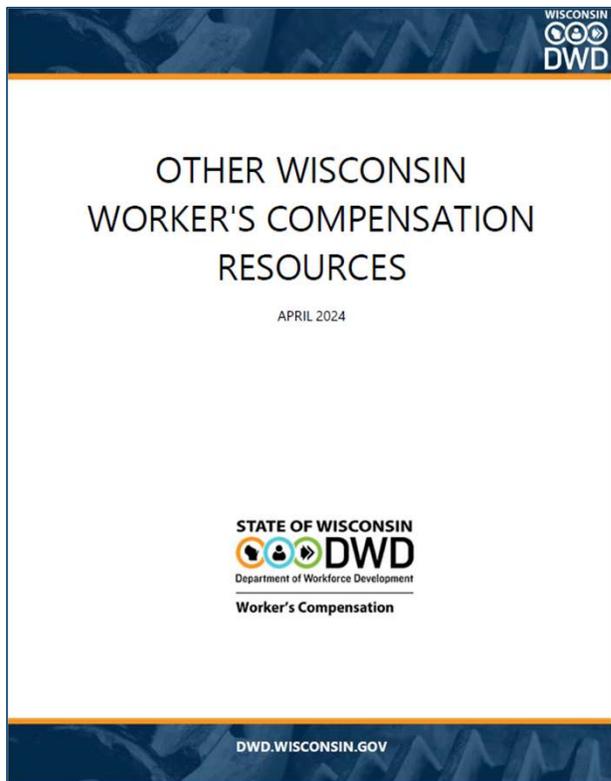
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Agenda

- Introduction to Materials
- Flow of a Claim – Including Reporting
- Surcharges
- Delays
- Independent Medical Examinations (IMEs)
- What Injured Workers Call Us About
- Throughout the Life of a Claim



Materials for Today's Session



- Found in right hand column of the DWC page where you registered
- Who does what in DRS
- General DWC contact information, including some troubleshooting contacts
- Reports that need to be filed and notices that need to be sent – and when



Materials for Today's Session (cont.)

- Links to lots of commonly-used forms and useful pages on DWC website
- Reminder about statutory minimum PPD ratings
- Links to important documents – including the Worker's Compensation Act with DWC explanatory footnotes
- Anatomy – weeks of compensation per joint, including for hands and feet



Flow of a Worker's Compensation Claim

Somebody got hurt at work



Worker Is Injured

- Injured worker is responsible to tell employer about injury
 - Within 30 days of incident, or
 - Within 30 days of when injured worker knows it is a problem.

(Some try to tough it out or think it will go away – does not disqualify them).
- Employer is responsible to report injury to insurance company (not just agent) within 7 days. (**Report:** WKC-12)



Worker Is Injured (cont.)

- Although employers have a duty to report claims, sometimes they don't.
- DWD 80.02(2)(a) requires the insurance company to submit reportable claims to DWC within 7 days of receiving notice of injury from any source – this includes notice from the injured worker.
- An employer's failure to report the claim is not a reason to deny the claim.



Worker Is Injured (cont.)

EXCEPTION

Fatalities: Within one day, employer must contact Division by phone to report as much information as they have, even if not complete yet. Employer also needs to submit WKC-12 to insurance company.



Worker Is Injured (cont.)

- Employer is responsible to tell injured workers that they can treat with provider of their choice. (102.42(2)(a), Wis. Stats.)
- Injured worker is responsible for seeking treatment and providing any restriction notes to employer and insurance company as soon as possible.



Insurance Company Receives Report

Adjuster starts claim investigation

- Make necessary contacts
 - Remember, this may be the injured worker's very first worker's compensation claim. How the claim starts will determine its tone for the future.
- Collect medical records



Insurance Company Receives Report (cont.)

In addition to working with injured worker, employer, and medical providers, you also need to send out information.

- Report – on a specific form or in a specific electronic format that DWC has deemed acceptable for sending required information
- Notice – sender gets to submit information in a way that suits the situation, their own needs, and DWC's requirements



Insurance Company Receives Report (cont.)

Within **14 days** of date of injury or last day worked, adjuster must either:

- Accept claim and pay benefits,

OR

- Deny, with a written letter (**notice**) to injured worker explaining why claim is denied and giving information on how to remedy that reason, if applicable,

OR

- Send a written letter (**notice**) explaining that the claim is under investigation, again explaining why and giving recourse if the claim is subsequently denied.



Insurance Company Receives Report (cont.)

Send the WKC-12 – First **Report** of Injury to DWC

- On or before the 14th day after an accident, or
- On or before the 14th day after the first day of disability from an occupational disease
- Report electronically through the Pending Reports application on our website - not on paper
- BUT don't send medical only (less than 3 days of lost time) or denials



Insurance Company Accepts Claim

- Injured worker treats with provider of choice.
- Required **reports** to Division within 30 days of injury or 30 days of when injury was required to be reported:
 - WKC-13 (payment to date information; date final medical report is expected), and
 - WKC-13A1 (wage information) if wage is less than maximum wage.
- Pay TTD/TPD in a timely manner. (TTD is 2/3 of AWW, up to maximum. 2024 maximum TTD rate is \$1,296.00.)



Insurance Company Accepts Claim

- Notify Division if injured worker will be off work 13 weeks or more
- Include current treating practitioner's report with notification



Insurance Company Accepts Claim (cont.)

- Injured worker returns to work.
 - Restrictions? Make sure employer follows them.
 - No restrictions? Claim continues until released from care.
- If you stop benefits or change them to a different type (i.e., TTD to TPD), **report** the status change to DWC. (WKC-13)



Insurance Company Denies Claim

- If you determine that claim is not compensable, within 14 days of the accident or the first day of disability from an occupational disease, send denial letter (**notice**) to injured worker.
- Denial letter must include:
 - Basis for denial.
 - How to contest the denial.
 - Appeal rights.



Insurance Company Denies Claim (cont.)

- If you have accepted liability for claim but later find that for some reason it is not compensable, within 7 days of your decision you must send denial letter to injured worker and to DWC.
- Denial letter must include:
 - Basis for denial.
 - How to contest the denial.
 - Appeal rights.



Insurance Company Investigates Claim

- 6 weeks is considered sufficient to complete investigation.
 - Keep injured worker updated – this is a very uncertain time for them with no income and not knowing what is going on with medical care.
- Within 14 days of the injury, you must let the injured worker know – in writing – that you are investigating their claim.



Insurance Company Investigates Claim (cont.)

- You can ask for extension of time to investigate.
 - Only helps you to avoid late reporting surcharges
 - Extension does not apply to delayed payment penalties.
- Surcharges are imposed for late **reporting** to the **state**.
- Delay Penalties are imposed for late **payments** to the **injured worker**.
 - Delayed payments may be excused, but extensions granted for late reporting do not apply to delay penalties



Insurance Company Investigates Claim (cont.)

Correct reporting to the state is important, but the injured worker's financial stability is more important.



Insurance Company Investigates Claim (cont.)

- Why is investigation taking so long?
 - Voluntary authorization for records release is voluntary - don't sit around waiting for it. IW is not actually required to sign it. You already have the right to records because HIPAA doesn't apply to worker's compensation (102.13(2)(a), Wis. Stats.)
 - No records from treating doc yet?
 - Need recorded statements from co-workers?
- Ask the injured worker to help. The sooner you get what you need, the sooner everyone can move forward.



Getting Medical Records

- We do not have a letter telling record keepers they must provide medical records, but there is nothing to prevent insurance company from including **§102.13(2)(a)** language in their own letter.
- Be clear in your letters to IW how they can help you get records.



Getting Medical Records (cont.)

- Ask only for what is reasonably related to claim. (Everything about the left knee, not everything since the beginning of time.)
- Why it matters: employer has a right to medical that is related to claim. IME providers often include non-work-related information in their reports. (Infertility, psych care, other things the employer doesn't need to know about.) The Act does not give you a right to this information.



Insurance Company Requests IME or MRR

- Insurance company may request Independent Medical Examination (IME) or Medical Records Review (MRR) at any time.
- For IMEs, specific requirements you must meet.
- Much more detail about IMEs later today in a separate session.



End of Healing

- Return to Work is **not** the same as end of healing.
- IME or MRR suggesting end of healing will not automatically close the claim.
- If injury qualifies for statutory minimum rating, start PPD benefit payments within 30 days of return to work without restrictions **or** end of healing, whichever occurs first.



End of Healing (cont.)

- Statutory minimums? Get all narrative operative reports. (You have already started paying PPD within 30 days after RTW if it's a statutory minimum.)
- Amputation? Obtain X-rays if needed. Report all amputations requiring a prosthesis to Division within 7 days.
- **Report** any changes in benefit type (TTD to TPD; TPD to TTD, TD to PPD) within 30 days of the change.



Final Medical Report

Receive Final Medical Report (FMR)

- If not challenging rating, and it doesn't qualify for a statutory minimum rating, begin PPD payments within 30 days of report date.
- If challenging rating, give notice of request for IME within 30 days
- If IME report is not received within 90 days of notice of request, start paying PPD rating per treating doctor's final medical report.



Permanent Disability

- PPD is payable monthly
- Is the injury subject to a statutory minimum? If yes, start paying PPD benefits on the earlier of:
 - Within 30 days after the end of the employee's healing period, or
 - On the date compensation for TD ends
- Not a statutory minimum? Start paying PPD benefits within 30 days after you get the final medical report.



Permanent Disability (cont.)

- You must pay all due and accrued PPD from the date TD ended
- Intermittent periods of disability? PPD accrues while the injured worker is not getting TD but is not yet at end of healing.
- Challenging the rating? You have 30 days after receipt of the WKC-16 to **schedule** an IME and **tell the injured worker** about the exam. If the IME report is not received within 90 days of the **day you scheduled** the appointment, start paying the treating doctor's rating.



Litigation

- Litigation only begins when Hearing Application is actually filed with DWC.
- If injured worker retains an attorney but does not file Hearing Application, claim is **not** litigated.
- If you have an attorney but injured worker has not filed a Hearing Application, claim is **not** litigated
- As long as the claim is not litigated, you still need to keep up your reporting.



Closing Claim

- Send medical documentation – WKC-16, WKC-16B - to DWD with WKC-13 when you start paying PPD.
- **Wait** patiently for your worksheet – duplicate copies slow us down. The worksheet is a courtesy. If a rating is on the final medical report, start paying PPD benefits. No need to wait for worksheet before starting payments.
- Pay PPD in a dependable, timely manner until all benefits due are paid.
- Close claim and send final WKC-13.



Reopening the Claim

- Reopen claim if injury resurfaces before end of statute of limitations. Statute of limitations starts on day last indemnity benefit was **scheduled** to be paid.
- Traumatic injury sustained on or after 3/2/16:
 - 6-year statute of limitations
- Occupational disease or injury or a traumatic injury sustained before 3/2/16:
 - 12-year statute of limitations
- Remember to file a WKC-13 to reopen claim.



What Injured Workers Call Us About

- Benefit payments are inconsistently paid and often late.
 - This complaint applies to both TTD and PPD payments
 - This is the injured worker's income; late payments make it harder to budget and manage their finances
 - Don't put yourself into a position to incur a delay penalty.



What Injured Workers Call Us About (cont.)

- Make sure the employer follows restrictions or you risk an aggravated injury. Work culture frequently pressures workers to overextend themselves.
- If the employer offers work to accommodate temporary restrictions, it must be work that
 - Benefits the employer, and
 - Is not unduly burdensome on the injured worker.



What Injured Workers Call Us About (cont.)

- If injured worker is back at work but has not yet reached end of healing, they often have more physical therapy or doctor appointments.
- Injured workers are encouraged to make their follow up appointments after work hours, but sometimes that is not possible.



What Injured Workers Call Us About (cont.)

- If injured worker must make medical appointments during work hours, they are eligible for TPD for the time they are gone.
 - Advise employers of this requirement
 - Disciplinary action for going to WC medical appointments can have undesired consequences



What Injured Workers Call Us About (cont.)

- Being told they must treat with a specific provider or at the on-site clinic.
 - Employer's clinic is not the injured worker's official choice of provider. Injured worker does not have to stay with clinic you sent them to.
- If injured worker's doctor makes a referral to a specialist, the specialist isn't considered a second opinion.
 - All providers in the chain of referrals count as the original choice of provider.



Throughout Life of Claim

- Keep DWD updated.
- If we call or email you, please respond as quickly as you can. We're trying to help you close your claim. If you don't respond to our informal contacts, we'll have to send you a letter which takes more time.
- Frequently, the adjuster's perspective on a claim situation helps us to understand what is really going on.
- Stay in contact with injured worker. We get many calls from people who just want information, but they become angry because they can't reach a person.



Throughout Life of Claim (cont.)

- You are the professional. For most injured workers, this is the first and only time they will deal with worker's compensation. They are hurt. They are scared. They worry about paying their bills. They feel lost because they don't understand the system.
- If you have a problem, call us sooner rather than later.
- If you have questions, call us sooner rather than later.
- Include our claim number.



Questions?

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