

WISCONSIN



DWD

Spring 2024 Legal Update

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Legal Update

New Legislation

- [2023 Wisconsin Act 213 \(AB-1073\)](#)

Current Issues

- How to handle issues of TTD, TPD, and medical treatment when the injured worker leaves the country
- Adjusters' choice: No show for IME, how to assert an overpayment, etc.



2023 Wisconsin Act 213

- On March 22, 2024, Governor Evers signed the Worker's Compensation Advisory Council's Agreed Upon Bill, introduced as [AB-1073](#).
- The new law, now known as 2023 Wisconsin Act 213, became effective on March 24, 2024.



2023 Wisconsin Act 213 (cont.)

New PPD rates

- As of March 24, 2024, the maximum weekly permanent partial disability (PPD) rate increased by \$8 to \$438, for all injuries occurring on and after March 24, 2024. Results in monthly rate of \$1,898 (Updated [WKC-9572-P](#))
- On and after January 1, 2025, the maximum weekly PPD rate will increase to \$446 for all injuries occurring on and after January 1, 2025.
- See § 102.11(1)(intro), Wis. Stats.



2023 Wisconsin Act 213 (cont.)

Statute of Limitations

- The statute of limitations will begin to run on the date the Office of Worker's Compensation Hearings (OWCH), referred to as the Division, issues an order approving a compromise agreement. Further claims can only be made within the applicable statute of limitations.
- This change does not affect the Department.
- See § 102.17 (4) (a), Wis. Stats.



2023 Wisconsin Act 213 (cont.)

Closure of Cases

- Unless there is an appeal, OWCH must return a case to the Department within thirty (30) days after issuing an order.
- The Department has exclusive authority to close a case and, if necessary, to notify the parties when it does so.
- If another hearing application is timely filed and a hearing is required, the Department is required to send the case to OWCH.
- See § 102.18 (1) (b) 1d., 1h., 1p. & 1t., Wis. Stats.



2023 Wisconsin Act 213 (cont.)

Lump Sum Payments for PPD

- A self-insured employer or the WC carrier may voluntarily make a lump sum payment of unaccrued PPD in an undisputed claim if they agree not to claim the interest credit.
- See § 102.32 (6m) (a) & (b), Wis. Stats.



2023 Wisconsin Act 213 (cont.)

Advanced Practice Registered Nurse

- The terminology under the WC Act has changed from “advanced practice nurse prescriber” (APNP) to “advanced practice registered nurse” (APRN).
- This was to be part of a larger change in the law, introduced as [2023 SB-145](#), to create a new license classification and practice standards for APRNs. The Governor vetoed the bill and it did not become law.
- For WC purposes, the terms APNP and APRN are to be considered synonymous.
- See §§ 102.13 (1) (a), (b) (intro.) 1., 3., & 4., (d) 1., 2., 3. & 4., (2) (a) & (b); 102.17 (1) (d) 1. & 2.; 102.29 (3); & 102.42 (2) (a), Wis. Stats.



2023 Wisconsin Act 213 (cont.)

Other housekeeping changes:

- Dependents: changes for gender neutral language relating to marriage. See § 102.52 (1) (a) 1.; repeal of § 102.51 (1) (a) 2., Wis. Stats.
- Vocational Rehabilitation: updated citations to the Federal rehabilitation law. See § 102.61 (1), (1g) (b) and (c), & (1m) (a), Wis. Stats.
- Uninsured Employer Fund (UEF): large UEF claims increased from \$1 million to \$2 million that require reimbursement. See § 102.81 (1) (c) 1. & 2., Wis. Stats.



The Agreed Upon Bill that Did Not Pass

For the first time in recorded history, the WC Advisory Council proposed two bills ([AB-1073](#) and [AB-1074](#)). The second bill contained:

- A medical fee schedule limiting the maximum fees a health provider could charge.
- Indexing of PTSD benefits, starting six years after the DOI, then annually thereafter.
- Additional PTSD coverage under provisions added by 2021 Wis. Act 29 to include emergency medical responders, emergency medical services practitioners, and volunteer and PT fire fighters.



Other Topics



IW Leaves the Country

The visa/immigration status of an IW is irrelevant for the purposes of medical treatment and temporary disability benefits

- Medical treatment under § 102.42 continues regardless of where claimant resides. Liability under § 102.42 (1), Wis. Stats., continues for treatment "as may be reasonably required to cure and relieve from the effects of the injury..."
- Under § 102.42 (2)(b), Wis. Stats., the carrier is liable for the expense of reasonable travel to obtain treatment.



IW Leaves the Country (cont.)

Considerations:

- Was the claimant treating before they left?
- Had they reached an end of healing?
- Did they obtain a referral?
- Does the ER/IC consent to out of state treatment?



IW Leaves the Country (cont.)

- Temporary disability continues so long as medical support exists if the IW is completely disabled as a result of injury. If still in a healing period, but released to light duty, liability may still continue. See § 102.43(9), Wis. Stats.
- “There is no provision in the Act which would allow the withholding of temporary disability benefits due to illegal alien status.” *Arista Rea v. Kenosha Beef Int’l* (LIRC, May 5, 1999) <https://lirc.wisconsin.gov/wcdecsns/314.htm>



IW Leaves the Country (cont.)

Considerations:

- Did the IW have temporary restrictions?
- Was the ER accommodating the restrictions?
- Did the ER terminate the EE?
- Did the EE quit?



Questions, Pressing Concerns?

- No show for an IME?
- Benefits overpayment?
- What's on your mind?



Feedback

Worker's Compensation Feedback Form ([WKC-19603-E](#))

Use this form to provide detailed information about your experience with Worker's Compensation so that we can improve our services. You may also use this form to share your thoughts about the Office of Worker's Compensation Hearings (OWCH) or the Labor & Industry Review Commission (LIRC).

- Include your email address if you want a copy sent to you for your record. Leave the email address field blank if you wish to remain anonymous.



Questions?

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