Date of enactment: **March 15, 2004**

2003 Assembly Bill 669 Date of publication*: **March 29, 2004**

2003 WISCONSIN ACT 144

AN ACT ***to renumber and amend*** 102.17 (1) (d) and 102.32 (6); ***to amend*** 102.13 (1) (a), 102.13 (1) (b) (intro.), 102.13 (1) (b) 1., 102.13 (1) (b) 3., 102.13 (1) (b) 4., 102.13 (1) (d) 1., 102.13 (1) (d) 2., 102.13 (1) (d) 3., 102.13 (1) (d) 4., 102.13 (2) (a), 102.13 (2) (b), 102.16 (2) (a), 102.16 (2) (d), 102.16 (2) (f), 102.16 (2m) (a), 102.16 (2m) (e), 102.17 (1) (g), 102.18 (1) (e), 102.29 (3), 102.31 (2) (a), 102.32 (6m), 102.35 (1), 102.42 (2) (a), 102.44 (1) (intro.), 102.44 (1) (a), 102.44 (1) (b), 102.49 (5) (a), 102.59 (2), 102.81 (1) (a) and 102.82 (1); and ***to create*** 102.32 (6) (d) of the statutes; **relating to:** making various changes in the worker's compensation law and granting rule−making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 102.13 (1) (a) of the statutes is amended to read:

102.13 **(1)** (a) Except as provided in sub. (4), whenever compensation is claimed by an employee, the employee shall, upon the written request of the employee's employer or worker's compensation insurer, submit to reasonable examinations by physicians, chiropractors, psychologists, dentists, physician assistants, advanced practice nurse prescribers, or podiatrists provided and paid for by the employer or insurer. No employee who submits to an examination under this paragraph is a patient of the examining physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist for any purpose other than for the purpose of bringing an action under ch. 655, unless the employee specifically requests treatment from that physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist.

SECTION 2. 102.13 (1) (b) (intro.) of the statutes is amended to read:

102.13 **(1)** (b) (intro.) An employer or insurer who requests that an employee submit to reasonable examination under par. (a) or (am) shall tender to the employee, before the examination, all necessary expenses including transportation expenses. The employee is entitled to have a physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist provided by himself or herself present at the examination and to receive a copy of all reports of the examination that are prepared by the examining physician, chiropractor, psychologist, podiatrist, dentist, physician assistant, advanced practice nurse prescriber, or vocational expert immediately upon receipt of those reports by the employer or worker's compensation insurer. The employee is also entitled to have a translator provided by himself or herself present at the examination if the employee has difficulty speaking or understanding the English language. The employer's or insurer's written request for examination shall notify the employee of all of the following:

* Section 991.11, WISCONSIN STATUTES 2001−02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 3. 102.13 (1) (b) 1. of the statutes is amended to read:

102.13 **(1)** (b) 1. The proposed date, time, and place of the examination and the identity and area of specialization of the examining physician, chiropractor, psychologist, dentist, podiatrist, physician assistant, advanced practice nurse prescriber, or vocational expert.

SECTION 4. 102.13 (1) (b) 3. of the statutes is amended to read:

102.13 **(1)** (b) 3. The employee's right to have his or her physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist present at the examination.

SECTION 5. 102.13 (1) (b) 4. of the statutes is amended to read:

102.13 **(1)** (b) 4. The employee's right to receive a copy of all reports of the examination that are prepared by the examining physician, chiropractor, psychologist, dentist, podiatrist, physician assistant, advanced practice nurse prescriber, or vocational expert immediately upon receipt of these reports by the employer or worker's compensation insurer.

SECTION 6. 102.13 (1) (d) 1. of the statutes is amended to read:

102.13 **(1)** (d) 1. Any physician, chiropractor, psychologist, dentist, podiatrist, physician assistant, advanced practice nurse prescriber, or vocational expert who is present at any examination under par. (a) or (am) may be required to testify as to the results ~~thereof~~ of the examination.

SECTION 7. 102.13 (1) (d) 2. of the statutes is amended to read:

102.13 **(1)** (d) 2. Any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist who attended a worker's compensation claimant for any condition or complaint reasonably related to the condition for which the claimant claims compensation may be required to testify before the department when ~~it~~ the department so directs.

SECTION 8. 102.13 (1) (d) 3. of the statutes is amended to read:

102.13 **(1)** (d) 3. Notwithstanding any statutory provisions except par. (e), any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist attending a worker's compensation claimant for any condition or complaint reasonably related to the condition for which the claimant claims compensation may furnish to the employee, employer, worker's compensation insurer, or the department information and reports relative to a compensation claim.

SECTION 9. 102.13 (1) (d) 4. of the statutes is amended to read:

102.13 **(1)** (d) 4. The testimony of any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist who is licensed to practice where he or she resides or practices in any state and the testimony of any vocational expert may be received in evidence in compensation proceedings.

SECTION 10. 102.13 (2) (a) of the statutes is amended to read:

102.13 **(2)** (a) An employee who reports an injury alleged to be work−related or files an application for hearing waives any physician−patient, psychologist−patient or chiropractor−patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any physician, chiropractor, psychologist, dentist, podiatrist, physician assistant, advanced practice nurse prescriber, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, worker's compensation insurer, or department or its representative, provide that person with any information or written material reasonably related to any injury for which the employee claims compensation.

SECTION 11. 102.13 (2) (b) of the statutes is amended to read:

102.13 **(2)** (b) A physician, chiropractor, podiatrist, psychologist, dentist, physician assistant, advanced practice nurse prescriber, hospital, or health service provider shall furnish a legible, certified duplicate of the written material requested under par. (a) upon payment of the actual costs of preparing the certified duplicate, not to exceed the greater of 45 cents per page or $7.50 per request, plus the actual costs of postage. Any person who refuses to provide certified duplicates of written material in the person's custody that is requested under par. (a) shall be liable for reasonable and necessary costs and, notwithstanding s. 814.04 (1), reasonable attorney fees incurred in enforcing the requester's right to the duplicates under par. (a).

SECTION 12. 102.16 (2) (a) of the statutes is amended to read:

102.16 **(2)** (a) ~~The~~ Except as provided in this paragraph, the department has jurisdiction under this subsection, sub. (1m) (a), and s. 102.17 to resolve a dispute between a health service provider and an insurer or self−insured employer over the reasonableness of a fee charged by the health service provider for health services provided to an injured employee who claims benefits under this chapter. A health service provider may not submit a fee dispute to the department under this subsection before all treatment by the health service provider of the employee's injury has ended if the amount in controversy, whether based on a single charge or a combination of charges for one or more days of service, is less than $25. After all treatment by a health service provider of an employee's injury has ended, the health service provider may submit any fee dispute to the department, regardless of the amount in controversy. The department

shall deny payment of a health service fee that the department determines under this subsection, sub. (1m) (a), or s. 102.18 (1) (b) to be unreasonable.

(am) A health service provider and an insurer or self−insured employer that are parties to a fee dispute under this subsection are bound by the department's determination under this subsection on the reasonableness of the disputed fee, unless that determination is set aside on judicial review as provided in par. (f). A health service provider and an insurer or self−insured employer that are parties to a fee dispute under sub. (1m) (a) are bound by the department's determination under sub. (1m) (a) on the reasonableness of the disputed fee, unless that determination is set aside or modified by the department under sub. (1). An insurer or self−insured employer that is a party to a fee dispute under s. 102.17 and a health service provider are bound by the department's determination under s. 102.18 (1) (b) on the reasonableness of the disputed fee, unless that determination is set aside, reversed, or modified by the department under s. 102.18 (3) or by the commission under s. 102.18 (3) or (4) or is set aside on judicial review under s. 102.23.

SECTION 13. 102.16 (2) (d) of the statutes is amended to read:

102.16 **(2)** (d) The department shall analyze the information provided to the department under par. (c) according to the criteria provided in this paragraph to determine the reasonableness of the disputed fee. The department shall determine that a disputed fee is reasonable and order that the disputed fee be paid if that fee is at or below the mean fee for the health service procedure for which the disputed fee was charged, plus ~~1.5~~ 1.4 standard deviations from that mean, as shown by data from a database that is certified by the department under par. (h). The department shall determine that a disputed fee is unreasonable and order that a reasonable fee be paid if the disputed fee is above the mean fee for the health service procedure for which the disputed fee was charged, plus ~~1.5~~ 1.4 standard deviations from that mean, as shown by data from a database that is certified by the department under par. (h), unless the health service provider proves to the satisfaction of the department that a higher fee is justified because the service provided in the disputed case was more difficult or more complicated to provide than in the usual case.

SECTION 14. 102.16 (2) (f) of the statutes is amended to read:

102.16 **(2)** (f) ~~The~~ Within 30 days after a determination under this subsection, the department may set aside, reverse, or modify ~~a determination under this subsection within 30 days after the date of~~ the determination for any reason that the department considers sufficient. Within 60 days after a determination under this subsection, the department may set aside, reverse, or modify the determination on grounds of mistake. A health service provider, insurer, or self−insured employer that is aggrieved by a determination of the department under this subsection may seek judicial review of that determination in the same manner that compensation claims are reviewed under s. 102.23.

SECTION 15. 102.16 (2m) (a) of the statutes is amended to read:

102.16 **(2m)** (a) ~~The~~ Except as provided in this paragraph, the department has jurisdiction under this subsection, sub. (1m) (b), and s. 102.17 to resolve a dispute between a health service provider and an insurer or self−insured employer over the necessity of treatment provided for an injured employee who claims benefits under this chapter. A health service provider may not submit a dispute over necessity of treatment to the department under this subsection before all treatment by the health service provider of the employee's injury has ended if the amount in controversy, whether based on a single charge or a combination of charges for one or more days of service, is less than $25. After all treatment by a health service provider of an employee's injury has ended, the health service provider may submit any dispute over necessity of treatment to the department, regardless of the amount in controversy. The department shall deny payment for any treatment that the department determines under this subsection, sub. (1m) (b), or s. 102.18 (1) (b) to be unnecessary.

(am) A health service provider and an insurer or self−insured employer that are parties to a dispute under this subsection over the necessity of treatment are bound by the department's determination under this subsection on the necessity of that treatment, unless that determination is set aside on judicial review as provided in par. (e). A health service provider and an insurer or self−insured employer that are parties to a dispute under sub. (1m) (b) over the necessity of treatment are bound by the department's determination under sub. (1m) (b) on the necessity of that treatment, unless that determination is set aside or modified by the department under sub. (1). An insurer or self−insured employer that is a party to a dispute under s. 102.17 over the necessity of treatment and a health service provider are bound by the department's determination under s. 102.18 (1) (b) on the necessity of that treatment, unless that determination is set aside, reversed or modified by the department under s. 102.18 (3) or by the commission under s. 102.18 (3) or (4) or is set aside on judicial review under s. 102.23.

SECTION 16. 102.16 (2m) (e) of the statutes is amended to read:

102.16 **(2m)** (e) ~~The~~ Within 30 days after a determination under this subsection, the department may set aside, reverse, or modify ~~a determination under this subsection within 30 days after the date of~~ the determination for any reason that the department considers sufficient. Within 60 days after a determination under this subsection, the department may set aside, reverse, or modify the determination on grounds of mistake. A health service

provider, insurer, or self−insured employer that is aggrieved by a determination of the department under this subsection may seek judicial review of that determination in the same manner that compensation claims are reviewed under s. 102.23.

SECTION 17. 102.17 (1) (d) of the statutes is renumbered 102.17 (1) (d) 1. and amended to read:

102.17 **(1)** (d) 1. The contents of certified medical and surgical reports by physicians, podiatrists, surgeons, dentists, psychologists, physician assistants, advanced practice nurse prescribers, and chiropractors licensed in and practicing in this state, and of certified reports by experts concerning loss of earning capacity under s. 102.44 (2) and (3), presented by a party for compensation constitute prima facie evidence as to the matter contained in ~~them~~ those reports, subject to any rules and limitations the department prescribes. Certified reports of physicians, podiatrists, surgeons, dentists, psychologists, physician assistants, advanced practice nurse prescribers, and chiropractors, wherever licensed and practicing, who have examined or treated the claimant, and of experts, if the practitioner or expert consents to ~~subject himself or herself~~ being subjected to cross−examination also constitute prima facie evidence as to the matter contained in ~~them~~ those reports. Certified reports of physicians, podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of the diagnosis, necessity of the treatment, and cause and extent of the disability. Certified reports by doctors of dentistry, physician assistants, and advanced practice nurse prescribers are admissible as evidence of the diagnosis and necessity ~~for~~ of treatment but not of the cause and extent of disability. Any physician, podiatrist, surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice nurse prescriber, or expert who knowingly makes a false statement of fact or opinion in such a certified report may be fined or imprisoned, or both, under s. 943.395.

2. The record of a hospital or sanatorium in this state ~~operated by any department or agency of the federal or state government or by any municipality, or of any other hospital or sanatorium in this state which~~ that is satisfactory to the department, established by certificate, affidavit, or testimony of the supervising officer ~~or~~ of the hospital or sanitorium, any other person having charge of ~~such records~~ the record, or ~~of~~ a physician, podiatrist, surgeon, dentist, psychologist, physician assistant, advanced practice nurse prescriber, or chiropractor to be the record of the patient in question, and made in the regular course of examination or treatment of ~~such~~ the patient, constitutes prima facie evidence ~~in any worker's compensation proceeding~~ as to the matter contained in ~~it~~ the record, to the extent that ~~it~~ the record is otherwise competent and relevant.

3. The department may, by rule, establish the qualifications of and the form used for certified reports submitted by experts who provide information concerning loss of earning capacity under s. 102.44 (2) and (3). The department may not admit into evidence a certified report of a practitioner or other expert or a record of a hospital or sanatorium that was not filed with the department and all parties in interest at least 15 days before the date of the hearing, unless the department is satisfied that there is good cause for the failure to file the report.

SECTION 18. 102.17 (1) (g) of the statutes is amended to read:

102.17 **(1)** (g) Whenever the testimony presented at any hearing indicates a dispute~~, or is such as to create~~ or creates a doubt as to the extent or cause of disability or death, the department may direct that the injured employee be examined ~~or~~, that an autopsy be performed, or that an opinion ~~of a physician, chiropractor, dentist, psychologist or podiatrist~~ be obtained without examination or autopsy, by or from an impartial, competent physician, chiropractor, dentist, psychologist or podiatrist designated by the department who is not under contract with or regularly employed by a compensation insurance carrier or self−insured employer. The expense of ~~such~~ the examination, autopsy, or opinion shall be paid by the employer or, if the employee claims compensation under s. 102.81, from the uninsured employers fund. The report of ~~such~~ the examination, autopsy, or opinion shall be transmitted in writing to the department and a copy ~~thereof~~ of the report shall be furnished by the department to each party, who shall have an opportunity to rebut such report on further hearing.

SECTION 19. 102.18 (1) (e) of the statutes is amended to read:

102.18 **(1)** (e) Except as provided in s. 102.21, if the department orders a party to pay an award of compensation, the party shall pay the award no later than 21 days after the date on which the order is mailed to the last−known address of the party, unless ~~a~~ the party files a petition for review under sub. (3). This paragraph applies to all awards of compensation ordered by the department, whether the award results from a hearing, the default of a party, or a compromise or stipulation confirmed by the department.

SECTION 20. 102.29 (3) of the statutes is amended to read:

102.29 **(3)** Nothing in this chapter shall prevent an employee from taking the compensation ~~he or she~~ that the employee may be entitled to under ~~it~~ this chapter and also maintaining a civil action against any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist for malpractice.

SECTION 21. 102.31 (2) (a) of the statutes is amended to read:

102.31 **(2)** (a) No party to a contract of insurance may cancel ~~it~~ the contract within the contract period or terminate or not renew ~~it~~ the contract upon the expiration date until a notice in writing is given to the other party fixing

the proposed date of cancellation or declaring that the party intends to terminate or does not intend to renew the policy upon expiration. Except as provided in par. (b), when an insurance company does not renew a policy upon expiration, the nonrenewal is not effective until 60 days after the insurance company has given written notice of the nonrenewal to the insured employer and the department. Cancellation or termination of a policy by an insurance company for any reason other than nonrenewal is not effective until 30 days after the insurance company has given written notice of the cancellation or termination to the insured employer and the department. Notice to the department may be given ~~either~~ by personal service of the notice upon the department at its office in Madison ~~or~~, by sending the notice by ~~facsimile machine transmission or~~ certified mail addressed to the department at its office in Madison, or by transmitting the notice to the department at its office in Madison by facsimile machine transmission, electronic mail, or any electronic, magnetic, or other medium approved by the department. The department may provide by rule that the notice of cancellation or termination be given ~~by certified mail or facsimile machine transmission~~ to the Wisconsin compensation rating bureau rather than to the department and that the notice of cancellation or termination be given to the Wisconsin compensation rating bureau by certified mail, facsimile machine transmission, electronic mail, or other medium approved by the department after consultation with the Wisconsin compensation rating bureau. Whenever the Wisconsin compensation rating bureau receives such a notice of cancellation or termination it shall immediately notify the department of the notice of cancellation or termination.

SECTION 22. 102.32 (6) of the statutes is renumbered 102.32 (6) (a) and amended to read:

102.32 **(6)** (a) If compensation is due for permanent disability following an injury or if death benefits are payable, payments shall be made to the employee or dependent on a monthly basis~~. Compensation for permanent disability that results from an injury for which~~ as provided in pars. (b) to (e).

(b) Subject to par. (d), if the employer or the employer's insurer concedes liability ~~and that is~~ for an injury that results in permanent disability and if the extent of the permanent disability can be determined based on a minimum permanent disability rating promulgated by the department by rule, compensation for permanent disability shall begin within 30 days after the end of the employee's healing period ~~or~~.

(c) Subject to par. (d), if the employer or the employer's insurer concedes liability for an injury that results in permanent disability, but the extent of the permanent disability cannot be determined without a medical report that provides the basis for a minimum permanent disability rating, compensation for permanent disability shall begin within 30 days after the employer or the employer's insurer receives a medical report that provides a basis for a permanent disability rating~~, whichever is later. Compensation for permanent disability that results from an injury for which the employer or the employer's insurer does not concede liability or that is based on a permanent disability rating that is above a minimum permanent disability rating promulgated by the department by rule shall begin within the later of those 30−day periods unless within the later of those 30−day periods the employer or insurer notifies the employee that the employer or insurer is requesting an examination under s. 102.13 (1) (a), in which case compensation for permanent disability shall begin within 30 days after the employer or insurer receives the report of the examination or within 90 days after the date of the request for the examination, whichever is earlier~~.

(e) Payments for permanent disability, including payments based on minimum permanent disability ratings promulgated by the department by rule, shall continue on a monthly basis and shall accrue and be payable between intermittent periods of temporary disability so long as the employer or insurer knows the nature of the permanent disability.

SECTION 23. 102.32 (6) (d) of the statutes is created to read:

102.32 **(6)** (d) The department shall promulgate rules for determining when compensation for permanent disability shall begin in cases in which the employer or the employer's insurer concedes liability, but disputes the extent of permanent disability.

SECTION 24. 102.32 (6m) of the statutes is amended to read:

102.32 **(6m)** The department may direct an advance on a payment of unaccrued compensation for permanent disability or death benefits if the department determines that the advance payment is in the best interest of the injured employee or the employee's dependents. In directing the advance, the department shall give the employer or the employer's insurer an interest credit against its liability. The credit shall be computed at 7%.

SECTION 25. 102.35 (1) of the statutes is amended to read:

102.35 **(1)** Every employer and every insurance company that fails to keep the records or to make the reports required by this chapter or that knowingly falsifies such records or makes false reports shall forfeit to the state not less than $10 nor more than $100 for each offense. The department may waive or reduce a forfeiture imposed under this subsection if the employer or insurance company that violated this subsection requests a waiver or reduction of the forfeiture within 45 days after notice of the forfeiture is mailed to the employer or insurance company and shows that the violation was due to mistake or an absence of information.

SECTION 26. 102.42 (2) (a) of the statutes is amended to read:

102.42 **(2)** (a) ~~Where~~ When the employer has notice of an injury and its relationship to the employment, the employer shall offer to the injured employee his or her choice of any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist licensed to practice and practicing in this state for treatment of the injury. By mutual agreement, the employee may have the choice of any qualified practitioner not licensed in this state. In case of emergency, the employer may arrange for treatment without tendering a choice. After the emergency has passed the employee shall be given his or her choice of attending practitioner at the earliest opportunity. The employee has the right to a 2nd choice of attending practitioner on notice to the employer or its insurance carrier. Any further choice shall be by mutual agreement. Partners and clinics are ~~deemed~~ considered to be one practitioner. Treatment by a practitioner on referral from another practitioner is ~~deemed~~ considered to be treatment by one practitioner.

SECTION 27. 102.44 (1) (intro.) of the statutes is amended to read:

102.44 **(1)** (intro.) Notwithstanding any other provision of this chapter, every employee who is receiving compensation under this chapter for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury which occurred prior to ~~January 1, 1978,~~ May 13, 1980, shall receive supplemental benefits which shall be payable in the first instance by the employer or the employer's insurance carrier, or in the case of benefits payable to an employee under s. 102.66, shall be paid by the department out of the fund created under s. 102.65. These supplemental benefits shall be paid only for weeks of disability occurring after January 1, ~~1980~~ 1982, and shall continue during the period of such total disability subsequent to that date.

SECTION 28. 102.44 (1) (a) of the statutes is amended to read:

102.44 **(1)** (a) If such employee is receiving the maximum weekly benefits in effect at the time of the injury, the supplemental benefit for a week of disability occurring after ~~January 1, 2002~~ the effective date of this paragraph .... [revisor inserts date], shall be an amount which, when added to the regular benefit established for the case, shall equal ~~$202~~ $233.

SECTION 29. 102.44 (1) (b) of the statutes is amended to read:

102.44 **(1)** (b) If such employee is receiving a weekly benefit which is less than the maximum benefit which was in effect on the date of the injury, the supplemental benefit for a week of disability occurring after ~~January 1, 2002~~ the effective date of this paragraph .... [revisor inserts date], shall be an amount sufficient to bring the total weekly benefits to the same proportion of ~~$202~~ $233 as the employee's weekly benefit bears to the maximum in effect on the date of injury.

SECTION 30. 102.49 (5) (a) of the statutes is amended to read:

102.49 **(5)** (a) In each case of injury resulting in death, the employer or insurer shall pay into the state treasury the sum of ~~$5,000~~ $10,000.

SECTION 31. 102.59 (2) of the statutes is amended to read:

102.59 **(2)** In the case of the loss or of the total impairment of a hand, arm, foot, leg, or eye, the employer shall pay ~~$7,000~~ $10,000 into the state treasury. The payment shall be made in all such cases regardless of whether the employee~~,~~ or the employee's dependent or personal representative commences action against a 3rd party as provided in s. 102.29.

SECTION 32. 102.81 (1) (a) of the statutes is amended to read:

102.81 **(1)** (a) If an employee of an uninsured employer, other than an employee who is eligible to receive alternative benefits under s. 102.28 (3), suffers an injury for which the uninsured employer is liable under s. 102.03, the department or the department's reinsurer shall pay to or on behalf of the injured employee or to the employee's dependents an amount equal to the compensation owed them by the uninsured employer under this chapter except penalties and interest due under ss. 102.16 (3), 102.18 (1) (b) and (bp), 102.22 (1), 102.35 (3), 102.57, and 102.60.

SECTION 33. 102.82 (1) of the statutes is amended to read:

102.82 **(1)** An uninsured employer shall reimburse the department for any payment made under s. 102.81 (1) to or on behalf of an employee of the uninsured employer or to an employee's dependents and for any expenses paid by the department in administering the claim of the employee or dependents, less amounts repaid by the employee or dependents under s. 102.81 (4) (b). The reimbursement owed under this subsection is due within 30 days after the date on which the department notifies the uninsured employer that the reimbursement is owed. Interest shall accrue on amounts not paid when due at the rate of 1% per month.

SECTION 34. Initial applicability.

(1) FEE DISPUTES AND NECESSITY OF TREATMENT DISPUTES.

(a) The treatment of section 102.16 (2) (a) and (d) and (2m) (a) of the statutes first applies to fee disputes and necessity of treatment disputes submitted to the department of workforce development on the effective date of this paragraph.

(b) The treatment of section 102.16 (2) (f) and (2m) (e) of the statutes first applies to fee dispute and necessity of treatment dispute determinations made by the depart-

ment of workforce development 30 days before the effective date of this paragraph.

(2) PAYMENT OF AWARDS. The treatment of section 102.18 (1) (e) of the statutes first applies to orders awarding worker's compensation mailed to a party on the effective date of this subsection.

(3) PERMANENT DISABILITY PAYMENTS. The renumbering and amendment of section 102.32 (6) of the statutes and the treatment of section 102.32 (6m) of the statutes first apply to compensation for permanent disability that becomes due on the effective date of this subsection.

SECTION 35. Effective date.

(1) This act takes effect on January 1, 2004, or on the day after publication, whichever is later.