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Worker's Compensation Insurance Letter

INS #	509
Date	March 2, 2016
Program	Claims Management
Type	Announcement
Replaces	496

To: Claims Handling Offices for Insurance Carriers and Self Insured Employers
From: BJ Dernbach, Division Administrator
Subject: Changes made for Supplemental Benefit Reimbursement Payments for Insurers and Self-Insured Employers under s. 102.44 (1) (c) & 102.75 (1g) Wis. Stats.

Purpose: To announce that s. 102.44 (1) (c), Wis. Stats., was amended and s. 102.75 (1g), Wis. Stats., was created by 2015 Wis. Act 55, effective January 1, 2016, to provide for changes in the manner supplemental benefits are reimbursed.

Background: The Worker's Compensation Advisory Council unanimously passed a motion to reduce payments of supplemental benefit reimbursements to employers and insurance carriers to \$0 (zero) effective May 14, 2013. This action was taken because expected losses to the Work Injury Supplemental Benefit Fund (WISBF) on known claims exceeded 85% of the cash balance of the fund based on generally accepted actuarial principles pursuant to s. 102.65 (4) (b), Wis. Stats. Worker's Compensation Insurance Letter No.496, issued on June 3, 2013, explains the reduction of supplemental benefit reimbursement payments in more detail.

New Law: Under s. 102.44 (1) (c), Wis. Stats., as amended by 2015 Wis. Act 55, the WISBF will no longer be responsible for making reimbursement payments to insurance carriers and self-insured employers.

Section 102.75 (1g), Wis. Stats., created by 2015 Wis. Act 55, provides that the Department is to reimburse supplemental benefits payments made on claims for injuries occurring on and before December 31, 2015. The revenue to fund supplemental benefit reimbursements will be from annual assessments on each insurance carrier based on a similar calculation that is used for that insurer in the annual general assessment for the Department's operations fund. The calculation will be made using the proportion of an insurer's total indemnity paid for cases initially closed in the previous calendar year compared to the total indemnity paid by all insurers in cases closed in the preceding calendar year.

Self-insured employers will not be assessed or reimbursed for supplemental benefits under the new law.

The maximum amount the Department will assess carriers to pay off claims in a calendar year is \$5,000,000. If the total amount reimbursable in a calendar year exceeds \$5,000,000, the Department will collect \$5,000,000 that year and collect the excess in the next calendar year (subject to a \$5,000,000 maximum) or in subsequent calendar years until the total outstanding amount is zero.

The Department is required to approve and pay a claim for supplemental benefit reimbursement no later than 16 months after the end of the year in which the supplemental benefit reimbursement claim was received by the Department subject to the \$5,000,000 yearly maximum. The Department will pay reimbursement claims in the chronological order in which those claims were received. All supplemental

benefit reimbursement claims pending at the time of the reduction of reimbursement payments effective May 14, 2013 and reimbursement claims received by the Department following that date will be paid in chronological order subject to the \$5,000,000 yearly maximum until all are paid. Insurers may expect to begin receiving supplemental benefit reimbursements in the first quarter of 2017.

To claim reimbursement for payment of supplemental benefits insurers are required to file a claim for reimbursement with the Department no later than 12 months after the end of the year in which the supplemental benefits were paid using the Supplemental Benefit Reimbursement Request, WKC-140-E. This form can be found at <https://dwd.wisconsin.gov/dwd/forms/wkc/wkc-140-e.htm>.

Supplemental benefit reimbursement payments will not be made for injuries occurring on and after January 1, 2016, and insurance carriers and self-insured employers will be responsible to make supplemental benefit payments without receiving reimbursement. Going forward, these costs will be included the annual Wisconsin rate making methodology.

Continued payment of supplemental benefits by employers and insurance carriers pursuant to s. 102.44 (1), Wis. Stats., is still required by statute.

Payments by the WISBF are not affected by this action and will continue to be paid for benefits payable under s. 102.49, Wis. Stats., for additional death benefits for children, s. 102.59, Wis. Stats., for pre-existing disability indemnity and s. 102.66, Wis. Stats., for specified claims barred by the applicable statute of limitations.

Action Requested: Please notify all personnel who handle Wisconsin supplemental benefit reimbursement requests pursuant to s. 102.44 (1) (c), Wis. Stats., of these statutory changes.

Inquiries: If you have any questions, please call the Dispute Resolution Unit at 608 261-8472. Press option #5 from the menu to be connected to a WISBF specialist.

Enclosure: None