

Brown & Carlson Insight

RECENT CHANGES TO THE WORKERS' COMPENSATION ACT

By Jordan Bugella

Recently, recommendations of the Workers' Compensation Advisory Council were approved by the Minnesota legislature and enacted into law by Governor Walz on April 26, 2021. The new law includes, but is not limited to, the following changes to the Minnesota Workers' Compensation Act:

Minimum Weekly Compensation

Under Minnesota Statute 176.101 subdivision 1, the minimum weekly compensation payable for temporary total disability benefits is currently \$130 per week or the injured employee's actual weekly wage, whichever is less.

For dates of injury on or after October 1, 2021, and each October 1 thereafter, the minimum weekly compensation shall be 20 percent of the maximum weekly compensation payable or the employee's actual weekly wage, whichever is less.

Provider Penalties

§Minn. Stat. 176.136 has been amended to permit penalties against a health care provider for collecting or attempting to collect payment from an employee. A violation only occurs if the provider has been informed that the treatment or service was for a claimed work injury or that the bill should be submitted to a workers' compensation carrier. A penalty shall not be assessed absent documentation that the provider was given written notice that the collection is prohibited and penalties may be assessed. This section is effective for violations on or after August 1, 2021.

Covid-19 Presumption

Under Minnesota Statute 176.011 subdivision 15, paragraph (f), contraction of COVID-19 is presumed to be work-related for certain categories of workers. The presumption was originally set to expire on May 1, 2021. The recent change to the Workers' Compensation Act extends the presumption to dates of injury to December 31, 2021.

Employees with dates of injury that occur on or after January 1, 2022, are not entitled to the presumption in section 176.011, subdivision 15, paragraph (f). However, the statute indicates that they are not precluded from claiming an occupational disease as provided in other paragraphs of section 176.011,

subdivision 15, or from claiming a personal injury under section 176.011 subdivision 16.

Fee Schedule Payments

- Fee Schedule Calculations for Inpatient Hospital Services

Pursuant to § Minn. Stat. 176.1362, the maximum reimbursement for inpatient hospital services, articles, and supplies has been calculated by providers and payers using the inpatient Medicare PC-Pricer program.

Beginning October 1, 2021, payment for inpatient services, articles, and supplies must be calculated using the inpatient PPS Web Pricer available on Medicare's website using the applicable dates of inpatient hospitalization. The law also requires the Department of Labor and Industry to publish the link to the inpatient PPS Web Pricer on its website.

- Payment for Surgical Procedures and Ancillary Services

Effective immediately, Minnesota Statute 176.1363 subdivision 2 requires that when more than one covered surgical procedure is included on a bill, payment shall be: (A) 100 percent of the applicable ASCPS payment amount under paragraph (a), clause (2), for the procedure with the highest ASC payment rate; and (B) 50 percent of the applicable ASC payment amount under paragraph (a), clause (2), for all other covered surgical procedures.

However, the total payment must still not exceed the ASC's usual and customary charge for all services, supplies, and implantable devices provided. This only applies when more than one procedure on a bill is identified as subject to multiple procedure discounting on Addendum AA.

Subpoenas

Effective immediately, most employees of the MN Department of Labor & Industry are not subject to a subpoena. This does not include a QRC or job placement coordinator employed by DOLI/VRU who has provided services to an employee under a rehabilitation plan.

If you have any questions regarding the recent legislative changes, or any other workers' compensation matter, please feel free to contact me or the Brown & Carlson Hotline at (855) 844-7070.

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