

2021 Workers' Compensation Advisory Council recommendations

HF 2253 (Sundin)/SF 2143 (Utke)

This bill adopts the recommendations made by the Workers' Compensation Advisory Council on March 10, 2021, related to: the minimum weekly compensation rate; inpatient hospital and ambulatory surgical center payment; prohibited practices; annual payer reports of prompt first action; subpoenas of Department of Labor and Industry employees; penalties for billing injured workers for treatment; and extension of the workers' compensation COVID-19 presumption through Dec. 31, 2021.

Section 1. Minimum weekly compensation. Amends Minnesota Statutes, section 176.101, subdivision 1, to provide that the minimum weekly compensation is the lesser of 20% of the maximum compensation rate (instead of \$130 a week) or the employee's actual weekly wage. Effective for injuries on or after Oct. 1, 2021.

Section 2. Penalties for billing injured workers for treatment of a work injury. Amends Minn. Stat. § 176.136 to: provide a penalty payable to the Assigned Risk Safety Account against a health care provider that bills an injured worker for treatment in violation of the workers' compensation law; require notice to the provider before a penalty can be assessed; and require providers to reimburse employees for expenses related to the violation. Effective for violations on or after Aug. 1, 2021.

Sections 3 and 4. Payment based on Medicare inpatient calculator. Amends Minn. Stat. § 176.1362 to require use of a new Medicare web-based calculator to calculate the maximum fees payable for workers' compensation inpatient hospital treatment for discharges on or after Oct. 1, 2021.

Sections 5 to 7. Ambulatory Surgical Center (ASC) fees. Amends Minn. Stat. § 176.1363 related to payment of treatment of work injuries in an ASC to: describe the multiple procedure payment reduction rule instead of cross-referencing the Medicare regulation; clarify when payment to an ASC is based on the ASC's actual charges instead of the fee schedule amount; and delete an inapplicable cross-reference and a phrase related to payment for services not in the fee schedule. Effective for services provided on or after the day following final enactment.

Sections 8 and 9. Prohibited practices. Amends Minn. Stat. § 176.194 to: clarify application of existing workers' compensation prohibited practices; add new prohibited practices for providing fraudulent written information to the department or an employee and for failing to pay benefits or correct behavior on a claim if a penalty for the conduct was paid or became a final order; and eliminate warnings before penalizing for specified intentional or egregious prohibited practices. Effective for violations on or after July 1, 2021.

Section 10. Prompt First Action Report. Amends Minn. Stat. § 176.223 to: delay the first annual report, based on data filed in Work Comp Campus, until March 15, 2022; allow the commissioner to exclude incomplete or unreliable data; and require workers' compensation payers to electronically file corrected data in Campus by Feb. 15 for the data to be reflected in the annual report. Effective the day following final enactment.

Section 11. Subpoenas of DLI employees not permitted. Amends Minn. Stat. § 176.351 to prohibit subpoenas of Department of Labor and Industry employees, unless the department is a party to a claim or enforcement action or provides vocational rehabilitation services to an injured worker. Effective the day following final enactment.

Section 12. Extension of sunset date. Extends the May 1, 2021, sunset date of the current workers' compensation COVID-19 presumption statute (Minn. Stat. § 176.011, subd. 15 (f)) to 11:59 p.m., Dec. 31, 2021.