

DRAFT
Council on Worker's Compensation
Meeting Minutes – Hybrid Meeting (In-person and WebEx)
201 E. Washington Avenue
GEF-1 Building
Madison, Wisconsin
July 9, 2025

The Department of Workforce Development (DWD) provided public notice of the meeting under Wis. Stat. § 19.84.

Members present in-person and via video: Ms. Bloomingdale, Mr. Buchen, Mr. Dipko (Chairperson), Ms. Frank, Mr. Fugina, Mr. Kent, Ms. Kosnicki, Mr. Large, Ms. Meidl, Mr. Nettum, Mr. Reese, and Mr. Tindall.

Excused: Mr. Schwanda and Ms. Ver Velde

Staff Present: Secretary Pechacek, Mr. Aiello, Ms. Brown, Ms. Driese, Mr. Guler, Ms. Lake, Ms. McCoy, Ms. McCormick, Mr. O'Malley, Mr. Przybylo, Ms. Przybylo, Mr. Sensenbrenner, and Mr. Spencer.

1. **Call to Order/Introductions:** Mr. Dipko convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 10:00 a.m. in accordance with Wisconsin's open meetings law and called roll of the WCAC members.
2. **Approval of the Minutes:** A motion was made by Ms. Bloomingdale to approve the minutes of the June 11, 2025 meeting. Mr. Buchen seconded the motion. The minutes were unanimously approved without correction.
3. **Department Updates:** Secretary Amy Pechacek appeared at the meeting and expressed gratitude from the residents of Wisconsin, Governor Evers, and his administration to the WCAC members for their role in the worker's compensation process. She expressed her appreciation for labor and management partnering together in the Agreed Upon Bill process.

The Department of Workforce Development (WCD) supports some 20 councils, and over the last five (5) years she has had the privilege of addressing the councils with updates about workforce developments. She mentioned that Wisconsin has had record-breaking jobs reports, including record-high employment and registered apprenticeship enrollment. Wisconsin experienced record-low unemployment in 2023 and since that time, nine (9) counties have experienced record-low unemployment consistently. Wisconsin has a 3.4% higher employment participation rate compared to the national average.

Secretary Pechacek highlighted the worker's compensation provisions in the Budget Bill that Governor Evers recently signed. She noted it included the creation of a hospital fee schedule and the indexing of permanent and total disability benefits. Credit for these provisions goes to the WCAC. While the federal budget bill calls for a 34% decrease in funding to the DWD, this will not impact the Worker's Compensation Division (WCD). She expressed her appreciation for the WCAC's hard work.

4. **Correspondence:** Mr. O'Malley reported that no correspondence for the WCAC was received since the last meeting.

- 5. Legislative Updates:** Mr. O'Malley advised that the amendments to ch. DWD 80 of the Wisconsin Administrative Code included in CR 25-005 will go into effect on August 1, 2025. The Legislative Reference Bureau will have the administrative rule changes published soon in the Wisconsin Administrative Register.

Mr. O'Malley stated that 2025 AB-232 authorizing the transfer of worker's compensation adjudicatory functions from the Division of Hearings and Appeals (DHA) to DWD was passed by the Legislature on June 18, 2025. The bill has been enrolled and is now awaiting the Governor's review and signature. The effective date of the bill will be January 1, 2026.

Mr. O'Malley reported that 2025 AB-269 related to delivery network couriers and transportation network drivers was passed by the Legislature on June 18, 2025. The bill has been enrolled and is awaiting the Governor's review.

Ms. Bloomingdale inquired about the status of the reunification bill. Mr. O'Malley advised that it was not known when Governor Evers would sign the bill, and that all non-budget bills will be forwarded to the Governor's Office on August 7, 2025. Mr. Dipko stated that this bill had not yet been moved to the Governor's Office.

Mr. O'Malley addressed 2025 Wisconsin Act 15 (Biennial Budget Bill) which created a worker's compensation medical fee schedule covering hospital items and services and established a process for indexing permanent total disability (PTD) benefit rate increases more than six (6) years after the date of injury on an annual basis.

With respect to the hospital fee schedule, the Department will create a worker's compensation medical fee schedule covering items and services provided by eligible hospitals, for which the hospital may receive hospital inpatient or outpatient reimbursement from the Medical Assistance program under subch. IV of ch. 49, Wis. Stats., and for which the fee was paid within the applicable time period. He noted that eligible hospital is not well defined in s. 102.423 (1), Wis. Stats. It appears that hospitals that primarily treat mental diseases are not eligible hospitals. DWD will need to rely on the Department of Health Services (DHS) to provide a list of eligible hospitals.

There is a complex provision that covers applicable time periods when the fee schedule is in operation and when it is suspended. DHS will be required to submit notices to the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Register with specified information about the amounts for assessment payments and Medical Assistance payments required under s. 49.45 (3) (e) 11., Wis. Stats., that DHS expects to be paid above and below certain amounts in the current fiscal year and next fiscal year.

2025 Wisconsin Act 15 requires that a worker's compensation insurance carriers and self-insured employers make payment within 90 days if the aggregate amount billed is greater than \$65,000. When the aggregate amount billed is less than \$65,000 insurance carriers or self-insured employers will be required to remit payment within 60 days. The time periods begin to run on the date a hospital electronically sends records to substantiate the bill, or on the 3rd day after being postmarked if the records are sent by mail. WC insurers may request a hospital to submit additional records to substantiate the claim and the hospital shall provide the additional records to the extent practicable or within 10 days of receipt of the request; however, a request for additional records does not extend the 60- or 90-day time periods.

There is a process for worker's compensation insurers and self-insured employers to request extension(s) to make payments if compensability of an injury has not been determined and for the Department to approve or deny an extension. The Department is authorized to promulgate rules that specify the requirements and procedures for requesting and granting extensions and to notify eligible hospitals when an extension is requested. If the Department denies the extension request, the insurer or self-insured employer has 14 days to pay the fee.

The Department is to establish the fee schedule by July 1, 2027. Notice in the Wisconsin Administrative Register will state the date when the fee schedule will be effective. The fee schedule will first apply to an item or service provided to an injured employee on the effective date specified in the notice. In establishing the fee schedule the Department will divide the state into five (5) regions based on geographical and economic similarity.

For each item or service in the hospital fee schedule, the Department shall determine the amount that represents the 75th percentile of the commercial, in-network negotiated amounts, across all commercial health insurance plans, issuers, and administrators in that region. The maximum fee for each item or services in the fee schedule will be 120% of the 75th percentile of the commercial, in-network negotiated amounts across all commercial health insurance plans, issuers, and administrators in that region.

The Department is to use the machine-readable files of all health insurance plans, issuers, administrators, and hospitals made public by provisions in the Code of Federal Regulations that contain in-network negotiated rates for each eligible hospital in that region of the state.

In creating the hospital fee schedule the Department is not to use amounts from Medicare Advantage, services provided under a managed care system under the Medical Assistance program in subch. IV of ch. 49, Wis. Stats., databases certified by the Department under s. 102.16 (2) (h), Wis. Stats., or any other source. The Department is authorized to contract with a 3rd party to assist with obtaining the data for the fee schedule. Each year the Department is to redetermine the maximum fees in the fee schedule. The Department is to publish the hospital fee schedule on its website.

The liability of a WC insurance carrier or self-insured employer under the fee schedule is limited to the lesser of the following:

- The maximum fee allowed in the fee schedule for the item or service on the date provided.
- Any fee agreed to by contract between the WC insurance carrier or self-insured employer and eligible hospital for the item or service as of the date of service.
- The eligible hospital's actual fee for the item or service as of the date of service.

An eligible hospital will be prohibited from balance billing an employee for any charge that is in excess of the WC insurance carrier's or self-insured employer's liability under the fee schedule. Payment of a claim under the fee schedule is not an admission of causality or responsibility with respect to future payments or obligations. The Department is authorized to promulgate administrative rules to implement the fee schedule.

The current reasonableness of fee dispute resolution process under s. 102.16 (2), Wis. Stats., and s. DWD 80.72 of the Wisconsin Administrative Code will remain in effect for all other health care providers and for eligible hospitals during times that the fee schedule is not in operation.

Mr. Buchen stated that federal statutes require hospitals to publish data regarding their charges, but not all hospitals are compliant with the law. Mr. O'Malley noted that a challenge will be to obtain information about what the health insurance companies are paying hospitals. Mr. Dipko stated that DWD will have to partner with stakeholders, the Wisconsin Hospital Association and the DHS. Mr. Fugina requested that the insurance carriers be a part of the work group. Mr. Nettum inquired about how often the fee schedule will be reviewed to determine which hospitals meet the eligibility requirements. He suggested that there be a specific code attached to billing statements that indicates whether a hospital is considered eligible. Mr. O'Malley noted that this could be included in a new administrative rule to implement the hospital fee schedule. Each year the hospital fee schedule would be updated.

Mr. Kent questioned whether any consideration has been given to covering out of state hospitals. Mr. O'Malley acknowledged that it is difficult to enforce administrative rules for out of state providers.

Mr. O'Malley explained the provision relating to the indexing of permanent total disability (PTD) benefit rates. He acknowledged that the language to create this provision was substantially similar to that contained in the previous Agreed Upon Bill. The maximum benefit rates for PTD will be increased beginning with the 6th anniversary of the date of injury and on subsequent anniversary dates based on the maximum compensation rate in effect on that date. The PTD benefit rate indexing applies to injuries that occur on and after January 1, 2026. Increasing benefit rates for PTD will not begin until January 1, 2032.

The same complex provisions that cover applicable time periods for payments when the fee schedule is in operation and when it is suspended also apply to injury dates when the PTD indexing is in operation and when suspended.

Mr. Dipko addressed the creation of s.165.25 (22m), Wis. Stats., that was also contained in 2025 Wisconsin Act 15 which requires the Department of Justice (DOJ) to meet quarterly with DWD to provide reports regarding misclassification and payroll fraud. Mr. Tindall requested clarification on the number of positions that DWD funds at DOJ. The WCD funds one-half of an assistant attorney general position and one half-time investigator position at the DOJ for the investigation and prosecution of worker's compensation fraud.

6. **Other Business:** The next meetings will be held on August 26, 2025 and August 27, 2025 at 10:00 a.m.
7. **Motion to Caucus:** Mr. Buchen moved the members to go into a closed session under s. 19.85(1) (eg), Wis. Stats., to deliberate items on the agenda and adjourn the meeting from caucus. Ms. Bloomingdale seconded the motion. By unanimous vote, the motion passed. Mr. Dipko announced the closed session, statutory authority, and the nature of business to be considered. The open session of the meeting was adjourned at approximately 10.52 a.m. The Worker's Compensation Advisory Council's next meeting is scheduled for August 26, 2025.

[WCAC 7.9.25 MEETING MINUTES DRAFT]