

DRAFT
Council on Worker's Compensation
Meeting Minutes – Hybrid Meeting (In-person and WebEx)
201 E. Washington Avenue
GEF-1 Building
Madison, Wisconsin
June 11, 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, and Mr. Reese.

Excused: Mr. Schwanda, Mr. Tindall, and Ms. Ver Velde

Staff Present: Mr. Aiello, Mr. Brockman, Ms. Brown, Ms. Driese, Mr. Guler, Ms. Lake, Ms. McCormick, Mr. O'Malley, Mr. Przybylo, and Mr. Salvi.

1. **Call to Order/Introductions:** Mr. Dipko convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 10:09 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 May 13, 2025 meeting. Mr. Buchen seconded the motion. The minutes of the meeting were unanimously approved without correction.
3. **Correspondence:** Mr. O'Malley reviewed correspondence submitted since the last meeting.

An e-mail message was received on May 27, 2025 from Mr. Jimmy Novy requesting the WCAC to consider increasing the supplemental benefit rate for permanently and totally disabled workers.

A copy of a letter dated June 3, 2025 and signed by Mr. Dipko on behalf of the WCAC was discussed next. The letter was addressed to the Wisconsin State Legislature to support Senate Bill 229 (SB-229) and Assembly Bill 232 (AB-232) that provide for the transfer of worker's compensation adjudicatory functions from the Department of Administration, Division of Hearings and Appeals (DHA) to the Department of Workforce Development (DWD).

4. **Voluntary Worker's Compensation Poster:** Mr. Dipko discussed the poster, **Wisconsin Worker's Compensation Notice to Injured Workers and Employers**, that was developed by the Worker's Compensation Division (WCD) to advise injured workers and employers of their respective rights and responsibilities under the worker's compensation law. Mr. Dipko recommended that members of the WCAC take some posters to share with others, and stated that use of the poster is not required. The intent of the poster is to make workers aware of their rights, as well as to allow employers to have information readily available to their staff. The poster may help employers avoid penalties, result in timely reporting of injuries to insurance carriers, and decrease the number of telephone calls for WCD staff.

Ms. Bloomingdale stated that the poster looked good. She asked about who answers telephone calls to the WCD's general telephone number, as it is frustrating for people to call the agency and not speak with a live person. Mr. Dipko stated that the WCD uses a call tree, but callers are generally transferred to a Dispute Resolution Specialist (DRS) or other appropriate staff person.

Mr. Nettum inquired as to whether there would be a required location for the employer to place the poster. Mr. Dipko answered that there is no required location for placement of the poster in an employer's business.

- 5. Legislation Updates:** Mr. O'Malley provided an update about the status of SB-229 and AB-232. These bills provide for the transfer of adjudicatory functions from the DHA to DWD. The Senate Committee on Government Operations, Labor and Economic Development held an executive session for SB-229 on June 3, 2025, unanimously recommended passage of the bill and made it available for scheduling. The Assembly Committee on Workforce Development, Labor, and Integrated Employment is scheduled to hold an executive session for AB-232 on June 12, 2025 at 9:30 a.m.

Ms. Bloomingdale requested Mr. Dipko to confirm that the WCAC letter in support of the bills was sent to all of the legislators. Mr. Dipko replied that the letter was addressed to the full Legislature and sent to the chief clerks of the Wisconsin State Senate and Assembly, in addition to leaders of standing Assembly and Senate committees.

Mr. O'Malley briefly discussed the status of the proposed amendments to ch. DWD 80 of the Wisconsin Administrative Code covered in CR 25-005 (Statement of Scope 113-23). The proposed amendments make minor and technical revisions related to self-insurance and reasonableness of fee disputes. The proposed rule amendments are in the final 30-day review period with the Joint Committee for Review of Administrative Rules (JCRAR). There have been no communications about whether JCRAR will extend the review period or request a hearing. The review period ends on June 27, 2025.

At the last meeting Mr. Buchen inquired about communications to the legislature indicating that the WCAC supported the proposed amendments. Mr. O'Malley advised the hearing draft for the proposed amendments included a provision that stated the amendments were developed after consultation with the Self-Insurers Council and the WCAC.

There was a discussion about SB-256 and AB-269, companion bills, which were recently introduced in the legislature. Mr. O'Malley explained these bills are similar to legislation introduced in the two (2) previous legislative sessions regarding delivery network couriers and transportation network drivers. He noted a significant difference in the language used in current bills for the proposed s. 102.07 (8) (bs) related to the test for employee status of the drivers and couriers. The current bills add the term "agent" for application-based drivers and couriers stating that such positions would not be employees or agents of a network company. Ms. Bloomingdale inquired about the addition of the term "agent". Mr. O'Malley explained the drafter's analysis did not mention a rationale for including "agent", and he speculated this language could be used as a defense by the network companies to lawsuits resulting from the actions of drivers.

Mr. Buchen mentioned that the insurance coverage included in SB-256 and SB-269 would create a parallel system to worker's compensation. Ms. Bloomingdale stated that the network companies were not required to provide the insurance coverage specified in the bills.

A discussion was held regarding the use of the words "may" versus "shall" in the bills. Ms. Bloomingdale commented on the speed with which these bills were moving through the legislative process and that the sponsors did not discuss the bills with the WCAC. Mr. O'Malley explained that the four-part test in the proposed s. 102.07 (8) (bs) is the same as in previous legislation, with the exception of the "agent" language.

Mr. Buchen inquired about DWD's position on Uber and Lyft. Mr. O'Malley stated that these companies have other employees in addition to drivers, and the 9-point independent contractor test in s. 102.07 (8) (b), Wis. Stats., would be applied to the drivers to determine if they were employees in the event of a dispute. There have been a couple of worker's compensation cases involving rideshare companies, but DWD is not aware of any disputes. Mr. Buchen asked who decides the classifications and Mr. O'Malley responded that an employer's worker's compensation insurance carrier decides and may conduct a premium audit on the employer's payroll. DWD is not involved in premium audits.

Mr. Nettum commented that the state where the business is domiciled usually has jurisdiction over claims. Mr. O'Malley noted that if an injury occurs in Wisconsin, and the employer and employee are subject to the law, the employee may file a claim in this state.

Mr. Fugina stated that he had concerns about entities going around the WCAC process. He questioned whether the Legislature could be requested to come to the WCAC with information. Mr. Buchen stated that the WCAC has no control over the Legislature and Ms. Bloomingdale mentioned that it is aware of the WCAC's presence. Ms. Bloomingdale spoke to the fact that this type of bill had not yet passed in any other state's legislature.

6. **WCRB Presentation:** Mr. Bernard Rosauer spoke briefly on previously raised questions regarding rate increases and the impact on employers. He requested Lori Julga, Principal and Consulting Actuary at Milliman, to give a brief presentation on these topics.

Ms. Julga prepared a one-page exhibit showing payroll, standard premiums of employers, and what those employers are paying for insurance. Self-insured employers were not included in this presentation. She explained that Wisconsin has about 550 class codes which include all workers, from those professions with low exposure to injury to those with high exposure. In 2022, Wisconsin employers reported payroll of \$145.7 billion. The data reflects a growth in payroll which included wage inflation (raises), increased number of work hours, and increased hiring by employers. The standard premium paid by employers into the worker's compensation system was \$2.1 billion. From 2018 to 2022, the rate per \$100 of payroll has decreased each year. Companies paid less in 2022 than in 2018 for premiums. Mr. Kent asked about the standard premium being paid and referred to the chart showing premiums in the Manufacturing category decreased by \$24 million between 2018 and 2022. Ms. Julga noted experience modification plays a role in premium setting, but overall manufacturing is paying less in premiums in 2022, despite experiencing an increase in payroll.

Mr. Buchen inquired about the types of employment covered within the Miscellaneous category. He noted that transportation is usually included with the underlying type of business. Ms. Julga stated that a large jump in premium can be attributed to a big increase in a business's payroll coming out of the pandemic. Mr. Buchen mentioned that not all payroll decreased due to the pandemic as a number of industry groups were considered essential.

Mr. Kent inquired about premium savings in the Goods and Services category. Ms. Julga explained that premiums in this area increased by 2% despite decreased rates because there

was an increase in the payroll in that sector. Ms. Bloomingdale noted there were fewer accidents due to safer workplaces.

Ms. Julga's report covered the years 2018 to 2022. She noted that rates also decreased in 2022 (8%), 2023 (8.39%) and 2024 (10.5%). Mr. Kent asked if the data could be provided for the years of 2022 through 2024. The information for 2022 will be available in 2025.

7. **Other Business:** The next meeting will be held on July 9, 2025 at 10:00 a.m. Mr. Dipko stated that the Department was close to finalizing its proposals.
8. **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 11:04 a.m.

[WCAC 6.11.25 MEETING MINUTES DRAFT]