

# Workers' Compensation Advisory Council

## Labor Proposals

05/09/11

1. Set the average weekly earnings for Permanent Partial Disability as not less than \$30 nor more than the wage rate that results in a maximum compensation rate of 55% of the state's average weekly earnings as determined under sec. 108.05 as of June 30 of the previous year.
2. Raise indemnity levels for everyone on Permanent Total Disability up to current levels with a six year lag. Index annually going forward.
3. The employer/insurance carrier shall pay for the reasonable cost of the rehabilitation training program recommended by the DVR counselor, including the cost of tuition, fees, books and mileage.
4. Form a study committee to research and review the effect of a work injury on an employee's ability to maintain group health insurance coverage for themselves and their dependents during periods of disability. The committee would study how other states deal with the problem of loss of coverage, and consider whether changes need to be made to mandate that the employer/insurance carrier maintain the same level of coverage to the employee and his dependents as at the time of injury, provide that the loss of coverage be compensated for by adjustment of the disability rate, or other solutions.
5. Form a study committee to research and review the effect of Permanent Total Disability on an employee's retirement age benefits. The committee would study if PTD ultimately results in a lower retirement benefit, and if so, what changes in our WC law might be made to address the situation.

After consideration of the Proposals from the Public and Legislators, Labor also adopts as part of its proposals the following:

6. Require that the reports of medical and vocational experts who examine employees at the request of employer and insurance carriers be provided to the employee and their representative within 7 days of receipt of the report, and provide for a \$100 per day penalty payable to the injured worker for any delay. Current law requires that the report be provided immediately but provides no meaningful penalty for failure to comply. (Modification of Public Proposal #1)

7. Require carriers/self insured employers to provide the employee with copies of any medical records obtained through the use of any written authorization provided by the worker, at no charge. (Public #6, Public #10-5)
8. Allow a 20% attorney fee on unpaid or out of pocket medical expenses. (Public # 7, Public # 10-1)
9. Provide that sick pay/short term disability payments made to injured workers that are deducted under 102.30(7) from a favorable award be deducted in the *net* sick pay/STD benefit paid, not the gross benefit paid. (Public #10-2)
10. Provide that wages earned from other employment during periods of retraining are not considered in calculating retraining temporary disability benefits (no deduction). (Public #10-3)
11. Allow the ALJ to issue a prospective order for payment of retraining benefits under 102.18(1)(b). (Public #10-4)
12. Bar the insurer/employer's use of the term "Independent Medical Examiner" (Public #10-6)
13. Provide that the "reasonableness of fee" dispute resolution process shall apply to disputes at to prosthetic providers. (Public #12)