

2007 Senate Bill 430

Date of enactment: **March 26, 2008**

Date of publication*: **March 31, 2008**

2007 WISCONSIN ACT 185

AN ACT *to repeal* 102.31 (2m) and 102.65 (3); *to renumber and amend* 102.29 (6), 102.32 (intro.), 102.32 (1), 102.32 (2), 102.32 (3), 102.32 (4) and 102.555 (1); *to amend* 102.03 (4), 102.11 (1) (intro.), 102.16 (1m) (a), 102.16 (1m) (b), 102.16 (2) (a), 102.16 (2) (am), 102.16 (2m) (a), 102.16 (2m) (am), 102.16 (2m) (c), 102.16 (2m) (g), 102.16 (3), 102.17 (4), 102.18 (1) (bg) 1., 102.18 (1) (bg) 2., 102.26 (2), 102.32 (5), 102.32 (6m), 102.42 (1), 102.42 (4), 102.425 (3) (a) 1., 102.425 (4) (b), 102.44 (1) (intro.), 102.44 (1) (a), 102.44 (1) (b), 102.64 (2), 102.80 (3) (ag), 102.83 (1) (a) 1., 102.83 (1) (a) 2., 102.83 (1) (a) 3., 102.83 (1) (a) 4., 102.83 (1) (b), 102.83 (2), 102.83 (3), 102.83 (4), 102.83 (8), 102.835 (2), 102.835 (4) (a), 102.835 (4) (c), 102.835 (5) (a), 102.835 (7) (a), 102.835 (12), 102.835 (13) (a), 102.835 (13) (b), 102.835 (13) (d), 102.835 (14), 102.835 (19), 626.35 (1), 631.37 (3) and 632.98; and *to create* 102.16 (1m) (c), 102.18 (1) (bg) 3., 102.29 (6) (a), 102.29 (6) (b) 2., 102.29 (6) (b) 3., 102.29 (6) (c), 102.29 (6m), 102.315, 102.425 (4m), 102.555 (1) (c), 102.555 (12) and 102.835 (1) (ad) of the statutes; **relating to:** making various changes in the worker's compensation law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 102.03 (4) of the statutes is amended to read:

102.03 (4) The right to compensation and the amount of the compensation shall in all cases be determined in accordance with the provisions of law in effect as of the date of the injury except as to employees whose rate of compensation is changed as provided in ss. 102.43 (7) and 102.44 (1) and (5) and employees who are eligible to receive private rehabilitative counseling and rehabilitative training under s. 102.61 (1m) and except as provided in s. 102.555 (12) (b).

SECTION 2. 102.11 (1) (intro.) of the statutes is amended to read:

102.11 (1) (intro.) The average weekly earnings for temporary disability, permanent total disability, or death benefits for injury in each calendar year on or after Janu-

ary 1, 1982, shall be not less than \$30 nor more than the wage rate that results in a maximum compensation rate of 110 percent of the state's average weekly earnings as determined under s. 108.05 as of June 30 of the previous year. The average weekly earnings for permanent partial disability shall be not less than \$30 and, for permanent partial disability for injuries occurring on or after April 1, 2006, and before January 1, 2007, not more than \$378, ~~resulting in a maximum compensation rate of \$252, and, for permanent partial disability for injuries occurring on or after January 1, 2007, not more than \$393, resulting in a maximum compensation rate of \$262~~ the effective date of this subsection [revisor inserts date], and before January 1, 2009, not more than \$408, resulting in a maximum compensation rate of \$272, and, for permanent partial disability for injuries occurring on or after January 1, 2009, not more than \$423, resulting in a maximum compensation rate of \$282. Between such limits the average weekly earnings shall be determined as follows:

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 3. 102.16 (1m) (a) of the statutes is amended to read:

102.16 (1m) (a) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for any health services provided to an injured employee by a health service provider, but disputes the reasonableness of the fee charged by the health service provider, the department may include in its order confirming the compromise or stipulation a determination as to the reasonableness of the fee or the department may notify, or direct the insurer or self-insured employer to notify, the health service provider under sub. (2) (b) that the reasonableness of the fee is in dispute. The department shall deny payment of a health service fee that the department determines under this paragraph to be unreasonable. A health service provider and an insurer or self-insured employer that are parties to a fee dispute under this paragraph are bound by the department's determination under this paragraph on the reasonableness of the disputed fee, unless that determination is set aside, reversed, or modified by the department under sub. (2) (f) or is set aside on judicial review as provided in sub. (2) (f).

SECTION 4. 102.16 (1m) (b) of the statutes is amended to read:

102.16 (1m) (b) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for any treatment provided to an injured employee by a health service provider, but disputes the necessity of the treatment, the department may include in its order confirming the compromise or stipulation a determination as to the necessity of the treatment or the department may notify, or direct the insurer or self-insured employer to notify, the health service provider under sub. (2m) (b) that the necessity of the treatment is in dispute. The department shall apply the Before determining under this paragraph the necessity of treatment provided to an injured employee, the department may, but is not required to, obtain the opinion of an expert selected by the department who is qualified as provided in sub. (2m) (c). The standards promulgated under sub. (2m) (g) shall be applied by an expert and by the department in rendering an opinion as to, and in determining, necessity of treatment under this paragraph. In cases in which no standards promulgated under sub. (2m) (g) apply, the department shall find the facts regarding necessity of treatment. The department shall deny payment for any treatment that the department determines under this paragraph to be unnecessary. A health service provider and an insurer or self-insured employer that are parties to a dispute under this paragraph over the necessity of treatment are bound by the department's determination under this paragraph on the necessity of the disputed treatment, unless that determination is set aside,

reversed, or modified by the department under sub. (2m) (e) or is set aside on judicial review as provided in sub. (2m) (e).

SECTION 5. 102.16 (1m) (c) of the statutes is created to read:

102.16 (1m) (c) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for the cost of a prescription drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but disputes the reasonableness of the amount charged for the prescription drug, the department may include in its order confirming the compromise or stipulation a determination as to the reasonableness of the prescription drug charge or the department may notify, or direct the insurer or self-insured employer to notify, the pharmacist or practitioner dispensing the prescription drug under s. 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in dispute. The department shall deny payment of a prescription drug charge that the department determines under this paragraph to be unreasonable. A pharmacist or practitioner and an insurer or self-insured employer that are parties to a dispute under this paragraph over the reasonableness of a prescription drug charge are bound by the department's determination under this paragraph on the reasonableness of the disputed prescription drug charge, unless that determination is set aside, reversed, or modified by the department under s. 102.425 (4m) (e) or is set aside on judicial review as provided in s. 102.425 (4m) (e).

SECTION 6. 102.16 (2) (a) of the statutes is amended to read:

102.16 (2) (a) Except as provided in this paragraph, the department has jurisdiction under this subsection, sub. (1m) (a), and s. 102.17 to resolve a dispute between a health service provider and an insurer or self-insured employer over the reasonableness of a fee charged by the health service provider for health services provided to an injured employee who claims benefits under this chapter. A health service provider may not submit a fee dispute to the department under this subsection before all treatment by the health service provider of the employee's injury has ended if the amount in controversy, whether based on a single charge or a combination of charges for one or more days of service, is less than \$25. After all treatment by a health service provider of an employee's injury has ended, the health service provider may submit any fee dispute to the department, regardless of the amount in controversy. The department shall deny payment of a health service fee that the department determines under this subsection, ~~sub. (1m) (a), or s. 102.18 (1) (b)~~ to be unreasonable.

SECTION 7. 102.16 (2) (am) of the statutes is amended to read:

102.16 (2) (am) A health service provider and an insurer or self-insured employer that are parties to a fee dispute under this subsection are bound by the department's determination under this subsection on the reasonableness of the disputed fee, unless that determination is set aside on judicial review as provided in par. (f). ~~A health service provider and an insurer or self-insured employer that are parties to a fee dispute under sub. (1m) (a) are bound by the department's determination under sub. (1m) (a) on the reasonableness of the disputed fee, unless that determination is set aside or modified by the department under sub. (1). An insurer or self-insured employer that is a party to a fee dispute under s. 102.17 and a health service provider are bound by the department's determination under s. 102.18 (1) (b) on the reasonableness of the disputed fee, unless that determination is set aside, reversed, or modified by the department under s. 102.18 (3) or by the commission under s. 102.18 (3) or (4) or is set aside on judicial review under s. 102.23.~~

SECTION 8. 102.16 (2m) (a) of the statutes is amended to read:

102.16 (2m) (a) Except as provided in this paragraph, the department has jurisdiction under this subsection, sub. (1m) (b), and s. 102.17 to resolve a dispute between a health service provider and an insurer or self-insured employer over the necessity of treatment provided for an injured employee who claims benefits under this chapter. A health service provider may not submit a dispute over necessity of treatment to the department under this subsection before all treatment by the health service provider of the employee's injury has ended if the amount in controversy, whether based on a single charge or a combination of charges for one or more days of service, is less than \$25. After all treatment by a health service provider of an employee's injury has ended, the health service provider may submit any dispute over necessity of treatment to the department, regardless of the amount in controversy. The department shall deny payment for any treatment that the department determines under this subsection, sub. (1m) (b), or s. 102.18 (1) (b) to be unnecessary.

SECTION 9. 102.16 (2m) (am) of the statutes is amended to read:

102.16 (2m) (am) A health service provider and an insurer or self-insured employer that are parties to a dispute under this subsection over the necessity of treatment are bound by the department's determination under this subsection on the necessity of that the disputed treatment, unless that determination is set aside on judicial review as provided in par. (e). ~~A health service provider and an insurer or self-insured employer that are parties to a dispute under sub. (1m) (b) over the necessity of treatment are bound by the department's determination under sub. (1m) (b) on the necessity of that treatment, unless that determination is set aside or modified by the department under sub. (1). An insurer or self-insured employer that is a party to a dispute under s. 102.17 over the necessity~~

~~of treatment and a health service provider are bound by the department's determination under s. 102.18 (1) (b) on the necessity of that treatment, unless that determination is set aside, reversed or modified by the department under s. 102.18 (3) or by the commission under s. 102.18 (3) or (4) or is set aside on judicial review under s. 102.23.~~

SECTION 10. 102.16 (2m) (c) of the statutes is amended to read:

102.16 (2m) (c) Before determining under this subsection the necessity of treatment provided for an injured employee who claims benefits under this chapter, the department shall obtain a written opinion on the necessity of the treatment in dispute from an expert selected by the department. ~~Before determining under sub. (1m) (b) or s. 102.18 (1) (bg) 2. the necessity of treatment provided for an injured employee who claims benefits under this chapter, the department may, but is not required to, obtain such an expert opinion.~~ To qualify as an expert, a person must be licensed to practice the same health care profession as the individual health service provider whose treatment is under review and must either be performing services for an impartial health care services review organization or be a member of an independent panel of experts established by the department under par. (f). The standards promulgated under par. (g) shall be applied by an expert and by the department in rendering an opinion as to ~~necessity of treatment under this paragraph and by the department, and~~ in determining necessity of treatment under this paragraph. In cases in which no standards promulgated under sub. (2m) (g) apply, the department shall find the facts regarding necessity of treatment. The department shall adopt the written opinion of the expert as the department's determination on the issues covered in the written opinion, unless the health service provider or the insurer or self-insured employer present clear and convincing written evidence that the expert's opinion is in error.

SECTION 11. 102.16 (2m) (g) of the statutes is amended to read:

102.16 (2m) (g) The department shall promulgate rules establishing procedures and requirements for the necessity of treatment dispute resolution process under this subsection, including rules setting the fees under par. (f) and rules establishing standards for determining the necessity of treatment provided to an injured employee. ~~The rules establishing those standards shall, to the greatest extent possible, be consistent with Minnesota rules 5221.6010 to 5221.8900, as amended to January 1, 2006.~~ Before the department may amend the rules establishing those standards, the department shall establish an advisory committee under s. 227.13 composed of health care providers providing treatment under s. 102.42 to advise the department and the council on worker's compensation on amending those rules.

SECTION 12. 102.16 (3) of the statutes is amended to read:

102.16 (3) No employer subject to this chapter may solicit, receive, or collect any money from an employee or any other person or make any deduction from their wages, either directly or indirectly, for the purpose of discharging any liability under this chapter or recovering premiums paid on a contract described under s. 102.31 (1) (a) or a policy described under s. 102.315 (3), (4), or (5) (a); nor may any such employer subject to this chapter sell to an employee or other person, or solicit or require the employee or other person to purchase, medical, chiropractic, podiatric, psychological, dental, or hospital tickets or contracts for medical, surgical, hospital, or other health care treatment ~~which that~~ is required to be furnished by that employer.

SECTION 13. 102.17 (4) of the statutes is amended to read:

102.17 (4) Except as provided in this subsection and s. 102.555 (12) (b), the right of an employee, the employee's legal representative, or a dependent to proceed under this section shall not extend beyond 12 years ~~from~~ after the date of the injury or death or ~~from~~ after the date that compensation, other than treatment or burial expenses, was last paid, or would have been last payable if no advancement were made, whichever date is latest. In the case of occupational disease; a traumatic injury resulting in the loss or total impairment of a hand or any part of the rest of the arm proximal to the hand or of a foot or any part of the rest of the leg proximal to the foot, any loss of vision, or any permanent brain injury; or a traumatic injury causing the need for an artificial spinal disc or a total or partial knee or hip replacement, there shall be no statute of limitations, except that benefits or treatment expense for an occupational disease becoming due after 12 years ~~from~~ after the date of injury or death or last payment of compensation shall be paid from the work injury supplemental benefit fund under s. 102.65 and in the manner provided in s. 102.66 and benefits or treatment expense for a traumatic injury becoming due after 12 years ~~from~~ after that date shall be paid by the employer or insurer. Payment of wages by the employer during disability or absence from work to obtain treatment shall be ~~deemed~~ considered payment of compensation for the purpose of this section if the employer knew of the employee's condition and its alleged relation to the employment.

SECTION 14. 102.18 (1) (bg) 1. of the statutes is amended to read:

102.18 (1) (bg) 1. If the department finds under par. (b) that an insurer or self-insured employer is liable under this chapter for any health services provided to an injured employee by a health service provider, but that the reasonableness of the fee charged by the health service provider is in dispute, the department may include in its order under par. (b) a determination as to the reasonableness of the fee or the department may notify, or direct the insurer or self-insured employer to notify, the health

service provider under s. 102.16 (2) (b) that the reasonableness of the fee is in dispute. The department shall deny payment of a health service fee that the department determines under this subdivision to be unreasonable. An insurer or self-insured employer and a health service provider that are parties to a fee dispute under this subdivision are bound by the department's determination under this subdivision on the reasonableness of the disputed fee, unless that determination is set aside, reversed, or modified by the department under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review under s. 102.23.

SECTION 15. 102.18 (1) (bg) 2. of the statutes is amended to read:

102.18 (1) (bg) 2. If the department finds under par. (b) that an employer or insurance carrier is liable under this chapter for any treatment provided to an injured employee by a health service provider, but that the necessity of the treatment is in dispute, the department may include in its order under par. (b) a determination as to the necessity of the treatment or the department may notify, or direct the employer or insurance carrier to notify, the health service provider under s. 102.16 (2m) (b) that the necessity of the treatment is in dispute. The department shall apply the ~~Before determining under this subdivision the necessity of treatment provided to an injured employee, the department may, but is not required to, obtain the opinion of an expert selected by the department who is qualified as provided in s. 102.16 (2m) (c). The standards promulgated under s. 102.16 (2m) (g) shall be applied by an expert in rendering an opinion as to, and in determining,~~ necessity of treatment under this paragraph subdivision. In cases in which no standards promulgated under s. 102.16 (2m) (g) apply, the department shall find the facts regarding necessity of treatment. The department shall deny payment for any treatment that the department determines under this subdivision to be unnecessary. An insurer or self-insured employer and a health service provider that are parties to a dispute under this subdivision over the necessity of treatment are bound by the department's determination under this subdivision on the necessity of the disputed treatment, unless that determination is set aside, reversed, or modified by the department under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review under s. 102.23.

SECTION 16. 102.18 (1) (bg) 3. of the statutes is amended to read:

102.18 (1) (bg) 3. If the department finds under par. (b) that an insurer or self-insured employer is liable under this chapter for the cost of a prescription drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but that the reasonableness of the amount charged for that prescription drug is in dispute, the department may include in its order under par. (b) a determination as to the reasonableness of the prescription

drug charge or the department may notify, or direct the insurer or self-insured employer to notify, the pharmacist or practitioner dispensing the prescription drug under s. 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in dispute. The department shall deny payment of a prescription drug charge that the department determines under this subdivision to be unreasonable. An insurer or self-insured employer and a pharmacist or practitioner that are parties to a dispute under this subdivision over the reasonableness of a prescription drug charge are bound by the department's determination under par. (b) on the reasonableness of the disputed prescription drug charge, unless that determination is set aside, reversed, or modified by the department under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review under s. 102.23.

SECTION 17. 102.26 (2) of the statutes is amended to read:

102.26 (2) Unless previously authorized by the department, no fee may be charged or received for the enforcement or collection of any claim for compensation, nor may any contract ~~therefor~~ for that enforcement or collection be enforceable ~~where such~~ when that fee, inclusive of all taxable attorney fees paid or agreed to be paid for ~~such that~~ enforcement or collection, exceeds ~~20% 20 percent~~ of the amount at which ~~such that~~ claim is compromised or of the amount awarded, adjudged, or collected, except that in cases of admitted liability ~~where in which~~ there is no dispute as to the amount of compensation due and in which no hearing or appeal is necessary, the fee charged ~~shall may~~ not exceed ~~10% 10 percent~~, but not to exceed \$100 ~~\$250~~, of the amount at which ~~such that~~ claim is compromised or of the amount awarded, adjudged, or collected. The limitation as to fees shall apply to the combined charges of attorneys, solicitors, representatives, and adjusters who knowingly combine their efforts toward the enforcement or collection of any compensation claim.

SECTION 18. 102.29 (6) of the statutes is renumbered 102.29 (6) (b) (intro.) and amended to read:

102.29 (6) (b) (intro.) No employee of a temporary help agency who makes a claim for compensation may make a claim or maintain an action in tort against any of the following:

1. Any employer ~~who that~~ compensates the temporary help agency for the employee's services.

SECTION 19. 102.29 (6) (a) of the statutes is created to read:

102.29 (6) (a) In this subsection, "temporary help agency" means a temporary help agency that is primarily engaged in the business of placing its employees with or leasing its employees to another employer as provided in s. 102.01 (2) (f).

SECTION 20. 102.29 (6) (b) 2. of the statutes is created to read:

102.29 (6) (b) 2. Any other temporary help agency that is compensated by that employer for another employee's services.

SECTION 21. 102.29 (6) (b) 3. of the statutes is created to read:

102.29 (6) (b) 3. Any employee of that compensating employer or of that other temporary help agency, unless the employee who makes a claim for compensation would have a right under s. 102.03 (2) to bring an action against the employee of the compensating employer or the employee of the other temporary help agency if the employees were coemployees.

SECTION 22. 102.29 (6) (c) of the statutes is created to read:

102.29 (6) (c) No employee of an employer that compensates a temporary help agency for another employee's services who makes a claim for compensation may make a claim or maintain an action in tort against any of the following:

1. The temporary help agency.

2. Any employee of the temporary help agency, unless the employee who makes a claim for compensation would have a right under s. 102.03 (2) to bring an action against the employee of the temporary help agency if the employees were coemployees.

SECTION 23. 102.29 (6m) of the statutes is created to read:

102.29 (6m) (a) No leased employee, as defined in s. 102.315 (1) (g), who makes a claim for compensation may make a claim or maintain an action in tort against any of the following:

1. The client, as defined in s. 102.315 (1) (b), that accepted the services of the leased employee.

2. Any other employee leasing company, as defined in s. 102.315 (1) (f), that provides the services of another leased employee to the client.

3. Any employee of the client or of that other employee leasing company, unless the leased employee who makes a claim for compensation would have a right under s. 102.03 (2) to bring an action against the employee of the client or the leased employee of the other employee leasing company if the employees and leased employees were coemployees.

(b) No employee of a client who makes a claim for compensation may make a claim or maintain an action in tort against any of the following:

1. An employee leasing company that provides the services of a leased employee to the client.

2. Any leased employee of the employee leasing company, unless the employee who makes a claim for compensation would have a right under s. 102.03 (2) to bring an action against the leased employee if the employee and the leased employee were coemployees.

SECTION 24. 102.31 (2m) of the statutes is repealed.

SECTION 25. 102.315 of the statutes is created to read:

102.315 Worker's compensation insurance; employee leasing companies. (1) **DEFINITIONS.** In this section:

(a) "Bureau" means the Wisconsin compensation rating bureau under s. 626.06.

(b) "Client" means a person that obtains all or part of its nontemporary, ongoing employee workforce through an employee leasing agreement with an employee leasing company.

(c) "Divided workforce" means a workforce in which some of the employees of a client are leased employees and some of the employees of the client are not leased employees.

(d) "Divided workforce plan" means a plan under which 2 worker's compensation insurance policies are issued to cover the employees of a client that has a divided workforce, one policy covering the leased employees of the client and one policy covering the employees of the client who are not leased employees.

(e) "Employee leasing agreement" means a written contract between an employee leasing company and a client under which the employee leasing company provides all or part of the nontemporary, ongoing employee workforce of the client.

(f) "Employee leasing company" means a person that contracts to provide the nontemporary, ongoing employee workforce of a client under a written agreement, regardless of whether the person uses the term "professional employer organization," "PEO," "staff leasing company," "registered staff leasing company," or "employee leasing company," or uses any other, similar name, as part of the person's business name or to describe the person's business. "Employee leasing company" does not include a cooperative educational service agency. This definition applies only for the purposes of this chapter and does not apply to the use of the term in any other chapter.

(g) "Leased employee" means a nontemporary, ongoing employee whose services are obtained by a client under an employee leasing agreement.

(h) "Master policy" means a single worker's compensation insurance policy issued by an insurer authorized to do business in this state to an employee leasing company in the name of the employee leasing company that covers more than one client of the employee leasing company.

(i) "Multiple coordinated policy" means a contract of insurance for worker's compensation under which an insurer authorized to do business in this state issues separate worker's compensation insurance policies to an employee leasing company for each client of the employee leasing company that is insured under the contract.

(j) "Small client" means a client that has an unmodified annual premium assignable to its business, including the business of all entities or organizations that are under

common control or ownership with the client, that is equal to or less than the threshold below which employers are not experience rated under the standards and criteria under ss. 626.11 and 626.12, without regard to whether the client has a divided workforce.

(2) **EMPLOYEE LEASING COMPANY LIABLE.** An employee leasing company is liable under s. 102.03 for all compensation payable under this chapter to a leased employee, including any payments required under s. 102.16 (3), 102.18 (1) (b) or (bp), 102.22 (1), 102.35 (3), 102.57, or 102.60. Except as permitted under s. 102.29, an employee leasing company may not seek or receive reimbursement from another employer for any payments made as a result of that liability. An employee leasing company is not liable under s. 102.03 for any compensation payable under this chapter to an employee of a client who is not a leased employee.

(3) **MULTIPLE COORDINATED POLICY REQUIRED.** Except as provided in subs. (4) and (5) (a), an employee leasing company shall insure its liability under sub. (2) by obtaining a separate worker's compensation insurance policy for each client of the employee leasing company under a multiple coordinated policy. The policy shall name both the employee leasing company and the client as named insureds, shall indicate which named insured is the employee leasing company and which is the client, shall designate either the employee leasing company or the client, but not both, as the first named insured, and shall provide the mailing address of each named insured. Except as permitted under sub. (6), an insurer may issue a policy for a client under this subsection only if all of the employees of the client are leased employees and are covered under the policy.

(4) **MASTER POLICY; APPROVAL REQUIRED.** An employee leasing company may insure its liability under sub. (2) by obtaining a master policy that has been approved by the commissioner of insurance as provided in this subsection. The commissioner of insurance may approve the issuance of a master policy if the insurer proposing to issue the master policy submits a filing to the bureau showing that the insurer has the technological capacity and operation capability to provide to the bureau information, including unit statistical data, information concerning proof of coverage and cancellation, termination, and nonrenewal of coverage, and any other information that the bureau may require, at the client level and in a format required by the bureau and the bureau submits the filing to the commissioner of insurance for approval under s. 626.13. A master policy filing under this subsection shall also establish basic manual rules governing the issuance of an insurance policy covering the leased employees of a divided workforce that are consistent with sub. (6) and the cancellation, termination, and nonrenewal of policies that are consistent with sub. (10). On approval by the commissioner of insurance of a master policy filing, an insurer may issue a master policy to an

employee leasing company insuring the liability of the employee leasing company under sub. (2).

(5) MASTER POLICY; SMALL CLIENTS. (a) Regardless of whether a master policy has been approved under sub. (4), an employee leasing company may insure its liability under sub. (2) with respect to a group of small clients of the employee leasing company by obtaining a master policy in the voluntary market insuring that liability. The fact that an employee leasing company has a client that is covered under a mandatory risk-sharing plan under s. 619.01 does not preclude the employee leasing company from obtaining a master policy under this paragraph so long as that client is not covered under the master policy. An insurer may issue a master policy under this paragraph insuring in the voluntary market the liability under sub. (2) of an employee leasing company with respect to a group of small clients of the employee leasing company regardless of whether any of those small clients has a divided workforce.

(b) Within 30 days after the effective date of an employee leasing agreement with a small client that is covered under a master policy under par. (a), the employee leasing company shall report to the department all of the following information:

1. The name and address of the small client and of each entity or organization that is under common control or ownership with the small client.
2. The number of employees initially covered under the master policy.
3. The estimated unmodified annual premium assignable to the small client's business, including the business of all entities or organizations that are under common control or ownership with the small client, without regard to whether the small client has a divided workforce, which information the small client shall report to the employee leasing company.
4. The effective date of the employee leasing agreement.

(c) Within 30 days after the effective date of coverage of a small client under a master policy under par. (a), the insurer or, if authorized by the insurer, the employee leasing company shall file proof of that coverage with the department. Coverage of a small client under a master policy becomes binding when the insurer or employee leasing company files proof of that coverage under this paragraph or provides notice of coverage to the small client, whichever occurs first. Nothing in this paragraph requires an employee leasing company or an employee of an employee leasing company to be licensed as an insurance intermediary under ch. 628.

(d) If at any time the unmodified annual premium assignable to the business of a small client that is covered under a master policy under par. (a), including the business of all entities or organizations that are under common control or ownership with the small client, without regard to whether the small client has a divided work-

force, exceeds the threshold below which employers are not experience rated under the standards and criteria under ss. 626.11 and 626.12, the employee leasing company shall notify the insurer and obtain coverage for the small client under sub. (3) or (4).

(6) DIVIDED WORKFORCE. (a) If a client notifies the department as provided under par. (b) of its intent to have a divided workforce, an insurer may issue a worker's compensation insurance policy covering only the leased employees of the client. An insurer that issues a policy covering only the leased employees of a client is not liable under s. 102.03 for any compensation payable under this chapter to an employee of the client who is not a leased employee unless the insurer also issues a policy covering that employee. A client that has a divided workforce shall insure its employees who are not leased employees in the voluntary market and may not insure those employees under the mandatory risk-sharing plan under s. 619.01 unless the leased employees of the client are covered under that plan.

(b) A client that intends to have a divided workforce shall notify the department of that intent on a form prescribed by the department that includes all of the following:

1. The names and mailing addresses of the client and the employee leasing company, the effective date of the employee leasing agreement, a description of the employees of the client who are not leased employees, and such other information as the department may require.
2. Except as provided in par. (c), evidence that the employees of the client who are not leased employees are covered in the voluntary market. That evidence shall be in the form of a copy of the information page or declaration page of a worker's compensation insurance policy or binder evidencing placement of coverage in the voluntary market covering those employees.
3. An agreement by the client to assume full responsibility to immediately pay all compensation and other payments payable under this chapter as may be required by the department should a dispute arise between 2 or more insurers as to liability under this chapter for an injury sustained while a divided workforce plan is in effect, pending final resolution of that dispute. This subdivision does not preclude a client from insuring that responsibility in an insurer authorized to do business in this state.

(c) If the leased employees of a client are covered under a mandatory risk-sharing plan under s. 619.01, the client may, instead of providing the evidence required under par. (b) 2., provide evidence in its notification under par. (b) that both the leased employees of the client and the employees of the client who are not leased employees are covered under that mandatory risk-sharing plan. That evidence shall be in the form of a copy of the information page or declaration page of a worker's

compensation insurance policy or binder evidencing placement of coverage under the mandatory risk-sharing plan covering both those leased employees and employees who are not leased employees.

(d) When the department receives a notification under par. (b), the department shall immediately provide a copy of the notification to the bureau.

(e) 1. If a client intends to terminate a divided workforce plan, the client shall notify the department of that intent on a form prescribed by the department. Termination of a divided workforce plan by a client is not effective until 10 days after notice of the termination is received by the department.

2. If an insurer cancels, terminates, or does not renew a worker's compensation insurance policy issued under a divided workforce plan that covers in the voluntary market the employees of a client who are not leased employees, the divided workforce plan is terminated on the effective date of the cancellation, termination, or non-renewal of the policy, unless the client submits evidence under par. (c) that both the leased employees of the client and the employees of the client who are not leased employees are covered under a mandatory risk-sharing plan.

3. If an insurer cancels, terminates, or does not renew a worker's compensation insurance policy issued under a divided workforce plan that covers under the mandatory risk-sharing plan under s. 619.01 the employees of a client who are not leased employees, the divided workforce plan is terminated on the effective date of the cancellation, termination, or nonrenewal of the policy.

(7) FILING OF CONTRACTS. An insurer that provides a policy under sub. (3), (4), or (5) (a) shall file the policy as provided in s. 626.35.

(8) COVERAGE OF CERTAIN EMPLOYEES. (a) A sole proprietor, a partner, or a member of a limited liability company is not eligible for worker's compensation benefits under a policy issued under sub. (3), (4), or (5) (a) unless the sole proprietor, partner, or member elects coverage under s. 102.075 by an endorsement on the policy naming the sole proprietor, partner, or member who has so elected.

(b) An officer of a corporation is covered for worker's compensation benefits under a policy issued under sub. (3), (4), or (5) (a), unless the officer elects under s. 102.076 not to be covered under the policy by an endorsement on the policy naming the officer who has so elected.

(c) An employee leasing company shall obtain a worker's compensation insurance policy that is separate from a policy covering the employees whom it leases to its clients to cover the employees of the employee leasing company who are not leased employees.

(9) PREMIUMS. (a) An insurer that issues a policy under sub. (3), (4), or (5) (a) may charge a premium for coverage under that policy that complies with the applicable classifications, rules, rates, and rating plans filed

with and approved by the commissioner of insurance under s. 626.13.

(b) For a policy issued under sub. (3) in which an employee leasing company is the first named insured or for a master policy issued under sub. (4) or (5) (a), an insurer may obligate only the employee leasing company to pay premiums due for a client's coverage under the policy and may not recover any unpaid premiums due for that coverage from the client.

(c) This subsection does not prohibit an insurer from doing any of the following:

1. Collecting premiums or other charges due with respect to a client by means of list billing through an employee leasing company.

2. Requiring an employee leasing company to maintain a letter of credit or other form of security to ensure payment of a premium.

3. Issuing policies that have a common renewal date to all, or a class of all, clients of an employee leasing company.

4. Grouping together the clients of an employee leasing company for the purpose of offering dividend eligibility and paying dividends to those clients in compliance with s. 631.51.

5. Applying a discount to the premium charged with respect to a client as permitted by the bureau.

6. Applying a retrospective rating option for determining the premium charged with respect to a client. No insurer or employee leasing company may impose on, allocate to, or collect from a client a penalty under a retrospective rating option arrangement. This subdivision does not prohibit an insurer from requiring an employee leasing company to pay a penalty under a retrospective rating option arrangement with respect to a client of the employee leasing company.

(10) CANCELLATION, TERMINATION, AND NONRENEWAL OF POLICIES. (a) 1. A policy issued under sub. (3) in which the employee leasing company is the first named insured and a policy issued under sub. (4) or (5) (a) may be cancelled, terminated, or nonrenewed as provided in subs. 2. to 4.

2. The insureds under a policy described in subd. 1. may cancel the policy during the policy period if both the employee leasing company and the client agree to the cancellation, the cancellation is confirmed by the employee leasing company promptly providing written confirmation of the cancellation to the client or by the client agreeing to the cancellation in writing, and the insurer provides written notice of the cancellation to the department as required under s. 102.31 (2) (a).

3. Subject to subd. 4., an insurer may cancel, terminate, or nonrenew a policy described in subd. 1. by providing written notice of the cancellation, termination, or nonrenewal to the insured employee leasing company and to the department as required under s. 102.31 (2) (a) and by providing that notice to the insured client. The

insurer is not required to state in the notice to the insured client the facts on which the decision to cancel, terminate, or nonrenew the policy is based. Except as provided in s. 102.31 (2) (b), cancellation or termination of a policy under this subdivision for any reason other than nonrenewal is not effective until 30 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the department. Except as provided in s. 102.31 (2) (b), nonrenewal of a policy under this subdivision is not effective until 60 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the department.

4. If an employee leasing company terminates an employee leasing agreement with a client in its entirety, an insurer may cancel or terminate a policy described in subd. 1. covering that client during the policy period by providing written notice of the cancellation or termination to the insured employee leasing company and the department as required under s. 102.31 (2) (a) and by providing that notice to the insured client. The insurer shall state in the notice to the insured client that the policy is being cancelled or terminated due to the termination of the employee leasing agreement. Except as provided in s. 102.31 (2) (b), cancellation or termination of a policy under this subdivision is not effective until 30 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the department.

(b) 1. A policy issued under sub. (3) in which the client is the first named insured may be cancelled, terminated, or nonrenewed as provided in subds. 2. to 4.

2. The insureds under a policy described in subd. 1. may cancel the policy during the policy period if both the employee leasing company and the client agree to the cancellation, the cancellation is confirmed by the employee leasing company promptly providing written confirmation of the cancellation to the client or by the client agreeing to the cancellation in writing, and the insurer provides written notice of the cancellation to the department as required under s. 102.31 (2) (a).

3. An insurer may cancel, terminate, or nonrenew a policy described in subd. 1., including cancellation or termination of a policy providing continued coverage under subd. 4., by providing written notice of the cancellation, termination, or nonrenewal to the insured employee leasing company and to the department as required under s. 102.31 (2) (a) and by providing that notice to the insured client. Except as provided in s. 102.31 (2) (b), cancellation or termination of a policy under this subdivision for any reason other than nonrenewal is not effective until 30 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the department. Except as provided in s. 102.31 (2) (b), nonrenewal of a

policy under this subdivision is not effective until 60 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the department.

4. If an employee leasing agreement is terminated during the policy period of a policy described in subd. 1., an insurer shall cancel the employee leasing company's coverage under the policy by an endorsement to the policy and coverage of the client under the policy shall continue as to all employees of the client unless the policy is cancelled or terminated as permitted under subd. 3.

SECTION 26. 102.32 (intro.) of the statutes is renumbered 102.32 (1m) (intro.) and amended to read:

102.32 (1m) (intro.) In any case in which compensation payments for an injury have extended or will extend over 6 months or more ~~from after~~ the date of the injury ~~(or at any time in death benefit cases) or in any case in which death benefits are payable~~, any party in interest may, in the discretion of the department, be discharged from, or compelled to guarantee, future compensation payments ~~as follows~~ by doing any of the following:

SECTION 27. 102.32 (1) of the statutes is renumbered 102.32 (1m) (a) and amended to read:

102.32 (1m) (a) ~~By depositing~~ Depositing the present value of the total unpaid compensation upon a ~~7% 5~~ 5 percent interest discount basis with a credit union, savings bank, savings and loan association, bank, or trust company designated by the department; ~~or.~~

SECTION 28. 102.32 (2) of the statutes is renumbered 102.32 (1m) (b) and amended to read:

102.32 (1m) (b) ~~By purchasing~~ Purchasing an annuity, within the limitations provided by law, ~~in such from~~ an insurance company ~~granting annuities and licensed in this state, as may be that is~~ designated by the department; ~~or.~~

SECTION 29. 102.32 (3) of the statutes is renumbered 102.32 (1m) (c) and amended to read:

102.32 (1m) (c) ~~By making~~ Making payment in gross upon a ~~7% 5 percent~~ 5 percent interest discount basis to be approved by the department; ~~and.~~

SECTION 30. 102.32 (4) of the statutes is renumbered 102.32 (1m) (d) and amended to read:

102.32 (1m) (d) In cases ~~where~~ in which the time for making payments or the amounts ~~thereof~~ of payments cannot be definitely determined, by furnishing a bond, or other security, satisfactory to the department for the payment of compensation as may be due or become due. The acceptance of the bond, or other security, and the form and sufficiency ~~thereof~~ of the bond or other security, shall be subject to the approval of the department. If the employer or insurer is unable or fails to immediately procure the bond, then, in lieu ~~thereof~~ of procuring the bond, deposit shall be made with a credit union, savings bank, savings and loan association, bank, or trust company designated by the department, of the maximum amount that may reasonably become payable in these cases, to be

determined by the department at amounts consistent with the extent of the injuries and the law. The bonds and deposits are to be reduced only to satisfy claims and withdrawn only after the claims which they are to guarantee are fully satisfied or liquidated under sub. (1), (2) or (3); and par. (a), (b), or (c).

SECTION 31. 102.32 (5) of the statutes is amended to read:

102.32 (5) Any insured employer may, within the discretion of the department, compel the insurer to discharge, or to guarantee payment of, the employer's liabilities in any case described in this section sub. (1m) and thereby release the employer from compensation liability in that case, but if for any reason a bond furnished or deposit made under sub. (4) (1m) (d) does not fully protect, the compensation insurer or insured employer, as the case may be, shall still be liable to the beneficiary of the bond or deposit.

SECTION 32. 102.32 (6m) of the statutes is amended to read:

102.32 (6m) The department may direct an advance on a payment of unaccrued compensation for permanent disability or death benefits if the department determines that the advance payment is in the best interest of the injured employee or the employee's dependents. In directing the advance, the department shall give the employer or the employer's insurer an interest credit against its liability. The credit shall be computed at 7.5 percent. An injured employee or dependent may receive no more than 3 advance payments per calendar year.

SECTION 33. 102.42 (1) of the statutes is amended to read:

102.42 (1) TREATMENT OF EMPLOYEE. The employer shall supply such medical, surgical, chiropractic, psychological, podiatric, dental, and hospital treatment, medicines, medical and surgical supplies, crutches, artificial members, appliances, and training in the use of artificial members and appliances, or, at the option of the employee, if the employer has not filed notice as provided in sub. (4), Christian Science treatment in lieu of medical treatment, medicines, and medical supplies, as may be reasonably required to cure and relieve from the effects of the injury, and to attain efficient use of artificial members and appliances, and in case of the employer's neglect or refusal seasonably to do so, or in emergency until it is practicable for the employee to give notice of injury, the employer shall be liable for the reasonable expense incurred by or on behalf of the employee in providing such treatment, medicines, supplies, and training. ~~Where~~ When the employer has knowledge of the injury and the necessity for treatment, the employer's failure to tender the necessary treatment, medicines, supplies, and training constitutes such neglect or refusal. The employer shall also be liable for reasonable expense incurred by the employee for necessary treatment to cure and relieve the employee from the effects of occupational

disease prior to the time that the employee knew or should have known the nature of his or her disability and its relation to employment, and as to such treatment subs. (2) and (3) shall not apply. The obligation to furnish such treatment and appliances shall continue as required to prevent further deterioration in the condition of the employee or to maintain the existing status of such condition whether or not healing is completed.

SECTION 34. 102.42 (4) of the statutes is amended to read:

102.42 (4) CHRISTIAN SCIENCE. ~~Any~~ The liability of an employer may elect not to be subject to the provisions for the cost of Christian Science treatment provided ~~for in this section by filing written notice of such election with the department to an injured employee is limited to the usual and customary charge for that treatment.~~

SECTION 35. 102.425 (3) (a) 1. of the statutes is amended to read:

102.425 (3) (a) 1. The average wholesale price of the prescription drug as of the date on which the prescription drug is dispensed, as quoted in the ~~American Druggist Blue Book, published by Hearst Corporation, Inc. or its successor, or in the Drug Topics Red Book, published by Medical Economics Company, Inc. or its successor, whichever is less.~~

SECTION 36. 102.425 (4) (b) of the statutes is amended to read:

102.425 (4) (b) If an employer or insurer denies or disputes liability for the cost of a drug prescribed to an injured employee under sub. (2), the pharmacist or practitioner who dispensed the drug may collect, or bring an action to collect, from the injured employee the cost of the prescription drug dispensed, subject to the limitations specified in sub. (3) (a). If an employer or insurer concedes liability for the cost of a drug prescribed to an injured employee under sub. (2), but disputes the reasonableness of the amount charged for the prescription drug, the employer or insurer shall provide notice under sub. (4m) (b) to the pharmacist or practitioner that the reasonableness of the amount charged is in dispute and the pharmacist or practitioner who dispensed the drug may not collect, or bring an action to collect, from the injured employee the cost of the prescription drug dispensed after receiving that notice.

SECTION 37. 102.425 (4m) of the statutes is created to read:

102.425 (4m) RESOLUTION OF PRESCRIPTION DRUG CHARGE DISPUTES. (a) The department has jurisdiction under this subsection and s. 102.16 (1m) (c) and s. 102.17 to resolve a dispute between a pharmacist or practitioner and an employer or insurer over the reasonableness of the amount charged for a prescription drug dispensed under sub. (2) for outpatient use by an injured employee who claims benefits under this chapter.

(b) An employer or insurer that disputes the reasonableness of the amount charged for a prescription drug

dispensed under sub. (2) for outpatient use by an injured employee or the department under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a completed bill for the prescription drug, notice to the pharmacist or practitioner that the charge is being disputed. After receiving notice under this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1) (bg) 1. that a prescription drug charge is being disputed, a pharmacist or practitioner may not collect the disputed charge from, or bring an action for collection of the disputed charge against, the employee who received the prescription drug.

(c) A pharmacist or practitioner that receives notice under par. (b) that the reasonableness of the amount charged for a prescription drug dispensed under sub. (2) for outpatient use by an injured employee is in dispute shall file the dispute with the department within 6 months after receiving that notice.

(d) The department shall deny payment of a prescription drug charge that the department determines under this subsection to be unreasonable. A pharmacist or practitioner and an employer or insurer that are parties to a dispute under this subsection over the reasonableness of a prescription drug charge are bound by the department's determination under this subsection on the reasonableness of the disputed charge, unless that determination is set aside on judicial review as provided in par. (e).

(e) Within 30 days after a determination under this subsection, the department may set aside, reverse, or modify the determination for any reason that the department considers sufficient. Within 60 days after a determination under this subsection, the department may set aside, reverse, or modify the determination on grounds of mistake. A pharmacist, practitioner, employer, or insurer that is aggrieved by a determination of the department under this subsection may seek judicial review of that determination in the same manner that compensation claims are reviewed under s. 102.23.

SECTION 38. 102.44 (1) (intro.) of the statutes is amended to read:

102.44 (1) (intro.) Notwithstanding any other provision of this chapter, every employee who is receiving compensation under this chapter for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury which occurred prior to January 1, 1987 1993, shall receive supplemental benefits which shall be payable in the first instance by the employer or the employer's insurance carrier, or in the case of benefits payable to an employee under s. 102.66, shall be paid by the department out of the fund created under s. 102.65. These supplemental benefits shall be paid only for weeks of disability occurring after January 1, 1989 1995, and shall continue during the period of such total disability subsequent to that date.

SECTION 39. 102.44 (1) (a) of the statutes is amended to read:

102.44 (1) (a) If such employee is receiving the maximum weekly benefits in effect at the time of the injury, the supplemental benefit for a week of disability occurring after January 1, 2007 the effective date of this paragraph [revisor inserts date], shall be an amount which, when added to the regular benefit established for the case, shall equal \$338 ~~\$450~~.

SECTION 40. 102.44 (1) (b) of the statutes is amended to read:

102.44 (1) (b) If such employee is receiving a weekly benefit which is less than the maximum benefit which was in effect on the date of the injury, the supplemental benefit for a week of disability occurring after January 1, 2007 the effective date of this paragraph [revisor inserts date], shall be an amount sufficient to bring the total weekly benefits to the same proportion of \$338 ~~\$450~~ as the employee's weekly benefit bears to the maximum in effect on the date of injury.

SECTION 41. 102.555 (1) of the statutes is renumbered 102.555 (1) (intro.) and amended to read:

102.555 (1) (intro.) "~~Occupational deafness~~" means ~~permanent partial or permanent total loss of hearing of one or both ears due to prolonged exposure to noise in employment.~~ In this section:

(a) "Noise" means sound capable of producing occupational deafness.

(b) "Noisy employment" means employment in the performance of which an employee is subjected to noise.

SECTION 42. 102.555 (1) (c) of the statutes is created to read:

102.555 (1) (c) "Occupational deafness" means permanent partial or permanent total loss of hearing of one or both ears due to prolonged exposure to noise in employment.

SECTION 43. 102.555 (12) of the statutes is created to read:

102.555 (12) (a) An employer or the department is not liable for the expense of any examination or test for hearing loss, any evaluation of such an exam or test, any medical treatment for improving or restoring hearing, or any hearing aid to relieve the effect of hearing loss unless it is determined that compensation for occupational deafness is payable under sub. (3), (4), or (11).

(b) For a case of occupational deafness in which the date of injury is on or after the effective date of this paragraph [revisor inserts date], this subsection applies beginning on that date. Notwithstanding ss. 102.03 (4) and 102.17 (4), for a case of occupational deafness in which the date of injury is before the effective date of this paragraph [revisor inserts date], this subsection applies beginning on the date that is 6 years after the effective date of this paragraph [revisor inserts date].

SECTION 44. 102.64 (2) of the statutes is amended to read:

102.64 (2) Upon request of the department of administration, the attorney general shall appear on behalf of the state in proceedings upon claims for compensation against the state. The department of justice shall represent the interests of the state in proceedings under s. 102.49, 102.59, 102.60, or 102.66. The department of justice may compromise claims in ~~such~~ those proceedings, but the compromises are subject to review by the department of workforce development. Costs incurred by the department of justice in prosecuting or defending any claim for payment into or out of the work injury supplemental benefit fund under s. 102.65, including expert witness and witness fees but not including attorney fees or attorney travel expenses for services performed under this subsection, shall be paid from the work injury supplemental benefit fund.

SECTION 45. 102.65 (3) of the statutes is repealed.

SECTION 46. 102.80 (3) (ag) of the statutes is amended to read:

102.80 (3) (ag) The secretary shall monitor the cash balance in, and incurred losses to, the uninsured employers fund using generally accepted actuarial principles. If the secretary determines that the expected ultimate losses to the uninsured employers fund on known claims ~~and on incurred, but not reported, claims~~ exceed 85% 85 percent of the cash balance in the uninsured employers fund, the secretary shall consult with the council on worker's compensation. If the secretary, after consulting with the council on worker's compensation, determines that there is a reasonable likelihood that the cash balance in the uninsured employers fund may become inadequate to fund all claims under s. 102.81 (1), the secretary shall file with the secretary of administration a certificate attesting that the cash balance in the uninsured employer's fund is likely to become inadequate to fund all claims under s. 102.81 (1) and specifying a date after which no new claims under s. 102.81 (1) will be paid.

SECTION 47. 102.83 (1) (a) 1. of the statutes is amended to read:

102.83 (1) (a) 1. If an uninsured employer or any individual who is found personally liable under sub. (8) fails to pay to the department any amount owed to the department under s. 102.82 and no proceeding for review is pending, the department or any authorized representative may issue a warrant directed to the clerk of circuit court for any county of the state.

SECTION 48. 102.83 (1) (a) 2. of the statutes is amended to read:

102.83 (1) (a) 2. The clerk of circuit court shall enter in the judgment and lien docket the name of the uninsured employer or the individual mentioned in the warrant and the amount of the payments, interest, costs, and other fees for which the warrant is issued and the date when the warrant is entered.

SECTION 49. 102.83 (1) (a) 3. of the statutes is amended to read:

102.83 (1) (a) 3. A warrant entered under subd. 2. shall be considered in all respects as a final judgment constituting a perfected lien on the ~~uninsured employer's~~ right, title, and interest of the uninsured employer or the individual in all of the ~~uninsured employer's~~ that person's real and personal property located in the county where the warrant is entered. The lien is effective when the department issues the warrant under subd. 1. and shall continue until the amount owed, including interest, costs, and other fees to the date of payment, is paid.

SECTION 50. 102.83 (1) (a) 4. of the statutes is amended to read:

102.83 (1) (a) 4. After the warrant is entered in the judgment and lien docket, the department or any authorized representative may file an execution with the clerk of circuit court for filing by the clerk of circuit court with the sheriff of any county where real or personal property of the uninsured employer or the individual is found, commanding the sheriff to levy upon and sell sufficient real and personal property of the uninsured employer or the individual to pay the amount stated in the warrant in the same manner as upon an execution against property issued upon the judgment of a court of record, and to return the warrant to the department and pay to it the money collected by virtue of the warrant within 60 days after receipt of the warrant.

SECTION 51. 102.83 (1) (b) of the statutes is amended to read:

102.83 (1) (b) The clerk of circuit court shall accept and enter the warrant in the judgment and lien docket without prepayment of any fee, but the clerk of circuit court shall submit a statement of the proper fee semi-annually to the department covering the periods from January 1 to June 30 and July 1 to December 31 unless a different billing period is agreed to between the clerk and the department. The fees shall then be paid by the department, but the fees provided by s. 814.61 (5) for entering the warrants shall be added to the amount of the warrant and collected from the uninsured employer or the individual when satisfaction or release is presented for entry.

SECTION 52. 102.83 (2) of the statutes is amended to read:

102.83 (2) The department may issue a warrant of like terms, force, and effect to any employee or other agent of the department, who may file a copy of the warrant with the clerk of circuit court of any county in the state, and thereupon the clerk of circuit court shall enter the warrant in the judgment and lien docket and the warrant shall become a lien in the same manner, and with the same force and effect, as provided in sub. (1). In the execution of the warrant, the employee or other agent shall have all the powers conferred by law upon a sheriff, but may not collect from the uninsured employer or the individual any fee or charge for the execution of the warrant

in excess of the actual expenses paid in the performance of his or her duty.

SECTION 53. 102.83 (3) of the statutes is amended to read:

102.83 (3) If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the amount due for payments, interest, costs, and other fees as if the department had recovered judgment against the uninsured employer or the individual and an execution had been returned wholly or partially not satisfied.

SECTION 54. 102.83 (4) of the statutes is amended to read:

102.83 (4) When the payments, interest, costs, and other fees specified in a warrant have been paid to the department, the department shall issue a satisfaction of the warrant and file it with the clerk of circuit court. The clerk of circuit court shall immediately enter the satisfaction of the judgment in the judgment and lien docket. The department shall send a copy of the satisfaction to the uninsured employer or the individual.

SECTION 55. 102.83 (8) of the statutes is amended to read:

102.83 (8) Any officer or director of an uninsured employer that is a corporation and any member or manager of an uninsured employer that is a limited liability company may be found individually and jointly and severally liable for the payments, interest, costs and other fees specified in a warrant under this section if after proper proceedings for the collection of those amounts from the corporation or limited liability company, as provided in this section, the corporation or limited liability company is unable to pay those amounts to the department. The personal liability of the officers and directors of a corporation or of the members and managers of a limited liability company as provided in this subsection is an independent obligation, survives dissolution, reorganization, bankruptcy, receivership, assignment for the benefit of creditors, judicially confirmed extension or composition, or any analogous situation of the corporation or limited liability company, and shall be set forth in a determination or decision issued under s. 102.82.

SECTION 56. 102.835 (1) (ad) of the statutes is created to read:

102.835 (1) (ad) "Debtor" means an uninsured employer or an individual found personally liable under s. 102.83 (8) who owes the department a debt.

SECTION 57. 102.835 (2) of the statutes is amended to read:

102.835 (2) **POWERS OF LEVY AND DISTRRAINT.** If any uninsured employer debtor who is liable for any debt fails to pay that debt after the department has made demand for payment, the department may collect that debt and the expenses of the levy by levy upon any property belonging to the uninsured employer debtor. If the value of any property that has been levied upon under this section is not sufficient to satisfy the claim of the department, the

department may levy upon any additional property of the uninsured employer debtor until the debt and expenses of the levy are fully paid.

SECTION 58. 102.835 (4) (a) of the statutes is amended to read:

102.835 (4) (a) Any uninsured employer debtor who fails to surrender any property or rights to property that is subject to levy, upon demand by the department, is subject to proceedings to enforce the amount of the levy.

SECTION 59. 102.835 (4) (c) of the statutes is amended to read:

102.835 (4) (c) When a 3rd party surrenders the property or rights to the property on demand of the department or discharges the obligation to the department for which the levy is made, the 3rd party is discharged from any obligation or liability to the uninsured employer debtor with respect to the property or rights to the property arising from the surrender or payment to the department.

SECTION 60. 102.835 (5) (a) of the statutes is amended to read:

102.835 (5) (a) If the department has levied upon property, any person, other than the uninsured employer debtor who is liable to pay the debt out of which the levy arose, who claims an interest in or lien on that property, and who claims that that property was wrongfully levied upon may bring a civil action against the state in the circuit court for Dane County. That action may be brought whether or not that property has been surrendered to the department. The court may grant only the relief under par. (b). No other action to question the validity of or to restrain or enjoin a levy by the department may be maintained.

SECTION 61. 102.835 (7) (a) of the statutes is amended to read:

102.835 (7) (a) The department shall apply all money obtained under this section first against the expenses of the proceedings and then against the liability in respect to which the levy was made and any other liability owed to the department by the uninsured employer debtor.

SECTION 62. 102.835 (12) of the statutes is amended to read:

102.835 (12) **NOTICE BEFORE LEVY.** If no proceeding for review permitted by law is pending, the department shall make a demand to the uninsured employer debtor for payment of the debt which is subject to levy and give notice that the department may pursue legal action for collection of the debt against the uninsured employer debtor. The department shall make the demand for payment and give the notice at least 10 days prior to the levy, personally or by any type of mail service which requires a signature of acceptance, at the address of the uninsured employer debtor as it appears on the records of the department. The demand for payment and notice shall include a statement of the amount of the debt, including costs and fees, and the name of the uninsured employer debtor who is liable for the debt. The uninsured employer's debtor's

failure to accept or receive the notice does not prevent the department from making the levy. Notice prior to levy is not required for a subsequent levy on any debt of the same ~~uninsured employer~~ debtor within one year after the date of service of the original levy.

SECTION 63. 102.835 (13) (a) of the statutes is amended to read:

102.835 (13) (a) The department shall serve the levy upon the ~~uninsured employer~~ debtor and 3rd party by personal service or by any type of mail service which requires a signature of acceptance.

SECTION 64. 102.835 (13) (b) of the statutes is amended to read:

102.835 (13) (b) Personal service shall be made upon an individual, other than a minor or incapacitated person, by delivering a copy of the levy to the ~~uninsured employer~~ debtor or 3rd party personally; by leaving a copy of the levy at the ~~uninsured employer's~~ debtor's dwelling or usual place of abode with some person of suitable age and discretion residing there; by leaving a copy of the levy at the business establishment of the ~~uninsured employer~~ debtor with an officer or employee of the ~~uninsured employer~~ debtor; or by delivering a copy of the levy to an agent authorized by law to receive service of process.

SECTION 65. 102.835 (13) (d) of the statutes is amended to read:

102.835 (13) (d) The ~~uninsured employer's or 3rd party's~~ failure of a debtor or 3rd party to accept or receive service of the levy does not invalidate the levy.

SECTION 66. 102.835 (14) of the statutes is amended to read:

102.835 (14) ANSWER BY 3RD PARTY. Within 20 days after the service of the levy upon a 3rd party, the 3rd party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the ~~uninsured employer~~ debtor, including a description of the property or the rights to property and the nature and dollar amount of any such obligation. If the 3rd party is an insurance company, the insurance company shall file an answer with the department within 45 days after the service of the levy.

SECTION 67. 102.835 (19) of the statutes is amended to read:

102.835 (19) HEARING. Any ~~uninsured employer~~ debtor who is subject to a levy proceeding made by the department may request a hearing under s. 102.17 to review the levy proceeding. The hearing is limited to questions of prior payment of the debt that the department is proceeding against, and mistaken identity of the ~~uninsured employer~~ debtor. The levy is not stayed pending the hearing in any case in which property is secured through the levy.

SECTION 68. 626.35 (1) of the statutes is amended to read:

626.35 (1) FILING. An insurer who provides a contract under s. 102.31 (1) (a) or 102.315 (3), (4), or (5) (a) shall file with the bureau a copy of the contract, or other evidence of the contract as designated by the bureau, not more than 60 days after the effective date of the contract.

SECTION 69. 631.37 (3) of the statutes is amended to read:

631.37 (3) WORKER'S COMPENSATION INSURANCE. Section Sections 102.31 (2) applies and 102.315 (10) apply to the termination of worker's compensation insurance.

SECTION 70. 632.98 of the statutes is amended to read:

632.98 Worker's compensation insurance. Sections 102.31, 102.315, and 102.62 apply to worker's compensation insurance.

SECTION 71. Initial applicability.

(1) EMPLOYEE LEASING COMPANY LIABILITY.

(a) *Liability.* The treatment of sections 102.29 (6m) and 102.315 (2), (3), (4), (5), (6), and (8) of the statutes first applies to injuries occurring on the effective date of this paragraph.

(b) *Premiums.* The treatment of section 102.315 (9) of the statutes first applies to a worker's compensation insurance policy insuring liability under section 102.315 (2) of the statutes issued, or extended, modified, or renewed, on the effective date of this paragraph.

(c) *Cancellations, terminations, or nonrenewals.* The treatment of section 102.315 (10) of the statutes first applies to a worker's compensation insurance policy insuring liability under section 102.315 (2) of the statutes whose cancellation or termination date is 30 days after the effective date of this paragraph or whose nonrenewal date is 60 days after the effective date of this paragraph.

(2) PRESCRIPTION DRUG CHARGE DISPUTE RESOLUTION.

(a) *Disputes.* The treatment of sections 102.425 (4) (b) and (4m) of the statutes first applies to prescription drug, as defined in section 102.425 (1) (h) of the statutes, charge disputes submitted to department of workforce development on the effective date of this paragraph.

(b) *Orders.* The treatment of sections 102.16 (1m) (c) and 102.18 (1) (bg) 3. of the statutes first applies to orders under section 102.16 (1) or 102.18 (1) (b) of the statutes issued on the effective date of this paragraph.

(3) CHRISTIAN SCIENCE TREATMENT. The treatment of section 102.42 (1) and (4) of the statutes first applies to Christian Science treatment provided on the effective date of this subsection.

(4) ILLEGALLY EMPLOYED MINORS. The treatment of section 102.64 (2) of the statutes first applies to a proceeding under section 102.60 of the statutes commenced on the effective date of this subsection.

(5) THIRD-PARTY LIABILITY. The renumbering and amendment of section 102.29 (6) of the statutes and the creation of section 102.29 (6) (a), (b) 2. and 3., and (c) of

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the statutes first apply to injuries occurring on the effective date of this subsection.

(6) INTEREST CREDIT. The treatment of section 102.32 (intro.), (1), (2), (3), (4), (5), and (6m) of the statutes first applies to a party that is discharged from or compelled to guarantee future compensation payments or that is directed to make an advance payment of compensation on the effective date of this subsection.

(7) LIENS FOR UNINSURED EMPLOYER PAYMENTS. The treatment of section 102.83 (1) (a) 3. of the statutes first applies to a lien under that subdivision that takes effect on the effective date of this subsection.

(8) ATTORNEY FEES. The treatment of section 102.26 (2) of the statutes first applies to a claim that is compromised or adjudged on the effective date of this subsection.
