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Recent Updates to Chapter 102

- The Worker's Compensation Advisory Council submitted to the Legislature its 2022 Agreed-Upon Bill with recommendations for updates to Chapter 102, the Wisconsin Worker's Compensation Act.
- Both houses of the Wisconsin State Legislature passed the bill, which became 2021 Wis. Act 232.
- Gov. Evers signed the bill into law on April 8. It was published on April 9 and became effective on April 10, 2022.


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Recent Updates to Chapter 102 (cont.)

- Clarification that individuals who provide services to elderly and disabled people under long-term care programs are employees, for purposes of worker's compensation, of the entities providing fiscal management services (fiscal agents). (ss. 46.275 (4m), 46.227 (3r), 46.281 (1k), 46.2897(3) & 46. 995 (3))
- Definition of "employer" is amended to clarify that an employer is subject to ch. 102, Wis. Stats. when three (3) or more employees are employed in this state. (s. 102.04 (1) (b) 1 and 2).


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Recent Updates to Chapter 102 (cont.)

- Farmers now have the same statutory authority to withdraw from subjectivity to ch. 102, Wis. Stats. as other employers who had no employee in the previous two (2) years. (s. 102.05 (3))
- Maximum weekly PPD rate increased to \$415 for injuries occurring on and after April 10, 2022, and to \$430 for injuries occurring on and after January 1, 2023. (s. 102.11 (1) (intro))



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Recent Updates to Chapter 102 (cont.)

- Wage expansion for part-time employees is now limited to part-time employees who are employed by another employer or who have been employed part-time less than 12 months before the injury. (Repeal of s. 102.11 (1) (am) and (f) 1 and create s. 102.11 (1) (ap))
- Employees who appear at examinations requested by employers and WC insurers are authorized to have an observer present at the examination. (s. 102.13 (1) (b))



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Recent Updates to Chapter 102 (cont.)

- The WCD now has statutory authority to conduct alternative dispute resolution activities to resolve disputed cases. (s. 102.16 (1) (b))
- The WCD is authorized to release limited confidential information to the Dept. of Health Services and county departments of social services. (s. 102.33 (2) (b) 7)



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Recent Updates to Chapter 102 (cont.)

- The license to appear process is now transferred from the WCD to the DHA. (s. 102.17 (1) (c), (cg), (cm), (cr), (ct), and s. DWD 80.20 Wis. Admin. Code)
- The UEF now is entitled to the same distribution of proceeds from third party settlements as WC insurers and self-insured employers. (ss. 102.80 (1) (d), 102.81 (4) (b), (c), (5), and 102.82 (1))



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Recent Updates to Chapter 102 (cont.)

- The WCD now has statutory authority to promulgate administrative rules necessary to carry out its duties and functions. (s. 102.15 (1))
- This statutory authority is being used to amend ss. DWD 80.02 and 80.51 to comply with s. 102.11(1) about how to calculate weekly wage for part-time employees.



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Recent Updates to Chapter 102 (cont.)

- An emergency rule (EmR2212) amending ss. DWD 80.02 and 80.51 is in effect from October 15, 2022, to March 13, 2023.
- The WCD is currently working to promulgate a permanent rule to amend ss. DWD 80.02 and 80.51, to replace EmR2212.
- The permanent rule is expected to become effective in 2023.



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Questions?

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Important Contact Information

Division of Worker's Compensation

Phone: (608) 266-1340

Non-litigated Fax: (608) 260-2503

Litigated Fax: (608) 260-3053

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