State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-4187/1
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2025 ASSEMBLY BILL 651

November 13, 2025 - Introduced by COMMITTEE ON WORKFORCE DEVELOPMENT, LABOR, AND INTEGRATED EMPLOYMENT. Referred to Committee on Workforce Development, Labor, and Integrated Employment.

AN ACT ***to repeal*** 102.01 (2) (ar); ***to renumber*** 102.15 (1) (a); ***to renumber and amend*** 102.16 (1), 102.17 (4) (a), 102.17 (9) (a) 1., 102.44 (1) (ag), 102.44 (1) (am) and 102.44 (1) (b); ***to amend*** 20.445 (1) (sm), 40.65 (2) (a), 102.11 (1) (intro.), 102.125 (2), 102.125 (3), 102.15 (2), 102.16 (4), 102.17 (1) (d) 1., 102.17 (1) (d) 2., 102.17 (1) (d) 3., 102.17 (4) (b), 102.17 (9) (b) (intro.), 102.18 (1) (a), 102.18 (1) (bp), 102.27 (2) (a), 102.32 (6m) (a), 102.42 (title), 102.44 (1) (c) 1., 102.59 (1), 102.61 (1m) (c), 102.75 (1g) (a), 102.75 (1g) (c), 102.81 (2), 102.82 (2) (a) (intro.), 102.82 (2) (am), 102.82 (2) (ar) and 102.82 (2) (b); ***to repeal and recreate*** 102.85 (1) and 102.85 (2); ***to create*** 102.125 (1m), 102.16 (1) (e), 102.17 (1) (a) 1m., 102.17 (1) (a) 5., 102.17 (1) (i), 102.17 (4) (a) 1., 102.17 (9) (a) 1e., 102.17 (9) (a) 1g., 102.42 (10), 102.44 (4o), 102.59 (4), 102.82 (2) (ab), 102.82 (2) (ad) and 943.395 (1) (e) of the statutes; ***to affect*** 2023 Wisconsin Act 213, section 25; **relating to:** various changes to the worker's compensation

law, granting rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the worker's compensation law, as administered by the Department of Workforce Development.

CLAIMS AND PAYMENTS

Maximum weekly compensation for permanent partial disability

The bill increases the maximum weekly compensation rate for permanent partial disability from $446 to $454 for injuries occurring before January 1, 2027, and to $462 for injuries occurring on or after that date.

Supplemental benefits for permanent total disability

Under current law, supplemental benefits are payable to an injured employee in cases of permanent total disability or continuous temporary total disability for an injury occurring before January 1, 2003. This bill does the following:

1. Extends the availability of supplemental benefits to injured employees with injuries before January 1, 2020, including certain employees who had preexisting injuries and receive compensation for permanent and total disability under what is commonly referred to as the second injury fund.

2. Raises the amount of benefits available so that the benefits correspond to the benefits in effect for the year 2020.

3. Indexes the benefits so that, on each January 1, the supplemental benefit rate is raised to correspond with the benefit rate that was in effect for the next year.

4. Requires insurers requesting reimbursement for supplemental benefits to do so through electronic means.

Compromise agreements

The bill provides the following with respect to agreements to compromise worker's compensation claims:

1. That payment pursuant to a compromise agreement, including the full amount of any lump sum payment, may be made directly to an injured employee and need not be paid into an account at a financial institution.

2. That amounts paid under a compromise agreement are not to be considered advance payments. Current law allows DWD to direct an advance payment of unaccrued worker's compensation benefits in certain cases.

3. A requirement that, when DWD issues an order approving a compromise agreement, DWD include a dismissal of the pending application for hearing and formally close the case.

Statute of limitations

Current law provides for a statute of limitations for bringing claims for worker's compensation. In the case of occupational disease, the statute of

limitations is 12 years from the date of the injury or from the date that worker's compensation was last paid or, in the case of traumatic injury, six years from that date. However, this statute of limitations does not apply in the case of occupational disease or in the case of certain traumatic injuries, including traumatic injuries causing the need for an artificial spinal disc or a total or partial knee or hip replacement. The bill does the following with respect to these statute of limitations provisions:

1. Adds traumatic injuries causing the need for a shoulder replacement or a reverse shoulder replacement to the list of injuries for which there is no statute of limitations.

2. Expressly provides that the 12-year statute of limitations under the worker's compensation law may not be tolled, as further specified in the bill.

"Stacking" of disability ratings

Current law requires DWD to promulgate rules establishing minimum permanent disability ratings for amputation levels, losses of motion, sensory losses, and surgical procedures resulting from injuries for which permanent partial disability is claimed. The bill provides that, for purposes of calculating permanent partial disability under those rules, when an employee undergoes the same surgical procedure a second or subsequent time on the same limb for which permanent partial disability is due pursuant to those rules, the employee's permanent disability rating with respect to those procedures shall be determined by health care providers and not by aggregating (stacking) the ratings from those procedures. The bill reverses *DaimlerChrysler v. LIRC*, 2007 WI 15, in which the Wisconsin Supreme Court upheld a cumulative minimum permanent partial disability rating for multiple ligament repair procedures.

Claim and hearing process

The bill makes various changes regarding the hearing and dispute resolution process for disputes for claims for worker's compensation as follows:

1. The bill provides all of the following with respect to a medical diagnosis of an injured employee, the necessity of the treatment for the employee, and cause and extent of the employee's disability:

a. That certified reports by physician assistants and advanced practice registered nurses are admissible as evidence of the diagnosis, necessity of the treatment, and cause and extent of the disability. Current law provides that certified reports by physician assistants and advanced practice registered nurses are admissible as evidence of the diagnosis and necessity of treatment but not of the cause and extent of the disability.

b. That certified reports by licensed audiologists are admissible as evidence of the diagnosis, necessity of treatment, and cause and extent of hearing loss.

2. The bill provides that if, after a party submits an answer or otherwise notifies DWD regarding a pending application on a claim for compensation, DWD determines that an application does not present a justiciable dispute or controversy, DWD must enter an order dismissing the claim without prejudice.

3. The bill provides that if at any time DWD determines that there is no

dispute or controversy regarding a pending hearing application for which the parties to the claim are seeking a determination, DWD must enter an order dismissing the claim without prejudice.

4. The bill specifies that certain changes regarding the claims and hearing process that were made in 2023 Wisconsin Act 213 apply retroactively to all claims, regardless of the date of injury.

5. The bill provides that records prepared under the vocational rehabilitation program may be admitted into evidence at worker's compensation hearings without requiring that a Division of Vocational Rehabilitation counselor be present to authenticate the records.

Medical treatment

The bill provides that, in the case of an inpatient hospitalization of an employee, a health care provider may not restrict the employer's or insurer's case management personnel from access to records and participation in discharge planning when required to ensure that an injured worker with a disability has appropriate housing and transportation.

COVERAGE; LIABILITY

Coverage for PTSD for firefighters, emergency medical responders, and emergency medical practitioners

Under current law, if a law enforcement officer or full-time firefighter is diagnosed with PTSD by a licensed psychiatrist or psychologist, and the mental injury that resulted in that diagnosis is not accompanied by a physical injury, that law enforcement officer or firefighter can bring a claim for worker's compensation benefits if the conditions of liability are proven by a preponderance of the evidence and the mental injury is not the result of a good faith employment action by the person's employer. Also under current law, liability for such treatment for a mental injury is limited to no more than 32 weeks after the injury is first reported.

Under current law, an injured emergency medical responder, emergency medical services practitioner, or volunteer firefighter who does not have an accompanying physical injury must demonstrate a diagnosis on the basis of unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by all employees, as required under *School District No. 1 v. DILHR*, 62 Wis. 2d 370, 215 N.W.2d 373 (1974), in order to receive worker's compensation benefits for PTSD. Under the bill, such an injured emergency medical responder, emergency medical services practitioner, or volunteer firefighter is not required to demonstrate a diagnosis on the basis of that standard, and instead must demonstrate a diagnosis on the basis of the same standard as law enforcement officers and firefighters. Finally, under the bill, an emergency medical responder, emergency medical services practitioner, or volunteer firefighter is restricted to compensation for a mental injury that is not accompanied by a physical injury and that results in a diagnosis of PTSD three times in his or her lifetime irrespective of a change of employer or employment in the same manner as law enforcement officers and firefighters.

Penalties for uninsured employers

Under current law, DWD must assess an administrative penalty against an employer who requires an employee to pay for any part of worker's compensation insurance or who fails to provide mandatory worker's compensation insurance coverage. If the employer violates those requirements, for the first 10 days, the penalty under current law is not less than $100 and not more than $1,000 for such a violation. If the employer violates those requirements for more than 10 days, the penalty under current law is not less than $10 and not more than $100 for each day of such a violation.

The bill provides the following penalties for such violations: 1) for a first violation, a penalty of $1,000 or the amount of the insurance premium that would have been payable,whichever is greater; 2) for a second violation, $2,000 or two times the amount of the insurance premium that would have been payable, whichever is greater; 3) for a third violation, $3,000 or three times the amount of the insurance premium that would have been payable, whichever is greater; and 4) for a fourth or subsequent violation, $4,000 or four times the amount of the insurance premium that would have been payable, whichever is greater.

Under current law, if an employer who is required to provide worker's compensation insurance coverage provides false information about the coverage to his or her employees or contractors who request information about the coverage, or who fails to notify a person who contracts with the employer that the coverage has been canceled in relation to the contract, DWD must assess a penalty of not less than $100 and not more than $1,000 for each such violation.

The bill provides that the penalty for violations occurring after the third such violation is $3,000 per violation, and $4,000 for violations occurring after the fourth such violation.

Also under current law, an uninsured employer must pay to DWD an amount that is equal to the greater of the following: 1) twice the amount that the uninsured employer would have paid for worker's compensation coverage during periods in which the employer was uninsured in the preceding three years or 2) $750 or, if certain conditions apply, $100 per day.

The bill provides that the amounts an uninsured employer must pay to DWD for a determination of a failure to carry worker's compensation insurance are as follows:

1. For a first or second determination, the amounts specified in current law.

2. For a third determination, the greater of the following: a) three times the amount that the uninsured employer would have paid for worker's compensation coverage during periods in which the employer was uninsured in the preceding three years or b) $3,000.

3. For a fourth or subsequent determination, the greater of the following: a) four times the amount that the uninsured employer would have paid for worker's compensation insurance during the periods in which the employer was uninsured in the preceding three years or b) $4,000.

Application and premium fraud

Under current law, if an insurer or self-insured employer has evidence that a worker's compensation claim is false or fraudulent, the insurer or self-insured employer must generally report the claim to DWD. If, on the basis of the investigation, DWD has a reasonable belief that criminal insurance fraud has occurred, DWD must refer the matter to the district attorney for prosecution. Also under current law, DWD may request assistance from the Department of Justice to investigate false or fraudulent activity related to a worker's compensation claim. If, on the basis of that investigation, DWD has a reasonable belief that theft, forgery, fraud, or any other criminal violation has occurred, DWD must refer the matter to the district attorney or DOJ for prosecution.

The bill extends these requirements to insurers that have evidence that an application for worker's compensation insurance coverage is fraudulent or that an employer has committed fraud by misclassifying employees to lower the employer's worker's compensation insurance premiums.

PROGRAM ADMINISTRATION

Transfer of hearing functions

Under the law prior to 2025 Wisconsin Act 33, hearings under the worker's compensation law are conducted by the Division of Hearings and Appeals in the Department of Administration (DHA). Under Act 33, effective January 1, 2026, the authority to conduct hearings under the worker's compensation law is transferred to DWD.

The bill changes numerous references to DHA under the worker's compensation law that were not addressed in Act 33 to instead reference DWD, including for purposes of rule-making authority under the worker's compensation law.

Other changes

The bill makes various other changes regarding the administration of the worker's compensation law, including:

1. Provides additional expenditure authority to DWD for administration of the worker's compensation program, from DWD's appropriation under the worker's compensation operations fund.

2. Provides that costs related to retaining an insurer or other organization to process, investigate, and pay claims involving the uninsured employers fund are to be paid from the uninsured employers fund and not, as current law provides, from the worker's compensation operations fund.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 20.445 (1) (sm) of the statutes is amended to read:

20.445 (1) (sm) *Uninsured employers fund; payments.* From the uninsured employers fund, a sum sufficient to make the payments under s. 102.81 (1) and to ~~obtain reinsurance~~ pay the costs specified under s. 102.81 (2). No moneys may be expended or encumbered under this paragraph until the first day of the first July beginning after the day that the secretary of workforce development files the certificate under s. 102.80 (3) (a).

SECTION 2. 40.65 (2) (a) of the statutes is amended to read:

40.65 **(2)** (a) This paragraph applies to participants who first apply for benefits before May 3, 1988. Any person desiring a benefit under this section must apply to the department of workforce development, which department shall determine whether the applicant is eligible to receive the benefit and the participant's monthly salary. Appeals from the eligibility decision shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an applicant is eligible, the department of workforce development shall notify the department of employee trust funds and shall certify the applicant's monthly salary. If at the time of application for benefits an applicant is still employed in any capacity by the employer in whose employ the disabling injury occurred or disease was contracted, that continued employment shall not affect that applicant's right to have his or her eligibility to receive those benefits determined in proceedings before the ~~division of hearings and appeals in the~~ department of ~~administration~~ workforce development or the labor and industry review commission or in proceedings in the courts. The

department of workforce development may promulgate rules needed to administer this paragraph.

SECTION 3. 102.01 (2) (ar) of the statutes is repealed.

SECTION 4. 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 January 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 ~~January 1, 2023, and before March 24, 2024, not more than $645, resulting in a maximum compensation rate of $430; for permanent partial disability for injuries occurring on or after March 24, 2024, and before January 1, 2025, not more than $657, resulting in a maximum compensation rate of $438; and for permanent partial disability for injuries occurring on or after~~ January 1, 2025, and before the effective date of this subsection .... [LRB inserts date], not more than $669, resulting in a maximum compensation rate of $446; for permanent partial disability for injuries occurring on or after the effective date of this subsection .... [LRB inserts date], and before January 1, 2027, not more than $681, resulting in a maximum compensation rate of $454; and for permanent partial disability for injuries occurring on or after January 1, 2027, not more than $693, resulting in a maximum compensation rate of $462. Between such limits the average weekly earnings shall be determined as follows:

SECTION 5. 102.125 (1m) of the statutes is created to read:

102.125 **(1m)** APPLICATION AND PREMIUM FRAUD. If an insurer has evidence that an application for worker's compensation insurance coverage is fraudulent or that an employer has committed fraud by misclassifying employees to lower the employer's worker's compensation insurance premiums in violation of s. 943.395, the insurer shall report the claim to the department. The department may require an insurer to investigate an allegedly fraudulent application or alleged fraud by misclassification of employees and may provide the insurer with any records of the department relating to that alleged fraud. An insurer that investigates alleged fraud under this subsection shall report the results of that investigation to the department.

SECTION 6. 102.125 (2) of the statutes is amended to read:

102.125 **(2)** ASSISTANCE BY DEPARTMENT OF JUSTICE. The department of workforce development may request the department of justice to assist the department of workforce development in an investigation under sub. (1) or (1m) or in the investigation of any other suspected fraudulent activity on the part of an employer, employee, insurer, health care provider, or other person related to worker's compensation.

SECTION 7. 102.125 (3) of the statutes is amended to read:

102.125 **(3)** PROSECUTION. If based on an investigation under sub. (1), (1m), or (2) the department has a reasonable basis to believe that a violation of s. 943.20, 943.38, 943.39, 943.392, 943.395, 943.40, or any other criminal law has occurred, the department shall refer the results of the investigation to the department of

justice or to the district attorney of the county in which the alleged violation occurred for prosecution.

SECTION 8. 102.15 (1) (a) of the statutes is renumbered 102.15 (1).

SECTION 9. 102.15 (2) of the statutes is amended to read:

102.15 **(2)** The ~~division~~ department may provide by rule the conditions under which transcripts of testimony and proceedings shall be furnished.

SECTION 10. 102.16 (1) of the statutes, as affected by 2025 Wisconsin Act 33, is renumbered 102.16 (1) (a) and amended to read:

102.16 **(1)** (a) Any controversy concerning compensation or a violation of sub. (3), including a controversy in which the state may be a party, shall be submitted to the department in the manner and with the effect provided in this chapter.

(b) A compromise of any claim for compensation may be reviewed and set aside, modified, or confirmed by the department within one year after the date on which the compromise is filed with the department, the date on which an award has been entered based on the compromise, or the date on which an application for the department to take any of those actions is filed with the department.

(d) Unless the word "compromise" appears in a stipulation of settlement, the settlement shall not be considered a compromise, and further claim is not barred except as provided in s. 102.17 (4) regardless of whether an award is made. The employer, insurer, or dependent under s. 102.51 (5) shall have equal rights with the employee to have a compromise or any other stipulation of settlement reviewed under this subsection. Upon petition filed with the department under this subsection, the department may set aside the award or otherwise determine the rights of the parties.

SECTION 11. 102.16 (1) (e) of the statutes is created to read:

102.16 **(1)** (e) A payment pursuant to a compromise agreement, including the full amount of any lump sum payment, may be made directly to the employee and need not be paid into an account at a a credit union, savings bank, savings and loan association, bank, or trust company.

SECTION 12. 102.16 (4) of the statutes, as affected by 2025 Wisconsin Act 33, is amended to read:

102.16 **(4)** The department has jurisdiction to pass on any question arising out of sub. (3) and to order the employer to reimburse an employee or other person for any sum deducted from wages or paid by him or her in violation of that subsection. In addition to ~~the~~ any penalty provided in s. 102.85 (1), any employer violating sub. (3) shall be liable to an injured employee for the reasonable value of the necessary services rendered to that employee under any arrangement made in violation of sub. (3) without regard to that employee's actual disbursements for those services.

SECTION 13. 102.17 (1) (a) 1m. of the statutes is created to read:

102.17 **(1)** (a) 1m. If, after a party submits an answer or otherwise notifies the department, the department determines that an application does not present a justiciable dispute or controversy, the department shall enter an order dismissing the application without prejudice.

SECTION 14. 102.17 (1) (a) 5. of the statutes is created to read:

102.17 **(1)** (a) 5. If at any time the department determines that there is no dispute or controversy regarding a pending hearing application for which the

parties to the claim are seeking a determination, the department shall enter an order dismissing the claim without prejudice.

SECTION 15. 102.17 (1) (d) 1. of the statutes is amended to read:

102.17 **(1)** (d) 1. The contents of certified medical and surgical reports by physicians, podiatrists, surgeons, dentists, psychologists, physician assistants, advanced practice registered nurses, ~~and~~ chiropractors, and audiologists licensed in and practicing in this state, and of certified reports by experts concerning loss of earning capacity under s. 102.44 (2) and (3), presented by a party for compensation constitute prima facie evidence as to the matter contained in those reports, subject to any rules and limitations the ~~division~~ department prescribes. Certified reports ~~of~~ by physicians, podiatrists, surgeons, dentists, psychologists, physician assistants, advanced practice registered nurses, ~~and~~ chiropractors, and audiologists, wherever licensed and practicing, who have examined or treated the claimant, and ~~of~~ by experts, if the practitioner or expert consents to being subjected to cross-examination, also constitute prima facie evidence as to the matter contained in those reports. Certified reports ~~of~~ by physicians, physician assistants, advanced practice registered nurses, podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of the diagnosis, necessity of the treatment, and cause and extent of the disability. Certified reports by ~~doctors of dentistry, physician assistants, and advanced practice registered nurses~~ dentists are admissible as evidence of the diagnosis and necessity of treatment but not of the cause and extent of disability. Certified reports by audiologists are admissible as evidence of the diagnosis, necessity of the treatment, and cause and extent of hearing loss. Any physician, podiatrist, surgeon, dentist, psychologist, chiropractor, audiologist,

physician assistant, advanced practice registered nurse, or expert who knowingly makes a false statement of fact or opinion in a certified report may be fined or imprisoned, or both, under s. 943.395.

SECTION 16. 102.17 (1) (d) 2. of the statutes, as affected by 2025 Wisconsin Act 33, is amended to read:

102.17 **(1)** (d) 2. The record of a hospital or sanatorium in this state that is satisfactory to the department, established by certificate, affidavit, or testimony of the supervising officer of the hospital or sanatorium, any other person having charge of the record, or a physician, podiatrist, surgeon, dentist, psychologist, physician assistant, advanced practice registered nurse, ~~or~~ chiropractor, or audiologist to be the record of the patient in question, and made in the regular course of examination or treatment of the patient, constitutes prima facie evidence as to the matter contained in the record, to the extent that the record is otherwise competent and relevant.

SECTION 17. 102.17 (1) (d) 3. of the statutes is amended to read:

102.17 **(1)** (d) 3. The ~~division~~ department may, by rule, establish the qualifications of and the form used for certified reports submitted by experts who provide information concerning loss of earning capacity under s. 102.44 (2) and (3). The ~~division~~ department may not admit into evidence a certified report of a practitioner or other expert or a record of a hospital or sanatorium that was not filed with the ~~division~~ department and all parties in interest at least 15 days before the date of the hearing, unless the ~~division~~ department is satisfied that there is good cause for the failure to file the report.

SECTION 18. 102.17 (1) (i) of the statutes is created to read:

102.17 **(1)** (i) The contents of records from the department prepared under the authority of s. 47.02 that are presented by a party for compensation constitute prima facie evidence as to the matter contained in those records if served upon the parties at least 15 days prior to a hearing and an appropriate representative of the department is available for cross-examination. A record described in this paragraph that is admitted or received into evidence by the department constitutes substantial evidence under s. 102.23 (6) as to the matter contained in the record.

SECTION 19. 102.17 (4) (a) of the statutes, as affected by 2025 Wisconsin Act 33, is renumbered 102.17 (4) (a) (intro.) and amended to read:

102.17 **(4)** (a) (intro.) Except as provided in this subsection and s. 102.555 (12) (b), in the case of occupational disease, the right of an employee, the employee's legal representative, a dependent, the employee's employer or the employer's insurance company, or other named party to proceed under this section shall not extend beyond 12 years after the date of the injury or death or after the date that compensation, other than for treatment or burial expenses, was last paid, or would have been last payable if no advancement were made, whichever date is latest, and in the case of traumatic injury, that right shall not extend beyond 6 years after that date. ~~The~~ All of the following apply to the statute of limitations under this paragraph:

2. If the statute of limitations under this ~~subsection begins~~ paragraph is tolled as provided in subd. 1., the statute of limitations shall continue to run on the date an order is issued by the department approving a compromise agreement. A further claim is not barred except as provided in this subsection, regardless of whether an award is made.

SECTION 20. 102.17 (4) (a) 1. of the statutes is created to read:

102.17 **(4)** (a) 1. The statute of limitations under this paragraph is tolled by the filing of an application for hearing, and the time for proceeding under this section is tolled for the period from when the application is made until final disposition of the case. Such tolling shall not operate to extend that period beyond the date of final disposition or the date the period would have expired in the absence of such extension, whichever is later. The statute of limitations shall continue to run after an order dismissing an application without prejudice. Section 893.13 does not apply to the statute of limitations under this paragraph.

SECTION 21. 102.17 (4) (b) of the statutes is amended to read:

102.17 **(4)** (b) 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, a shoulder replacement, or a reverse shoulder replacement, there shall be no statute of limitations, except that benefits or treatment expense for an occupational disease becoming due 12 years after the date of injury or death or last payment of compensation, other than for treatment or burial expenses, 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 such a traumatic injury becoming due 6 years after that date shall be paid from that fund and in that manner if the date of injury or death or last payment of compensation, other than for treatment or burial expenses, is before April 1, 2006.

SECTION 22. 102.17 (9) (a) 1. of the statutes is renumbered 102.17 (9) (a) 1m. and amended to read:

102.17 **(9)** (a) 1m. "~~Fire fighter~~ Firefighter" means any person employed on a full-time or part-time basis by the state or any political subdivision as a member or officer of a fire department, including the 1st class cities and state fire marshal and deputies, or an individual who volunteers as a member or officer of such a department.

SECTION 23. 102.17 (9) (a) 1e. of the statutes is created to read:

102.17 **(9)** (a) 1e. "Emergency medical responder" has the meaning given in s. 256.01 (4p).

SECTION 24. 102.17 (9) (a) 1g. of the statutes is created to read:

102.17 **(9)** (a) 1g. "Emergency medical services practitioner" has the meaning given in s. 256.01 (5).

SECTION 25. 102.17 (9) (b) (intro.) of the statutes is amended to read:

102.17 **(9)** (b) (intro.) Subject to par. (c), in the case of a mental injury that is not accompanied by a physical injury and that results in a diagnosis of post-traumatic stress disorder in a law enforcement officer, as defined in s. 23.33 (1) (ig), an emergency medical responder, an emergency medical services practitioner, or a ~~fire fighter~~ firefighter, the claim for compensation for the mental injury, in order to be compensable under this chapter, is subject to all of the following:

SECTION 26. 102.18 (1) (a) of the statutes is amended to read:

102.18 **(1)** (a) All parties shall be afforded opportunity for full, fair, public hearing after reasonable notice, but disposition of application may be made by

compromise, stipulation, agreement, or default without hearing. When the department issues an order under sub. (2) approving a compromise agreement, the department shall include in the order a dismissal of the pending application for hearing in the claim subject to compromise and shall close the case.

SECTION 27. 102.18 (1) (bp) of the statutes is amended to read:

102.18 **(1)** (bp) If the ~~division~~ department determines that the employer or insurance carrier suspended, terminated, or failed to make payments or failed to report an injury as a result of malice or bad faith, the ~~division~~ department may include a penalty in an award to an employee for each event or occurrence of malice or bad faith. That penalty is the exclusive remedy against an employer or insurance carrier for malice or bad faith. If the penalty is imposed for an event or occurrence of malice or bad faith that causes a payment that is due an injured employee to be delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46 (1), the ~~division~~ department may not also order an increased payment under s. 102.22 (1) or the payment of interest under s. 628.46 (1). The ~~division~~ department may award an amount that the ~~division~~ department considers just, not to exceed the lesser of 200 percent of total compensation due or $30,000 for each event or occurrence of malice or bad faith. The ~~division~~ department may assess the penalty against the employer, the insurance carrier, or both. Neither the employer nor the insurance carrier is liable to reimburse the other for the penalty amount. The ~~division~~ department may, by rule, define actions that demonstrate malice or bad faith.

SECTION 28. 102.27 (2) (a) of the statutes is amended to read:

102.27 **(2)** (a) A benefit under this chapter is assignable under s. 46.10 (14)

(e), 49.345 (14) (e), 301.12 (14) (e), 767.225 (1) (L), 767.513 (3), or 767.75 ~~(1)~~ (1f) or (2m).

SECTION 29. 102.32 (6m) (a) of the statutes, as affected by 2025 Wisconsin Act 33, is amended to read:

102.32 **(6m)** (a) 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 5 percent. An injured employee or dependent may receive no more than 3 advance payments per calendar year under this paragraph. An amount paid under a compromise agreement shall not be considered an advance payment for purposes of this paragraph and s. 102.17 (4) (a).

SECTION 30. 102.42 (title) of the statutes is amended to read:

102.42 (title) **Incidental compensation; medical treatment and expenses.**

SECTION 31. 102.42 (10) of the statutes is created to read:

102.42 **(10)** ACCESS TO EMPLOYEE. In the case of an inpatient hospitalization of an employee, a health care provider shall not restrict the employer's or insurer's case management personnel from access to records and participation in discharge planning when required to ensure that an injured worker with disability has appropriate housing and transportation. This subsection does not allow an employer, insurer, or case management personnel to direct care of the employee.

SECTION 32. 102.44 (1) (ag) of the statutes is renumbered 102.44 (1) (ag) (intro.) and amended to read:

102.44 **(1)** (ag) (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, including an employee receiving compensation for permanent and total disability under s. 102.59 (1), more than 24 months after the date of injury resulting from an injury that occurred prior to January 1, ~~2003~~ 2020, shall receive supplemental benefits that shall be payable 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. Those supplemental benefits shall be paid only for weeks of disability occurring after ~~January 1, 2005~~ the effective date of this paragraph .... [LRB inserts date], and shall continue during the period of such total disability subsequent to that date~~.~~ as follows:

SECTION 33. 102.44 (1) (am) of the statutes is renumbered 102.44 (1) (ag) 1. and amended to read:

102.44 **(1)** (ag) 1. If the employee is receiving the maximum weekly benefits that were in effect at the time of the injury, as determined under s. 102.11 (1), the supplemental benefit for a week of disability ~~occurring after March 2, 2016,~~ shall be an amount that, when added to the regular benefit ~~established for the case, shall equal $669~~ equals the maximum weekly benefits that were in effect during 2020. Annually thereafter, on each January 1, the supplemental benefit rate shall be increased to an amount that, when added to the regular benefit, equals the maximum weekly benefits that were in effect during the next succeeding year.

SECTION 34. 102.44 (1) (b) of the statutes is renumbered 102.44 (1) (ag) 2. and amended to read:

102.44 **(1)** (ag) 2. If the employee is receiving a weekly benefit that is less than the maximum benefit that was in effect on the date of the injury, as determined under s. 102.11 (1), the supplemental benefit for a week of disability ~~occurring after March 2, 2016,~~ shall be an amount sufficient to bring the total weekly benefits to the same proportion of ~~$669~~ the maximum weekly benefits that were in effect during 2020 as the employee's weekly benefit bears to the maximum in effect on the date of injury. Annually thereafter, on each January 1, the supplemental benefit rate shall be increased to an amount sufficient to bring the total weekly benefits to the same proportion of the maximum weekly benefits that were in effect during the next succeeding year as the employee's weekly benefit bears to the maximum in effect on the date of injury.

SECTION 35. 102.44 (1) (c) 1. of the statutes is amended to read:

102.44 **(1)** (c) 1. An insurance carrier paying the supplemental benefits required under this subsection shall be entitled to reimbursement for each such case from the worker's compensation operations fund, commencing one year after the date of the first payment of those benefits and annually thereafter while those payments continue.

1m. To receive reimbursement under this paragraph, an insurance carrier must file a claim for that reimbursement with the department by no later than 12 months after the end of the year in which the supplemental benefits were paid and the claim must be approved by the department. The insurance carrier shall file a

claim under this subdivision using electronic, magnetic, or other reporting media that is required by the department.

SECTION 36. 102.44 (4o) of the statutes is created to read:

102.44 **(4o)** For purposes of calculating permanent partial disability under s. 102.52 (1) to (14) pursuant to the rules promulgated under sub. (4m) (a), when an employee undergoes the same surgical procedure a 2nd or subsequent time on the same limb for which permanent partial disability is due pursuant to those rules, the employee's permanent disability rating with respect to those procedures shall be determined by health care providers as provided in s. 102.17 (1) (d) and not by aggregating the ratings from those procedures, but shall in no case be lower than the rating for the first procedure.

SECTION 37. 102.59 (1) of the statutes is amended to read:

102.59 **(1)** Subject to any certificate filed under s. 102.65 (4), if at the time of injury an employee has permanent disability that if it had resulted from that injury would have entitled the employee to indemnity for 200 weeks and if as a result of that injury the employee incurs further permanent disability that entitles the employee to indemnity for 200 weeks, the employee shall be paid ~~from the funds provided in this section~~ additional compensation equivalent to the amount that would be payable for that previous disability if that previous disability had resulted from that injury or the amount that is payable for that further disability, whichever is less, except that an employee may not be paid that additional compensation if the employee has already received compensation under this subsection. If the previous and further disabilities result in permanent total disability, the additional compensation shall be in such amount as will complete the payments that would

have been due had the permanent total disability resulted from that injury. This additional compensation accrues from, and may not be paid to any person before, the end of the period for which compensation for permanent disability resulting from the injury is payable by the employer, and shall be subject to s. 102.32 (6), (6m), and (7). No compromise agreement of liability for this additional compensation may provide for any lump sum payment.

SECTION 38. 102.59 (4) of the statutes is created to read:

102.59 **(4)** The additional compensation payable to employees under sub. (1), as well as any supplemental benefits payable to such employees under s. 102.44 (1), shall be paid from the funds provided in this section.

SECTION 39. 102.61 (1m) (c) of the statutes is amended to read:

102.61 **(1m)** (c) The employer or insurance carrier shall pay the reasonable cost of any services provided for an employee by a private rehabilitation counselor under par. (a) and, subject to the conditions and limitations specified in sub. (1r) (a) to (c) and by rule, if the private rehabilitation counselor determines that rehabilitative training is necessary, the reasonable cost of the rehabilitative training program recommended by that counselor, including the cost of tuition, fees, books, maintenance, and travel at the same rate as is provided for state officers and employees under s. 20.916 (8). Notwithstanding that the department ~~or the division~~ may authorize under s. 102.43 (5) (b) a rehabilitative training program that lasts longer than 80 weeks, a rehabilitative training program that lasts 80 weeks or less is presumed to be reasonable.

SECTION 40. 102.75 (1g) (a) of the statutes is amended to read:

102.75 **(1g)** (a) Subject to par. (b), the department shall collect from each

licensed worker's compensation carrier the proportion of reimbursement approved by the department under s. 102.44 (1) (c) ~~1.~~ 1m. for supplemental benefits paid in the year before the previous year that the total indemnity paid or payable under this chapter by the carrier in worker's compensation cases initially closed during the preceding calendar year, other than for increased, double, or treble compensation, bore to the total indemnity paid in cases closed the previous calendar year under this chapter by all carriers, other than for increased, double, or treble compensation.

SECTION 41. 102.75 (1g) (c) of the statutes is amended to read:

102.75 **(1g)** (c) This subsection does not apply to claims for reimbursement under s. 102.44 (1) (c) ~~1.~~ 1m. for supplemental benefits paid for injuries that occur on or after January 1, 2016.

SECTION 42. 102.81 (2) of the statutes is amended to read:

102.81 **(2)** The department may retain an insurance carrier or insurance service organization to process, investigate and pay claims under this section and may obtain excess or stop-loss reinsurance with an insurance carrier authorized to do business in this state in an amount that the secretary determines is necessary for the sound operation of the uninsured employers fund. In cases involving disputed claims, the department may retain an attorney to represent the interests of the uninsured employers fund and to make appearances on behalf of the uninsured employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all provisions of subch. IV of ch. 16 do not apply to an attorney hired under this subsection. The charges for the services retained under this subsection shall be paid from the appropriation under s. 20.445 (1) ~~(rp)~~ (sm). The cost of any

reinsurance obtained under this subsection shall be paid from the appropriation under s. 20.445 (1) (sm).

SECTION 43. 102.82 (2) (a) (intro.) of the statutes is amended to read:

102.82 **(2)** (a) (intro.) Except as provided in pars. (ag), (am), and (ar), ~~all~~ for a first or 2nd determination by the department that an employer was uninsured, an uninsured ~~employers~~ employer shall pay to the department the greater of the following:

SECTION 44. 102.82 (2) (ab) of the statutes is created to read:

102.82 **(2)** (ab) Except as provided in pars. (ag), (am), and (ar), for a 3rd determination by the department that an employer was uninsured, an uninsured employer shall pay to the department the greater of the following:

1. Three times the amount determined by the department to equal what the uninsured employer would have paid during periods of illegal nonpayment for worker's compensation in the preceding 3-year period, based on the employer's payroll in the preceding 3 years.

2. Three thousand dollars.

SECTION 45. 102.82 (2) (ad) of the statutes is created to read:

102.82 **(2)** (ad) Except as provided in pars. (ag), (am), and (ar), for a 4th or subsequent determination by the department that an employer was uninsured, an uninsured employer shall pay to the department the greater of the following:

1. Four times the amount determined by the department to equal what the uninsured employer would have paid during periods of illegal nonpayment for

worker's compensation in the preceding 3-year period, based on the employer's payroll in the preceding 3 years.

2. Four thousand dollars.

SECTION 46. 102.82 (2) (am) of the statutes is amended to read:

102.82 **(2)** (am) The department may waive any payment owed under par. (a), (ab), or (ad) by an uninsured employer if the department determines that the uninsured employer is subject to this chapter only because the uninsured employer has elected to become subject to this chapter under s. 102.05 (2) or 102.28 (2).

SECTION 47. 102.82 (2) (ar) of the statutes is amended to read:

102.82 **(2)** (ar) The department may waive any payment owed under par. (a), (ab), (ad), or (ag) or sub. (1) if the department determines that the sole reason for the uninsured employer's failure to comply with s. 102.28 (2) is that the uninsured employer was a victim of fraud, misrepresentation or gross negligence by an insurance agent or insurance broker or by a person whom a reasonable person would believe is an insurance agent or insurance broker.

SECTION 48. 102.82 (2) (b) of the statutes is amended to read:

102.82 **(2)** (b) The payment owed under par. (a), (ab), (ad), or (ag) is due within 30 days after the date on which the employer is notified. Interest shall accrue on amounts not paid when due at the rate of 1 percent per month.

SECTION 49. 102.85 (1) of the statutes is repealed and recreated to read:

102.85 **(1)** (a) If an employer has failed to comply with s. 102.16 (3) or 102.28 (2), the employer shall, for a first violation, forfeit the greater of $1,000 or the

amount of the premium that would have been payable for each time the employer failed to comply with s. 102.16 (3) or 102.28 (2).

(b) If an employer has failed to comply with s. 102.16 (3) or 102.28 (2), the employer shall, for a 2nd violation, forfeit the greater of $2,000 or 2 times the amount of the premium that would have been payable for each time the employer failed to comply with s. 102.16 (3) or 102.28 (2).

(c) If an employer has failed to comply with s. 102.16 (3) or 102.28 (2), the employer shall, for a 3rd violation, forfeit the greater of $3,000 or 3 times the amount of the premium that would have been payable for each time the employer failed to comply with s. 102.16 (3) or 102.28 (2).

(d) If an employer has failed to comply with s. 102.16 (3) or 102.28 (2), the employer shall, for a 4th or subsequent violation, forfeit the greater of $4,000 or 4 times the amount of the premium that would have been payable for each time the employer failed to comply with s. 102.16 (3) or 102.28 (2).

SECTION 50. 102.85 (2) of the statutes is repealed and recreated to read:

102.85 **(2)** (a) No employer who is required to provide worker's compensation insurance coverage under this chapter may give false information about the coverage to his or her employees, the department, or any other person who contracts with the employer and who requests evidence of worker's compensation in relation to that contract.

(b) No employer who is required to provide worker's compensation insurance coverage under this chapter may fail to notify a person who contracts with the employer that the coverage has been canceled in relation to that contract.

(c) 1. An employer who violates par. (a) or (b) shall, except as provided in subds. 2. and 3., forfeit not less than $100 and not more than $1,000.

2. An employer who violates par. (a) or (b) shall forfeit $3,000 for a 3rd violation of par. (a) or (b).

3. An employer who violates par. (a) or (b) shall forfeit $4,000 for a 4th violation of par. (a) or (b).

SECTION 51. 943.395 (1) (e) of the statutes is created to read:

943.395 **(1)** (e) Presents an application for worker's compensation insurance coverage that is false or fraudulent or that falsely or fraudulently misclassifies employees to lower worker's compensation insurance premiums.

SECTION 52. 2023 Wisconsin Act 213, section 25 is created to read:

[2023 Wisconsin Act 213] Section 25 **Initial applicability.**

(1) Notwithstanding s. 102.03 (4), the treatment of ss. 102.17 (4) (a) and 102.18 (1) (b) 1d. applies regardless of the date of injury.

SECTION 53. Fiscal changes.

(1) In the schedule under s. 20.005 (3) for the appropriation to the department of workforce development under s. 20.445 (1) (ra), the dollar amount for fiscal year 2025-26 is increased by $834,700 for the purpose for which the appropriation is made. In the schedule under s. 20.005 (3) for the appropriation to the department of workforce development under s. 20.445 (1) (ra), the dollar amount for fiscal year 2026-27 is increased by $941,800 for the purpose for which the appropriation is made.

SECTION 54. Initial applicability.

(1) Notwithstanding s. 102.03 (4), the treatment of ss. 102.17 (1) (a) 5. and (4) (a) 2. and 102.18 (1) (a) applies regardless of the date of injury.

SECTION 55. Effective date. This act takes effect on January 1, 2026, or on the day after publication, whichever is later.

(END)