

2022 Workers' Compensation Summit: Embracing and navigating the new workplace

The Minnesota Department of Labor and Industry's (DLI's) seventh Workers' Compensation Summit will be at the Earle Brown Heritage Center in Brooklyn Center, Minnesota, Tuesday, Sept. 13. The one-day event is geared toward all workers' compensation stakeholders, including employers, insurers, providers, employee representatives, public officials and others.

Sponsors, exhibitors wanted

DLI is again excited to offer organizations two ways to showcase their company and support this important event, either as an exhibitor at the Summit or as a sponsor behind the scenes. For more information and to access the application, visit www.dli.mn.gov/Summit.

More details soon

Topics, speakers, schedules and registration information are being determined and planned now. Watch www.dli.mn.gov/Summit for complete information. Updates will also be sent to our workers'-compensation-related email lists (such as for COMPACT) – see the available lists at www.dli.mn.gov/about-department/news-and-media/sign-news-department-labor-and-industry.

ADR welcomes mediator Rena Cummings

Rena Cummings recently joined the Alternative Dispute Resolution (ADR) unit as a mediator and arbitrator in the Department of Labor and Industry. Cummings has more than seven years of experience as a workers' compensation attorney. She obtained her bachelor's degree from Hamline University and her juris doctor from Mitchell Hamline School of Law.



Rena Cummings

ADR seeks early intervention in workers' compensation disputes through administrative conferences and mediations. It responds to questions from stakeholders, including injured workers, employers, health care providers, attorneys and qualified rehabilitation consultants.

In addition to Cummings, ADR mediators and arbitrators include: Christie Ahern, Walter Bowser, Aaron Frederickson, Steven Gilmore, William Hauck, Debra Heisick, Frances Li, Keith Maurer, Nell Nere, Patti Provencher, Steve Sullivan and Nancy Wallrich. ADR supervisors are Christopher Raymond (christopher.raymond@state.mn.us, 651-284-5347) and Donna Olson (donna.p.olson@state.mn.us, 651-284-5343). Brian Mak is the ADR director (brian.mak@state.mn.us, 651-284-5344).

DLI offices re-open

Administrative conferences via telephone

On Friday, April 22, the Minnesota Department of Labor and Industry (DLI) re-opened its state office buildings, including the St. Paul office building, located at 443 Lafayette Road N. Visitors may now come to the St. Paul building with or without an appointment and talk in-person with one of DLI's staff members about workers' compensation issues, questions or concerns.

Visitors with workers' compensation needs are typically referred to DLI's Alternative Dispute Resolution (ADR) staff, but they may also be referred to DLI's Compliance, Records and Training staff. If a visitor wishes to talk in-person with Pam Carlson, DLI Office of Workers' Compensation Ombudsman, a meeting can be scheduled in advance.

ADR has transitioned to a hybrid structure to conduct its proceedings.

Mediations now default to in-person proceedings. The parties may agree to conduct the mediation remotely or at another location. Conferences will continue to be conducted via telephone.

If you have questions, contact the assigned mediator or arbitrator.

Preliminary findings of Minnesota Workers' Compensation System Report: Claims, benefits and costs

By Ender Kavas, Hared Mah and Brian Zaidman, DLI Research and Statistics

The annual Minnesota Workers' Compensation System Report will present 20-year trend data, beginning in 2000, about the status and direction of Minnesota's workers' compensation system and offer explanations, where possible, for recent developments. The report uses the most recently available data from various sources, which leads to different data years being presented for different measures.

The report's preliminary findings include the following.

- The total number of paid workers' compensation claims fell 58%, from 8.1 per 100 full-time-equivalent (FTE) employees in 2000 to 3.4 in 2020.
- Estimated claim rates for 2020 were strongly affected by the COVID-19 pandemic. From 2019 to 2020, there was: a 41% increase in the indemnity claim rate; a 34% decrease in the medical-only claim rate; and a 16% decrease in the total claim rate. COVID-19 claims accounted for 48% of the 2020 claims; nearly 90% of COVID-19 claims were for indemnity benefits, whereas most claims for all other injuries and illnesses were medical-only claims.
- Adjusted for average wage growth, average medical benefits per claim were 22% higher in 2019 than in 2000; indemnity benefits per claim were 25% higher. Most of these increases took place before 2003.
- Despite higher benefits per claim since 2000, costs are down relative to payroll because of the falling claim rate. Compared to 2000, indemnity benefits per \$100 of payroll were 30% lower in 2020 and medical benefits were 47% lower.
- Pure premium rates for 2022 are down 36% from 2000.
- The cost of the Minnesota workers' compensation system for 2020 was an estimated \$1.63 billion, or \$0.96 per \$100 of payroll. In Minnesota and elsewhere, this cost follows a multi-year pricing cycle. However, comparable points in the cycle for Minnesota indicate a long-term downward trend averaging 2.7% a year.
- Benefits per \$100 of payroll, pure premium rates and system cost per \$100 of payroll all decreased roughly 2% to 3% a year during the past 20 years. This is to be expected, given the claim rate decreased by roughly 4% annually and wage-adjusted cost per claim increased by about 1% annually during the same period. That is, the downward pressure exerted by the falling claim rate on cost relative to payroll was partly offset by the increase in wage-adjusted cost per claim.

Annual report updated, available online

The Department of Labor and Industry (DLI) is required to publish an annual report about the performance of payers in the workers' compensation system, with the goal of improving the promptness of individual companies and the entire insurance industry.

The *Prompt First Action Report on Workers' Compensation Claims* was previously based on the state of Minnesota's fiscal year. With the 2020 and 2021 legislative changes, the report is now based on calendar-year reporting.

The report was recently updated and is available online at www.dli.mn.gov/business/workers-compensation/work-comp-reports-publications.



WCRI report compares Minnesota with 17 other states

The Workers' Compensation Research Institute's (WCRI's) most recent report for Minnesota, *CompScope Benchmarks for Minnesota, 22nd Edition*, was released in April. This report uses insurer claim files to compare Minnesota's medical payments, indemnity benefits and insurer expenses with those of 17 other states, including Iowa and Wisconsin, for the 2015 to 2020 period. The report is available for purchase from WCRI at www.wcrinet.org.



Major findings

- Average costs for non-COVID-19 claims with more than seven days of lost time at three years' average maturity, (2018 claims measured in 2021) were 13% lower in Minnesota than the 18-state median. Medical payments, indemnity benefits and benefit delivery expenses were all below the median, although fairly typical relative to other states: -14%, -17% and -13%, respectively.
- Among non-COVID-19 claims in Minnesota with more than seven days of lost time, total costs per claim annually increased between 2% and 3% from 2015 to 2020. This cost growth was close to the typical value for the 18 study states.
- Average medical payments per claim for 2020 non-COVID-19 claims with more than seven days of lost time at one year average maturity were 21% below the 18-state median. For claims with three years' average maturity, medical payments were 14% lower than the median state.
- Litigation expenses per claim were 18% higher than the median state for claims with an average of three years' maturity. Average defense attorney expenses per claim, among claims with defense attorney payments of more than \$500, were among the highest of the study states.
- The average duration of temporary total disability benefits per claim increased by nearly one week from 2019 to 2020. Many of the study states experienced similar increases.
- The percentage of first-year claims with a lump-sum settlement increased by one percentage point from 2019 to 2020. The average lump-sum settlement payment grew 8% per year since 2015 for claims with 12 months average experience, and by 3% for claims with three years' average experience.
- Medical-legal expenses per claim increased by 5.3% from 2019 injury claims to 2020 injury claims, compared with an average annual growth of 2.9% from 2015 through 2019.

Request for comments: Possible changes to rules governing rehabilitation provider registration

The Minnesota Department of Labor and Industry (DLI) published a request for comments on May 16, 2022, about possible changes to the rules governing the registration of rehabilitation providers.

DLI has not yet drafted the possible rules, but when a draft becomes available it will be posted on the DLI workers' compensation rulemaking webpage at www.dli.mn.gov/about-department/rulemaking/workers-compensation-rulemaking. More information about the rules, including how to submit a comment, is available on the request for comments and on the rulemaking docket webpage.

- View the request for comments at https://mn.gov/admin/assets/SR46_46%20-%20Accessible_tcm36-528118.pdf.

CompFact: Recent trends in injured worker job tenure

By Brian Zaidman, Research and Statistics

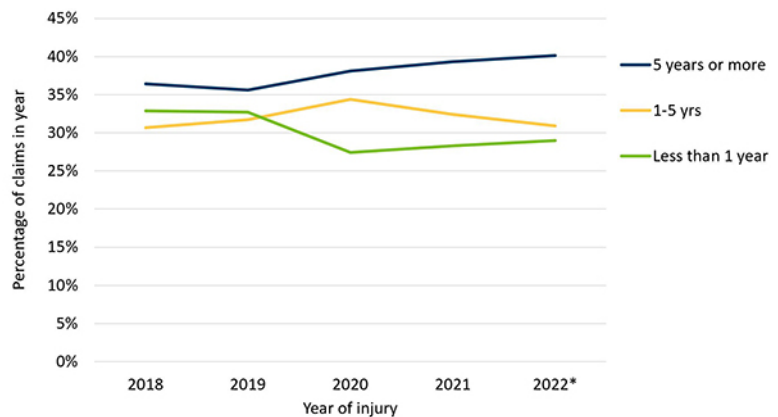
Job tenure, the length of time between the date of hire and the date of injury, is an important metric used to help policymakers understand how trends in employment affect injuries and illnesses and to evaluate the performance of safety training for new job hires. A recent Injury Impact Report from Travelers (www.travelers.com/resources/business-topics/workplace-safety/injury-impact-report) found that from 2015 through 2019, 35% of workplace injuries occurred during a worker's first year on the job. Changes in the availability of work during the pandemic and the subsequent return to employment of many workers may have affected the job tenure profile of injured workers.

This article looks at Minnesota workers' compensation indemnity claims with dates of injury from 2018 through the first three weeks of April 2022. As shown in Figure 1, the percentage of indemnity claims by workers within their first year of employment at their job was 33% in 2018 and decreased to 27% in 2020, likely due to layoffs and a drop in hiring caused by the onset of the COVID-19 pandemic. The percentage of claims by first-year workers has increased slightly in the subsequent years but has not returned to the pre-COVID level.

As for the other two job tenure categories, the percentage of claims from workers with one to five years of job tenure has not changed appreciably during this period. The percentage of claims by workers with five or more years of job tenure increased starting in 2020 and reached 40% by early 2022.

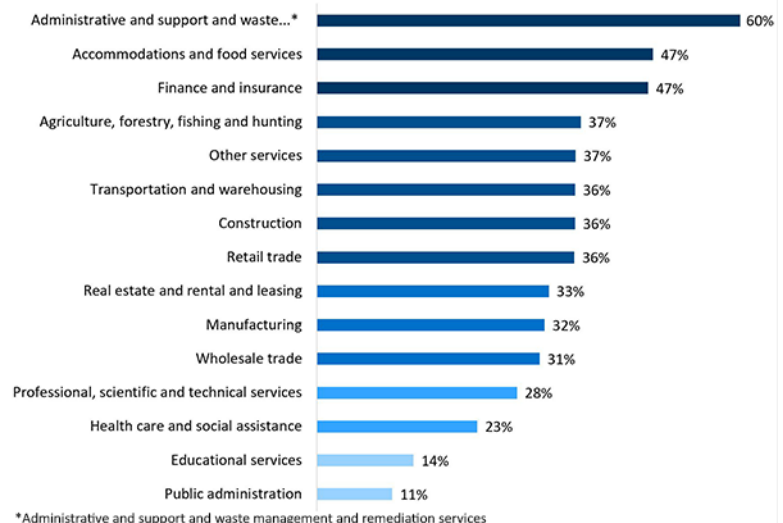
When analyzed by industry sector (Figure 2), the percentage of 2021 indemnity claims to first-year workers was highest in the administration and support, waste management and remediation services sector (60%), which includes temporary help agencies. The other sectors with high percentages of first-year workers were accommodations and food services and finance and insurance, both with 47%. At the other extreme, only 11% of the public administration claims were from workers with fewer than one year of job tenure.

Figure 1. Percentage of indemnity claims by job tenure, 2018 through April 2022



*2022 only includes indemnity claims among claims reported by April 27.

Figure 2. Percentage of 2021 indemnity claims reported by first-year workers among industries with at least 200 indemnity claims



*Administrative and support and waste management and remediation services

Ask the ADR pro

DLI's Alternative Dispute Resolution unit answers frequently asked questions

ADR contributor: Debra Heisick, mediator/arbitrator

Editor's note: The Alternative Dispute Resolution (ADR) unit at the Minnesota Department of Labor and Industry seeks early intervention in workers' compensation disputes through conferences and mediation. It handles calls from the Workers' Compensation Division Help Desk and responds to questions from injured workers and their employers.

COVID-19 claims questions

Q. What are an employer's requirements for reporting and filing workers' compensation claims for COVID-19?

A. Claims for COVID-19 must be processed in the same manner as any other type of workers' compensation claim. Compensability determinations must be made by the insurer or third-party administrator (TPA), not by the employer, despite any anticipated defenses.

The employer must file a first report of injury (FROI) to report the injury to its workers' compensation carrier within 10 days of its occurrence or of the employer's knowledge of the injury or illness, including actual knowledge of a possible work-related contraction of COVID-19 that causes an employee to be wholly or partially unable to work for more than three calendar-days. The insurer or a self-insured employer must then report the injury to the Department of Labor and Industry (DLI) no later than 14 days from the date of the occurrence or knowledge of the injury.

Q. Whose responsibility is it to complete the First Report of Injury (FROI) form?

A. The employer completes the FROI form and submits it to its insurer or TPA. There is no requirement for the injured worker to complete a FROI form. Remember, filing a FROI form is not an admission of liability; the employer's insurer will make the determination of whether to accept or deny the workers' compensation liability; if the employer is self-insured, its TPA may make the determination.

Q. What happens if an employer does not report a COVID-19 claim?

A. Minnesota Statutes 176.231, subdivision 10, states: "If an employer, qualified rehabilitation consultant or rehabilitation vendor, insurer, physician, chiropractor or other health provider fails to file with the commissioner any report or other document required by this chapter in the manner and within the time limitations prescribed, or otherwise fails to provide a report or other document required by this chapter in the manner provided by this chapter, the commissioner may impose a penalty of up to \$500 for each failure." The penalties collected are deposited into the Assigned Risk Safety account.



Q. What happens if an insurer does not report a claim to DLI?

A. The insurer or its TPA have 14 days to either accept or deny liability for an injury or illness. This 14-day period starts on the first day of lost time from work or the date the employer had notice or knowledge of the lost time, whichever is later. A delay in reporting a claim may result in additional penalties for failure to either accept or deny liability in a timely manner.

Q. If an employee chooses not to wear protective gear – against company policy – and contracts COVID-19, does the employer have to report that as an injury? If the employer does not have enough protective gear to go around and the employee chooses to work without wearing protective gear and contracts COVID-19, does the employer have to report the injury?

A. Yes, workers' compensation is a no-fault system designed to provide benefits to employees who are injured as a result of their employment activities. It also helps limit the liability of employers. Because it is a no-fault system, the employee does not need to prove negligence on the part of the employer to establish liability. It also means the employer cannot use negligence on the part of the employee as a defense to a claim.

Q. If the employer determines the only areas where an employee could have been exposed to COVID-19 were areas this employee did not work in, does the employer have to report the injury?

A. The same workers' compensation laws apply to reporting and filing workers' compensation claims for COVID-19 as apply to other injuries, no matter the potential defenses. If an employee claims a work-related COVID-19 injury, the employer must report the claim and the insurer or TPA must file the claim with DLI when the employee has missed more than three days of work or when any other condition that mandates reporting applies. The insurer or TPA will determine whether to accept or deny liability for the claim.



Q. If an injury occurs outside of an employer's building, in its parking lot or elsewhere, aren't those claims supposed to be sent to our comprehensive general liability (CGL) carrier and not to our workers' compensation carrier?

A. No, anytime an employee claims to have suffered a work-related injury, it must be reported and filed as a workers' compensation claim. If there is also a CGL issue, that can be brought separately.

Work Comp Campus questions

Q. Why can't I locate the claim when I am initiating a dispute?

A. When you cannot find a claim, it is often because the insurer or TPA has not filed the FROI form, which is what causes a new claim to be created in Campus. Any mismatch in spelling or numbers will also affect the search. If you are unsure of a spelling, you can enter a partial spelling. If you cannot locate a claim that you believe has been filed, contact the Workers' Compensation Division Help Desk for assistance at 651-284-5005 (press 3), 800-342-5354 (press 3) or helpdesk.dli@state.mn.us.

Q. How can I file my representation when there is no claim?

A. While DLI cannot hold a Notice of Appearance (NOA) or a Notice of Representation (NOR) in advance of the receipt of a FROI, if there is a dispute filed, an NOA or NOR can be filed on that specific dispute even when

there is no claim yet in Campus. After clicking to request access, at the locator screen, click to search for a "Claim Shell" instead of clicking to search for a "Claim." If there are any claim shells that were created by filing a dispute when there is no claim, those will display; by clicking them, the current disputes will display. Users can then pick the target dispute on which to file their NOA or NOR.

Q. Must I file my appearance at both DLI and the Office of Administrative Hearings (OAH)?

A. Yes. While OAH dispute are sent to DLI to be displayed in Campus, for access to a claim or dispute in Campus the appearance must be filed in Campus.

Q. Do I have to pick a "disputed issue" even though I enter a description of the dispute or that it is a request for a mediation?

A. Yes, for the Campus dispute to generate properly, whether you are creating a Request for Certification, a Request for Assistance (conference) or a Request for Mediation, always pick either "medical" or "rehabilitation" for the dispute type and pick a specific issue in dispute from the drop-down menu. Even if a mediation will address more than one disputed issue, there needs to be at least one dispute type selected in Campus.



Q. Why is my name not accepted for the signature on a webform?

A. The name for the signature must be the same as the name of the user logged in. That name will be displayed in the top right corner of your screen.

Q. Can I still use the paper "Medical Request" and "Rehabilitation Request" forms, then upload those to the claim to complete a filing?

A. No, the only parties specifically permitted to file disputes on the paper forms are pro se employees. For attorneys, medical providers and QRCs, the paper forms have been replaced by the Campus webforms.

Q. Where should I file a maximum medical improvement or an independent medical examination?

A. Both should be filed on the claim as an "Other Filing." If any of these documents will also be used to support a dispute, they can also be attached to the request for assistance or submitted as an exhibit.



Work Comp Campus: Back to the basics for effective navigation

By Aaron Frederickson, mediator/arbitrator

The launch of Work Comp Campus provided an opportunity for all interested stakeholders in the workers' compensation system to streamline communication with other parties and the Department of Labor and Industry (DLI). Other benefits Campus adds include:

- self-service online access to claims, related documents and events;
- the ability to securely send documents to the parties;
- secure filing with DLI and the Workers' Compensation Court of Appeals (WCCA); and
- verification of data accuracy.

Enhancements made with the modernization efforts allow attorneys, support staff members, injured employees and other stakeholders to have access at any time to their workers' compensation claims.

Simplified workers' compensation claim organization

Campus users navigate to their "Claims and Cases" (disputes) using the tools available on their personalized dashboard. A filtering function (a funnel icon) on the "My Queues" toolbar promotes efficiency where stakeholders can quickly locate a matter. Campus users have responded positively to the "My Queues" toolbar and report it makes file location and management easy.

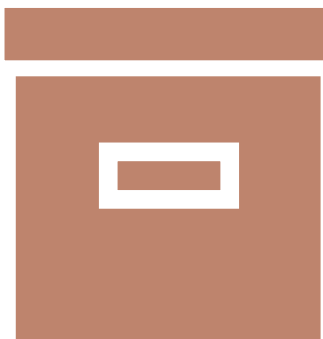
Learning the language of Campus

Learning the correct terminology allows for effective use of Campus and enhances the user experience.

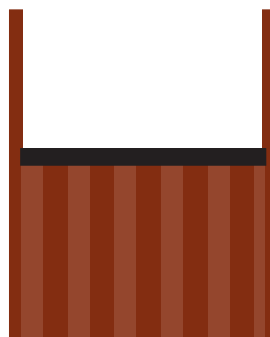
Common navigation terms

- Employee: "EE-XX-XXX-XXXX" represents the nine-digit worker identification (WID) number, the unique identifier for each injured employee.
- Employer: "ER-XX-XXX-XXXX" represents an employer code.
- Insurer: "IR-XX-XXX-XXXX" represents an insurance carrier code.
- Third-party administrator: "TA-XX-XXX-XXXX" represents a third-party administrator code.
- Document: "DO-XX-XXX-XXX" represents a document that has been generated in Campus.

There has been some confusion about claims and cases (disputes) in Campus. To help clarify, a Campus user can think of items they might find in their office. For example, an enormous banker's box represents the employee (WID number); it contains that person's workers' compensation records. An expandable (or red-rope) file represents a claim (CL). And a smaller manila file folder represents a case or dispute (DS).



WID number (EE)



Claim (CL)



Dispute (DS)

- "CL-XX-XXX-XXX" represents a CL number that is a specific date of injury for a specific employee. An employee with multiple dates of injury will have multiple CL numbers. The Campus CL number should not be confused with a law firm's file number or an insurance carrier's claim number.
- "DS-XX-XXX-XXX" represents an employee's specific DS. Examples of disputes at DLI include: a request for assistance (formerly known as a medical or rehabilitation request); a request for certification; and a request for mediation. DS numbers also appear for known cases at the Office of Administrative Hearings (OAH), such as a claim petition.

Recognizing the difference between a claim and a dispute can make Campus easier to use. It also helps DLI staff members provide better service and response to inquiries from those seeking help.

Optimize your Campus use

DLI can help users navigate Campus. The Workers' Compensation Division Help Desk was designed to serve all stakeholders. Contact the help desk at 651-284-5005 (press 3), 800-342-5354 (press 3) or helpdesk.dli@state.mn.us. To help the support staff resolve your issue promptly, describe your issue as completely as possible in your message and include screenshots when contacting the help desk via email.

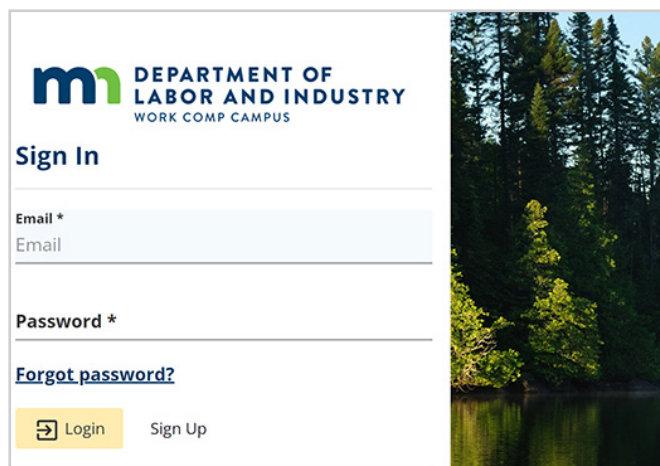
Other tips for effective Campus use

- Remember to file at the correct agency. Campus is the filing system for DLI and WCCA. All filings for these agencies must be submitted in Campus. DLI does not accept filings for OAH; questions about filings at OAH should be directed to that agency.
- When communicating with DLI, provide the specific dispute or case number (DS), if known. This will allow the mediator/arbitrator to locate the case promptly. A heavily litigated matter can have multiple disputes and requires time to locate the correct case.
- Ensure all documents have been updated to include current filing information and the correct case (dispute) number. DLI commonly sees errors involving documents that do not include the case number. These errors cause delays for everyone when proper procedures are not followed.

Work Comp Campus continues to support stakeholders, provide resources

Work Comp Campus, DLI's workers' compensation claims portal that launched Nov. 2, 2020, continues to support internal and external stakeholders through:

- stakeholder-specific newsletters that include recent system update information – sign up at www.dli.mn.gov/about-department/news-and-media/sign-news-department-labor-and-industry;
- posting of FAQs specific to each stakeholder group – see www.dli.mn.gov/business/workers-compensation/work-comp-campus-faqs;
- online availability of training materials and video resources – see www.dli.mn.gov/business/workers-compensation/work-comp-campus-training;
- an anonymous feedback form – see <https://secure.doli.state.mn.us/stakeholderfeedback/>; and
- staffing the Workers' Compensation Division Help Desk, which is available by phone or email Monday through Friday from 8 a.m. to 4:30 p.m. Contact the help desk at 651-284-5005 (press 3), 800-342-5354 (press 3) or helpdesk.dli@state.mn.us.



Rehabilitation Review Panel seeks new members

The Rehabilitation Review Panel (RRP) currently has openings for: one union labor member (four-year term); and one union labor representative alternate member (annual term).

To apply for a position, visit the Secretary of State website at www.sos.state.mn.us/boards-commissions.

RRP is composed of employer, insurer, labor, medical and rehabilitation representatives, and: advises the Department of Labor and Industry (DLI) about workers' compensation vocational rehabilitation issues and rules; is a liaison between DLI and interested people about workers' compensation vocational rehabilitation; and makes final decisions about certification approval or disciplinary matters of qualified rehabilitation consultants and vendors in conjunction with contested hearings.

Learn more about RRP at www.dli.mn.gov/about-department/boards-and-councils/rehabilitation-review-panel.

Stay in the know: Subscribe for news from DLI

Did you know the Department of Labor and Industry offers more than two dozen email lists you can subscribe to receive news targeted to specific groups? (If you are reading this, you are probably on the *COMPACT* email list.)

Lists related to workers' compensation news include the following:

- Adjusters updates
- Employer updates
- Rehabilitation providers updates
- Attorney updates
- Medical providers updates
- Trading partner updates



Other email lists are available for:

- Agency news
- Construction codes, licensing and building trades
- Minnesota OSHA and workplace safety
- Apprenticeship, dual-training and Youth Skills Training
- Labor standards, worker rights, wage and hour
- Rulemaking

To learn more about the available email lists, visit www.dli.mn.gov/about-department/news-and-media/sign-news-department-labor-and-industry.

From the *State Register*: Provider participation list available

Health care providers that provide medical services to an injured worker under the workers' compensation law are required to participate in the Medical Assistance Program and MinnesotaCare as a condition of receiving payment for treatment of the workers' compensation injury.

(See Minnesota Statutes § 256B.0644 and Minnesota Rules, parts 5221.0500, subpart 1, and 9505.5200 to 9505.5240.)



The Department of Human Services (DHS) list of providers that participate in the Medical Assistance Program and MinnesotaCare is now available online. To see if a provider is on the list, check the Minnesota Health Care Programs (MHCP) provider directory at <http://mhcproviderdirectory.dhs.state.mn.us>.

To obtain a full list of participating providers, call the DHS Provider Call Center at 651-431-2700 or 800-366-5411 and request a work order to have the list sent to you. You may also fax the request to 651-431-7462 or mail it to the Department of Human Services, Provider Eligibility and Compliance, P.O. Box 64987, St. Paul, MN 55164-0987.

Workers' compensation events calendar

Note: Event dates may change. Always check the online calendar at www.dli.mn.gov/about-department/about-dli/events-workers-compensation.

June 2022

June 8 Workers' Compensation Advisory Council

July 2022

July 7 Rehabilitation Review Panel

July 21 Medical Services Review Board

August 2022

Aug. 10 Workers' Compensation Advisory Council

Aug. 25 Orientation session for rehabilitation providers

September 2022

Sept. 13 2022 Workers' Compensation Summit: Embracing and navigating the new workplace

Sept. 21 Workers' Compensation Insurers' Task Force

Sept. 22 Rehabilitation provider Webex outreach conference

October 2022

Oct. 6 Rehabilitation Review Panel

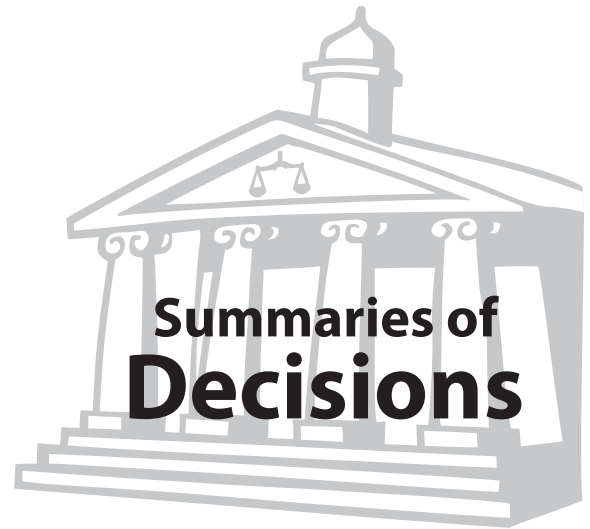
Oct. 12 Workers' Compensation Advisory Council

Oct. 13 Medical Services Review Board

Workers' Compensation Court of Appeals

February through April 2022

Case summaries published are
those prepared by the WCCA



Sheila Anderson v. Valuevision Media, Feb. 2, 2022

Res Judicata

Where the claim brought by the employee had been specifically litigated and decided in an earlier decision involving the same parties, the compensation judge did not err by denying the claim as barred by the principles of res judicata.

Affirmed.

Kimberly T. Brown v. Torgerson Properties, Feb. 4, 2022

Petition to Vacate – Change in Medical Condition

Where the employee's condition at the time of the parties' settlement was stable and the employee had only a nonsurgical disc herniation and degenerative disc disease, no permanent partial disability (PPD) rating, and was capable of full-time work within restrictions, but her condition subsequently worsened such that she has been rated with a 27% PPD, is considered by her qualified rehabilitation consultant as permanently and totally disabled, and has required injections, surgery, post-surgical injections and radiofrequency neurotomies, the employee has made a sufficient showing of an unanticipated change in medical condition to warrant vacating the 2012 Award on Stipulation.

Petition granted.

Thomas Aegerter v. Fairway Foods, Inc., Feb. 8, 2022

Vacation of Award – Substantial Change in Condition

The employee established cause to vacate the award on stipulation where his circumstances satisfied all the factors set out in *Fodness v. Standard Cafe*, 41 W.C.D. 1054 (W.C.C.A. 1989), and where the change in his medical condition was not and could not reasonably have been anticipated at the time of settlement.

Petition granted.

Timothy Humble v. Swift Transportation Company, Feb. 15, 2022

**Evidence – Credibility
Evidence – Expert Medical Opinion**

Where there is no clear evidence to the contrary, a compensation judge’s reliance upon the employee’s credible testimony and the opinion of the employee’s treating physician in determining that the employee sustained an injury that arose out of and in the course and scope of his employment will be upheld.

Affirmed.

Joyce Cagle v. St. Benedict’s Church, Feb. 18, 2022

Practice and Procedure – Adequacy of Findings

Where the compensation judge did not make specific findings on issues raised by the parties at the hearing, the matter is vacated and remanded to the compensation judge.

Vacated and remanded.

Juan Martinez Menchaca v. Dairy Farmers of America, Feb. 23, 2022

**Evidence – Credibility
Practice and Procedure – Adequacy of the Findings**

The compensation judge was not required to make an explicit finding regarding the employee’s credibility or to discuss credibility in her memorandum. The compensation judge’s decision, including her implied finding on credibility, is sufficient for this court’s review.

Evidence – Expert Medical Opinion

The compensation judge did not abuse her discretion in rejecting the opinion of the independent medical examiner and in relying upon the adequately founded expert medical opinion of the employee’s treating physician.

Affirmed.

John Hedner v. Per Mar Security, March 16, 2022

**Job Offer – Physical Suitability
Job Offer – Refusal**

Substantial evidence supported the compensation judge’s conclusion that the employee refused a suitable job offer. It was not an error of law for the compensation judge to accept the opinion of the employee’s doctor and QRC that the job was within the employee’s restrictions over the employee’s own opinion about his ability to perform the job.

Affirmed.

**Permanent Partial Disability – Lumbar Spine
Rules Construed – Minnesota Rules 5223.0390, subpart 4D**

Substantial evidence supported the compensation judge's denial of a 21% rating for the employee's condition pursuant to this Minn. R. 5223.0390, subp. 4D, where the employee's most recent MRI scan showed no nerve root impingement and the judge accepted medical opinion that there was no objective evidence of radiculopathy.

Affirmed.

Ngawang D. Tsotsang v. Hennepin Healthcare System, March 16, 2022

Evidence – Expert Medical Opinion

The compensation judge did not err in relying upon the medical opinion of the employee's expert when it was supported by adequate foundation and evidence in the record.

Temporary Total Disability – Recommencement

Maximum medical improvement is a finding of ultimate fact that must be decided by the compensation judge before recommencement of temporary total disability benefits under Minnesota Statutes § 176.101, subdivision 1(j) can be evaluated.

Affirmed in part, vacated in part and remanded.

Winifred Whitaker v. Walmart, Inc., March 23, 2022

Practice and Procedure – Dismissal

The compensation judge did not abuse her discretion in dismissing the employee's claim with prejudice for failure to prosecute her claim, failure to comply with court orders and failure to cooperate with discovery, which resulted in prejudice to the employer and insurer.

Affirmed.

Dennis Herron v. Franklin Street Bakery, March 29, 2022

Practice and Procedure – Independent Medical Examination

Under the circumstances of this case, the compensation judge did not err in admitting into evidence the report of the employer and insurer's medical examiner, despite the fact that the report was not completed within 120 days of the filing of the employee's claim petition.

Causation – Temporary Injury

Substantial evidence, including medical records and expert medical opinion, supported the compensation judge's finding that the employee had been capable of work under restrictions from and after June 17, 2020, and that the employee's work injury was temporary in nature and had fully resolved by Aug. 12, 2020, without further need for restrictions or treatment.

Practice and Procedure – Matters At Issue

Where “job abandonment” was not the basis for the denial of benefits, and no finding was made that directly resolves the parties’ disagreement on whether the employee “abandoned” his job, the employee’s appeal on this issue is moot.

Penalties – Substantial Evidence

The compensation judge’s denial of the employee’s claim for penalties under Minnesota Statutes section 176.225, subdivisions 1 and 5, is supported by substantial evidence in the record.

Affirmed.

Etta Tomah v. Good Samaritan Society, March 31, 2022

Arising Out Of And In The Course Of – Personal Comfort

Where there was no dispute that the employee’s injury occurred in the course of her employment, the personal comfort doctrine is not applicable in the analysis of whether the injury arose out of her employment.

Affirmed.

Deangelo Profit v. HRT Holdings d/b/a DoubleTree Suites, April 14, 2022

Evidence – Undisclosed Evidence

The compensation judge did not abuse his discretion by disregarding claims of spoliation of evidence where no offer of proof regarding the evidence was made and no motion to compel discovery was brought.

Arising Out Of And In The Course Of – Assault Statutes Construed – Minnesota Statutes § 176.011, subdivision 16

The compensation judge’s finding that the employee’s injuries resulted from an intentional act directed against the employee for personal reasons unrelated to employment and thereby were not compensable under Minn. Stat. 176.011, subd. 16, is supported by substantial evidence.

Affirmed.