

Management Proposals

1. In cases where there is disfigurement, benefits shall be paid only in those instances where there is a wage loss. Should a wage loss occur in the future, the injured worker would retain the right to file for benefits at that time. (In 102.56(1): "In determining the potential for wage loss due to the disfigurement....").
2. Employers shall have the right to direct care to providers of their choice for the first 90 days of care.
3. Implants, medical hardware, and prosthetics to be paid according to a fee schedule to be developed under administrative rule.
4. Modify the formula amount so as to cap medical payments at one standard deviation above the mean (84th percentile).
5. Treatment parameters shall be codified as *guidelines* and be presumptive for determining the necessity of treatment. Treatment outside of the guidelines that may be necessary shall be determined by means of communication between the medical provider and the carrier/employer.
6. Permanent Total Disability assessments to be made only by Board-certified occupational physicians if available within 100 miles. Where a Board-certified occupational physician is not available within 100 miles, current procedures to remain in place.
7. Modify the Certificate of Readiness (COR) requirements so that both parties must sign off on the Certificate before a hearing is scheduled. No hearings can be scheduled within 90 days of the filing of the COR unless by mutual agreement of the parties. Any modifications to the case would reset the hearing date and require an updated COR so that both parties can be prepared.
8. Require that all medical records and evaluations be available at the request of either party, at no charge, upon written request. It is the responsibility of the parties, not the provider, to provide such reports.
9. All claims submitted as medical fee disputes MUST be associated with a claim. Failure to file a claim prior to the fee dispute process will insulate the carrier/self-insured from any fees/penalties levied by the Division.
10. Increase PTD rates to current levels and provide for the indexing of PTD rates for "statutory" PTDs (as defined in 102.44(2)). The enumeration in 102.44(2) is not exclusive, but PTD requires that the injured worker be permanently unable to work – such determination to

be made after both medical and vocational assessment. All other claims shall be treated as Permanent Partial Disability or Temporary Total Disability claims.

11. In 102.17(4), clarify the statute of limitations regarding occupational diseases.

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

12. Applications for hearings shall specify the issue(s) in dispute. Failure to specify the issue(s) would result in the dismissal of the application by the Department (with no effect on the statute of limitations). See 102.17.

13. Similarly, when the Division impleads another employer/carrier, supporting documentation shall be provided as to why the employer/carrier is being made a party to the claim.

14. In the interest of due process, the report of a "tie-breaker" doctor shall be rebuttable and said doctor shall be available for cross-examination by both parties. See 102.17(1)(g).

15. Uncontested denials of indemnity claims shall not require the filing of a final medical report (currently, the Department requires such reports).

16. Make indemnification, hold harmless, duty to defend, and waiver of subrogation clauses null and void as they relate to claims made by injured workers against third parties. Any such claims shall have a statutory limit of \$100,000 for non-economic damages.

Division Proposals

Management Responses – 2/14/11

1 = NO

2 = CLARIFY

3 = AGREE

4 = AGREE

5 = QUESTION (perhaps 12 months)

6 = AGREE

7 = AGREE

8 = FURTHER REVIEW BASED ON CURRENT PRACTICE

9 = AGREE

10 = AGREE

11 = AGREE

12 = CONDITIONALLY AGREE BASED ON REMOVAL OF EYE INJURY LANGUAGE (rejected in #1)

13 = CONDITIONALLY AGREE BASED ON REMOVAL OF LANGUAGE ON TRANSFER TO A NEW CLAIMS HANDLING OFFICE

14 = QUESTION

15 = QUESTION (necessity based on current practice)

16 = QUESTION

17 = CONDITIONALLY OPPOSE (Division should develop a form)

18 = CONDITIONALLY OPPOSE (Division should limit remedy to non-responsive carriers and not to all carriers)

19 = CONDITIONALLY OPPOSE (see #18)

20 = NO OPINION (insufficient information)

21 = NO OPINION (insufficient information but generally prefer WI system to the adoption of AMA guidelines)