



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

### 2007 Wisconsin Act 185 [2007 Senate Bill 430]

### Various Changes in the Workers Compensation Law

2007 Wisconsin Act 185 makes changes to the state's Worker's Compensation Law. The Act is a result of recommendations by the Worker's Compensation Advisory Council. The major provisions of the Act are summarized below.

- Increases the maximum weekly compensation for permanent partial disability from \$262 to \$272 for injuries occurring before January 1, 2009 and to \$282 for injuries occurring on or after that date.
- Increases the maximum supplemental benefit amount for a week of disability occurring after the effective date of the Act (April 1, 2008) to an amount that, when added to the employee's regular benefits equals \$450. Prior to enactment of Act 185, the supplemental amount was an amount, when added to regular benefits, equaled \$338.
- Modifies current statutes relating to professional employer organizations and employee leasing organizations and creates new provisions relating to both.
- Narrows the definition of "temporary help agency" for purposes of third-party liability and the Worker's Compensation Law and limits the right of a temporary help agency employee regarding worker's compensation claims.
- Limits the liability of an employer or insurer for the cost of a prescription drug disbursed for outpatient use by an injured employee to the wholesale price of the prescription drug, as quoted in the *Drug Topics Redbook*.
- Creates a procedure for resolving disputes between a pharmacist and a practitioner and an employer and insurer over the reasonableness of the amount charged for a prescription drug dispensed for outpatient use by an injured employee.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- Eliminates the right of an employer to elect not to be liable for providing Christian Science treatment at the option of an injured employee and limits the liability of an employer for the cost of Christian Science treatment for an injured employee to the usual and customary charge for that treatment.
- Requires the Department of Justice to represent the interests of the state in proceedings for payments made to illegally employed minors.
- Eliminates the requirement that if the balance in the Work Injury Supplemental Benefit Fund on June 30 of any fiscal year exceeds three times the amount paid out of that fund during the fiscal year, the Department of Workforce Development (DWD) must reduce the death or disability payments made into that fund so that the balance in the fund will remain at three times the amount paid out of the fund in the proceeding fiscal year.
- Lowers the required interest discount basis from 7% to 5% for the discharge or guarantee of payments for deposits of unpaid total compensation for worker's compensation payments that extend over a period of six months or more.
- Provides that an employer or DWD is not liable for the expense of any examination or test for hearing loss, any evaluation of the test or examination, any medical treatment for improving or restoring hearing, or any hearing aid to relieve the effects of hearing loss unless it is determined that worker's compensation benefits from the fund for occupational deafness are payable. The Act also includes specific effective dates for claims related to occupational deafness.
- Prior to enactment of Act 185, in cases of admitted liability in which there was no dispute as to the amount of worker's compensation due and in which no appeal or hearing was necessary, the fee for enforcement or collection of a claim for compensation could not exceed 10% of the amount at which the claim comprised or the amount adjusted, or collected -- up to a maximum of \$100. Act 185 raises the maximum fee that may be charged in those cases to \$250.
- Eliminates the requirement that the Secretary of DWD consider incurred, but not reported claims, in determining whether expedited losses on claims exceed 85% of the cash balance and the uninsured employers fund, and whether that cash balance is likely to be adequate to fund all claims against that fund. Under the Act, the Secretary of DWD is required to consider only expected losses on known claims in making his or her determinations.
- Specifies that a lien for payments owed by an uninsured employer is effective when DWD issues a warrant and provides that the lien continues in effect until the amount owed, including interest, cost, and other fees to the date of payment, is paid.
- Provides that the personal liability of an officer, director, member, or manager of the uninsured employer is an independent obligation, and applies to those individuals, the procedures under current law by which DWD may collect payments owed by an uninsured employer. The Act also specifies that a lien on the real and personal property of an individual who is personally liable for an amount owed by an uninsured employer continues in effect until the amount owed, including interest, cost, and other fees to the date of the payment is paid.

- With regard to DWD rules establishing standards for determining the necessity of treatment provided to an injured employee, the Act eliminates a current requirement that those rules must be consistent with Minnesota rules relating to this same topic.

***Effective Date:*** The effective date of Wisconsin Act 185 is April 1, 2008, except for those provisions with a specified effective date.

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