

EMPLOYERS

WORKERS

PROVIDERS

NORTH DAKOTA WORKERS' COMPENSATION

Historical Overview

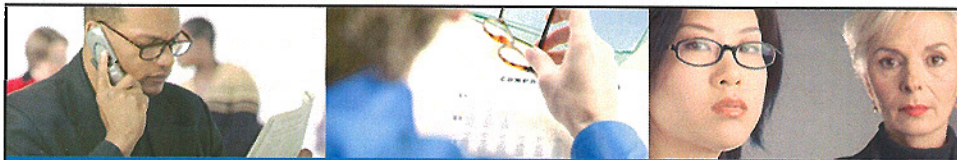
For the Interim Industry, Business & Labor Committee



INDEMNITY

Wage Replacement Benefits:

- ➡ **Temporary Total Disability**
- ➡ **Temporary Partial Disability**
- ➡ **Permanent Total Disability**
(After presumed retirement date
Additional Benefit Payable)
- ➡ **Death Benefits**
(Paid out at deceased wage rate)



MEDICAL

- **Lifetime Medical Benefits for injury**
- **Pharmacy**
- **WSI is a Managed Care System:**
 - Fee Schedule
 - Directed care by Utilization Review



PPI (Permanent Partial Impairment)

- **Award based upon the extent to which an injury causes permanent disability**
- **Awards begin at 16 percent whole-body impairment and payments range from \$1,980 to \$297,000**

One System, Three Classes

There are three groups...

- ➡ **Pre-1995**
- ➡ **1995 - 2006**
- ➡ **Post - 2006**



PRE - 1995

- **No retirement presumption (benefits for life)**
- **No caps on duration of TTD**
- **10-year waiting period for SUPS (COLA)**
- **SUPS paid up to 2/3rds of SAWW**
- **No TPD Caps**
- **False claim statute had no teeth**
- **Vocational statute had little teeth**
- **Attorney fees paid win or lose, no caps**



1995 - 2006

- Retirement Presumption and ABP benefits
- No cap TTD
- 2 strikes in Vocational Rehabilitation
- False statements closed claim for life
- SUPS (COLA) shorten to 7 years but paid based on AWW
- Medical manage care implemented
- TPD capped at 5 years



Post 2006

- TTD shortened to 2 years
- Retraining now optional
- 3 year waiting period for SUPS (COLA)
- Due to TTD cap, Vocational Rehabilitation has more teeth
- Expanded benefits to the most severely injured
- Changed definition for PTD to objective standard





Issues & Results of Debates

WSI is an insurer of Work-Related Injuries

- Persistent conditions, injuries, diseases
- Repetitive motion
- Aging workforce
- We are not a general healthcare insurer
- We are not a social welfare agency



Issues & Results of Debates

WSI Pays for Wages Lost Due to Compensable Condition

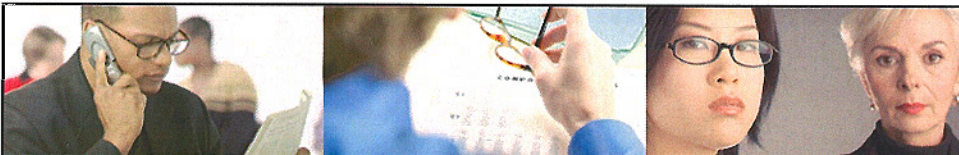
- 66 two-thirds or taxable net (tax-free wages)
- Dependency Allowances of \$10 per week
(per dependent up to taxable net wages)
- Capped wages we will replaces at 110% of the
SAWW, (\$653 per week as of 7/1/2007)
- Simply bad policy to pay Injured Employees
more to be off work than on work



Issues & Results of Debates

Injured Employee Will Return to Work

- Following Injury, WSI pays wages and medical benefits
- Focus is an effort to return employee back to work
- Only proven method is using compliance incentives and penalties
- Best outcome is the one with the least amount of intervention possible



Issues & Results of Debates

The Fund is NOT a Retirement System

- The age at which you draw social security or when you are fully able to participate, your wage-loss benefits end
- ABP (Additional Benefit Payable) begins to cover any anticipated losses from the lack of payments into the social security retirement system



Issues & Results of Debates

All of the Medical Benefits Covered Must be for Compensable Claims

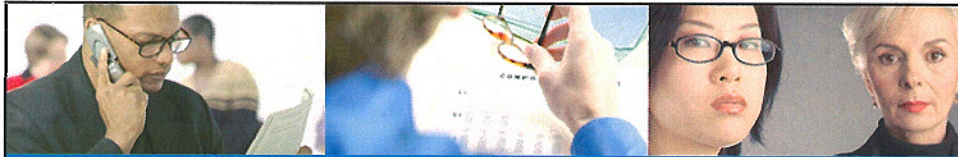
- **WSI must effect the best, most cost-effective medical treatment in all cases**
- **Essentially WSI is a manager-care system for both treatments and prescriptions**



Issues & Results of Debates

False Statements or False Claims To Gain Benefits will be Punished

- **If fraud is determined, no more benefits on the claim, either medical ore wage-loss will be paid**
- **There are criminal consequences possible as well for employees, employers and medical providers**



Issues & Results of Debates

Attorney Fees Payable if Successful

- Injured employees attorney fees are payable only if successful and only to the set cap

WSI Removed from Direct Executive Branch Oversight

- Allows for accurate premium rate determination
- Granted authority to build and maintain infrastructure
- Pay for performance allowed for professional staff development
- Mandate was to run WSI as a business and not as a government agency



Areas of Concern

- Over time legislation erodes
- Constant challenges and tests
- Exposes or creates openings or loopholes
- Enforcement changes to meet those expansions



Quick Guide to Workers Compensation Benefits

Wage Replacement and Additional Benefits:

Temporary Total Disability

- An injured worker receives tax-free wage-loss benefits equal to 2/3rds of the worker's pre-injury gross weekly wage, plus \$10 per week for each dependent child, subject to statutory maximums and minimums.
- TTD benefits are provided for a period up to 104 weeks or the date the injured worker reaches maximum medical improvement, whichever occurs first.
- North Dakota's maximum weekly wage-loss benefits are 110% of the State's Average Weekly Wage (SAWW), which for 2007 is \$567. The current maximum benefit for 2007 is \$624 per week.
- North Dakota has one of the highest minimum wage-loss benefit rates in the country at 60% of the state's average weekly wage or 100% of the worker's pre-injury net wages, whichever is less. The current minimum benefit for 2007 is \$341 per week.

Temporary Partial Disability

- An injured worker who is able to return to work but earns a wage lower than their pre-injury wage receives partial disability (TPD) benefits equal to 2/3rds of the difference between their pre-injury and post-injury earnings.
- The partial disability benefits and post injury wages may not exceed the pre-injury wages and may not exceed 5 years. The 5 year cap can be waived in catastrophic cases.

Permanent Total Disability

- For injuries resulting in permanent total disability or death, benefit recipients are entitled to supplementary benefits (cost of living adjustments) after seven consecutive years of disability. The waiting period was changed from 10 years to 7 years during the 2001 legislative session. Annual adjustments equal the percent increase in the SAWW.

Offsets

- WSI offsets social security disability benefits when the injured worker is receiving total disability benefits from WSI and has qualified for Social Security Disability benefits as well. WSI's offset is 50% of the initial benefit paid by the Social Security Administration (SSA). The offset amount is neither changed nor adjusted for the annual cost of living adjustments (COLAs) the injured worker receives from SSA.
- WSI offsets social security retirement benefits for post 1989 and pre-1995 injuries that resulted in Permanent Total Disability. The amount of the offset is based on a ratio of their wages at time of injury to the current state's average weekly wage and cannot exceed 40% of the injured worker's weekly social security retirement benefit. WSI's conversion from offsetting an injured worker's social security disability benefits to offsetting an injured worker's social security retirement benefits may not result in a decrease in the aggregate amount of benefits received from both sources.

Retirement

- For workers injured during their post-retirement years, disability and vocational rehabilitation benefits are capped at 3 years. Lifetime medical and Permanent Partial Impairment benefits related to their work injury are not affected.
- For post-1995 injuries, wage-loss benefits end at time of social security retirement eligibility at which time they convert to an additional benefit payable.

Additional Benefit Payable

- For post-1995 injuries, North Dakota offers an additional benefit commencing at the time of retirement, when wage-loss benefits end.
- The amount and duration of this benefit are commensurate with the benefit amount the injured worker was receiving at the time of retirement eligibility and the length of time the worker was disabled before retirement.
- Catastrophically injured workers receive an additional benefit of 100% of their disability benefit at the time of their discontinuance for the remainder of their lifetime.

Vocational Rehabilitation Benefits

- Qualified injured workers may receive payment for up to two years of retraining, tuition and costs, with continued medical coverage. Wage-loss benefits (Rehab Allowance) continue through the completion of the program.
- WSI pays an additional 25% allowance for a second domicile during school when necessary.
- Qualified injured workers may also be eligible for exceptional circumstance scholarships and low-interest loans through an educational revolving fund.
- Upon completion of retraining wage loss benefits can extend for up to 2 months during periods of job search. Additionally, if eligible, injured workers can receive for up to 1 year post retraining, a partial benefit based on their earnings potential.

Permanent Partial Impairment Benefits (PPI)

- PPI benefits are one-time, lump-sum cash awards paid in addition to medical, wage-loss, and vocational rehabilitation benefits.
- PPI benefits are determined as a percent of whole-body impairment, and paid according to a schedule that assigns a certain number of weeks to each percent of impairment starting at 16%.
- The current PPI benefit for 2007 is \$189 per week, which is 1/3rd of the SAWW.

Death Benefits

- A surviving spouse receives a weekly benefit that equals 2/3rd of the decedent's pre-injury gross weekly wage, subject to statutory maximums and minimums.
- Incidental expenses are paid at the time of death in the amount of \$1,200 for the surviving spouse and \$400 for each dependent child.
- Burial expenses are reimbursed up to \$6,500.
- The current lifetime cap on death benefits, paid on any one claim, is \$250,000.
- WSI *does not* offset social security survivor's benefits.
- A non-dependency death award in the amount of \$12,500 is issued to the closest surviving relative for workers who died as a result of a compensable work injury and have no surviving dependents.
- Scholarships are provided for dependents and spouses of workers who died as a result of a compensable work related injury. The maximum amount payable on behalf of an applicant is \$4,000 per year for no more than 5 years. The total amount of scholarships awarded for any one year cannot exceed \$300,000.

Medical Benefits:

- WSI pays for all reasonable and necessary medical care for a work injury, at no cost (no co-pays; no deductibles) to the injured worker, for as long as treatment is required for the injury.
- There is no maximum dollar limit on medical coverage.
- WSI can pay an allowance of up to \$50,000 for remodeling or adaptations to home and up to \$100,000 for vehicles and/or vehicle adaptations for the catastrophically injured.