



Minnesota Workers' Compensation  
Insurers Association, Inc.  
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**ALL ASSOCIATION MEMBERS**

Circular Letter 11-1604

**RE: Guidance on Carriers Obligation to Report Wage Loss Benefits**

This Circular Letter is intended to provide guidance to carriers on their obligation to report wage loss benefits under the Minnesota Statistical Plan when an employer elects to directly pay wages to the injured worker under Minnesota statutes, section 176.221, subd. 9, which governs an employer's payment of full wages to an injured employee.

Apparently some employers may be paying wages to an injured employee, as permitted under subdivision 9, and then asking their carrier to report only the medical benefits paid by the carrier under the injured employee's workers compensation claim. This being done would result in reducing the impact of wage loss benefits due the injured employee on future experience ratings.

Under Minnesota statutes, section 176.021, subd. 1, the employer has the obligation to pay benefits to an injured worker:

*Every employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of an employee arising out of and in the course of employment without regard to the question of negligence. The burden of proof of these facts is upon the employee.*

In Minnesota statute, section 176.181, subd. 2(a), the law also mandates that employers guaranty that these obligations will be paid by purchasing workers' compensation insurance, or having an approved self insurance plan.

*Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of commerce exempting the employer from insuring liability for compensation and permitting self-insurance of the liability.*

The basic workers' compensation policy approved for use in Minnesota by all carriers (WC 00 00 00 B) reflects both the employer's obligation to pay benefits and the carrier's agreement to assume the obligation to pay those benefits on behalf of the employer:

Basic Policy, Part One, B. We Will Pay: We will pay promptly when due the benefits required of you by the workers compensation law.

When a carrier pays wage loss and/or medical benefits to the injured worker, those payments are required to be reported under the Minnesota Statistical Plan and become part of the experience rating for that employer. This allows the Experience Rating Plan to accurately reflect the experience of that employer, and to correctly measure that employer's experience relative to other employers with similar work classification exposures.

It is important to point out that Minnesota statutes, section 176.221, subd. 9, does not alter any reporting requirements under the Minnesota Statistical Plan or the Experience Rating Plan, which are governed by other sections of the law and Minnesota regulations. If an employer elects to pay full wages to an injured employee, outside of its insurance policy, that does not turn the injured employee's claim for wage and medical benefits into a medical only claim. Nor does it permit the carrier to exclude wage loss benefits due the injured employee from Minnesota Statistical Plan reports.

If an employer pays full wages to the injured employee in lieu of the employee receiving wage loss benefits from a carrier, the carrier is obligated under the policy to reimburse that employer up to the level of wage loss benefits since the policy contractually obligates the carrier to pay those benefits. Whether or not that payment is made by the carrier, the carrier is required under the Minnesota Statistical Plan to report the full amount of wage loss benefits due the injured worker under that claim.

If a carrier attempts to circumvent its reporting obligations under the Minnesota Statistical Plan by cooperating with an employer to avoid reporting wage loss benefits (or if an agent is counseling an employer to undertake this tactic to artificially reduce its experience ratings), disciplinary action by the Department of Commerce is possible. If as a result of such a program, the injured employee receives less than his or her rightful wage loss benefits under Minnesota law, additional liability may be imposed by the Department of Labor & Industry.

In summary, the intent of the Minnesota Statistical Plan and the Experience Rating Plan is to accurately measure all benefits paid to injured workers under Minnesota's workers' compensation law. Any attempt to underreport wage loss benefits by reclassifying such benefits as some form of wage continuation paid to an injured worker by his or her employer is not permitted.

Please direct any questions you may have concerning this item to MWCIA Senior Communications/Underwriter Specialist, Glenn Colby, at 952.897.6411 or by emailing him at [glenn.colby@mwcia.org](mailto:glenn.colby@mwcia.org).