

85.38 Reduction of obligations of employer.

1. *Contributions or donations.* The compensation herein provided shall be the measure of liability which the employer has assumed for injuries or death that may occur to employees in the employer's employment subject to the provisions of this chapter, and it shall not be in anywise reduced by contribution from employees or donations from any source.

2. *Benefits paid under group plans.*

a. In the event the employee with a disability shall receive any benefits, including medical, surgical, or hospital benefits, under any group plan covering nonoccupational disabilities contributed to wholly or partially by the employer, which benefits should not have been paid or payable if any rights of recovery existed under this chapter, chapter 85A, or chapter 85B, then the amounts so paid to the employee from the group plan shall be credited to or against any compensation payments, including medical, surgical, or hospital, made or to be made under this chapter, chapter 85A, or chapter 85B. The amounts so credited shall be deducted from the payments made under these chapters. Any nonoccupational plan shall be reimbursed in the amount deducted. This section shall not apply to payments made under any group plan which would have been payable even though there was an injury under this chapter or an occupational disease under chapter 85A or an occupational hearing loss under chapter 85B. Any employer receiving such credit shall keep the employee safe and harmless from any and all claims or liabilities that may be made against them by reason of having received the payments only to the extent of the credit.

b. If an employer denies liability under this chapter, chapter 85A, or chapter 85B, for payment for any medical services received or weekly compensation requested by an employee, and the employee is a beneficiary under either an individual or group plan for nonoccupational illness, injury, or disability, the nonoccupational plan shall not deny payment for the medical services received or for benefits under the plan on the basis that the employer's liability under this chapter, chapter 85A, or chapter 85B is unresolved.

3. *Supplementation of workers' compensation benefits.* A public employer shall not supplement an employee's workers' compensation benefits by reducing the employee's sick leave, vacation leave, or earned compensatory time entitlements, unless the employer first notifies the employee of the employee's option to supplement and the employee elects to so supplement.

4. *Lien for hospital and medical services under chapter 249A.* In the event any hospital or medical services as provided in section 85.27 are paid by the state department of human services on behalf of an employee who is entitled to such benefits under the provisions of this chapter or chapter 85A or 85B, a lien shall exist as respects the right of such employee to benefits as described in section 85.27.

[S13, §2477-m12; C24, 27, 31, 35, 39, §1398; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.38]

83 Acts, ch 96, §160; 83 Acts, ch 153, §1; 84 Acts, ch 1086, §1; 96 Acts, ch 1129, §18; 97 Acts, ch 36, §1; 2002 Acts, ch 1050, §14; 2005 Acts, ch 168, §11, 23; 2009 Acts, ch 41, §263

Referred to in §85.27