

85.26 Limitation of actions — who may maintain action.

1. An original proceeding for benefits under [this chapter](#) or [chapter 85A](#), [85B](#), or [86](#), shall not be maintained in any contested case unless the proceeding is commenced within two years from the date of the occurrence of the injury for which benefits are claimed or, if weekly compensation benefits are paid under [section 86.13](#), within three years from the date of the last payment of weekly compensation benefits. For the purposes of [this section](#), “*date of the occurrence of the injury*” means the date that the employee knew or should have known that the injury was work-related.

2. An award for payments or an agreement for settlement provided by [section 86.13](#) for benefits under [this chapter](#) or [chapter 85A](#) or [85B](#), where the amount has not been commuted, may be reviewed upon commencement of reopening proceedings by the employer or the employee within three years from the date of the last payment of weekly benefits made under the award or agreement. If an award for payments or agreement for settlement as provided by [section 86.13](#) for benefits under [this chapter](#) or [chapter 85A](#) or [85B](#) has been made and the amount has not been commuted, or if a denial of liability is not filed with the workers' compensation commissioner and notice of the denial is not mailed to the employee, in the form and manner required by the commissioner, within six months of the commencement of weekly compensation benefits, the commissioner may at any time upon proper application make a determination and appropriate order concerning the entitlement of an employee to benefits provided for in [section 85.27](#). The failure to file a denial of liability does not constitute an admission of liability under [this chapter](#) or [chapter 85A](#), [85B](#), or [86](#).

3. Notwithstanding [chapter 17A](#), the filing with the workers' compensation commissioner of the original notice or petition for an original proceeding or an original notice or petition to reopen an award or agreement of settlement provided by [section 86.13](#), for benefits under [this chapter](#) or [chapter 85A](#) or [85B](#) is the only act constituting “commencement” for purposes of [this section](#).

4. No claim or proceedings for benefits shall be maintained by any person other than the injured employee, or the employee's dependent or legal representative if entitled to benefits.

[S13, §2477-m34; C24, 27, 31, 35, 39, §1386, 1457; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §85.26, 86.34; C79, 81, §85.26; 82 Acts, ch 1161, §3]

83 Acts, ch 105, §3; 84 Acts, ch 1067, §15; 98 Acts, ch 1061, §3, 11; 2017 Acts, ch 23, §4, 24

Referred to in §85.27, 85.34, 85.35, 85.59, 85.72, 86.13

2017 amendment to subsection 1 applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24