

(P. 568) 3-9-94 House - Liberty and Justice Act
(P. 642) 3-15-94 House - Do Pass

FILED MAR 2 1994

SENATE FILE 2245
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS

(SUCCESSOR TO SSB 2195)

Passed Senate, Date 3/8/94 (p. 581) Passed House, Date 4-5-94
Vote: Ayes 50 Nays 0 Vote: Ayes 180 Nays 0
Approved April 13, 1994

A BILL FOR

1 An Act relating to workers' compensation by limiting debt
2 collection of certain health care charges, by providing wage
3 replacement for certain injured workers receiving treatment,
4 by modifying the minimum weekly benefit amount for death,
5 permanent partial disability, or a total disability, by
6 providing for payment of temporary partial disability benefits
7 in certain situations, and by providing an employer credit for
8 the overpayment of certain benefits to employees.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2245

1 Section 1. Section 85.27, Code 1993, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. While a contested case
4 proceeding for determination of liability for workers'
5 compensation benefits is pending before the industrial
6 commissioner relating to an injury alleged to have given rise
7 to treatment, no debt collection, as defined by section
8 537.7102, shall be undertaken against an employee or the
9 employee's dependents for the collection of charges for that
10 treatment rendered an employee by any health service provider.
11 However, the health service provider may send one itemized
12 written bill to the employee setting forth the amount of the
13 charges in connection with the treatment after notification of
14 the contested case proceeding.

15 Sec. 2. Section 85.27, Code 1993, is amended by adding the
16 following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. If, after the third day of
18 incapacity to work following the date of sustaining a
19 compensable injury which does not result in permanent partial
20 disability, or if, at any time after sustaining a compensable
21 injury which results in permanent partial disability, an
22 employee, who is not receiving weekly benefits under section
23 85.33 or section 85.34, subsection 1, returns to work and is
24 required to leave work for one full day or less to receive
25 services pursuant to this section, the employee shall be paid
26 an amount equivalent to the wages lost at the employee's
27 regular rate of pay for the time the employee is required to
28 leave work. The employer shall make the payments under this
29 paragraph as wages to the employee after making such
30 deductions from the amount as legally required or customarily
31 made by the employer from wages. Payments made under this
32 paragraph shall be required to be reimbursed pursuant to any
33 insurance policy covering workers' compensation. Payments
34 under this paragraph shall not be construed to be payment of
35 weekly benefits.

1 Sec. 3. Section 85.31, subsection 1, unnumbered paragraph
2 2, Code 1993, is amended to read as follows:

3 The weekly benefit amount shall not exceed a weekly benefit
4 amount, rounded to the nearest dollar, equal to ~~sixty-six-and~~
5 ~~two-thirds~~ two hundred percent of the statewide average weekly
6 wage paid employees as determined by the department of
7 employment services under section 96.19, subsection 36, and in
8 effect at the time of the injury. ~~However, as of July 1,~~
9 ~~1975, July 1, 1977, July 1, 1979, and July 1, 1981, the~~
10 ~~maximum weekly benefit amount rounded to the nearest dollar~~
11 ~~shall be increased so that it equals one hundred percent, one~~
12 ~~hundred thirty-three and one third percent, one hundred sixty-~~
13 ~~six and two thirds percent and two hundred percent,~~
14 ~~respectively, of the statewide average weekly wage as~~
15 ~~determined above.~~ The minimum weekly benefit amount shall be
16 equal to the weekly benefit amount of a person whose gross
17 weekly earnings are thirty-five percent of the statewide
18 average weekly wage, ~~or to the spendable weekly earnings of~~
19 ~~the employee, whichever are less.~~ Such compensation shall be
20 in addition to the benefits provided by sections 85.27 and
21 85.28.

22 Sec. 4. Section 85.33, subsection 3, Code 1993, is amended
23 to read as follows:

24 3. If an employee is temporarily, partially disabled and
25 the employer for whom the employee was working at the time of
26 injury offers to the employee suitable work consistent with
27 the employee's disability the employee shall accept the
28 suitable work, and be compensated with temporary partial
29 benefits. If the employee refuses to accept the suitable work
30 with the same employer, the employee shall not be compensated
31 with temporary partial, temporary total, or healing period
32 benefits during the period of the refusal. If suitable work
33 is not offered by the employer for whom the employee was
34 working at the time of the injury and the employee who is
35 temporarily partially disabled elects to perform work with a

1 different employer, the employee shall be compensated with
2 temporary partial benefits.

3 Sec. 5. Section 85.34, subsection 2, unnumbered paragraph
4 1, Code 1993, is amended to read as follows:

5 Compensation for permanent partial disability shall begin
6 at the termination of the healing period provided in
7 subsection 1 ~~of this section.~~ The compensation shall be in
8 addition to the benefits provided by sections 85.27 and 85.28.
9 The compensation shall be based upon the extent of the
10 disability and upon the basis of eighty percent per week of
11 the employee's average ~~weekly spendable~~ weekly earnings, but
12 not more than a weekly benefit amount, rounded to the nearest
13 dollar, equal to ~~sixty-one-and-one-third~~ one hundred eighty-
14 four percent of the statewide average weekly wage paid
15 employees as determined by the department of employment
16 services under section 96.19, subsection 36, and in effect at
17 the time of the injury. ~~However, as of July 1, 1975, July 1,~~
18 ~~1977, July 1, 1979, and July 1, 1981, the maximum weekly~~
19 ~~benefit amount rounded to the nearest dollar shall be~~
20 ~~increased so that it equals ninety-two percent, one hundred~~
21 ~~twenty-two and two-thirds percent, one hundred fifty-three and~~
22 ~~one-third percent, and one hundred eighty-four percent,~~
23 ~~respectively, of the statewide average weekly wage as~~
24 ~~determined above.~~ The minimum weekly benefit amount shall be
25 equal to the weekly benefit amount of a person whose gross
26 weekly earnings are thirty-five percent of the statewide
27 average weekly wage, ~~or to the spendable weekly earnings of~~
28 ~~the employee, whichever are less.~~ ~~However, if the employee is~~
29 ~~a minor or a full-time student under the age of twenty-five in~~
30 ~~an accredited educational institution, the minimum weekly~~
31 ~~benefit amount shall be equal to the weekly benefit amount of~~
32 ~~a person whose gross weekly earnings are thirty-five percent~~
33 ~~of the statewide average weekly wage.~~ For all cases of
34 permanent partial disability compensation shall be paid as
35 follows:

1 Sec. 6. Section 85.34, subsection 3, unnumbered paragraph
2 1, Code 1993, is amended to read as follows:

3 Compensation for an injury causing permanent total
4 disability shall be upon the basis of eighty percent per week
5 of the employee's average weekly spendable weekly earnings,
6 but not more than a weekly benefit amount, rounded to the
7 nearest dollar, equal to ~~sixty-six-and-two-thirds~~ two hundred
8 percent of the statewide average weekly wage paid employees as
9 determined by the department of employment services under
10 section 96.19, subsection 36, and in effect at the time of the
11 injury. ~~However, as of July 1, 1975; July 1, 1977; July 1,~~
12 ~~1979; and July 1, 1981, the maximum weekly benefit amount~~
13 ~~rounded to the nearest dollar shall be increased so that it~~
14 ~~equals one hundred percent, one hundred thirty-three and one-~~
15 ~~third percent, one hundred sixty-six and two-thirds percent~~
16 ~~and two hundred percent, respectively, of the statewide~~
17 ~~average weekly wage as determined above.~~ The minimum weekly
18 benefit amount is equal to the weekly benefit amount of a
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20 the statewide average weekly wage, ~~or to the spendable weekly~~
21 ~~earnings of the employee, whichever are less.~~ ~~However, if the~~
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23 ~~twenty-five in an accredited educational institution the~~
24 ~~minimum weekly benefit amount shall be equal to the weekly~~
25 ~~benefit amount of a person whose gross weekly earnings are~~
26 ~~thirty-five percent of the statewide average weekly wage.~~ The
27 weekly compensation is payable during the period of the
28 employee's disability.

29 Sec. 7. Section 85.34, Code 1993, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 5. RECOVERY OF EMPLOYEE OVERPAYMENT. If
32 an employee is paid any weekly benefits in excess of that
33 required by this chapter and chapters 85A, 85B, and 86, the
34 excess paid by the employer shall be credited against the
35 liability of the employer for any future weekly benefits due

1 pursuant to subsection 2, for a subsequent injury to the same
2 employee. An overpayment can be established only when the
3 overpayment is recognized in a settlement agreement approved
4 under section 86.13, pursuant to final agency action in a
5 contested case which was commenced within three years from the
6 date that weekly benefits were last paid for the claim for
7 which the benefits were overpaid, or pursuant to final agency
8 action in a contested case for a prior injury to the same
9 employee. The credit shall remain available for eight years
10 after the date the overpayment was established. If an
11 overpayment is established pursuant to this subsection, the
12 employee and employer may enter into a written settlement
13 agreement providing for the repayment by the employee of the
14 overpayment. The agreement is subject to the approval of the
15 industrial commissioner. The employer shall not take any
16 adverse action against the employee for failing to agree to
17 such a written settlement agreement.

18

EXPLANATION

19 This bill makes several changes to the workers'
20 compensation laws.

21 Section 1 of the bill provides that, except for providing a
22 copy of the amount owed, no debt collection action can be
23 taken to recover health service provider charges for treatment
24 of an employee for an injury while a workers' compensation
25 contested case proceeding is pending.

26 Section 2 provides that certain injured employees can
27 receive an amount equivalent to the wages the employee lost
28 for having to leave work to receive treatment subsequent to
29 sustaining a compensable injury. The section provides that
30 this payment is required to be covered by any workers'
31 compensation insurance policy. The payment is considered to
32 be payment of wages and not weekly benefits.

33 Sections 3, 5, and 6 provide that the minimum weekly
34 benefit amount for death, a permanent partial disability, or a
35 total disability is based solely on the weekly benefit amount

1 of a person whose gross weekly earnings are 35 percent of the
2 statewide average weekly wage. Currently, except for a minor
3 or a student, the amount is based on the lesser of the 35
4 percent amount or the spendable weekly earnings of the
5 employee.

6 Section 4 provides that temporary partial disability
7 benefits are available upon return to work by an injured
8 employee with a different employer if the injured employee's
9 employer is unable to provide suitable work.

10 Section 7 allows an employer to take a credit against
11 future weekly benefits paid to an employee for a permanent
12 partial disability when the employer paid any weekly benefits
13 in excess of the amount required. This would allow an
14 employer to take the credit for weekly benefits due an
15 employee for a permanent partial disability when that same
16 employer has overpaid compensation for a prior injury to the
17 same employee. The section also allows the employer and
18 employee to agree to a repayment of the overpayment pursuant
19 to a written settlement agreement.

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SENATE FILE 2245
FISCAL NOTE

A fiscal note for Senate File 2245 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2245 makes several amendments to the State's workers' compensation statutes.

1. Section 1 provides that no debt collection action can be taken to recover health service provider charges for treatment of an employee for an injury while a workers' compensation contested case proceeding is pending, except for providing a copy of the amount owed.
2. Section 2 requires the full payment of wages for time lost due to medical treatment. Under current policies and practices, the State only pays workers' compensation when the injured employee misses more than 4 hours of work, because 4 hours pay is more than the State pays for a full day of the workers' compensation daily rate. The payments would be independent of weekly workers' compensation benefit payments and would include payment for time lost to attend medical treatments (medical only claims) and lost time that is not otherwise currently picked up under lost time claims.
3. Sections 3, 5, and 7 place a floor on benefits at 35.0% of the statewide weekly wage.
4. Section 4 provides for temporary partial disability payments to workers who are offered other work by the same employer. If the employee does not accept the other position, then the employee will not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal. However, if the employer does not offer suitable work, the employee will be compensated.
5. Section 7 provides employers with credits for overpayment of permanent partial disability payments.

ASSUMPTIONS:

1. The number of lost time claims will remain at the FY 1993 level of 1,165.
2. Each medical-only claim will average 2 treatment visits.
3. The number of medical-only claims will remain at the FY 1993 of 3,002.
4. Each medical visit averages 2 hours, including travel time.
5. The number of medical claims will remain at the 1993 level of 17,000.
6. The average hourly wage (excluding benefits) is \$10.00.
7. The State already pays lost time for one-third of the medical visits, leaving two-thirds unpaid.

FISCAL EFFECT:

The only section of the bill having a substantial impact on the State is Section 2 requiring full payment of wages for time lost due to medical treatment. The cost to the State Workers' Compensation Program is estimated to be \$267,000 per fiscal year which will be passed on to other State agencies.

-2-

Of the total cost, it is estimated that 50.0% or \$133,000 will come from the General Fund.

SOURCE: Department of Personnel

• (LSB 4049sv, TAF)

FILED MARCH 21, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2245

H-5685

1 Amend Senate File 2245, as passed by the Senate, as
 2 follows:
 3 1. Page 1, by striking lines 11 through 14 and
 4 inserting the following: "However, upon notification
 5 of the contested case proceeding, the health service
 6 provider shall send one itemized written bill to the
 7 employee and to the workers' compensation carrier or
 8 self-insured employer responsible for coverage of the
 9 employee. The workers' compensation carrier or self-
 10 insured employer shall immediately pay for the
 11 treatment of the employee's injury or condition as if
 12 the claim had arisen out of and in the course of that
 13 employee's employment. If the claim is subsequently
 14 determined not to have arisen out of and in the course
 15 of employment by the commissioner, the workers'
 16 compensation carrier or self-insured employer shall be
 17 entitled to recover any payments made for treatment of
 18 the employee's injury or condition from the employee
 19 or from any policy of health and accident insurance or
 20 other health benefit plan that covers the employee."

By PLASIER of Sioux

H-5685 FILED MARCH 24, 1994

WITHDRAWN

4-5-94
(P. 1148)

SENATE FILE 2245

H-5684

1 Amend Senate File 2245, as passed by the Senate, as
 2 follows:
 3 1. Page 1, by striking lines 11 through 14 and
 4 inserting the following: "However, upon notification
 5 of the contested case proceeding, the health service
 6 provider shall send one itemized written bill to the
 7 employee and to the employee's health insurance
 8 carrier or health benefit plan setting forth the
 9 amount of the charges in connection with the treatment
 10 rendered. If the employee's injury or condition would
 11 be covered by any policy of health and accident
 12 insurance or other health benefit plan, the carrier or
 13 plan shall pay for the treatment of the employee's
 14 injury or condition pursuant to the terms of the
 15 policy or plan. If the claim is subsequently
 16 determined to have arisen out of and in the course of
 17 employment, the workers' compensation carrier or self-
 18 insured employer shall immediately reimburse the
 19 health insurance carrier or health benefit plan for
 20 all charges paid prior to the commissioner's
 21 determination."

By PLASIER of Sioux

H-5684 FILED MARCH 24, 1994

Not 4-5-94
(P. 1148)

Gettings - Chair
Connolly
Taylor

SSB-2195
Business & Labor Relation
NOW
SENATE FILE 2245

BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR RELATIONS
BILL BY CHAIRPERSON GETTINGS)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to workers' compensation by limiting debt
2 collection of certain health care charges, by providing wage
3 replacement for certain injured workers receiving treatment,
4 by modifying the minimum weekly benefit amount for death,
5 permanent partial disability, or a total disability, by
6 providing for payment of temporary partial disability benefits
7 in certain situations, and by providing an employer credit for
8 the overpayment of certain benefits to employees.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 85.27, Code 1993, is amended by adding
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3 NEW UNNUMBERED PARAGRAPH. While a contested case
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5 compensation benefits is pending before the industrial
6 commissioner relating to an injury alleged to have given rise
7 to treatment, no debt collection, as defined by section
8 537.7102, shall be undertaken against an employee or the
9 employee's dependents for the collection of charges for that
10 treatment rendered an employee by any health service provider.
11 However, the health service provider may send one itemized
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18 incapacity to work following the date of sustaining a
19 compensable injury which does not result in permanent partial
20 disability, or if, at any time after sustaining a compensable
21 injury which results in permanent partial disability, an
22 employee, who is not receiving weekly benefits under section
23 85.33 or section 85.34, subsection 1, returns to work and is
24 required to leave work for one full day or less to receive
25 services pursuant to this section, the employee shall be paid
26 an amount equivalent to the wages lost at the employee's
27 regular rate of pay for the time the employee is required to
28 leave work. The employer shall make the payments under this
29 paragraph as wages to the employee after making such
30 deductions from the amount as legally required or customarily
31 made by the employer from wages. Payments made under this
32 paragraph shall be required to be compensable pursuant to any
33 insurance policy covering workers' compensation. Payments
34 under this paragraph shall not be construed to be payment of
35 weekly benefits.

1 Sec. 3. Section 85.31, subsection 1, unnumbered paragraph
2 2, Code 1993, is amended to read as follows:

3 The weekly benefit amount shall not exceed a weekly benefit
4 amount, rounded to the nearest dollar, equal to ~~sixty-six-and~~
5 ~~two-thirds~~ two hundred percent of the statewide average weekly
6 wage paid employees as determined by the department of
7 employment services under section 96.19, subsection 36, and in
8 effect at the time of the injury. ~~However, as of July 1,~~
9 ~~1975; July 1, 1977; July 1, 1979; and July 1, 1981, the~~
10 ~~maximum-weekly-benefit-amount-rounded-to-the-nearest-dollar~~
11 ~~shall-be-increased-so-that-it-equals-one-hundred-percent, one~~
12 ~~hundred-thirty-three-and-one-third-percent, one-hundred-sixty-~~
13 ~~six-and-two-thirds-percent-and-two-hundred-percent,~~
14 ~~respectively, of the statewide average weekly wage as~~
15 ~~determined above.~~ The minimum weekly benefit amount shall be
16 equal to the weekly benefit amount of a person whose gross
17 weekly earnings are thirty-five percent of the statewide
18 average weekly wage, ~~or to the spendable weekly earnings of~~
19 ~~the employee, whichever are less.~~ Such compensation shall be
20 in addition to the benefits provided by sections 85.27 and
21 85.28.

22 Sec. 4. Section 85.33, subsection 3, Code 1993, is amended
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24 3. If an employee is temporarily, partially disabled and
25 the employer for whom the employee was working at the time of
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27 the employee's disability the employee shall accept the
28 suitable work, and be compensated with temporary partial
29 benefits. If the employee refuses to accept the suitable work
30 with the same employer, the employee shall not be compensated
31 with temporary partial, temporary total, or healing period
32 benefits during the period of the refusal. If suitable work
33 is not offered by the employer for whom the employee was
34 working at the time of the injury and the employee who is
35 temporarily partially disabled elects to perform work with a

1 different employer, the employee shall be compensated with
2 temporary partial benefits.

3 Sec. 5. Section 85.34, subsection 2, unnumbered paragraph
4 1, Code 1993, is amended to read as follows:

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6 at the termination of the healing period provided in
7 subsection 1 ~~of this section.~~ The compensation shall be in
8 addition to the benefits provided by sections 85.27 and 85.28.
9 The compensation shall be based upon the extent of the
10 disability and upon the basis of eighty percent per week of
11 the employee's average ~~weekly spendable~~ weekly earnings, but
12 not more than a weekly benefit amount, rounded to the nearest
13 dollar, equal to ~~sixty-one-and-one-third~~ one hundred eighty-
14 four percent of the statewide average weekly wage paid
15 employees as determined by the department of employment
16 services under section 96.19, subsection 36, and in effect at
17 the time of the injury. ~~However, as of July 1, 1975; July 1,~~
18 ~~1977; July 1, 1979; and July 1, 1981, the maximum weekly~~
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24 ~~determined above.~~ The minimum weekly benefit amount shall be
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26 weekly earnings are thirty-five percent of the statewide
27 average weekly wage, ~~or to the spendable weekly earnings of~~
28 ~~the employee, whichever are less.~~ ~~However, if the employee is~~
29 ~~a minor or a full-time student under the age of twenty-five in~~
30 ~~an accredited educational institution, the minimum weekly~~
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35 liability of the employer for any future weekly benefits due

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11 overpayment is established pursuant to this subsection, the
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13 agreement providing for the repayment by the employee of the
14 overpayment. The agreement is subject to the approval of the
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18 EXPLANATION

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20 compensation laws.

21 Section 1 of the bill provides that, except for providing a
22 copy of the amount owed, no debt collection action can be
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13 in excess of the amount required. This would allow an
14 employer to take the credit for weekly benefits due an
15 employee for a permanent partial disability when that same
16 employer has overpaid compensation for a prior injury to the
17 same employee. The section also allows the employer and
18 employee to agree to a repayment of the overpayment pursuant
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SENATE FILE 2245

AN ACT

RELATING TO WORKERS' COMPENSATION BY LIMITING DEBT COLLECTION OF CERTAIN HEALTH CARE CHARGES, BY PROVIDING WAGE REPLACEMENT FOR CERTAIN INJURED WORKERS RECEIVING TREATMENT, BY MODIFYING THE MINIMUM WEEKLY BENEFIT AMOUNT FOR DEATH, PERMANENT PARTIAL DISABILITY, OR A TOTAL DISABILITY, BY PROVIDING FOR PAYMENT OF TEMPORARY PARTIAL DISABILITY BENEFITS IN CERTAIN SITUATIONS, AND BY PROVIDING AN EMPLOYER CREDIT FOR THE OVERPAYMENT OF CERTAIN BENEFITS TO EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 85.27, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. While a contested case proceeding for determination of liability for workers' compensation benefits is pending before the industrial commissioner relating to an injury alleged to have given rise to treatment, no debt collection, as defined by section 537.7102, shall be undertaken against an employee or the employee's dependents for the collection of charges for that treatment rendered an employee by any health service provider. However, the health service provider may send one itemized written bill to the employee setting forth the amount of the charges in connection with the treatment after notification of the contested case proceeding.

Sec. 2. Section 85.27, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If, after the third day of incapacity to work following the date of sustaining a compensable injury which does not result in permanent partial disability, or if, at any time after sustaining a compensable injury which results in permanent partial disability, an employee, who is not receiving weekly benefits under section 85.33 or section 85.34, subsection 1, returns to work and is required to leave work for one full day or less to receive services pursuant to this section, the employee shall be paid an amount equivalent to the wages lost at the employee's regular rate of pay for the time the employee is required to leave work. The employer shall make the payments under this paragraph as wages to the employee after making such deductions from the amount as legally required or customarily made by the employer from wages. Payments made under this paragraph shall be required to be reimbursed pursuant to any insurance policy covering workers' compensation. Payments under this paragraph shall not be construed to be payment of weekly benefits.

Sec. 3. Section 85.31, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to ~~sixty-six and two-thirds~~ two hundred percent of the statewide average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 36, and in effect at the time of the injury. ~~However, as of July 17, 1975; July 17, 1977; July 17, 1979; and July 17, 1981; the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent; one hundred thirty-three and one-third percent; one hundred sixty-six and two-thirds percent and two hundred percent; respectively, of the statewide average weekly wage as~~

determined above. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 4. Section 85.33, subsection 3, Code 1993, is amended to read as follows:

3. If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employee refuses to accept the suitable work with the same employer, the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal. If suitable work is not offered by the employer for whom the employee was working at the time of the injury and the employee who is temporarily partially disabled elects to perform work with a different employer, the employee shall be compensated with temporary partial benefits.

Sec. 5. Section 85.34, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 of this section. The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. The compensation shall be based upon the extent of the disability and upon the basis of eighty percent per week of the employee's average weekly spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-one-and-one-third one hundred eighty-four percent of the statewide average weekly wage paid

employees as determined by the department of employment services under section 96.19, subsection 36, and in effect at the time of the injury. ~~However, as of July 17, 1975; July 17, 1977; July 17, 1979; and July 17, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals ninety-two percent, one hundred twenty-two-and-two-thirds percent, one hundred-fifty-three-and-one-third percent, and one hundred-eighty-four percent, respectively, of the statewide average weekly wage as determined above.~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. ~~However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution, the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage.~~ For all cases of permanent partial disability compensation shall be paid as follows:

Sec. 6. Section 85.34, subsection 3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average weekly spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six-and-two-thirds two hundred percent of the statewide average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 36, and in effect at the time of the injury. ~~However, as of July 17, 1975; July 17, 1977; July 17, 1979; and July 17, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred-thirty-three-and-one-~~

~~third-percent-one-hundred-sixty-six-and-two-thirds-percent
and-two-hundred-percent-respectively-of-the-statewide
average-weekly-wage-as-determined-above. The minimum weekly
benefit amount is equal to the weekly benefit amount of a
person whose gross weekly earnings are thirty-five percent of
the statewide average weekly wage-or-to-the-spendable-weekly
earnings-of-the-employee-whichever-are-less. However-if-the
employee-is-a-minor-or-a-full-time-student-under-the-age-of
twenty-five-in-an-accredited-educational-institution-the
minimum-weekly-benefit-amount-shall-be-equal-to-the-weekly
benefit-amount-of-a-person-whose-gross-weekly-earnings-are
thirty-five-percent-of-the-statewide-average-weekly-wage. The
weekly compensation is payable during the period of the
employee's disability.~~

Sec. 7. Section 85.34, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. RECOVERY OF EMPLOYEE OVERPAYMENT. If an employee is paid any weekly benefits in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for any future weekly benefits due pursuant to subsection 2, for a subsequent injury to the same employee. An overpayment can be established only when the overpayment is recognized in a settlement agreement approved under section 86.13, pursuant to final agency action in a contested case which was commenced within three years from the date that weekly benefits were last paid for the claim for which the benefits were overpaid, or pursuant to final agency action in a contested case for a prior injury to the same employee. The credit shall remain available for eight years after the date the overpayment was established. If an overpayment is established pursuant to this subsection, the employee and employer may enter into a written settlement agreement providing for the repayment by the employee of the overpayment. The agreement is subject to the approval of the

industrial commissioner. The employer shall not take any adverse action against the employee for failing to agree to such a written settlement agreement.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate file 2245, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *April 13* 1994

TERRY E. BRANSTAD
Governor