

Section 102.44, Wis. Stats., Maximum limitations. Section 102.43 shall be subject to the following limitations:

s. 102.44 (1) (ag) Notwithstanding any other provision of this chapter, every employee who is receiving compensation under this chapter for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury that occurred prior to January 1, 2001, shall receive supplemental benefits that shall be payable ~~in the first instance~~ by the employer or the employer's insurance carrier, or in the case of benefits payable to an employee under s. 102.66, shall be paid by the department out of the fund created under s. 102.65. Those supplemental benefits shall be paid only for weeks of disability occurring after January 1, 2003, and shall continue during the period of such total disability subsequent to that date.

(am) If the employee is receiving the maximum weekly benefits in effect at the time of the injury, the supplemental benefit for a week of disability occurring after May 1, 2010, shall be an amount that, when added to the regular benefit established for the case, shall equal \$582.

(b) If the employee is receiving a weekly benefit that is less than the maximum benefit that was in effect on the date of the injury, the supplemental benefit for a week of disability occurring after May 1, 2010, shall be an amount sufficient to bring the total weekly benefits to the same proportion of \$582 as the employee's weekly benefit bears to the maximum in effect on the date of injury.

(c) Subject to any certificate filed under s. 102.65 (4), an employer or insurance carrier paying the supplemental benefits required under this subsection shall be entitled to reimbursement for each such case from the fund established by s. 102.65, commencing one year after the date of the first payment of those benefits and annually thereafter while those payments continue. To receive reimbursement under this paragraph, an employer or insurance carrier must file a claim for that reimbursement with the department by no later than 12 months after the end of the year in which the supplemental benefits were paid and the claim must be approved by the department. This paragraph does not apply to supplemental benefit payments made on or after the January 1, 2014.

s. 102.65 Work injury supplemental benefit fund.

(1) The moneys payable to the state treasury under ss. 102.35 (1), 102.47, 102.49, 102.59, and 102.60, together with all accrued interest on those moneys, and all interest payments received under s. 102.75 (2), shall constitute a separate nonlapsible fund designated as the work injury supplemental benefit fund. Moneys in the fund may be expended only as provided in s. 20.445 (1) (t) and may not be used for any other purpose of the state.

(2) For proper administration of the moneys available in the fund the department shall by order, set aside in the state treasury suitable reserves to carry to maturity the liability for benefits under ss. 102.44, 102.49, 102.59 and 102.66. Such moneys shall be invested by the investment board in accordance with s. 25.14 (5). This subsection does not apply to supplemental benefit payments made under s.102.44 (1) on or after the January 1, 2014

(3) The department of workforce development may retain the department of administration to process, investigate, and pay claims under ss. 102.44 (1), 102.49, 102.59, and 102.66. If retained by the department of workforce development, the department of administration may compromise a claim processed by that department, but a compromise made by that department is subject to review by the department of workforce development. The department of workforce development shall pay for the services retained under this subsection from the appropriation account under s. 20.445 (1) (t).

(4) The secretary shall monitor the cash balance in, and incurred losses to, the work injury supplemental benefit fund using generally accepted actuarial principles. If the secretary determines that the expected ultimate losses to the work injury supplemental benefit fund on known claims exceed 85 percent of the cash balance in that fund, the secretary shall consult with the council on worker's compensation. If the secretary, after consulting with the council on worker's compensation, determines that there is a reasonable likelihood that the cash balance in the work injury supplemental benefit fund may become inadequate to fund all claims under ss. 102.44 (1) (c), 102.49, 102.59, and 102.66, the secretary shall file with the secretary of administration a certificate attesting that the cash balance in that fund is likely to become inadequate to fund all claims under ss. 102.44 (1) (c), 102.49, 102.59, and 102.66 and specifying one of the following:

(a) That payment of those claims will be made as provided in a schedule that the department shall promulgate by rule.

(b) A date after which payment of those claims will be reduced.

(c) A date after which no new claims under those provisions will be paid.