

1415.3900 DISCONTINUANCE CONFERENCES.

Subpart 1. **Purpose.** The purpose of an administrative conference under Minnesota Statutes, section 176.239, is to determine whether reasonable grounds exist for a discontinuance of weekly benefits. If the parties do not reach an agreement on the issues, they will be resolved by a decision of the judge. When the division has referred a medical or rehabilitation issue to the office under part 1415.3700, subpart 10, the medical or rehabilitation issue may also be discussed and clarified at the conference, and a decision issued under Minnesota Statutes, section 176.102 or 176.106, if:

- A. all affected parties consent; or
- B. a notice that the issues will be joined is issued under part 1415.3700, subpart 2.

Subp. 2. **Request.** The employee may request that the office schedule an administrative conference to discuss a proposed discontinuance of benefits. If the proposed discontinuance is based on a reason other than a return to work, the employee's request for a conference must be personally delivered or received by the division or office no later than 12 days from the date a notice of intention to discontinue benefits, which was served on the employee and the employee's attorney, was filed. The employee shall direct a written request for a discontinuance conference to the division or a telephone request to the office. If the proposed discontinuance is based on a return to work, the employee's request must be received by the division or office within 30 days of the reported date of the employee's return to work. Allowance will be made, if appropriate, for nonreceipt or delay under Minnesota Statutes, section 176.285.

If the insurer discontinues, reduces, or suspends benefits without properly serving and filing a notice of intention to discontinue benefits and with the required attachments in a situation in which a notice of intention to discontinue benefits was required under part 5220.2630 and Minnesota Statutes, section 176.238, the employee may request an administrative conference within 40 days after the employee received the last payment but no later than 12 days after a notice of intention to discontinue benefits is properly served and filed, or 30 days after the employee returned to work if the notice is properly served and filed within 14 days after the insurer has notice of the employee's return to work.

Subp. 3. **Continuation of benefits.**

A. If an employee requests an administrative conference within the time set out in this part, benefits must be paid through the date of the conference unless:

- (1) the employee has withdrawn the request for a conference;
- (2) the employee fails to appear at the conference without good cause;

(3) the employee has returned to work in which case benefits are due through the date of the employee's return to work;

(4) the employee is receiving temporary partial benefits and the employee is no longer employed;

(5) the employee dies;

(6) no plausible information is presented by the employee to dispute the proposed discontinuance of the benefits;

(7) notice of maximum medical improvement was served more than 90 days before the administrative conference;

(8) an approved retraining plan ended more than 90 days before the administrative conference;

(9) the employee has failed to make a good faith effort to participate in the rehabilitation plan before the administrative conference, but is making a good faith effort at the time of the conference, in which case benefits may be discontinued between the date the notice of intention to discontinue benefits was served and filed and the administrative conference date;

(10) the workers' compensation claim was mistakenly accepted by the insurer and primary liability for the entire injury is now denied;

(11) the employee has received temporary partial benefits for the maximum period allowed under Minnesota Statutes, section 176.101, subdivision 2;

(12) the effects of the injury have totally resolved without residual disability or restrictions; or

(13) the employee has voluntarily retired from the labor market.

B. If the employee requests a continuance of the conference date that is granted and the employee is awarded ongoing benefits, benefits must be paid through the date of the conference and continuing. If the employee's request for a continuance is granted and the employee is not awarded benefits, benefits need not be paid during the period of continuance. If the employer or insurer requested the continuance, benefits must be paid during the period of continuance. If the employee and insurer's joint request for a continuance is granted, benefits must be paid during the period of continuance unless the employee agrees in writing to waive the interim payment and await a decision regarding payment under subpart 5 following the administrative conference.

Subp. 4. **Scheduling.** Subject to part 1415.3700, subpart 6, a discontinuance conference must be set within the time limits set by this subpart. Following a notice of intention to discontinue benefits, the office shall schedule an administrative conference

no later than ten days after receipt of a timely request for a conference. If no notice of intention to discontinue benefits was filed as required by part 5220.2630 and the employee requests a conference, the office shall schedule a conference no later than ten days after the division's receipt of the employee's request if the conference request is received within 40 days from the date the employee's last benefit payment was received.

Subp. 5. **The decision.** The decision must be based on information presented at the conference and information from the division file relating to authority to decide the issue, and information contained in the notice of intention to discontinue benefits and any attachments. The office shall mail a copy of the decision to the parties no later than five working days from the date of the conference.

Subp. 6. **Penalties.** Penalties may be imposed for an improper discontinuance of compensation under part 5220.2720 and Minnesota Statutes, section 176.238, subdivision 10, and for unreasonable or inexcusable delay or other grounds under parts 5220.2760 and 5220.2790 and Minnesota Statutes, section 176.225, subdivisions 1 and 5. If the employee seeks a penalty in a discontinuance proceeding, the employee must provide reasonable prior written notice of the claim for penalties.

Statutory Authority: *MS s 14.51; 175.17; 175.171; 176.081; 176.155; 176.231; 176.285; 176.312; 176.361; 176.83*

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