

5220.2790 INEXCUSABLE DELAY IN MAKING PAYMENT, INCREASE IN PAYMENT.

Subpart 1. Basis.

A. When a claim has not been denied but payment is not made as provided by Minnesota Statutes, section 176.221, the failure is deemed inexcusable delay under Minnesota Statutes, section 176.225, subdivision 5.

B. Where other payment of temporary total, temporary partial, permanent total, or permanent partial disability benefits is not made within three business days of the date provided by statute or rule on more than three occasions in any 12-month period, the failure is deemed inexcusable.

Subp. 2. **Amount.** The amount of the increase in payment under Minnesota Statutes, section 176.225, subdivision 5, for a delay under subpart 1, item A, is calculated as 25 percent of the payment found to be delayed.

The amount of the increase in payment assessed under subpart 1, item B, will be calculated at 25 percent of the payment found to be delayed.

Subp. 3. **Payable to.** The amount of any penalty assessed under this part is payable to the employee.

Subp. 4. Assessment.

A. The commissioner's designee must complete a delayed payment worksheet containing information identifying the claim and setting forth the time period of late payment.

B. The calculation of a penalty under this part for late payment of temporary total, temporary partial, or permanent total disability benefits must be as follows:

- (1) The due date specified in part 5220.2540 or 5220.2550 is determined.
- (2) The number of days after the due date until payment is made constitute the days late.
- (3) The compensation due for the number of days late is determined.
- (4) The penalty is calculated at 25 percent of the sum paid in an untimely manner.

C. The calculation of a penalty for late payment of permanent partial disability benefits, including economic recovery compensation and impairment compensation under subpart 1, item B, must be as follows:

- (1) the due date specified in part 5220.2540 or 5220.2550 is determined;

(2) if payment of the sum due is not made within three business days of the due date on more than three occasions in any 12-month period, a penalty of 25 percent of the sum paid in an untimely manner is assessed.

Statutory Authority: *MS s 175.17; 175.171; 176.129; 176.138; 176.221; 176.225; 176.231; 176.238; 176.83; 176.84*

History: *11 SR 1530; 18 SR 2546; 23 SR 1484*

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