

Subd. 10. EMPLOYER-EMPLOYEE RELATIONSHIP. This section does not create an employer-employee relationship nor can it be used as a factor in determining the existence of an employer-employee relationship.

Subd. 11. SAFETY PROGRAM. The commissioner shall establish or approve a safety and education program for Minnesota loggers. Funding for the program must be in the amount of \$125,000 each calendar year provided from amounts collected in the previous calendar year pursuant to subdivision 4. If the amounts collected under subdivision 4 are less than \$125,000 in any calendar year, funding for the safety and education program for the next calendar year must be the actual amount collected.

Sec. 2. ADVISORY COUNCIL.

The governor may appoint an advisory council to recommend long-term solutions to the high cost of workers' compensation insurance for loggers.

Sec. 3. STUDY.

The commissioner of labor and industry shall, by July 1, 1991, study the potential effects on workers' compensation insurance costs for loggers of an elimination of minimum premium policies.

The commissioner of labor and industry shall, by July 1, 1992, study the potential effects on workers' compensation insurance costs for loggers of an elimination of statutory exclusions from the mandatory insurance requirement.

Sec. 4. REPEALER.

Section 1 is repealed July 1, 1995.

Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective July 1, 1990.

Presented to the governor April 24, 1990

Signed by the governor April 27, 1990, 10:43 a.m.

CHAPTER 522—S.F.No. 2490

An act relating to workers' compensation; including mentally retarded persons and those with related conditions to the list of registrable conditions for the subsequent disability special fund; regulating medical data access; providing for preventative treatment to employees exposed to rabies; regulating notice of insurance coverage and cancellation; amending Minnesota Statutes 1988, sections 176.131, subdivisions 2 and 8; 176.138; 176.185, subdivision 1; Minnesota Statutes 1989 Supplement, section 176.135, subdivision 1.

New language is indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury results in disability or death, and if the injury, death, or disability would not have occurred except for the preexisting physical impairment registered with the special compensation fund, the employer shall pay all compensation provided by this chapter, and shall be fully reimbursed from the special compensation fund for the compensation except that this full reimbursement shall not be made for cardiac disease or a condition registered pursuant to subdivision 8, clause ~~(u)~~ (u) or ~~(v)~~ (v), unless the commissioner by rule provides otherwise.

Sec. 2. Minnesota Statutes 1988, section 176.131, subdivision 8, is amended to read:

Subd. 8. As used in this section the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment except that physical impairment is limited to the following:

- (a) Epilepsy,
- (b) Diabetes,
- (c) Hemophilia,
- (d) Cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) Residual disability from poliomyelitis,
- (h) Cerebral Palsy,
- (i) Multiple Sclerosis,
- (j) Parkinson's disease,
- (k) Cerebral vascular accident,

New language is indicated by underline, deletions by ~~strikeout~~.

- (l) Chronic Osteomyelitis,
- (m) Muscular Dystrophy,
- (n) Thrombophlebitis,
- (o) Brain tumors,
- (p) Pott's disease,
- (q) Seizures,
- (r) Cancer of the bone,
- (s) Leukemia,
- (t) Mental retardation or other related conditions.

(u) Any other physical impairment resulting in a disability rating of at least ten percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

~~(v)~~ (v) Any other physical impairments of a permanent nature which the commissioner may by rule prescribe.

"Compensation" has the meaning defined in section 176.011.

"Employer" includes insurer.

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior that require supervision and protection for the person's welfare or the public welfare.

"Other related conditions" means severe chronic disabilities that are (i) attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (ii) likely to continue indefinitely; and (iii) result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living.

Sec. 3. Minnesota Statutes 1989 Supplement, section 176.135, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.** (a) The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation. Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to do so the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.

(b) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

Sec. 4. Minnesota Statutes 1988, section 176.138, is amended to read:

176.138 MEDICAL DATA; ACCESS.

(a) Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release in writing, by telephone discussion, or otherwise of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. This section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. Requests for pertinent data shall be made, and the date of discussions with medical providers about medical data shall be confirmed, in writing to the person or organization that collected or currently possesses the data. The Written medical data that exists at the time the request is made shall be provided by the collector or possessor within seven working days of receiving the request. Nonwritten medical data may be provided, but is not required to be provided, by the

New language is indicated by underline, deletions by ~~strikeout~~.

collector or possessor. In all cases of a request for the data or discussion with a medical provider about the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made or a written confirmation of the discussion. This data shall be treated as private data by the party who requests or receives the data and the party receiving the data shall provide the employee or the employee's attorney with a copy of all data requested by the requester.

(b) Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

(c) The commissioner may impose a penalty of up to \$200 payable to the special compensation fund against a party who does not timely release the data in a timely manner as required in this section. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. This section clause applies only to written medical data which exists at the time the request is made.

(d) Workers' compensation insurers and self-insured employers may, for the sole purpose of identifying duplicate billings submitted to more than one insurer, disclose to health insurers, including all insurers writing insurance described in section 60A.06, subdivision 1, clause (5)(a), nonprofit health service plan corporations subject to chapter 62C, health maintenance organizations subject to chapter 62D, and joint self-insurance employee health plans subject to chapter 62H, computerized information about dates, coded items, and charges for medical treatment of employees and other medical billing information submitted to them by an employee, employer, health care provider, or other insurer in connection with a current claim for compensation under this chapter, without prior approval of any party to the claim. The data may not be used by the health insurer for any other purpose whatsoever and must be destroyed after verification that there has been no duplicative billing. Any person who is the subject of the data which is used in a manner not allowed by this section has a cause of action for actual damages and punitive damages for a minimum of \$5,000.

Sec. 5. Minnesota Statutes 1988, section 176.185, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF COVERAGE, TERMINATION, CANCELLATION.** (a) Within ten days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by an insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner under rules and on forms prescribed by the commissioner. No policy shall be canceled by the insurer within the policy period nor terminated upon its expiration date until a notice in writing is delivered or mailed to the insured and filed with the commissioner, fixing the

New language is indicated by underline, deletions by ~~strikeout~~.

date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration date. A cancellation or termination is not effective until 30 days after written notice has been filed with the commissioner in a manner prescribed by the commissioner unless prior to the expiration of the 30-day period the employer obtains other insurance coverage or an order exempting the employer from carrying insurance as provided in section 176.181. Upon receipt of the notice the commissioner shall notify the insured that the insured must obtain coverage from some other licensed carrier and that, if unable to do so, the insured shall request the commissioner of commerce to require the issuance of a policy as provided in section 79.251, subdivision 4. Upon a cancellation or termination of a policy by the insurer the employer is entitled to be assigned a policy in accordance with sections 79.251 and 79.252.

(b) Notice of cancellation or termination by the insured shall be served upon the insurer by written statement mailed or delivered to the insurer. Upon receipt of the notice the insurer shall notify the commissioner of the cancellation or termination and the commissioner shall ask the employer for the reasons for the cancellation or termination and notify the employer of the duty under this chapter to insure the employer's employees.

(c) In addition to the requirements under paragraphs (a) and (b), with respect to any trucker employer in classifications 7219, 7230, 7231, or 7360 pursuant to the classification plan required to be filed under section 79.61, if the insurer or its agent has delivered or mailed a written certificate of insurance certifying that a policy in the name of a trucker employer under this paragraph is in force, then the insurer or its agent shall also deliver or mail written notice of any mid-term cancellation to the trucker employer recipient of the certificate of insurance at the address listed on the certificate. If an insurer or its agent fails to mail or deliver notice of any mid-term cancellation of the trucker employer's policy to the trucker employer recipient of the certificate of insurance, then the special compensation fund shall indemnify and hold harmless the recipient from any award of benefits or other damages under this chapter resulting from the failure to give notice.

Presented to the governor April 24, 1990

Signed by the governor April 26, 1990, 11:28 p.m.

CHAPTER 523—H.F.No. 2343

An act relating to insurance; accident and health; providing for the classification and disclosure of certain comprehensive health insurance data; regulating the Minnesota comprehensive health insurance plan; requiring insurers to provide written materials on the Minne-

New language is indicated by underline, deletions by ~~strikeout~~.