CHAPTER 51--H.F.No. 2988

An act relating to workers' compensation; adopting recommendations of the 2023 Workers' Compensation Advisory Committee; modifying workers' compensation self-insurance; improving system efficiencies; modifying the permanent partial disability schedule; requiring a post-traumatic stress disorder study and report; making housekeeping changes; appropriating money; amending Minnesota Statutes 2022, sections 79A.01, subdivision 4; 79A.04, subdivisions 7, 9, 10, 16, by adding a subdivision; 79A.08; 79A.13; 79A.24, subdivision 4; 79A.25, subdivisions 1, 2, 3, by adding a subdivision; 176.011, subdivision 11a, by adding a subdivision; 176.081, subdivision 1; 176.101, subdivision 2a; 176.102, subdivision 3; 176.111, subdivision 16, by adding a subdivision; 176.135, subdivisions 1, 1a, 7; 176.1362, subdivision 1; 176.1364, subdivision 3; 176.155, subdivision 1; 176.239, subdivisions 6, 7; 176.291; 176.305, subdivision 4; 176.331; repealing Minnesota Statutes 2022, sections 176.1364, subdivision 6; 176.223.

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

ARTICLE 1

WORKERS' COMPENSATION SELF-INSURANCE

Section 1. Minnesota Statutes 2022, section 79A.01, subdivision 4, is amended to read:

Subd. 4. **Insolvent self-insurer.** "Insolvent self-insurer" means: (1) a member private self-insurer who has failed to pay compensation as a result of a declaration of bankruptcy or insolvency by a court of competent jurisdiction and whose security deposit has been called by the commissioner pursuant to chapter 176; (2) a member self-insurer who has failed to pay compensation and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner pursuant to chapter 176; ~~or~~ (3) a member or former member private self-insurer who has failed to pay an assessment required by section 79A.12, subdivision 2, and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner~~.~~; or (4) a member private self-insurer whose security deposit has been called by the commissioner pursuant to chapter 176 and in accordance with section 79A.04, subdivision 9a, paragraph (b).

Sec. 2. Minnesota Statutes 2022, section 79A.04, subdivision 7, is amended to read:

Subd. 7. **Perfection of security.** Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the private self-insured's assets in favor of the commissioner to the extent of any then unsecured portion of the self-insured's incurred liabilities. That perfected security interest is transferred to any cash or securities thereafter posted by the private self-insured with the commissioner of management and budget and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner.

The private self-insured employer loses all right, title, and interest in and any right to control all assets or obligations posted or left on deposit as security. In the event that ~~a private self-insurer is the subject of a voluntary or involuntary petition under the United States Bankruptcy Code, title 11, or~~ a court of competent jurisdiction has declared the private self-insurer to be ~~bankrupt or~~ insolvent, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer it to the self-insurer's security fund for application to the self-insured employer's incurred liability and other current or future obligations of the self-insurers' security fund. In the event that ~~a private self-insurer is the subject of a voluntary or involuntary petition under the United States Bankruptcy Code, title 11, or~~ a court of competent jurisdiction has declared the private self-insurer to be ~~bankrupt or~~ insolvent, or in the event of the issuance of a certificate of default by the commissioner, all right, title, and interest in and any right to control all assets or obligations which have been posted or deposited as security must be transferred to the self-insurers' security fund.

Sec. 3. Minnesota Statutes 2022, section 79A.04, subdivision 9, is amended to read:

Subd. 9. **Insolvency~~, bankruptcy,~~ or default; utilization of security deposit.** The commissioner of labor and industry shall notify the commissioner and the security fund if the commissioner of labor and industry has knowledge that any private self-insurer has failed to pay workers' compensation benefits as required by chapter 176. The security deposit shall be used to administer and pay the private self-insurers' workers' compensation or assessment obligations or any other current or future obligations of the self-insurers' security fund if any of the following occurs:

(1) the private self-insurer has failed to pay workers' compensation as required by chapter 176 and ~~either:~~

~~(i) the commissioner determines that a private self-insurer is the subject of a voluntary or involuntary petition under the United States Bankruptcy Code, title 11; or~~

~~(ii)~~ the commissioner determines that a court of competent jurisdiction has declared the private self-insurer to be ~~bankrupt or~~ insolvent; ~~or~~

(2) the commissioner issues a certificate of default against a private self-insurer for failure to pay workers' compensation as required by chapter 176; or

(3) the commissioner issues a certificate of default against a private self-insurer for failure to pay an assessment to the self-insurer's security fund when due.

Sec. 4. Minnesota Statutes 2022, section 79A.04, is amended by adding a subdivision to read:

Subd. 9a. **Bankruptcy; utilization of security deposit.** (a) A private self-insurer must notify the commissioner prior to, or immediately upon, the filing of a voluntary or involuntary petition under the United States Bankruptcy Code, title 11, and when a court of competent jurisdiction has declared the private self-insurer to be bankrupt.

(b) If a private self-insurer is (1) the subject of a voluntary or involuntary petition under the United States Bankruptcy Code, title 11, or (2) a court of competent jurisdiction has declared the private self-insurer to be bankrupt and the private self-insurer has failed to pay workers' compensation as required by chapter 176, the commissioner must call the security and proceed in accordance with this section.

(c) If, upon notice that a private self-insurer is the subject of a voluntary or involuntary petition under the United States Bankruptcy Code, title 11, or a court of competent jurisdiction has declared the private self-insurer to be bankrupt but the private self-insurer has not failed to timely pay workers' compensation

benefits as required by chapter 176, the commissioner may call the security and proceed in accordance with this section if the commissioner determines that the private self-insurer's payment of workers' compensation benefits would be delayed in any way as a result of the bankruptcy petition or declaration or that the private self-insurer would otherwise be unable to fulfill its obligations under chapter 79A or 176.

(d) In making the determination provided for in paragraph (c) to call a private self-insurer's security and proceed in accordance with this section, the commissioner must consult with the commissioner of labor and industry to determine if the commissioner of labor and industry has knowledge that the private self-insurer has failed to pay workers' compensation benefits as required by chapter 176. The commissioner shall also consider the following:

(1) the self-insurer's most recent actuarial statement, including but not limited to estimated future liability and posted security;

(2) the self-insurer's claims history and claims projections;

(3) the circumstances surrounding the self-insurer's petition to file bankruptcy; and

(4) any other circumstances the commissioner deems relevant.

(e) In making the determination under paragraph (c), the commissioner must also meet and confer with the private self-insurer and the security fund. The initial meet and confer must occur within 30 days of the filing of the petition for chapter 11 bankruptcy. Failure to participate in the meet and confer process by the self-insurer may result in a default determination to immediately transfer the posted security and claims obligations to the security fund. During the meet and confer, the commissioner may ask the self-insurer to provide additional information. Additionally, the security fund may inspect the private self-insurer's most recent actuarial study on file with the commissioner as well as its current security deposit amount required by the commissioner. Data disclosed during the meet and confer must remain confidential. Nothing in this section shall limit the fund's authority to seek information directly from its members.

Sec. 5. Minnesota Statutes 2022, section 79A.04, subdivision 10, is amended to read:

Subd. 10. **Notice; obligation of fund.** In the event of ~~bankruptcy,~~ insolvency~~,~~ or certificate of default, the commissioner shall immediately notify by certified mail the commissioner of management and budget, the surety, the issuer of an irrevocable letter of credit, and any custodian of the security required in this chapter. At the time of notification, the commissioner shall also call the security and transfer and assign it to the self-insurers' security fund. The commissioner shall also immediately notify by certified mail the self-insurers' security fund, and order the security fund to assume the insolvent self-insurers' obligations for which it is liable under chapter 176. The security fund shall commence payment of these obligations within 14 days of receipt of this notification and order. Payments shall be made to claimants whose entitlement to benefits can be ascertained by the security fund, with or without proceedings before the Department of Labor and Industry, the Office of Administrative Hearings, the Workers' Compensation Court of Appeals, or the Minnesota Supreme Court. Upon the assumption of obligations by the security fund pursuant to the commissioner's notification and order, the security fund has the right to immediate possession of any posted or deposited security and the custodian, surety, or issuer of any irrevocable letter of credit or the commissioner, if in possession of it, shall turn over the security, proceeds of the surety bond, or letter of credit to the security fund together with the interest that has accrued since the date of the self-insured employer's insolvency. The security fund has the right to the immediate possession of all relevant workers' compensation claim files and data of the self-insurer, and the possessor of the files and data must turn the files and data, or complete copies of them, over to the security fund within five days of the notification provided under this subdivision.

If the possessor of the files and data fails to timely turn over the files and data to the security fund, it is liable to the security fund for a penalty of $500 per day for each day after the five-day period has expired. The security fund is entitled to recover its reasonable attorney fees and costs in any action brought to obtain possession of the workers' compensation claim files and data of the self-insurer, and for any action to recover the penalties provided by this subdivision. The self-insurers' security fund may administer payment of benefits or it may retain a third-party administrator to do so.

Sec. 6. Minnesota Statutes 2022, section 79A.04, subdivision 16, is amended to read:

Subd. 16. **Certificate to self-insure; revocation.** If, following a private self-insurer's ~~bankruptcy,~~ insolvency~~,~~ or certificate of default, the commissioner calls its security and proceeds in accordance with this section, the commissioner shall revoke the certificate to self-insure of the private self-insurer as soon as practicable but no later than 30 days after its security has been called. No insolvent self-insurer, as defined in section 79A.01, subdivision 4, shall be eligible to receive another grant of authority to self-insure unless either: (1) the insolvent self-insurer's posted security was sufficient to pay all direct and indirect administrative and professional expenses of the security fund related to the insolvent self-insurer, and all losses, including estimated future liability, allocated loss expense, and unallocated loss expense of the insolvent self-insurer; or (2) the insolvent self-insurer pays the security fund an amount equal to all such losses and expenses the security fund has paid or will be required to pay related to this insolvent self-insurer.

Sec. 7. Minnesota Statutes 2022, section 79A.08, is amended to read:

79A.08 LEGISLATIVE INTENT.

It is the intent of the legislature in enacting sections 79A.08 to 79A.10 to provide for the continuation of workers' compensation benefits delayed due to the failure of a private self-insured employer to meet its compensation obligations, whenever the commissioner of commerce issues a certificate of default or there is a declaration of ~~bankruptcy or~~ insolvency by a court of competent jurisdiction. With respect to the continued liability of a surety for claims that arise under a bond after termination of that bond and to a surety's liability for the cost of administration of claims, it is the intent of the legislature to provide that that liability ceases upon lawful termination of that bond. This applies to all surety bonds which are purchased by the self-insured employer after July 1, 1988. The legislature finds and declares that the establishment of the self-insurers' security fund is a necessary component of a complete system of workers' compensation, required by chapter 176, to have adequate provisions for the comfort, health, safety, and general welfare of any and all workers and their dependents to the extent of relieving the consequences of any industrial injury or death, and full provision for securing the payment of compensation.

Sec. 8. Minnesota Statutes 2022, section 79A.13, is amended to read:

79A.13 AUDIT; ANNUAL REPORT.

The trustees shall annually contract for an independent certified audit of the financial activities of the fund. An annual report on the financial status of the fund as of June 30 shall be submitted to the commissioner and to each member.

The security fund shall be established on July 1, 1988, or 90 days after July 1, 1988, whichever occurs later. All applications for private self-insurers which are made after July 1, 1988, prior to the establishment of the security fund, shall comply with all requirements of this chapter. Applications for private self-insurers which are made after January 1, 1988, but prior to July 1, 1988, shall, prior to the establishment of the security fund, comply with the requirements of this chapter. The security fund shall be liable for payment

of benefits only for members where there has been a declaration of ~~bankruptcy or~~ insolvency by a court of competent jurisdiction after the date on which the security fund is established, or where the commissioner has issued a certificate of default which has occurred after the date on which the security fund is established.

Sec. 9. Minnesota Statutes 2022, section 79A.24, subdivision 4, is amended to read:

Subd. 4. **Custodial accounts.** (a) All surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited in accordance with the provisions of section 79A.071.

(b) Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the commercial self-insurance group's and member's assets in favor of the commissioner to the extent of any then unsecured portion of the commercial self-insurance group's incurred liabilities. The perfected security interest is transferred to any cash or securities thereafter posted by the commercial self-insurance group with the commissioner of management and budget and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner. The commercial self-insurance group loses all right, title, and interest in and any right to control all assets or obligations posted or left on deposit as security. In the event of a declaration of ~~bankruptcy or~~ insolvency by a court of competent jurisdiction, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer it to the commercial self-insurance group security fund for application to the commercial self-insurance group's incurred liability.

(c) No securities in physical form on deposit with the commissioner of management and budget or the commissioner or custodial accounts assigned to the state shall be released or exchanged without an order from the commissioner. No security can be exchanged more than once every 90 days.

(d) Any securities deposited with the commissioner of management and budget or with a custodial account assigned to the commissioner of management and budget or letters of credit or surety bonds held by the commissioner may be exchanged or replaced by the depositor with any other acceptable securities or letters of credit or surety bond of like amount so long as the market value of the securities or amount of the surety bonds or letter of credit equals or exceeds the amount of the deposit required. If securities are replaced by surety bond, the commercial self-insurance group must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities.

Sec. 10. Minnesota Statutes 2022, section 79A.25, subdivision 1, is amended to read:

Subdivision 1. **Notice of insolvency~~, bankruptcy,~~ or default.** The commissioner of labor and industry shall notify the commissioner and the commercial self-insurance group security fund if the commissioner of labor and industry has knowledge that any commercial self-insurance group has failed to pay workers' compensation benefits as required by chapter 176. If the commissioner determines that a court of competent jurisdiction has declared the commercial self-insurance group to be ~~bankrupt or~~ insolvent and the commercial self-insurance group has failed to pay workers' compensation as required by chapter 176 or if the commissioner issues a certificate of default against a commercial self-insurance group for failure to pay workers' compensation as required by chapter 176, then the security deposit posted by the commercial self-insurance

group shall be utilized to administer and pay the commercial self-insurance group's workers' compensation obligation.

Sec. 11. Minnesota Statutes 2022, section 79A.25, subdivision 2, is amended to read:

Subd. 2. **Mandatory revocation of certificate to self-insure.** (a) The commissioner shall revoke the commercial self-insurance group's certificate to self-insure once notified of the commercial self-insurance group's ~~bankruptcy,~~ insolvency~~,~~ or upon issuance of a certificate of default. The revocation shall be completed as soon as practicable, but no later than 30 days after the commercial self-insurance group's security has been called.

(b) The commissioner shall also revoke a commercial self-insurance group's authority to self-insure on the following grounds:

(1) failure to comply with any lawful order of the commissioner;

(2) failure to comply with any provision of chapter 176;

(3) a deterioration of the commercial self-insurance group's financial condition affecting its ability to pay obligations in chapter 176;

(4) committing an unfair or deceptive act or practice as defined in section 72A.20; or

(5) failure to abide by the plan of operation of the Workers' Compensation Reinsurance Association.

Sec. 12. Minnesota Statutes 2022, section 79A.25, is amended by adding a subdivision to read:

Subd. 2a. **Discretionary revocation of certificate to self-insure.** (a) A commercial self-insurance group must notify the commissioner, prior to or immediately upon a court of competent jurisdiction declaring it to be insolvent. If a commercial self-insurance group has been declared insolvent by a court of competent jurisdiction and the commercial self-insurance group has failed to pay workers' compensation as required by chapter 176, the commissioner must call the security and proceed in accordance with this section.

(b) If a commercial self-insurance group has notified the commissioner that a court of competent jurisdiction has declared it bankrupt but the commercial self-insurance group has not failed to pay workers' compensation benefits as required by chapter 176, the commissioner may call the security and proceed in accordance with this section if the commissioner determines that the commercial self-insurance group's payment of workers' compensation benefits would be delayed in any way as a result of the bankruptcy petition or declaration or that the commercial self-insurance group would otherwise be unable to fulfill its obligations under chapter 79A or 176.

(c) In making the determination provided for in paragraph (b) to call a commercial self-insurance group's security and proceed in accordance with this section, the commissioner must consult with the commissioner of labor and industry to determine if the commissioner of labor and industry has knowledge that the commercial self-insurance group has failed to pay workers' compensation benefits as required by chapter 176. The commissioner shall also consider the following:

(1) the commercial self-insurance group's most recent actuarial statement, including but not limited to estimated future liability and posted security;

(2) the commercial self-insurance group's claims history and claims projections;

(3) the circumstances surrounding the commercial self-insurance group's petition to file bankruptcy; and

(4) any other circumstances the commissioner deems relevant.

(d) The commissioner must also meet and confer with the commercial self-insurance group and the group security fund. The initial meet and confer must occur within 30 days of the filing of the petition for chapter 11 bankruptcy. Failure to participate in the meet and confer process by the commercial self-insurance group may result in a default determination to immediately transfer the posted security and claims obligations to the fund. During the meet and confer, the commissioner may ask the commercial self-insurance group to provide additional information and the commercial self-insurance group security fund may inspect the commercial self-insurance group's most recent actuarial study on file with the commissioner as well as its current security deposit amount required by the commissioner. Data disclosed during the meet and confer must remain confidential. Nothing in this section shall limit the fund's authority to seek information directly from its members.

Sec. 13. Minnesota Statutes 2022, section 79A.25, subdivision 3, is amended to read:

Subd. 3. **Notice by commissioner.** In the event of ~~bankruptcy,~~ insolvency~~,~~ or certificate of default, the commissioner shall immediately notify by certified mail the commissioner of management and budget, the surety, the issuer of an irrevocable letter of credit, and any custodian of the security. At the time of notification, the commissioner shall also call the security and transfer and assign it to the commercial self-insurance group security fund. The commissioner shall also notify by certified mail the commercial self-insurance group's security fund and order the commercial security fund to assume the insolvent commercial self-insurance group's obligations for which it is liable under chapter 176.

ARTICLE 2

SYSTEM EFFICIENCIES

Section 1. Minnesota Statutes 2022, section 176.081, subdivision 1, is amended to read:

Subdivision 1. **Limitation of fees.** (a) A fee for legal services of 20 percent of the first $130,000 of compensation awarded to the employee is the maximum permissible fee and does not require approval by the commissioner, compensation judge, or any other party. All fees, including fees for obtaining medical or rehabilitation benefits, must be calculated according to the formula under this subdivision, except as otherwise provided in clause (1) or (2).

(1) The contingent attorney fee for recovery of monetary benefits according to the formula in this section is presumed to be adequate to cover recovery of medical and rehabilitation benefit or services concurrently in dispute. Attorney fees for recovery of medical or rehabilitation benefits or services shall be assessed against the employer or insurer only if the attorney establishes that the contingent fee is inadequate to reasonably compensate the attorney for representing the employee in the medical or rehabilitation dispute. In cases where the contingent fee is inadequate the employer or insurer is liable for attorney fees based on the formula in this subdivision or in clause (2).

For the purposes of applying the formula where the employer or insurer is liable for attorney fees, the amount of compensation awarded for obtaining disputed medical and rehabilitation benefits under sections 176.102, 176.135, and 176.136 shall be the dollar value of the medical or rehabilitation benefit awarded, where ascertainable.

(2) The maximum attorney fee for obtaining a change of doctor or qualified rehabilitation consultant, or any other disputed medical or rehabilitation benefit for which a dollar value is not reasonably ascertainable, is the amount charged in hourly fees for the representation or $500, whichever is less, to be paid by the employer or insurer.

(3) The fees for obtaining disputed medical or rehabilitation benefits are included in the $26,000 limit in paragraph (b). An attorney must concurrently file all outstanding disputed issues. An attorney is not entitled to attorney fees for representation in any issue which could reasonably have been addressed during the pendency of other issues for the same injury.

(b) All fees for legal services related to the same injury are cumulative and may not exceed $26,000. If multiple injuries are the subject of a dispute, the commissioner, compensation judge, or court of appeals shall specify the attorney fee attributable to each injury.

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. Subject to the foregoing maximum amount for attorney fees, up to 20 percent of the first $130,000 of periodic compensation awarded to the employee may be withheld from the periodic payments for attorney fees or disbursements if the payor of the funds clearly indicates on the check or draft issued to the employee for payment the purpose of the withholding, the name of the attorney, the amount withheld, and the gross amount of the compensation payment before withholding. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be available to an attorney who procures a benefit on behalf of the employee and be based solely upon genuinely disputed claims or portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. The existence of a dispute is dependent upon a disagreement after the employer or insurer has had adequate time and information to take a position on liability. Neither the holding of a hearing nor the filing of an application for a hearing alone may determine the existence of a dispute. Except where the employee is represented by an attorney in other litigation pending at the department or at the Office of Administrative Hearings, a fee may not be charged ~~after June 1, 1996,~~ for services with respect to a medical or rehabilitation issue arising under section 176.102, 176.135, or 176.136 performed before the ~~employee has consulted with the department~~ attorney has filed with the commissioner and served on the employer or insurer and the attorney representing the employer or insurer, if any, a request for certification of dispute containing the name of the employer and its insurer, the date of the injury, and a description of the benefits claimed, and the department certifies that there is a dispute and that it has tried to resolve the dispute. If within 30 days of the filing of the request the department has not issued a determination of whether a dispute exists, the dispute shall be certified if all of the following apply:

(1) the insurer has not approved the requested benefit;

(2) the employee, the employee's attorney, or the employee's treating provider has submitted any and all additional information requested by the insurer necessary to determine whether the requested benefit is disputed or approved; and

(3) the insurer has had at least seven calendar days to review any additional information submitted.

In cases of nonemergency surgery, if the employer or insurer has requested a second opinion under section 176.135, subdivision 1a, or an examination under section 176.155, subdivision 1, a dispute shall be certified if 45 days have passed following a written request for an examination or second opinion and the conditions in clauses (1) to (3) have been met.

(d) An attorney who is claiming legal fees for representing an employee in a workers' compensation matter shall file a statement of attorney fees with the commissioner or compensation judge before whom the matter was heard. A copy of the signed retainer agreement shall also be filed. The employee ~~and insurer~~, employer or insurer, and the attorney representing the employer or insurer, if any, shall receive a copy of the statement of attorney fees. The statement shall be on a form prescribed by the commissioner and shall report the number of hours spent on the case.

(e) Employers and insurers may not pay attorney fees or wages for legal services of more than $26,000 per case.

(f) An attorney must file a statement of attorney fees within 12 months of the date the attorney has submitted the written notice specified in paragraph (c). If the attorney has not filed a statement of attorney fees within the 12 months, the attorney must send a renewed notice of lien to the insurer. If 12 months have elapsed since the last notice of lien has been received by the insurer and no statement of attorney fees has been filed, the insurer must release the withheld money to the employee, except that before releasing the money to the employee, the insurer must give the attorney 30 days' written notice of the pending release. The insurer must not release the money if the attorney files a statement of attorney fees within the 30 days.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 2. Minnesota Statutes 2022, section 176.135, subdivision 1, is amended to read:

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.

(b) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(c) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(d) 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. If an item under this paragraph is customized specifically for the injured worker, the item is the property of the injured worker. For the purpose of this paragraph, "injury" includes damage wholly or in part to an artificial member. In case of the employer's inability or refusal ~~seasonably~~ to timely provide the items required to be provided under this paragraph, 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.

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

(f) An employer may require that the treatment and supplies required to be provided by an employer by this section be received in whole or in part from a managed care plan certified under section 176.1351 except as otherwise provided by that section.

(g) An employer may designate a pharmacy or network of pharmacies that employees must use to obtain outpatient prescription and nonprescription medications. An employee is not required to obtain outpatient medications at a designated pharmacy unless the pharmacy is located within 15 miles of the employee's place of residence.

(h) Notwithstanding any fees established by rule adopted under section 176.136, an employer may contract for the cost of medication provided to employees. All requests for reimbursement from the special compensation fund formerly codified under section 176.131 for medication provided to an employee must be accompanied by the dispensing pharmacy's invoice showing its usual and customary charge for the medication at the time it was dispensed to the employee. The special compensation fund shall not reimburse any amount that exceeds the maximum amount payable for the medication under Minnesota Rules, part 5221.4070, subparts 3 and 4, notwithstanding any contract under Minnesota Rules, part 5221.4070, subpart 5, that provides for a different reimbursement amount.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2022, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. **Nonemergency surgery; second surgical opinion.** (a) The employer or insurer is required to furnish surgical treatment pursuant to subdivision 1 when the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion. Except in cases of emergency surgery, the employer or insurer may require the employee to obtain a second opinion on the necessity of the surgery, at the expense of the employer or insurer, before the employee undergoes surgery. ~~Failure to obtain a second surgical opinion shall not be reason for nonpayment of the charges for the surgery. The employer is required to pay the reasonable value of the surgery unless the commissioner or compensation judge determines that the surgery is not reasonably required.~~ If an employer or insurer receives a request for nonemergency surgery, the employer or insurer must respond in writing no later than seven calendar days after receiving the request from the health care provider or employee by approving the request, denying authorization, requesting additional information, requesting a second opinion under this section, or requesting an examination by the employer's physician under section 176.155.

(b) An employer or insurer requesting a second opinion must notify the employee and the health care provider of the request for a second opinion within seven calendar days of the request for nonemergency surgery. If the employer or insurer denies authorization within seven calendar days of receiving the second opinion, the health care provider may elect to perform the surgery, subject to a determination of compensability by the commissioner or compensation judge.

(c) Failure to obtain a second surgical opinion is not reason for nonpayment of the charges for the surgery. The employer or insurer is required to pay the reasonable value of the surgery unless the commissioner or compensation judge determines that the surgery is not reasonably required.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 4. Minnesota Statutes 2022, section 176.135, subdivision 7, is amended to read:

Subd. 7. **Medical bills and records.** (a) Health care providers shall submit to the insurer an itemized statement of charges in the standard electronic transaction format when required by section 62J.536 or, if there is no prescribed standard electronic transaction format, on a billing form prescribed by the commissioner. Health care providers shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury. Pursuant to Minnesota Rules, part 5219.0300, health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. The commissioner shall adopt, by rule, a schedule of reasonable charges ~~by rule~~ that will apply to charges not covered by paragraphs (d) and (e).

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

A United States government facility rendering health care services to veterans is not subject to the uniform billing form requirements of this subdivision.

(b) For medical services provided under this section, the codes from the International Classification of Diseases, Tenth Edition, Clinical Modification/Procedure Coding System (ICD-10), must be used to report medical diagnoses and hospital inpatient procedures when required by the United States Department of Health and Human Services for federal programs. The commissioner must replace the codes from the International Classification of Diseases, Ninth Edition, Clinical Modification/Procedure Coding System (ICD-9), with equivalent ICD-10 codes wherever the ICD-9 codes appear in rules adopted under this chapter. The commissioner must use the General Equivalence Mappings established by the Centers for Medicare and Medicaid Services to replace the ICD-9 diagnostic codes with ICD-10 codes in the rules.

(c) The commissioner shall amend rules adopted under this chapter as necessary to implement the ICD-10 coding system in paragraph (b). The amendments shall be adopted by giving notice in the State Register according to the procedures in section 14.386, paragraph (a). The amended rules are not subject to expiration under section 14.386, paragraph (b).

(d) The requirements in this paragraph and paragraph (e) apply to each request for copies of existing medical records that are required to be maintained in electronic format by state or federal law.

(1) If an authorized requestor of copies of medical records submits a written request for advance notice of the cost of the copies requested, the health care provider must notify the requestor of the estimated cost before sending the copies. If the requestor approves the cost and copies of the records are provided, the payment is the applicable fee under paragraph (e). If the requestor does not pay for the records, the health care provider may charge a fee, which must not exceed $10.

(2) A health care provider shall not require prepayment for the cost of copies of medical records under this paragraph or Minnesota Rules, chapter 5219, unless there is an outstanding past-due invoice for the requestor concerning a previous request for records from the health care provider.

(3) A health care provider shall provide copies of medical records in electronic format.

(4) The charges under paragraph (e) include any fee for retrieval, download, or other delivery of records.

(e) For any copies of electronic records provided under paragraph (d), a health care provider may not charge more than a total of:

(1) $10 if there are no records available;

(2) $30 for copies of records of up to 25 pages;

(3) $50 for copies of records of up to 100 pages;

(4) $50, plus an additional 20 cents per page for pages 101 and above; or

(5) $500 for any request.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 5. Minnesota Statutes 2022, section 176.155, subdivision 1, is amended to read:

Subdivision 1. **Employer's physician.** (a) The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. Examinations shall not be conducted in hotel or motel facilities. The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to the department to order an examination at a location further from the employee's residence. The employee is entitled upon request to have a personal physician or witness present at any such examination. Each party shall defray the cost of that party's physician.

(b) Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury~~, shall be made available, upon request and without charge, to the injured employee or representative of the employee~~ or whether litigation is pending, must be served upon the employee and the attorney representing the employee, if any, no later than 14 calendar days within the issuance of the report or written statement.

(c) The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination.

(d) A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition. Any request for a good cause extension pursuant to paragraph (e) must be made within 120 days of service of the claim petition, except that a request may be made after 120 days of service of a claim petition in the following circumstances:

(1) a change to the employee's claim regarding the nature and extent of the injury;

(2) a change to the permanency benefits claimed by the employee, including a change in permanent partial disability percentage;

(3) a new claim for indemnity benefits; or

(4) the employment relationship is not admitted by the uninsured employer.

(e) No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted by the commissioner or

compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 6. Minnesota Statutes 2022, section 176.239, subdivision 6, is amended to read:

Subd. 6. **Scope of the administrative decision.** If benefits have been discontinued due to the employee's return to work, the commissioner shall determine whether, as a result of occurrences arising during the initial 14 calendar days after the return to work, the employee is entitled to additional payment of temporary total, temporary partial, or permanent total compensation.

If periodic payment of temporary total, temporary partial, or permanent total compensation has been discontinued for reasons other than a return to work, the commissioner shall determine whether the employer has reasonable grounds to support the discontinuance. Only ~~information or~~ reasons specified on the notice of discontinuance shall provide a basis for a discontinuance, unless the parties agree otherwise.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 7. Minnesota Statutes 2022, section 176.239, subdivision 7, is amended to read:

Subd. 7. **Interim administrative decision.** After considering the information provided by the parties at the administrative conference and exhibits filed by the parties with the office, the commissioner shall issue to all interested parties a written decision on payment of compensation. Administrative decisions under this section shall be issued within five working days from the close of the conference. Disputed issues of fact shall be determined by a preponderance of the evidence.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 8. Minnesota Statutes 2022, section 176.291, is amended to read:

176.291 DISPUTES; PETITIONS; PROCEDURE.

(a) Where there is a dispute as to a question of law or fact in connection with a claim for compensation, a party may serve on all other parties and file a petition with the office stating the matter in dispute. The petition shall be on a form prescribed by the commissioner and shall be signed by the petitioner.

(b) The petition shall also state and include, where applicable:

(1) names and residence or business address of parties;

(2) facts relating to the employment at the time of injury, including amount of wages received;

(3) extent and character of each injury;

(4) notice to or knowledge by employer of injury;

(5) copies of written medical reports or medical records supporting each claim asserted;

(6) copies of other information in support of the claim;

~~(6)~~ (7) names and addresses of all known witnesses intended to be called in support of ~~the~~ each injury and claim;

~~(7)~~ (8) the desired location of any hearing and estimated time needed to present evidence at the hearing;

~~(8)~~ (9) any requests for a prehearing or settlement conference;

~~(9)~~ (10) a list of all known third parties, including the Departments of Human Services and Employment and Economic Development, who may have paid any medical bills or other benefits to the employee for the injuries or disease alleged in the petition or for the time the employee was unable to work due to the injuries or disease, together with a listing of the amounts paid by each;

~~(10)~~ (11) the nature and extent of ~~the~~ each claim; and

~~(11)~~ (12) a request for an expedited hearing which must include an attached affidavit of significant financial hardship which complies with the requirements of section 176.341, subdivision 6.

(c) Incomplete petitions may be stricken or dismissed from the calendar as provided by section 176.305, subdivision 4. Within ~~30~~ 14 days of a request by a party, an employee who has filed a claim petition pursuant to section 176.271 or this section shall furnish a list of physicians and health care providers from whom the employee has received treatment for the same or a similar condition as well as authorizations to release relevant information, data, and records to the requester. The petition may be stricken from the calendar upon motion of a party for failure to timely provide the required list of health care providers or authorizations.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 9. Minnesota Statutes 2022, section 176.305, subdivision 4, is amended to read:

Subd. 4. **Striking from calendar.** A compensation judge, after receiving a properly served motion, may strike a case from the active trial calendar after the employee has been given 30 days to correct ~~the deficiency~~ a deficient petition if it is shown that the information on the petition or included with the petition is incomplete. Once a case is stricken, it may not be reinstated until the missing information is provided to the adverse parties and filed with the compensation judge. If a case has been stricken from the calendar for ~~one year~~ 180 days or more and no corrective action has been taken, the compensation judge may, upon the judge's own motion or a motion of a party which is properly served on all parties, dismiss the case. The petitioner must be given at least 30 days' advance notice of the proposed dismissal before the dismissal is effective.

EFFECTIVE DATE. This section is effective August 1, 2023.

Sec. 10. Minnesota Statutes 2022, section 176.331, is amended to read:

176.331 PROCEEDINGS WHEN ANSWER NOT FILED.

Except in cases involving multiple employers or multiple insurers, if an adverse party fails to file and serve an answer or obtain an extension from the office or the petitioner as required by section 176.321, subdivision 3, the office shall set the matter for an immediate pretrial conference and hearing ~~and~~ for prompt

award or other order. The adverse party that failed to file an answer or appear at a pretrial conference may appear at the hearing, present evidence and question witnesses, but shall not be granted a continuance except upon a showing of good cause.

If an adverse party who fails to serve and file an answer is neither insured for workers' compensation liability nor a licensed self-insured as required by section 176.181 and the special compensation fund is a party to the proceeding, the compensation judge may enter an order awarding benefits to the petitioning party without a hearing if so requested by the special compensation fund.

EFFECTIVE DATE. This section is effective August 1, 2023.

ARTICLE 3

PERMANENT PARTIAL DISABILITY SCHEDULE

Section 1. Minnesota Statutes 2022, section 176.101, subdivision 2a, is amended to read:

Subd. 2a. **Permanent partial disability.** (a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. During the 2026 regular legislative session, and every even-year legislative session thereafter, the Workers' Compensation Advisory Council must consider whether the permanent partial disability schedule in paragraph (b) represents adequate compensation for permanent impairment.

(b) The percentage determined pursuant to the rules adopted under section 176.105 must be multiplied by the corresponding amount in the following table at the time permanent partial disability is payable according to paragraph (c):

Impairment Rating (percent)	Amount
less than 5.5	$ ~~78,800~~ 114,260
5.5 to less than 10.5	~~84,000~~ 121,800
10.5 to less than 15.5	~~89,300~~ 129,485
15.5 to less than 20.5	~~94,500~~ 137,025
20.5 to less than 25.5	~~99,800~~ 139,720
25.5 to less than 30.5	~~105,000~~ 147,000
30.5 to less than 35.5	~~115,500~~ 150,150

	~~126,000~~
35.5 to less than 40.5	163,800
	~~136,500~~
40.5 to less than 45.5	177,450
	~~147,000~~
45.5 to less than 50.5	177,870
	~~173,300~~
50.5 to less than 55.5	181,965
	~~199,500~~
55.5 to less than 60.5	209,475
	~~225,800~~
60.5 to less than 65.5	237,090
	~~252,000~~
65.5 to less than 70.5	264,600
	~~278,300~~
70.5 to less than 75.5	292,215
	~~330,800~~
75.5 to less than 80.5	347,340
	~~383,300~~
80.5 to less than 85.5	402,465
	~~435,800~~
85.5 to less than 90.5	457,590
	~~488,300~~
90.5 to less than 95.5	512,715
	~~540,800~~
95.5 up to and including 100	567,840

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

~~(b)~~ (c) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee requests payment in a lump sum, then the compensation must be paid within 30 days. This lump-sum payment may be discounted to the present value calculated up to a maximum five percent basis. If the employee does not choose to receive the compensation in a lump sum, then the compensation is payable in installments at the same intervals and in the same amount as the employee's temporary total disability rate on the date of injury. Permanent partial disability is not payable while temporary total compensation is being paid.

EFFECTIVE DATE. This section is effective for injuries occurring on or after October 1, 2023.

ARTICLE 4

HOSPITAL OUTPATIENT FEE SCHEDULE

Section 1. Minnesota Statutes 2022, section 176.1364, subdivision 3, is amended to read:

Subd. 3. **Hospital outpatient fee schedule (HOFS).** (a) Effective for hospital outpatient services on or after October 1, 2018, the commissioner shall establish a workers' compensation hospital outpatient fee schedule (HOFS) to establish the payment for hospital bills with charges for services with a J1 or J2 status indicator as listed in the status indicator (SI) column of Addendum B and the comprehensive observation services Ambulatory Payment Classification (APC) 8011 with a J2 status indicator in Addendum A. The commissioner shall publish a link to the HOFS in the State Register before October 1, 2018, and shall maintain the current HOFS on the department's website.

(b) The amount listed for each of the procedures in the HOFS as described in paragraph (a) shall be the relative weight for the procedure multiplied by a HOFS conversion factor that results in the same overall payment for hospital outpatient services under this section as the actual payments made in the most recent 12-month period available before October 1, 2018. The commissioner must establish separate conversion factors to achieve the same overall payment for noncritical access hospitals of 100 or fewer licensed beds and hospitals with more than 100 licensed beds. The commissioner shall establish the two conversion factors according to the requirements in clauses (1) to (4) in consultation with insurer and hospital representatives.

(1) The commissioner shall obtain a suitable sample of de-identified data for Minnesota workers' compensation outpatient cases at Minnesota hospitals for the most recently available 12-month period. The commissioner may obtain de-identified data from any reliable source, including Minnesota hospitals and insurers, or their representatives. Any data provided to the commissioner by a hospital, insurer, or their representative under this subdivision is nonpublic data under section 13.02, subdivision 9.

(2) The sample must be divided into a data set for hospitals over 100 licensed beds, and 100 or fewer licensed beds, excluding critical access hospitals.

(3) For each data set the commissioner shall:

(i) calculate the total amount of the actual payments made in the most recent 12-month period available before October 1, 2018, adjusted for inflation to July 2018; and

(ii) apply all of the payment provisions in this section to each claim including, as applicable, payment under the relative value fee schedule or 85 percent of the hospital's usual and customary charge under section 176.136, subdivisions 1a and 1b, to determine the total payment amount using the Medicare conversion factor in effect for the OPPS in effect on July 1, 2018.

(4) The commissioner shall calculate the Minnesota conversion factor to equal the Medicare conversion factor multiplied by the ratio of total payments under clause (3), item (i), divided by the total payments under clause (3), item (ii).

(c) For purposes of this section:

(1) the relative weight is the amount in the "relative weight" column in Addendum B and Addendum A for comprehensive observation services;

(2) references to J1, J2, and H status indicators; Addenda A and B; APC 8011; and HCPCS code G0378 includes any successor status indicators, addenda, APC, or HCPCS code established by the Centers for Medicare and Medicaid Services.

(d) On October 1 of each year, the commissioner shall adjust the HOFS conversion factors based on the market basket index for inpatient hospital services calculated by Medicare and published on its website. The adjustment on each October 1 shall be a percentage equal to the value of that index averaged over the four quarters of the most recent calendar year divided by the value of that index over the four quarters of the prior calendar year.

(e) No later than October 1, 2021, and at least once every three years thereafter, the commissioner shall update the HOFS established under this subdivision by incorporating services with a J1 or J2 status indicator, and the corresponding relative weights, listed in the Addenda A and B most recently available on Medicare's website as of the preceding July 1. If Addenda A and B are not available on Medicare's website on the preceding July 1, the HOFS most recently published on the department's website remains in effect.

(1) Each time the HOFS is updated under this paragraph, the commissioner shall adjust the conversion factors so that there is no difference between the overall payment under the new HOFS and the overall payment under the HOFS most recently in effect, for services in both HOFSs.

(2) The conversion factor adjustments under this paragraph shall be made separately for each hospital category in paragraph (b).

(3) The conversion factor adjustments under this paragraph must be made before making any additional adjustment under paragraph (d).

(f) The commissioner shall give notice in the State Register of the adjusted conversion factor in paragraph (d) no later than October 1 annually. The commissioner shall give notice in the State Register of an updated HOFS under paragraph (e) no later than October 1 of the year in which the HOFS becomes effective. The notice must include a link to the HOFS published on the department's website. The notices, the updated fee schedules, and the adjusted conversion factors are not rules subject to chapter 14, but have the force and effect of law as of the effective date published in the State Register.

(g) Beginning October 1, 2023, to October 1, 2025, the commissioner shall adjust the conversion factors calculated under this subdivision to result in the following:

(1) for services effective October 1, 2023, a three percent overall reduction in total payments for hospital outpatient services;

(2) for services effective October 1, 2024, a three percent overall reduction in total payments for hospital outpatient services; and

(3) for services effective October 1, 2025, a four percent overall reduction in total payments for hospital outpatient services.

Sec. 2. **REPEALER.**

Minnesota Statutes 2022, section 176.1364, subdivision 6, is repealed.

EFFECTIVE DATE. This section is effective for services on or after October 1, 2023.

ARTICLE 5

POST-TRAUMATIC STRESS DISORDER STUDY

Section 1. **POST-TRAUMATIC STRESS DISORDER STUDY.**

(a) The commissioner of labor and industry shall conduct a study to identify systemic or regulatory changes to improve the experience and outcomes of employees with work-related post-traumatic stress disorder. At a minimum, the study must:

(1) identify evidence-based methods and best practices for early detection and treatment of post-traumatic stress disorder;

(2) review models, including those used in other jurisdictions and systems, for delivering mental health wellness training or employee assistance programs, treatment for post-traumatic stress disorder, and benefits related to post-traumatic stress disorder. Review must include outcomes and cost considerations;

(3) identify any programs in other jurisdictions with effective prevention, timely and effective medical intervention, or high return-to-work rates for employees with work-related post-traumatic stress disorder;

(4) review the definition of post-traumatic stress disorder provided in Minnesota Statutes, section 176.011, subdivision 15, paragraph (d), and compare to definitions in other jurisdictions; and

(5) consider the list of occupations subject to the rebuttable presumption in Minnesota Statutes, section 176.011, subdivision 15, paragraph (e).

(b) The Public Employees Retirement Association, the Minnesota State Retirement System, the Minnesota Workers' Compensation Insurers Association, and any relevant state agencies shall cooperate with the commissioner in conducting this study. The commissioner must report the results of the study to the Workers' Compensation Advisory Council and the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over workers' compensation by August 1, 2025. The commissioner may contract with a third party to complete part or all of the study. The commissioner is exempt from the requirements of Minnesota Statutes, sections 16A.15, subdivision 3; 16B.97; and 16B.98, subdivisions 5, 7, and 8; and chapter 16C, and any other state procurement laws and procedures in completing the study.

(c) $500,000 in fiscal year 2023 is appropriated from the workers' compensation fund to the commissioner of labor and industry to conduct the study in paragraph (a) and for the Department of Labor and Industry's provision of legal, technical, and clerical staff support for the study. This is a onetime appropriation and is available until June 30, 2026.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 6

HOUSEKEEPING

Section 1. Minnesota Statutes 2022, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. **Family farm.** (a) "Family farm" means any farm operation which pays or is obligated to pay cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year in an amount:

(1) less than $8,000; or

(2) less than the statewide average annual wage as described in subdivision ~~20~~ 1b when the farm operation has total liability and medical payment coverage equal to $300,000 and $5,000, respectively, under a farm liability insurance policy, and the policy covers injuries to farm laborers.

(b) For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 2022, section 176.011, is amended by adding a subdivision to read:

Subd. 17b. **Relative value fee schedule.** "Relative value fee schedule" means the medical fee schedule adopted by rule under section 176.136, subdivision 1a, using the Physician Fee Schedule tables adopted for the federal Medicare program.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2022, section 176.102, subdivision 3, is amended to read:

Subd. 3. **Review panel.** There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member and two members each from employers, insurers, and rehabilitation, two licensed or registered health care providers, one chiropractor, and four members representing labor. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Terms, compensation, and removal for members shall be governed by section 15.0575. Notwithstanding section 15.059, this panel does not expire unless the panel no longer fulfills the purpose for which the panel was established, the panel has not met in the last 18 months, or the panel does not comply with the registration requirements of section 15.0599, subdivision 3. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants, qualified rehabilitation consultant firms, and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the Workers' Compensation Court of Appeals in the manner provided by section 176.421.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2022, section 176.111, subdivision 16, is amended to read:

Subd. 16. **Cessation of compensation.** Except as provided in this chapter, compensation ceases upon the death or marriage of any dependent. Cessation of benefits requires notice pursuant to subdivision 23.

EFFECTIVE DATE. This section is effective for violations on or after August 1, 2023.

Sec. 5. Minnesota Statutes 2022, section 176.111, is amended by adding a subdivision to read:

Subd. 23. **Notice of cessation of dependency benefits.** If an employer intends to discontinue dependency benefits of any individual identified as a dependent in this section, the employer must file with the

commissioner, as required under section 176.231, subdivision 6, paragraphs (a) and (e), and serve on the dependent whose benefits are being discontinued written notice within 14 calendar days of discontinuance. The notice shall state the name of the individual whose dependency benefits are being discontinued, the date the individual's benefits will be discontinued, and a statement of facts clearly indicating the reason the individual will no longer receive dependency benefits and is no longer considered a dependent under this section. Any document in the employer's possession which is relied on for the discontinuance shall be attached to the notice. Failure to file this form as required may result in a penalty under section 176.231, subdivision 10.

EFFECTIVE DATE. This section is effective for violations on or after August 1, 2023.

Sec. 6. Minnesota Statutes 2022, section 176.1362, subdivision 1, is amended to read:

Subdivision 1. **Payment based on Medicare MS-DRG system.** (a) Except as provided in subdivisions 2 and 3, ~~the maximum~~ reimbursement for inpatient hospital services, articles, and supplies is the lesser of the hospital's total usual and customary charge or 200 percent of the amount calculated for each hospital under the federal Inpatient Prospective Payment System developed for Medicare, using the inpatient Medicare PC-Pricer program or the inpatient PPS Web Pricer for the applicable MS-DRG as provided in this subdivision. All adjustments included in the PC-Pricer program or the inpatient PPS Web Pricer are included in the amount calculated, including but not limited to any outlier payments.

(b) Payment under this section is effective for services, articles, and supplies provided to patients discharged from the hospital on or after January 1, 2016. Payment for services, articles, and supplies provided to patients discharged on January 1, 2016, through December 31, 2016, must be based on the Medicare PC-Pricer program in effect on January 1, 2016.

(c) For patients discharged on or after May 31, 2017, payment for inpatient services, articles, and supplies must be calculated according to the PC-Pricer program identified on Medicare's website as FY 2016.1, updated on January 19, 2016.

(d) For patients discharged on or after October 1, 2017, payment for inpatient services, articles, and supplies must be calculated according to the PC-Pricer program or the inpatient PPS Web Pricer posted on the Department of Labor and Industry's website as follows:

(1) No later than October 1, 2017, and October 1 of each subsequent year until October 1, 2021, the commissioner must post on the department's website the version of the PC-Pricer program that is most recently available on Medicare's website as of the preceding July 1. If no PC-Pricer program is available on the Medicare website on any July 1, the PC-Pricer program most recently posted on the department's website remains in effect.

The commissioner must publish notice of the applicable PC-Pricer program in the State Register no later than October 1 of each year.

(2) Beginning on October 1, 2021, payment for inpatient services, articles, and supplies must be calculated using the inpatient PPS Web Pricer available on Medicare's website using the applicable dates of inpatient hospitalization. The department must publish the link to the inpatient PPS Web Pricer on its website.

(e) The MS-DRG grouper software or program that corresponds to or is included with the applicable version of the PC-Pricer program or inpatient PPS Web Pricer must be used to determine payment under this subdivision.

(f) Hospitals must bill workers' compensation insurers using the same codes, formats, and details that are required for billing for hospital inpatient services by the Medicare program. The bill must be submitted to the insurer within the time period required by section 62Q.75, subdivision 3. For purposes of this section, "insurer" includes both workers' compensation insurers and self-insured employers.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. **REPEALER.**

Minnesota Statutes 2022, section 176.223, is repealed.

Presented to the governor May 18, 2023

Signed by the governor May 19, 2023, 1:06 p.m.