

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1293

(SENATE AUTHORS: UTKE and Sparks)

DATE	D-PG	OFFICIAL STATUS
02/22/2017	704	Introduction and first reading Referred to Jobs and Economic Growth Finance and Policy
03/06/2017	1080	Author added Sparks
03/07/2017	1128a	Comm report: To pass as amended and re-refer to State Government Finance and Policy and Elections
03/09/2017	1268a	Comm report: To pass as amended and re-refer to Finance
04/24/2017	3291a	Comm report: To pass as amended
	3294	Second reading
05/01/2017	3353a	Special Order: Amended
	3355	Third reading Passed

1.1 A bill for an act

1.2 relating to workers' compensation; adopting recommendations of the Workers'

1.3 Compensation Advisory Council; adopting department proposals; allowing a

1.4 forbearance of amounts owed to the special compensation fund; modifying

1.5 intervention procedures; authorizing rulemaking; amending Minnesota Statutes

1.6 2016, sections 176.011, subdivision 15; 176.135, by adding a subdivision; 176.1362,

1.7 subdivisions 1, 2; 176.275, subdivision 1; 176.285; 176.361, subdivisions 2, 3;

1.8 176.521, by adding a subdivision; 176.541, subdivisions 1, 8, by adding a

1.9 subdivision; 176.611, subdivision 2; proposing coding for new law in Minnesota

1.10 Statutes, chapter 176; repealing Minnesota Statutes 2016, section 176.541,

1.11 subdivision 7.

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

1.13 **ARTICLE 1**

1.14 **DEPARTMENT PROPOSALS**

1.15 Section 1. Minnesota Statutes 2016, section 176.011, subdivision 15, is amended to read:

1.16 Subd. 15. **Occupational disease.** (a) "Occupational disease" means a mental impairment

1.17 as defined in paragraph (d) or physical disease arising out of and in the course of employment

1.18 peculiar to the occupation in which the employee is engaged and due to causes in excess of

1.19 the hazards ordinary of employment and shall include undulant fever. Physical stimulus

1.20 resulting in mental injury and mental stimulus resulting in physical injury shall remain

1.21 compensable. Mental impairment is not considered a disease if it results from a disciplinary

1.22 action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement,

1.23 or similar action taken in good faith by the employer. Ordinary diseases of life to which the

1.24 general public is equally exposed outside of employment are not compensable, except where

1.25 the diseases follow as an incident of an occupational disease, or where the exposure peculiar

1.26 to the occupation makes the disease an occupational disease hazard. A disease arises out of

2.1 the employment only if there be a direct causal connection between the conditions under
2.2 which the work is performed and if the occupational disease follows as a natural incident
2.3 of the work as a result of the exposure occasioned by the nature of the employment. An
2.4 employer is not liable for compensation for any occupational disease which cannot be traced
2.5 to the employment as a direct and proximate cause and is not recognized as a hazard
2.6 characteristic of and peculiar to the trade, occupation, process, or employment or which
2.7 results from a hazard to which the worker would have been equally exposed outside of the
2.8 employment.

2.9 (b) If immediately preceding the date of disablement or death, an employee was employed
2.10 on active duty with an organized fire or police department of any municipality, as a member
2.11 of the Minnesota State Patrol, conservation officer service, state crime bureau, as a forest
2.12 officer by the Department of Natural Resources, state correctional officer, or sheriff or
2.13 full-time deputy sheriff of any county, and the disease is that of myocarditis, coronary
2.14 sclerosis, pneumonia or its sequel, and at the time of employment such employee was given
2.15 a thorough physical examination by a licensed doctor of medicine, and a written report
2.16 thereof has been made and filed with such organized fire or police department, with the
2.17 Minnesota State Patrol, conservation officer service, state crime bureau, Department of
2.18 Natural Resources, Department of Corrections, or sheriff's department of any county, which
2.19 examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia
2.20 or its sequel, the disease is presumptively an occupational disease and shall be presumed
2.21 to have been due to the nature of employment. If immediately preceding the date of
2.22 disablement or death, any individual who by nature of their position provides emergency
2.23 medical care, or an employee who was employed as a licensed police officer under section
2.24 626.84, subdivision 1; firefighter; paramedic; state correctional officer; emergency medical
2.25 technician; or licensed nurse providing emergency medical care; and who contracts an
2.26 infectious or communicable disease to which the employee was exposed in the course of
2.27 employment outside of a hospital, then the disease is presumptively an occupational disease
2.28 and shall be presumed to have been due to the nature of employment and the presumption
2.29 may be rebutted by substantial factors brought by the employer or insurer. Any substantial
2.30 factors which shall be used to rebut this presumption and which are known to the employer
2.31 or insurer at the time of the denial of liability shall be communicated to the employee on
2.32 the denial of liability.

2.33 (c) A firefighter on active duty with an organized fire department who is unable to
2.34 perform duties in the department by reason of a disabling cancer of a type caused by exposure
2.35 to heat, radiation, or a known or suspected carcinogen, as defined by the International

3.1 Agency for Research on Cancer, and the carcinogen is reasonably linked to the disabling
 3.2 cancer, is presumed to have an occupational disease under paragraph (a). If a firefighter
 3.3 who enters the service after August 1, 1988, is examined by a physician prior to being hired
 3.4 and the examination discloses the existence of a cancer of a type described in this paragraph,
 3.5 the firefighter is not entitled to the presumption unless a subsequent medical determination
 3.6 is made that the firefighter no longer has the cancer.

3.7 (d) For the purposes of this chapter, "mental impairment" means a diagnosis of
 3.8 post-traumatic stress disorder by a licensed psychiatrist or psychologist. For the purposes
 3.9 of this chapter, "post-traumatic stress disorder" means the condition as described in the most
 3.10 recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by
 3.11 the American Psychiatric Association. For purposes of section 79.34, subdivision 2, one or
 3.12 more compensable mental impairment claims arising out of a single event or occurrence
 3.13 shall constitute a single loss occurrence.

3.14 (e) If, preceding the date of disablement or death, an employee who was employed (1)
 3.15 as a licensed police officer under section 626.84, subdivision 1; firefighter; paramedic;
 3.16 emergency medical technician; licensed nurse providing emergency medical care; or public
 3.17 safety dispatcher; (2) on active duty as a forest officer by the Department of Natural
 3.18 Resources; state correctional officer; or sheriff or full-time deputy sheriff of any county; or
 3.19 (3) as a member of the Minnesota State Patrol; conservation officer service; or state crime
 3.20 bureau; is diagnosed with a mental impairment as defined in paragraph (d), and had not
 3.21 been diagnosed with the mental impairment previously, then the mental impairment is
 3.22 presumptively an occupational disease and shall be presumed to have been due to the nature
 3.23 of employment. The mental impairment is not considered an occupational disease if it results
 3.24 from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion,
 3.25 termination, retirement, or similar action taken in good faith by the employer.

3.26 Sec. 2. Minnesota Statutes 2016, section 176.135, is amended by adding a subdivision to
 3.27 read:

3.28 Subd. 9. Designated contact person and required training related to submission
 3.29 and payment of medical bills. (a) For purposes of this subdivision:

3.30 (1) "clearinghouse" means a health care clearinghouse as defined in section 62J.51,
 3.31 subdivision 11a, that receives or transmits workers' compensation electronic transactions
 3.32 as described in section 62J.536;

3.33 (2) "department" means the Department of Labor and Industry;

4.1 (3) "hospital" means a hospital licensed in this state;

4.2 (4) "payer" means:

4.3 (i) a workers' compensation insurer;

4.4 (ii) an employer, or group of employers, authorized to self-insure for workers'
4.5 compensation liability; and

4.6 (iii) a third-party administrator licensed by the Department of Commerce under section
4.7 60A.23, subdivision 8, to pay or review workers' compensation medical bills under this
4.8 chapter; and

4.9 (5) "submission or payment of medical bills" includes the submission, transmission,
4.10 receipt, acceptance, response, adjustment, and payment of medical bills under this chapter.

4.11 (b) Effective November 1, 2017, each payer, hospital, and clearinghouse must provide
4.12 the department with the name and contact information of a designated employee to answer
4.13 inquiries related to the submission or payment of medical bills. Payers, hospitals, and
4.14 clearinghouses must provide the department with the name of a new designated employee
4.15 within 14 days after the previously designated employee is no longer employed or becomes
4.16 unavailable for more than 30 days. The name and contact information of the designated
4.17 employee must be provided on forms and at intervals prescribed by the department. The
4.18 department must post a directory of the designated employees on the department's Web site.

4.19 (c) The designated employee under paragraph (b) must:

4.20 (1) complete training, provided by the department, about submission or payment of
4.21 medical bills; and

4.22 (2) respond within 30 days to written department inquiries related to submission or
4.23 payment of medical bills.

4.24 The training requirement in clause (1) does not apply to a payer that has not received any
4.25 workers' compensation medical bills in the 12 months before the training becomes available.

4.26 (d) The commissioner may assess penalties, payable to the assigned risk safety account,
4.27 against payers, hospitals, and clearinghouses for violation of this subdivision as provided
4.28 in clauses (1) to (3):

4.29 (1) for failure to comply with the requirements in paragraph (b), the commissioner may
4.30 assess a penalty of \$50 for each day of noncompliance after the department has provided
4.31 the noncompliant payer, clearinghouse, or hospital with a 30-day written warning;

5.1 (2) for failure of the designated employee to complete training under paragraph (c),
 5.2 clause (1), within 90 days after the department has notified a payer, clearinghouse, or
 5.3 hospital's designated employee that required training is available, the commissioner may
 5.4 assess a penalty of \$3,000;

5.5 (3) for failure to respond within 30 days to a department inquiry related to submission
 5.6 or payment of medical bills under paragraph (c), clause (2), the commissioner may assess
 5.7 a penalty of \$3,000. The commissioner shall not assess a penalty under both this clause and
 5.8 section 176.194, subdivision 3, clause (6), for failure to respond to the same department
 5.9 inquiry.

5.10 **EFFECTIVE DATE.** This section is effective October 1, 2017.

5.11 Sec. 3. Minnesota Statutes 2016, section 176.1362, subdivision 1, is amended to read:

5.12 Subdivision 1. **Payment based on Medicare MS-DRG system.** (a) Except as provided
 5.13 in subdivisions 2 and 3, the maximum reimbursement for inpatient hospital services, articles,
 5.14 and supplies is 200 percent of the amount calculated for each hospital under the federal
 5.15 Inpatient Prospective Payment System developed for Medicare, using the inpatient Medicare
 5.16 PC-Pricer program for the applicable MS-DRG as provided in ~~paragraph (b)~~ this subdivision.
 5.17 All adjustments included in the PC-Pricer program are included in the amount calculated,
 5.18 including but not limited to any outlier payments.

5.19 (b) Payment under this section is effective for services, articles, and supplies provided
 5.20 to patients discharged from the hospital on or after January 1, 2016. Payment for services,
 5.21 articles, and supplies provided to patients discharged on January 1, 2016, through December
 5.22 31, 2016, must be based on the Medicare PC-Pricer program in effect on January 1, 2016.

5.23 (c) For patients discharged on or after the effective date of this section, payment for
 5.24 inpatient services, articles, and supplies for patients discharged in each calendar year
 5.25 thereafter must be based on calculated according to the PC-Pricer program in effect on
 5.26 January 1 of the year of discharge identified on Medicare's Web site as FY 2016.1, updated
 5.27 on January 19, 2016.

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

5.31 (1) No later than October 1, 2017, and October 1 of each subsequent year, the
 5.32 commissioner must post on the department's Web site the version of the PC-Pricer program
 5.33 that is most recently available on Medicare's Web site as of the preceding July 1. If no

6.1 PC-Pricer program is available on the Medicare Web site on any July 1, the PC-Pricer
 6.2 program most recently posted on the department's Web site remains in effect.

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

6.5 (e) The MS-DRG grouper software or program that corresponds to the applicable version
 6.6 of the PC-Pricer program must be used to determine payment under this subdivision.

6.7 ~~(e)~~ (f) Hospitals must bill workers' compensation insurers using the same codes, formats,
 6.8 and details that are required for billing for hospital inpatient services by the Medicare
 6.9 program. The bill must be submitted to the insurer within the time period required by section
 6.10 62Q.75, subdivision 3. For purposes of this section, "insurer" includes both workers'
 6.11 compensation insurers and self-insured employers.

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

6.13 Sec. 4. Minnesota Statutes 2016, section 176.1362, subdivision 2, is amended to read:

6.14 Subd. 2. **Payment for catastrophic, high-cost injuries.** (a) If the hospital's total usual
 6.15 and customary charges for services, articles, and supplies for a patient's hospitalization
 6.16 exceed a threshold of \$175,000, annually adjusted as provided in paragraph (b),
 6.17 reimbursement must not be based on the MS-DRG system, but must instead be paid at 75
 6.18 percent of the hospital's usual and customary charges. The threshold amount in effect on
 6.19 the date of discharge determines the applicability of this paragraph.

6.20 (b) ~~Beginning On~~ January 1, 2017, ~~and each January 1 thereafter,~~ the commissioner
 6.21 must adjust the previous year's threshold by the percent change in average total charges per
 6.22 inpatient case, using data available as of October 1 for non-Critical Access Hospitals from
 6.23 the Health Care Cost Information System maintained by the Department of Health pursuant
 6.24 to chapter 144. Beginning October 1, 2017, and each October 1 thereafter, the commissioner
 6.25 must adjust the previous threshold using the data available as of the preceding July 1. The
 6.26 commissioner must ~~annually~~ publish notice of the updated threshold in the State Register.

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

6.28 Sec. 5. Minnesota Statutes 2016, section 176.275, subdivision 1, is amended to read:

6.29 Subdivision 1. **Filing.** If a document is required to be filed by this chapter or any rules
 6.30 adopted pursuant to authority granted by this chapter, the filing shall be completed by the
 6.31 receipt of the document at the division, department, office, or the court of appeals. The
 6.32 division, department, office, and the court of appeals shall accept any document which has

7.1 been delivered to it for legal filing, but may refuse to accept any form or document that
 7.2 lacks ~~the name of the injured employee, employer, or insurer, the date of injury, or the~~
 7.3 ~~injured employee's Social Security number~~ information required by statute or rule. The
 7.4 division, department, office, and the court of appeals are not required to maintain, and may
 7.5 destroy, a duplicate of a form or document that has already been filed. If a workers'
 7.6 compensation identification number has been assigned by the department, it may be
 7.7 substituted for the Social Security number on a form or document. If the injured employee
 7.8 has fewer than three days of lost time from work, the party submitting the required document
 7.9 must attach to it, at the time of filing, a copy of the first report of injury.

7.10 A notice or other document required to be served or filed at either the department, the
 7.11 office, or the court of appeals which is inadvertently served or filed at the wrong one of
 7.12 these agencies shall be deemed to have been served or filed with the proper agency. The
 7.13 receiving agency shall note the date of receipt of a document and shall forward the documents
 7.14 to the proper agency no later than two working days following receipt.

7.15 Sec. 6. Minnesota Statutes 2016, section 176.285, is amended to read:

7.16 **176.285 SERVICE OF PAPERS AND NOTICES; ELECTRONIC FILING.**

7.17 Subdivision 1. Service by mail. Service of papers and notices shall be by mail or
 7.18 otherwise as the commissioner or the chief administrative law judge may by rule direct.
 7.19 Where service is by mail, service is effected at the time mailed if properly addressed and
 7.20 stamped. If it is so mailed, it is presumed the paper or notice reached the party to be served.
 7.21 However, a party may show by competent evidence that that party did not receive it or that
 7.22 it had been delayed in transit for an unusual or unreasonable period of time. In case of
 7.23 nonreceipt or delay, an allowance shall be made for the party's failure to assert a right within
 7.24 the prescribed time.

7.25 Subd. 2. Electronic service and filing. (a) Where a statute or rule authorizes or requires
 7.26 a document to be filed with or served on an agency, the document may be filed electronically
 7.27 if electronic filing is authorized by the agency and if the document is transmitted in the
 7.28 manner and in the format specified by the agency. If electronic filing of a document is
 7.29 authorized by the agency and a statute or rule requires a copy of the document to be provided
 7.30 or served on another person or party, the document filed electronically with the agency and
 7.31 provided or served on the other person or party must contain the same information in the
 7.32 format required by the commissioner.

7.33 (b) Where a statute or rule authorizes or requires a person's signature on a document to
 7.34 be filed with or served on an agency, the signature may be an electronic signature, as defined

8.1 by section 325L.02, or transmitted electronically, if authorized by the agency and if the
8.2 signature is transmitted in the manner and format specified by the agency. The commissioner
8.3 may require that a document authorized or required to be filed with the commissioner,
8.4 department, or division be filed electronically in the manner and format specified by the
8.5 commissioner, except that an employee must not be required to file a document electronically
8.6 unless the document is filed by an attorney on behalf of an employee. ~~An agency may serve~~
8.7 ~~a document electronically if the recipient agrees to receive it in an electronic format.~~ The
8.8 department or court may adopt rules for the certification of signatures.

8.9 (c) An agency may serve a document electronically on a payer, rehabilitation provider,
8.10 or attorney. An agency may serve a document on any other party if the recipient agrees to
8.11 receive it in an electronic format. The date of electronic service of a document is the date
8.12 the recipient is sent a document electronically, or the date the recipient is notified that the
8.13 document is available on a Web site, whichever occurs first.

8.14 (d) When the electronic filing of a legal document with the department marks the
8.15 beginning of a prescribed time for another party to assert a right, the prescribed time for
8.16 another party to assert a right shall be lengthened by two calendar days when it can be shown
8.17 that service to the other party was by mail.

8.18 Subd. 3. **Proof of service.** The commissioner and the chief administrative law judge
8.19 shall ensure that proof of service of all papers and notices served by their respective agencies
8.20 is placed in the official file of the case.

8.21 Subd. 4. **Definitions; applicability.** (a) For purposes of this section, "agency" means
8.22 the workers' compensation division, the Department of Labor and Industry, the commissioner
8.23 of the Department of Labor and Industry, the Office of Administrative Hearings, the chief
8.24 administrative law judge, or the Workers' Compensation Court of Appeals. "Document"
8.25 includes documents, reports, notices, orders, papers, forms, information, and data elements
8.26 that are authorized or required to be filed with an agency or the commissioner or that are
8.27 authorized or required to be served on or by an agency or the commissioner. "Payer" means
8.28 a workers' compensation insurer, self-insurer employer, or third-party administrator.

8.29 (b) Except as otherwise modified by this section, the provisions of chapter 325L apply
8.30 to electronic signatures and the electronic transmission of documents under this section.

9.1 Sec. 7. Minnesota Statutes 2016, section 176.541, subdivision 1, is amended to read:

9.2 Subdivision 1. **Application of chapter to state employees.** This chapter applies to the
9.3 employees of any department of this state as defined in section 3.732, subdivision 1, clause
9.4 (1).

9.5 Sec. 8. Minnesota Statutes 2016, section 176.541, is amended by adding a subdivision to
9.6 read:

9.7 Subd. 7a. **Exceptions.** This section does not apply to the University of Minnesota.

9.8 Sec. 9. Minnesota Statutes 2016, section 176.541, subdivision 8, is amended to read:

9.9 Subd. 8. **State may insure.** The state of Minnesota may elect to insure its liability under
9.10 the workers' compensation law for persons employed under the federal ~~Emergency~~
9.11 ~~Employment Act of 1971, as amended, and the Comprehensive Employment and Training~~
9.12 ~~Act of 1973, as amended~~ Workforce Innovation and Opportunity Act, and similar programs,
9.13 with an insurer properly licensed in Minnesota.

9.14 Sec. 10. Minnesota Statutes 2016, section 176.611, subdivision 2, is amended to read:

9.15 Subd. 2. **State departments.** Every department of the state, ~~including the University of~~
9.16 ~~Minnesota,~~ shall reimburse the fund for money paid for its claims and the costs of
9.17 administering the revolving fund at such times and in such amounts as the commissioner
9.18 of administration shall certify has been paid out of the fund on its behalf. The heads of the
9.19 departments shall anticipate these payments by including them in their budgets. In addition,
9.20 the commissioner of administration, with the approval of the commissioner of management
9.21 and budget, may require an agency to make advance payments to the fund sufficient to
9.22 cover the agency's estimated obligation for a period of at least 60 days. Reimbursements
9.23 and other money received by the commissioner of administration under this subdivision
9.24 must be credited to the state compensation revolving fund.

9.25 Sec. 11. **REPEALER.**

9.26 Minnesota Statutes 2016, section 176.541, subdivision 7, is repealed.

9.27 Sec. 12. **EFFECTIVE DATE.**

9.28 This article is effective the day following final enactment.

10.1 **ARTICLE 2**

10.2 **SPECIAL COMPENSATION FUND**

10.3 Section 1. **[176.1292] FORBEARANCE OF AMOUNTS OWED TO THE SPECIAL**
 10.4 **COMPENSATION FUND.**

10.5 Subdivision 1. **Definitions.** For purposes of this section, the following definitions apply.

10.6 (a) "Payer" means a workers' compensation insurer, or an employer or group of employers
 10.7 that are self-insured for workers' compensation.

10.8 (b) "Retirement benefits" means retirement benefits paid by any government retirement
 10.9 benefit program and received by employees, other than old age and survivor insurance
 10.10 benefits received under the federal Social Security Act, United States Code, title 42, sections
 10.11 401 to 434. Retirement benefits include retirement annuities, optional annuities received in
 10.12 lieu of retirement benefits, and any other benefit or annuity paid by a government benefit
 10.13 program that is not clearly identified as a disability benefit or disability annuity in the
 10.14 applicable governing statute.

10.15 Subd. 2. **Payment of permanent total disability benefits to employees, dependents,**
 10.16 **and legal heirs.** (a) A payer is entitled to the relief described in subdivisions 3 and 4 only
 10.17 if the payer complies with all of the conditions in paragraphs (b) to (d) for all of the payer's
 10.18 permanently totally disabled employees and documents compliance according to the
 10.19 procedures and forms established by the commissioner under subdivision 7.

10.20 (b) Except as provided in paragraph (e), the payer must:

10.21 (1) recharacterize supplementary benefits paid to all employees as permanent total
 10.22 disability benefits if the supplementary benefits were paid because the permanent total
 10.23 disability benefits were reduced by retirement benefits received by the employee;

10.24 (2) pay all permanently totally disabled employees, regardless of the date of injury, past
 10.25 and future permanent total disability benefits calculated without any reduction for retirement
 10.26 benefits received by the employees, from the date the employees' benefits were first reduced;
 10.27 and

10.28 (3) for all deceased employees, pay the employees' dependents or, if none, the employees'
 10.29 legal heirs, the permanent total disability benefits the deceased employees would have
 10.30 received if the benefits had been calculated without any reduction for retirement benefits
 10.31 received by the employees.

11.1 (c) A payer may take a credit against its obligations under paragraph (b), clauses (2) and
11.2 (3), for:

11.3 (1) supplementary benefits previously paid to an employee that have been recharacterized
11.4 as permanent total disability benefits under paragraph (b), clause (1); and

11.5 (2) permanent total disability benefits previously paid to an employee.

11.6 (d) The payer must pay the permanent total disability benefits as provided in paragraphs
11.7 (b) and (c) within the time frames described in clauses (1) to (4). More than one time frame
11.8 may apply to a claim.

11.9 (1) No later than 150 days following final enactment, the payer must begin paying the
11.10 recalculated permanent total disability benefit amounts to employees who are entitled to
11.11 ongoing permanent total disability benefits.

11.12 (2) No later than 210 days following final enactment, the payer must pay employees the
11.13 amounts that past permanent total disability benefits were underpaid.

11.14 (3) No later than 270 days following final enactment, the payer must pay the employees'
11.15 dependents or legal heirs the amounts that permanent total disability benefits were underpaid.

11.16 (4) The commissioner may waive payment under paragraphs (b) and (c) or extend these
11.17 time frames if the payer, after making a good-faith effort, is unable to: locate an employee;
11.18 identify or locate the dependents or legal heirs of a deceased employee; or locate
11.19 documentation to determine the amount of an underpayment.

11.20 (e) Paragraphs (a) to (d) do not apply if:

11.21 (1) the employee died before January 1, 2008;

11.22 (2) the employee's last permanent total disability benefit was paid before January 1,
11.23 2000;

11.24 (3) the employee's last permanent total disability benefit would have been paid before
11.25 January 1, 2000, if it had not been reduced by his or her retirement benefits;

11.26 (4) a stipulation for settlement, signed by the employee and approved by a compensation
11.27 judge, provided for a full, final, and complete settlement of permanent total disability benefits
11.28 under this chapter in exchange for a lump sum payment amount or a lump sum converted
11.29 to a structured annuity;

11.30 (5) a final court order, or a stipulation for settlement signed by the employee and approved
11.31 by a compensation judge, explicitly states the employee's permanent total disability benefits
11.32 may be reduced by specified retirement benefits. Paragraphs (a) to (d) apply if a court order

12.1 or stipulation for settlement is ambiguous about whether the employee's permanent total
12.2 disability benefits could be reduced by retirement benefits; or

12.3 (6) a final court order or a stipulation for settlement described in clause (4) or (5) was
12.4 vacated after the effective date of this section.

12.5 Subd. 3. **Reimbursement of supplementary benefits.** (a) Except as provided in
12.6 subdivision 9, paragraph (a), clause (2), a payer that has complied with the requirements of
12.7 subdivision 2, paragraphs (a) to (d):

12.8 (1) is not required to repay supplementary benefits for any claim that the special
12.9 compensation fund over reimbursed due to the payer's reduction of any employee's permanent
12.10 total disability benefits by retirement benefits received by the employee;

12.11 (2) is entitled to reimbursement of supplementary benefits paid or payable before August
12.12 13, 2014, to the extent the special compensation fund denied reimbursement due to the
12.13 payer's reduction of any employee's permanent total disability benefits by the employee's
12.14 retirement benefits; and

12.15 (3) is entitled to reimbursement of supplementary benefits the special compensation
12.16 fund withheld under section 176.129, subdivision 13, paragraph (a), to offset supplementary
12.17 benefits that were over reimbursed due to the payer's reduction of any employee's permanent
12.18 total disability benefits by the employee's retirement benefits.

12.19 (b) Paragraph (a) does not preclude the special compensation fund from denying
12.20 reimbursement of supplementary benefits, or adjusting the reimbursement amount, for any
12.21 reason other than reduction of permanent total disability benefits by the employee's retirement
12.22 benefits.

12.23 Subd. 4. **Assessments.** (a) Except as provided in subdivision 6, paragraph (b), clause
12.24 (2), and subdivision 9, paragraph (a), clause (2), a payer that has complied with the
12.25 requirements of subdivision 2, paragraphs (a) to (d), is not required to pay past or future
12.26 assessments under section 176.129 on the amount of increased or additional permanent total
12.27 disability benefits paid, or on supplementary benefits that are appropriately characterized
12.28 as permanent total disability benefits, due to the elimination of the retirement benefit
12.29 reduction.

12.30 (b) The special compensation fund shall not recalculate assessments previously paid by
12.31 any payer because of the assessment adjustments in paragraph (a).

12.32 (c) The assessment adjustments described in paragraph (a) do not apply to permanent
12.33 total disability benefits paid to employees with dates of injury on or after August 13, 2014.

13.1 Payers must pay full assessments according to section 176.129 on permanent total disability
 13.2 benefits calculated without a reduction for retirement benefits for these employees.

13.3 Subd. 5. **Refunds.** (a) A payer is entitled to a refund from the special compensation fund
 13.4 if:

13.5 (1) the payer complies with the requirements of subdivision 2, paragraphs (a) to (d); and

13.6 (2) due to the elimination of the retirement benefit reduction, the payer repaid the special
 13.7 compensation fund for over reimbursement of supplementary benefits, or paid assessments
 13.8 on the increased permanent total disability benefits for employees with dates of injury before
 13.9 August 13, 2014.

13.10 (b) The special compensation fund must issue a refund within 30 days after receiving
 13.11 the payer's documentation of compliance with subdivision 2, paragraphs (a) to (d), and an
 13.12 itemization by claim of the amount repaid or paid to the special compensation fund as
 13.13 described in paragraph (a), clause (2).

13.14 (c) The special compensation fund must pay interest on any refunded amount under this
 13.15 section to the payer at an annual rate of four percent, calculated from the date the payer
 13.16 repaid or paid the special compensation fund as described in paragraph (a), clause (2).

13.17 Subd. 6. **Applicability.** (a) This section does not preclude any employee, dependent, or
 13.18 legal heir from pursuing additional benefits beyond those paid under subdivision 2,
 13.19 paragraphs (b) to (d); however, the payments under subdivision 2, paragraphs (b) to (d), are
 13.20 not to be construed as an admission of liability by the payer in any proceeding. The payments
 13.21 cannot be used to justify additional claims; they represent a compromise between the payer
 13.22 and the special compensation fund on supplementary benefits and assessments. Payers
 13.23 reserve any and all defenses to claims to which this section does not apply.

13.24 (b) If an employee, dependent, or legal heir pursues additional benefits, claims, or
 13.25 penalties related to the benefits paid or payable under subdivision 2, paragraphs (b) to (d),
 13.26 payers may assert any and all defenses including, but not limited to, those specified in
 13.27 subdivision 2, paragraph (e), clauses (4) and (5), with respect to the additional benefits,
 13.28 claims, and penalties, and any future permanent total disability benefits payable, subject to
 13.29 the following conditions:

13.30 (1) if it is determined by a compensation judge, the Workers' Compensation Court of
 13.31 Appeals, or the Minnesota Supreme Court that the payer is entitled to reduce the employee's
 13.32 permanent total disability benefits by retirement benefits received by the employee, the
 13.33 payer shall not recover any overpayment that results from benefits the employee, dependent,

14.1 or legal heir has already received under subdivision 2, paragraphs (b) to (d). Notwithstanding
14.2 section 176.129, the payer shall not take a credit against an employee's future benefits for
14.3 any such overpayment; and

14.4 (2) if it is determined by a compensation judge, the Workers' Compensation Court of
14.5 Appeals, or the Minnesota Supreme Court that the payer is not entitled to reduce the
14.6 employee's permanent total disability benefits by retirement benefits received by the
14.7 employee, the payer is not entitled to the relief provided in subdivision 4 as applied to the
14.8 claim of the specific employee, dependent, or legal heir.

14.9 (c) A payer shall not assert defenses related to the offset of retirement benefits against
14.10 an employee's future permanent total disability benefits if the only additional claims asserted
14.11 by the employee under paragraph (b) are for attorney fees, costs and disbursements, and an
14.12 additional award pursuant to section 176.081, subdivision 7.

14.13 Subd. 7. **Procedure.** No later than 60 days after final enactment, in consultation with
14.14 affected payers, the commissioner must establish a procedure, which may include forms,
14.15 to implement this section.

14.16 Subd. 8. **Reporting.** This section does not affect a payer's obligation to report the full
14.17 amount of permanent total disability benefits paid to the extent required by this chapter or
14.18 other law. A payer must report supplementary benefits as permanent total disability benefits
14.19 if the supplementary benefits were paid because the permanent total disability benefits were
14.20 reduced by retirement benefits received by the employee.

14.21 Subd. 9. **Failure to comply.** (a) If a payer reports to the department that it has complied
14.22 with the requirements of subdivision 2, paragraphs (a) to (d), but the payer has not paid an
14.23 employee, dependent, or legal heir, as required by subdivision 2, the payer is subject to the
14.24 following:

14.25 (1) the payer must issue payment to the employee, dependent, or legal heir within 14
14.26 days of the date the payer discovers the noncompliance or the date the department notifies
14.27 the payer of the noncompliance;

14.28 (2) the payer is not entitled to the relief provided in subdivisions 3 and 4 as applied to
14.29 the claim of the specific employee, dependent, or legal heir who was not paid as required
14.30 by subdivision 2;

14.31 (3) the special compensation fund may immediately begin collection of any assessments
14.32 or over-reimbursement owed for the claim;

15.1 (4) if the commissioner determines that a payer's failure to comply under this subdivision
 15.2 was not in good faith, the commissioner may assess a penalty, payable to the employee,
 15.3 dependent, or legal heir, of up to 25 percent of the total permanent total disability benefits
 15.4 underpaid; and

15.5 (5) if the payer is found after a hearing to be liable for increased or additional permanent
 15.6 total disability benefits because the employee's permanent total disability benefits were
 15.7 improperly reduced by his or her retirement benefits, the compensation judge shall assess
 15.8 a penalty against the payer, payable to the employee or dependent, up to the total amount
 15.9 of the permanent total disability benefits that were not paid pursuant to subdivision 2. The
 15.10 compensation judge may issue a penalty against the payer, up to the total amount of the
 15.11 permanent total disability benefits underpaid, payable to a legal heir.

15.12 (b) The penalties assessed under this subdivision are in addition to any other penalty
 15.13 that may be, or is required to be, assessed under this chapter; however, the commissioner
 15.14 shall not assess a penalty against a payer for late payment of permanent total disability
 15.15 benefits if the employee's benefits have been paid and documented in accordance with
 15.16 subdivision 2.

15.17 (c) If a payer and the special compensation fund have agreed to a list of employees
 15.18 required to be paid under subdivision 2, this subdivision does not apply to any claim with
 15.19 a date of injury before October 1, 1995, that is not on the agreed-upon list.

15.20 **EFFECTIVE DATE.** This section is effective the day after final enactment.

15.21 **ARTICLE 3**

15.22 **WORKERS' COMPENSATION INTERVENTION**

15.23 Section 1. Minnesota Statutes 2016, section 176.361, subdivision 2, is amended to read:

15.24 Subd. 2. **Written motion.** A person desiring to intervene in a workers' compensation
 15.25 case as a party, including but not limited to a health care provider who has rendered services
 15.26 to an employee or an insurer who has paid benefits under section 176.191, shall submit a
 15.27 timely written motion to intervene to the commissioner, the office, or to the court of appeals,
 15.28 whichever is applicable.

15.29 (a) The motion must be served on all parties, except for other intervenors, either
 15.30 personally, by first class mail, or by registered mail, return receipt requested. A motion to
 15.31 intervene must be served and filed within 60 days after a potential intervenor has been
 15.32 served with notice of a right to intervene or within 30 days of notice of an administrative
 15.33 conference or expedited hearing. Upon the filing of a timely motion to intervene, the potential

16.1 intervenor shall be granted intervenor status without the need for an order. Objections to
16.2 the intervention may be subsequently addressed by a compensation judge. Where a motion
16.3 to intervene is not timely filed under this section, the potential intervenor interest shall be
16.4 extinguished and the potential intervenor may not collect, or attempt to collect, the
16.5 extinguished interest from the employee, employer, insurer, or any government program.

16.6 (b) The motion must show how the applicant's legal rights, duties, or privileges may be
16.7 determined or affected by the case; state the grounds and purposes for which intervention
16.8 is sought; and indicate the statutory right to intervene. The motion must be accompanied
16.9 by the following:

16.10 (1) an itemization of disability payments showing the period during which the payments
16.11 were or are being made; the weekly or monthly rate of the payments; and the amount of
16.12 reimbursement claimed;

16.13 (2) a summary of the medical or treatment payments, or rehabilitation services provided
16.14 by the Vocational Rehabilitation Unit, broken down by creditor, showing the total bill
16.15 submitted, the period of treatment or rehabilitation covered by that bill, the amount of
16.16 payment on that bill, and to whom the payment was made;

16.17 (3) copies of all medical or treatment bills for which payment is sought;

16.18 (4) copies of the work sheets or other information stating how the payments on medical
16.19 or treatment bills were calculated;

16.20 (5) a copy of the relevant policy or contract provisions upon which the claim for
16.21 reimbursement is based;

16.22 (6) the name and telephone number of the person representing the intervenor who has
16.23 authority to represent the intervenor, including but not limited to the authority to reach a
16.24 settlement of the issues in dispute;

16.25 (7) proof of service or copy of the registered mail receipt evidencing service on all parties
16.26 except for other intervenors;

16.27 (8) at the option of the intervenor, a proposed stipulation which states that all of the
16.28 payments for which reimbursement is claimed are related to the injury or condition in dispute
16.29 in the case and that, if the petitioner is successful in proving the compensability of the claim,
16.30 it is agreed that the sum be reimbursed to the intervenor; and

16.31 (9) if represented by an attorney, the name, address, telephone number, and Minnesota
16.32 Supreme Court license number of the attorney.

17.1 Sec. 2. Minnesota Statutes 2016, section 176.361, subdivision 3, is amended to read:

17.2 Subd. 3. **Stipulation.** If the person ~~submitting the~~ filing a timely motion to intervene
17.3 has included a proposed stipulation, all parties shall either execute and return the signed
17.4 stipulation to the intervenor who must file it with the division or judge or serve upon the
17.5 intervenor and all other parties and file with the division specific and detailed objections to
17.6 any services rendered or payments made by the intervenor which are not conceded to be
17.7 correct and related to the injury or condition the petitioner has asserted is compensable. If
17.8 a party has not returned the signed stipulation or filed specific and detailed objections within
17.9 30 days of service of the motion to intervene, the intervenor's right to reimbursement for
17.10 the amount sought is deemed established provided that the petitioner's claim is determined
17.11 to be compensable. The office may establish procedures for filing objections if a timely
17.12 motion to intervene is filed less than 30 days before a scheduled hearing.

17.13 Sec. 3. Minnesota Statutes 2016, section 176.521, is amended by adding a subdivision to
17.14 read:

17.15 Subd. 2b. **Partial settlement.** (a) The parties may file a partial stipulation for settlement
17.16 which resolves the claims of the employee and reserves the claims of one or more intervenors.
17.17 If the partial stipulation, or a letter of agreement attached to the partial stipulation, is not
17.18 signed by an intervenor, the partial stipulation must include a statement that the parties were
17.19 unable to:

17.20 (1) obtain a response from the nonsigning intervenor regarding clarification or
17.21 confirmation of its interest or an offer of settlement within a reasonable time despite
17.22 good-faith efforts to obtain a response;

17.23 (2) reach agreement with the nonsigning intervenor despite the belief that the parties
17.24 negotiated with the intervenor in good faith and made a reasonable offer to settle the
17.25 intervention claim; or

17.26 (3) obtain the nonsigning intervenor's signature within a reasonable time after an
17.27 agreement was reached with the intervenor.

17.28 The partial stipulation must include detailed and case-specific support for the parties'
17.29 statements. In addition, the partial stipulation must reserve the nonsigning intervenor's
17.30 interests to pursue its claim at a hearing on the merits, and must contain a statement that
17.31 the employee will cooperate at the hearing.

17.32 (b) Prior to filing the partial stipulation for approval, a copy of the partial stipulation
17.33 must be served on all parties, including the nonsigning intervenor, together with a written

18.1 notification that the settling parties intend to file the partial stipulation for approval by a
18.2 compensation judge and of the nonsigning intervenor's right to request a hearing on the
18.3 merits of the intervenor's claim.

18.4 (c) Within ten days after service of a partial stipulation for settlement and notice of an
18.5 intent to file for approval by a compensation judge, a nonsigning intervenor may serve and
18.6 file a written objection to approval of the partial stipulation, which filing must provide a
18.7 detailed and case-specific factual basis establishing that approval of the partial stipulation
18.8 will adversely impact the rights of the intervenor.

18.9 (d) After expiration of the ten-day period within which a nonsigning intervenor may
18.10 serve and file its written objection, any party may file for approval a partial stipulation for
18.11 settlement which conforms with this section. An affidavit of service must accompany the
18.12 partial stipulation when it is filed for approval.

18.13 (e) Unless the compensation judge has a reasonable belief that approval of the partial
18.14 stipulation will adversely impact the rights of the nonsigning intervenor, the compensation
18.15 judge shall immediately issue the award and file it with the commissioner. The issuance of
18.16 the award shall be accompanied by notice to the intervenors and other parties of their right
18.17 to request amended findings within a period of 30 days following the date of issuance in
18.18 conformity with applicable law.

18.19 (f) If the compensation judge has a reasonable belief that approval of the partial stipulation
18.20 will adversely impact the rights of the intervenor, the compensation judge shall disapprove
18.21 the stipulation by written order detailing a factual basis for the determination of adverse
18.22 impact.

18.23 **Sec. 4. RULEMAKING.**

18.24 The Office of Administrative Hearings shall adopt rules under Minnesota Statutes,
18.25 chapter 14, only to the extent necessary to conform to the amendments made in section 3
18.26 to Minnesota Statutes, section 176.521, subdivision 2b. This authorization to conduct
18.27 rulemaking expires December 31, 2018.

APPENDIX
Article locations in S1293-4

ARTICLE 1	DEPARTMENT PROPOSALS	Page.Ln 1.13
ARTICLE 2	SPECIAL COMPENSATION FUND	Page.Ln 10.1
ARTICLE 3	WORKERS' COMPENSATION INTERVENTION	Page.Ln 15.21

APPENDIX
Repealed Minnesota Statutes: S1293-4

176.541 STATE DEPARTMENTS.

Subd. 7. **Historical Society as state department.** For the purposes of workers' compensation as provided by this chapter, the Minnesota Historical Society is a state department and such chapter applies to its employees the same as it applies to employees of any department of the state government.