

## CHAPTER 2770

### DEPARTMENT OF COMMERCE

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### AUTOMOBILE FINANCE ACCOUNTS

#### 2770.0200 CERTIFICATES OF INSURANCE AND CONTENTS.

Insurance companies writing insurance in connection with automobile finance accounts shall instruct their agents that each purchaser of automobiles or accessories insured under finance accounts shall be furnished with certificates of insurance, which certificates shall show the name of the insured, a proper description of the car or accessories, the coverage afforded by the insurance, and the premium charged. The statement of premium should be divided as to type of coverage.

**Statutory Authority:** *MS s 62B.12*

### SURCHARGE PLANS AND DISCLOSURE

#### 2770.1100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 2770.1100 to 2770.1800 and 2770.1900, the terms defined in this part have the meanings given them.

Subp. 2. **Auto plan.** "Auto plan" means the Minnesota Automobile Insurance Plan.

Subp. 3. **Chargeable accident.** "Chargeable accident" is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (b).

Subp. 4. **Chargeable traffic violation.** “Chargeable traffic violation” is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (c).

Subp. 5. **Major chargeable traffic violation.** “Major chargeable traffic violation” means only those chargeable traffic violations listed in items A to E:

A. driving while in an intoxicated condition or under the influence of drugs, and also includes a driver’s license record entry of “implied consent”;

B. failure to stop and report when involved in an accident;

C. a felony involving the use of a motor vehicle;

D. driving a motor vehicle in a reckless manner which results in an injury to a person; and

E. driving a motor vehicle during the period of time the driver’s license is suspended or revoked.

Subp. 6. **Statement.** “Statement” means the surcharge disclosure statement as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (f).

Subp. 7. **Surcharge.** “Surcharge” is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (e).

Subp. 8. **Surcharge plan.** “Surcharge plan” is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (g).

**Statutory Authority:** *MS s 65B.133*

#### **2770.1200 AUTHORITY.**

Parts 2770.1100 to 2770.1800 apply to all companies writing policies of private passenger automobile insurance. They are adopted pursuant to the authority of Minnesota Statutes, section 65B.133, subdivision 7.

**Statutory Authority:** *MS s 65B.133*

#### **2770.1300 PURPOSE.**

Parts 2770.1100 to 2770.1800 are designed to assure that surcharge disclosure statements contain minimum basic information which allows insureds to make sound decisions when comparison shopping for automobile insurance.

**Statutory Authority:** *MS s 65B.133*

#### **2770.1400 READABILITY.**

All statements must meet the following standards of readability and legibility:

A. Statements must be written in simple, commonly used language so as to be easily readable and understandable by a person of average intelligence, experience, and education.

B. Statements must be arranged in a logical and clear order.

C. Statements must be printed in typeface at least as large as ten point modern type, one point leaded.

**Statutory Authority:** *MS s 65B.133*

#### **2770.1500 HIGHLIGHTED PROVISIONS.**

All surcharge plans containing one or more of the following provisions, must have the provisions highlighted in bold print or contrasting color print on the surcharge disclosure statement:

A. surcharges that are based on estimated damage instead of the payment made by the insurer after physical damage deductibles are applied;

B. surcharges that are applied to a vehicle other than the one involved in an accident;

C. surcharges that apply to chargeable traffic violations other than major chargeable traffic violations;

D. surcharge plans that involve both the loss of a discount and the application of a surcharge for the same chargeable accident or chargeable traffic violation; and

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E. surcharges that are not the same for all classes (for example, youthful operator classes surcharged more than adult operator classes).

**Statutory Authority:** *MS s 65B.133*

### 2770.1600 REVIEW.

Statements must be submitted to the commissioner as an informational filing at least 30 days prior to use. Although not subject to affirmative approval by the commissioner, the statements must comply with Minnesota Statutes, section 65B.133 and parts 2770.1100 to 2770.1800.

**Statutory Authority:** *MS s 65B.133*

### 2770.1700 AUTO PLAN PROCEDURES.

The auto plan shall submit a statement to the commissioner which is subject to prior approval. The participating members of the auto plan are responsible for providing a copy of the statement to auto plan insureds, and to their agents for use when an auto plan application is written.

**Statutory Authority:** *MS s 65B.133*

### 2770.1800 EXAMPLES OF SURCHARGE PLAN.

Each company must display on the statement two examples of how their surcharge plan works. One example must show a one-vehicle insured with a \$200 premium. The second example must show a two-vehicle insured, with a \$200 premium on one vehicle and a \$300 premium on the second vehicle. The required format of these examples is contained in part 2770.1900.

If the amount of the surcharge varies between territories, use the highest rated territory and furnish that information on the example.

If the premium includes expenses which are not surcharged, follow this procedure: If there is an \$80 bodily injury, property damage premium, expenses of \$7, and a 20 percent surcharge, the premium for one chargeable accident would be \$94.60. ( $\$80 - \$7 = \$73$ ;  $\$73 \times .20 = \$14.60$ ;  $\$14.60 + \$80 = \$94.60$ .) This procedure must be explained on the example.

**Statutory Authority:** *MS s 65B.133*

### 2770.1900 SURCHARGE PLAN FORMATS.

The formats contained in this part must be used, but additional information may be included.

#### A. One vehicle insured.

Coverage	Premium with no accidents	Premium including surcharge for one chargeable accident	Premium including surcharge for two chargeable accidents
Bodily injury, property damage	\$ 80	\$	\$
Uninsured motorist	5		
Personal injury protection	40		
Comprehensive	25		

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Collision	50		
Total Premium	\$200	\$	\$

B. Two vehicles insured. Accidents chargeable to the principal operator of vehicle number one, while operating vehicle number one.

(1) Vehicle number one.

Coverage	Premium with no accidents	Premium including surcharge for one chargeable accident	Premium including surcharge for two chargeable accidents
Bodily injury, property damage	\$ 80	\$	\$
Uninsured motorist	5		
Personal injury protection	40		
Comprehensive	25		
Collision	50		
Total Premium	\$200	\$	\$

(2) Vehicle number two.

Coverage	Premium with no accidents	Premium including surcharge for one chargeable accident	Premium including surcharge for two chargeable accidents
Bodily injury, property damage	\$120	\$	\$
Uninsured motorist	5		
Personal injury protection	60		
Comprehensive	40		

Collision	75		
		_____	_____
Total Premium	\$300	\$	\$

**Statutory Authority:** *MS s 65B.133*

**AUTO ACCIDENT REPARATIONS ARBITRATION**

**2770.3100 AUTHORITY.**

The rules set forth in parts 2770.3100 to 2770.5200 are promulgated under the authority of Minnesota Statutes, section 65B.53, subdivision 4.

**Statutory Authority:** *MS s 65B.53*

**2770.3200 PURPOSE AND SCOPE.**

These rules are designed to promote efficient settlement of claims involving economic loss between reparation obligors. As a condition precedent to arbitration, however, local representatives of the involved reparation obligors must make a sincere effort to settle controversies by direct negotiation.

**Statutory Authority:** *MS s 65B.53*

**2770.3300 APPLICATION.**

These rules shall be considered applicable to controversies arising out of accidents, insured events, or losses involving a commercial vehicle under the jurisdiction of the Minnesota No-Fault Automobile Insurance Act, Minnesota Statutes, section 65B.53 giving subrogation or direct action recovery rights to reparation obligors for payments or benefits paid to insureds or third parties under such statute.

**Statutory Authority:** *MS s 65B.53*

**2770.3400 CONSTRUCTION.**

These rules shall not be construed to create any causes of action or liabilities not existing in law or equity.

**Statutory Authority:** *MS s 65B.53*

**2770.3500 LIMITATION ON JURISDICTION.**

These rules are applicable to controversies involving reparation obligors as that term is defined in Minnesota Statutes, section 65B.43, subdivision 9. The interest of other parties may not be arbitrated under these rules. The fact that such parties may be insureds of reparation obligors does not alter this prohibition.

**Statutory Authority:** *MS s 65B.53*

**2770.3600 LIMITATIONS ON CLAIMS.**

The monetary limits and extent of a reparation obligor's claim shall be governed by Minnesota Statutes, section 65B.53, subdivision 1.

**Statutory Authority:** *MS s 65B.53*

**2770.3700 PRIMARY JURISDICTION.**

Where a claim under these rules is also under the compulsory jurisdiction of other industry agreements sponsored by the Committee on Insurance Arbitration, the jurisdiction of these rules is primary.

**Statutory Authority:** *MS s 65B.53*

**2770.3800 AUTHORITY TO DETERMINE.**

Any determination as to whether a reparation obligor is legally entitled to recovery from another reparation obligor shall be made by an arbitration panel appointed under the authority of these rules.

**Statutory Authority:** *MS s 65B.53*

**2770.3900 OUT-OF-STATE RECOVERY EXCLUSION.**

Compulsory arbitration under these rules does not apply to a controversy arising from an out-of-state accident where the party receiving benefits has a right to proceed at law for full recovery of tort loss.

**Statutory Authority:** *MS s 65B.53*

**History:** *17 SR 1279*

**2770.4000 AUTHORITY OF COMMITTEE ON INSURANCE ARBITRATION.**

Under these rules, the Committee on Insurance Arbitration is authorized to select places where arbitration facilities are to be available, and to make appropriate rules to apportion equitably among reparation obligors the operating expenses of the arbitration program set out under these rules.

**Statutory Authority:** *MS s 65B.53*

**2770.4100 ARBITRATION COMMITTEES.**

Arbitration committees shall be appointed by the committee on insurance arbitration from full-time salaried representatives of reparation obligors and shall function in the following manner:

A. Members of arbitration committees shall be selected on the basis of their experience and qualifications and they shall serve without compensation.

B. No arbitrator shall serve on a panel hearing case in which the arbitrator's company is directly or indirectly interested.

C. The decision of the majority or an arbitration panel is final and binding upon the parties to the controversy without the right of rehearing.

**Statutory Authority:** *MS s 65B.53*

**History:** *17 SR 1279*

**2770.4200 APPLICANT AND RESPONDENT.**

In arbitration proceedings and practice, the reparation obligor that initiates the proceeding by filing a request for arbitration shall be known as the "applicant"; and the reparation obligor or reparation obligors against which such controverted claim or issue was asserted shall be known as "respondent."

**Statutory Authority:** *MS s 65B.53*

**2770.4300 EFFECT ON STATUTES OF LIMITATION.**

Submission of a case to arbitration under these rules shall have the same force and effect as to reparation obligors with regard to the applicable statute of limitations as if litigation has been instituted. Further, if a matter within the compulsory provisions of these rules is inadvertently placed in litigation, the discontinuance of such litigation for the purpose of arbitration will be considered as a submission to arbitration with regard to the applicable statute of limitations as of the date such litigation was instituted.

**Statutory Authority:** *MS s 65B.53*

**2770.4400 OTHER INDUSTRY ARBITRATION PROGRAMS.**

Where reparation obligors are also signatory to other industry arbitration programs sponsored by the Committee on Insurance Arbitration and the claim is within the compulsory jurisdiction of these other agreements, the signatory companies waive their rights to proceed separately under the other programs.

**Statutory Authority:** *MS s 65B.53*

**2770.4500 PENDING CLAIMS FROM SAME INSURED EVENT.**

Subpart 1. **Deferment.** Reparation obligors may, by mutual agreement, include all claims arising out of the same accident or insured event for disposition by an arbitration panel under these rules, provided, however, that hearing of a matter pending before an arbitration

panel under these rules will be deferred because of pending claims or suits arising out of the same accident, occurrence, or insured event unless the involved companies waive such deferment in writing.

**Subp. 2. Responsibilities of parties.** Deferment of a hearing under subpart 1 does not relieve a respondent reparation obligor from the obligation to file its written answer asserting therein any affirmative defense to the jurisdiction of the panel to proceed with a hearing once the subject case has been removed from a deferred status. If the jurisdiction issue is raised by the written answer, the committee will forthwith pass upon the merits of the jurisdictional question even though the hearing on the issues of liability and damages will be deferred because of pending companion claims or suits not subject to arbitration. However, for the rule to apply, an arbitration committee must receive the applicant's filing 120 days prior to the running of the statute of limitations and receive the respondent's answer within 60 days thereof. If the respondent's answer is not received within the stated period, any affirmative defense running to the jurisdiction of the committee to proceed with a hearing is waived.

**Statutory Authority:** *MS s 65B.53*

#### **2770.4600 COMPANION CLAIMS.**

Where there are companion claims arising out of the same accident arbitrated together pursuant to part 2770.4500, subpart 1, only one filing is necessary to determine the issue of liability as to the drivers of the respective vehicles. A panel's decision on this issue is res judicata on the liability issue in all companion matters involving the same companies within the jurisdiction of these rules, except as to special defenses arising in the companion claim or suit.

**Statutory Authority:** *MS s 65B.53*

#### **2770.4700 ORGANIZATION.**

Reparation obligors of commercial vehicles shall, on request, furnish the Committee on Insurance Arbitration a list of names, titles, and local addresses of all employees who are qualified to act as arbitrators.

The chair of the arbitration committee shall designate one disinterested member of said committee to serve as a panel of arbitration in each case. However, three members will constitute a panel if requested by a controverting party in a specific case.

**Statutory Authority:** *MS s 65B.53*

**History:** *17 SR 1279*

#### **2770.4800 COMMERCIAL VEHICLES AND OUT-OF-STATE ACCIDENTS.**

Compulsory arbitration under these rules applies to controversies arising out of accidents, insured events, or occurrences within this state involving commercial vehicles. Controversies arising from accidents, insured events, or occurrences involving commercial vehicles outside this state can be submitted with the consent of the controverting reparation obligors.

**Statutory Authority:** *MS s 65B.53*

#### **2770.4900 FILING ASSESSMENTS.**

Filing assessments:

A. The Committee on Insurance Arbitration by resolution will prescribe the filing assessment for the use of local arbitration facilities.

B. The obligation for the prescribed filing assessment is incurred upon filing, but payment by the applicant reparation obligor to the Committee on Insurance Arbitration is deferred until the case is closed, either through hearing, settlement, or withdrawal prior to hearing. The prescribed filing assessment shall also be paid in the same manner by a respondent reparation obligor that files a counterclaim. There is no exception to a reparation obligor's obligation to pay the filing assessment.

C. The secretary of the Committee on Insurance Arbitration is the custodian of the assessment charges collected and shall make expenditures therefrom to defray such arbitration expenses as may be authorized by the Committee on Insurance Arbitration.

D. The secretary of the Committee on Insurance Arbitration will submit reports on assessments collected and disbursed during such period as may be considered desirable by the Committee on Insurance Arbitration.

**Statutory Authority:** *MS s 65B.53*

**History:** *17 SR 1279*

### **2770.5000 ARBITRATION PROCEDURE.**

**Subpart 1. Commencement.** An arbitration proceeding is commenced by the local representative of a reparation obligor filing an arbitration notice (three copies) with the secretary of the local arbitration committee. At the same time, three copies of the arbitration notice are to be submitted by the applicant directly to the local representative of the other involved reparation obligor. If there is more than one respondent reparation obligor in a case, the applicant shall so indicate on the original and all copies of the arbitration notice and send three copies thereof to each respondent reparation obligor.

**Subp. 2. Nature of notice.** Notice by applicants shall set forth the following information:

- A. names of applicant and respondent reparation obligor together with names and addresses of local representatives having supervision over the case in controversy;
- B. name and address of respondent reparation obligor's insured;
- C. claim file numbers of applicant and respondent, if known;
- D. date and place of alleged accident, loss, or other insured event;
- E. amount of reparation obligor's claim payment and amount of any other expenses for which indemnity is requested;
- F. certification that settlement efforts have been unsuccessful;
- G. brief statement of allegation solely as to the issue in controversy; and
- H. signature of applicant's representative and date signed.

**Subp. 3. Answers.** Answers filed by respondent shall set forth the following information:

- A. supplement, if and as necessary, the information furnished by applicant as to respondent reparation obligor's name, local representative, address, name of insured, file number, or kind of policy coverage;
- B. whether there is an objection to arbitration; if so, the grounds on which the objection is based should be fully stated;
- C. brief statement of allegation as to the issue in controversy; and
- D. signature of respondent's representative and date signed.

**Subp. 4. Filing periods.** The respondent has 30 days after the applicant's filing in which to file a written answer. If a respondent fails to submit its answer within 30 days after an applicant reparation obligor files with a committee, it is presumed that the applicant's claim has been denied and the case is ready for hearing on the issues. Failure to file an answer will not operate to delay the arbitration hearing. However, if affirmative defenses are available to the respondent, and are not asserted by answer prior to notice of hearing, the applicant, on request, will be entitled to an adjournment to investigate such affirmative defenses.

**Subp. 5. Counterclaims.** The procedure set out in subparts 1 to 4 is also applicable to counterclaims for damages that may be submitted for arbitration pursuant to part 2770.4400 or 2770.4500. The arbitration notice should clearly indicate that it is submitted as a counterclaim and the original arbitration case to which it pertains shall be plainly identified.

**Statutory Authority:** *MS s 65B.53*

### **2770.5100 HEARINGS.**

Hearings:

A. When the secretary has received the essential facts and contentions from the controverting reparation obligors, the issue in the case shall be scheduled for a hearing by the arbitration panel at the earliest practicable date.

B. Hearing date shall be determined by the chair of the arbitration panel, and one or more cases may be considered at any scheduled hearing.

C. Representatives of controverting parties shall be notified by the secretary of the time and place of a scheduled hearing at least two weeks in advance of the hearing date. Notice of hearing shall be sent by certified mail, return receipt requested, to any respondent which has not filed a written answer.

D. Adjournments may be granted for cause by the chair of the arbitration committee or a designee.

E. Evidence which controverting parties desire to submit in support of their allegations shall be made available for examination by the arbitrators at the hearing. Such evidence may also be examined by the opposing parties at the hearing. If one of the controverting parties fails to produce evidence at a scheduled arbitration hearing, after due notice thereof, the arbitrators may at their discretion consider the information in the arbitration notice of such party and render a decision accordingly.

F. Procedure at arbitration panel hearings shall be informal. Controverting parties are expected to present the facts of their respective cases in a brief, frank, and direct manner.

G. The controverting parties shall submit for consideration to the arbitrators, briefs of the law involved when requested by the arbitration panel hearing the case.

H. Controverting parties may present witnesses at an arbitration hearing, if considered necessary, after notice to the other interested party or parties sufficiently in advance of the hearing date to permit such other party or parties also to present witnesses if desired.

I. Controverting parties may, if they so desire, be represented at arbitration hearings by members of their staff or by anyone employed or retained by them.

J. Documentary evidence submitted by controverting parties shall be left with the arbitrators for their scrutiny and consideration while reaching a decision.

K. If representatives of controverting parties attend an arbitration hearing, they must withdraw after presentation of their cases and may not be present while the arbitrators are considering their decision.

**Statutory Authority:** *MS s 65B.53*

**History:** *17 SR 1279*

## 2770.5200 DECISIONS.

Decisions:

A. Arbitration panels may, upon their own initiative, render a decision in favor of a respondent company without production of evidence by such respondent, if the panel unanimously agrees following presentation of the applicant's evidence that such applicant has not made out a prima facie case.

B. A decision of an arbitration panel on issues of fact or law is final and binding. However, a local committee's chair is not precluded from correcting a clerical, typographical, or jurisdictional error on the part of a local committee's staff, provided it is called to the local committee's attention in writing by one of the arbitrating reparation obligors within 30 days after publication of the decision; or if recognized by the local committee without notice from the arbitrating reparation obligors within 30 days after publication of the decision; provided further, that the correction be made in either event within 60 days after publication of the decision.

C. The law of the locality in which the accident, insured event, or loss occurred will control the decision on questions of liability. A finding as to the amount of damages in issue shall be based upon the facts presented to the arbitrators.

D. The amount paid shall not be at issue unless pleaded specifically.

E. Decisions of the arbitrators shall be promptly rendered after consideration of the case, and the evidence submitted by the controverting parties shall be returned promptly.

F. The arbitrators shall prepare a written decision in each case, copies of which shall be distributed by the secretary as follows: one copy will be retained by the arbitration panel secretary; one copy shall be furnished to each party involved in the arbitration; and the original shall be furnished to the Committee on Insurance Arbitration.

G. The decisions of the arbitration panel shall include the following minimum information:

- (1) date and place of hearing;
- (2) names of panel members;
- (3) names of applicant and respondent carriers and names of their respective insureds;
- (4) names of respective controverting party representatives, if any, attending the hearing;
- (5) brief description of the claim or controversy and amount involved therein;
- (6) names of controverting insurance carrier in whose favor an award is rendered and the amount thereof;
- (7) brief statement of the basis for the finding, such as lack of proof, contributory negligence, or other controlling principles of law; and
- (8) signature of the arbitrator who prepared the decision.

H. Decisions of an arbitration panel shall be complied with as soon as practicable. Any unwarranted delay on the part of the parties concerned should be reported to the Committee on Insurance Arbitration by the prevailing party.

**Statutory Authority:** *MS s 65B.53*

**History:** *17 SR 1279*

## AUTO SELF-INSURANCE

### 2770.6100 PURPOSE.

The purpose of parts 2770.6100 to 2770.7300 is to ensure that self-insurers under the Minnesota No-Fault Automobile Insurance Act have the financial and administrative resources needed to satisfy all obligations and responsibilities under the act.

**Statutory Authority:** *MS s 65B.48*

**History:** *9 SR 734; 9 SR 764; L 1995 c 233 art 3 s 2; L 1995 c 248 art 3 s 2*

### 2770.6200 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 2770.6100 to 2770.7300 the terms defined in this part have the meanings given them.

Subp. 2. **Applicant.** “Applicant” means a person or entity applying to the commissioner for authorization to self-insure under the no-fault act.

Subp. 3. **Certified financial statement.** “Certified financial statement” means a statement of the operating results and financial position of an applicant, authorized self-insurer, or parent company. A statement includes a balance sheet, income statement, statement of changes in financial position, or the equivalent in the case of nonprofit organizations and political subdivisions, and associated notes. A statement must include the professional opinion of an independent certified public accountant. A parent company’s certified financial statement must be a consolidated statement combining the operating results and financial position of the parent company and its subsidiaries.

Subp. 4. **Commissioner.** “Commissioner” means the commissioner of the Department of Commerce.

Subp. 5. **Licensed vendor of risk management services.** “Licensed vendor of risk management services” means an entity authorized under Minnesota Statutes, section 60A.23, subdivision 8, to contract with self-insurers for the purpose of administering self-insurance programs.

Subp. 6. **No-fault act.** “No-fault act” means the automobile insurance system defined in Minnesota Statutes, sections 65B.41 to 65B.71.

Subp. 7. **Parent company.** “Parent company” means a company or organization that directly, or indirectly through one or more intermediaries, controls an applicant or authorized self-insurer, and that is not also controlled by another company or organization.

Subp. 8. **Political subdivision.** "Political subdivision" means a statutory or home rule charter city or county, the state of Minnesota, or any instrumentality of a statutory or home rule charter city or county or the state of Minnesota.

Subp. 9. **Subsidiary.** "Subsidiary" means a company or organization that is directly, or indirectly through one or more intermediaries, controlled by a parent company.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764; L 1995 c 233 art 3 s 2; L 1995 c 248 art 3 s 2

### 2770.6300 APPLICATION REQUIREMENT.

No person or entity may self-insure for no-fault act liabilities without the commissioner's authorization. The commissioner may only grant self-insurance authority to applicants that have followed the application procedures and that meet the authorization standards described in parts 2770.6100 to 2770.7300.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764; L 1995 c 233 art 3 s 2; L 1995 c 248 art 3 s 2

### 2770.6400 APPLICATION PROCEDURES.

Subpart 1. **Application forms.** An application for self-insurance authority must be made on forms prescribed and made available by the commissioner.

Subp. 2. **Financial statements.** Certified financial statements for an applicant's most recently ended fiscal year and for each of the three prior years must be included with an application. If an applicant is a subsidiary, then an application must also include certified financial statements for the parent company's most recently ended fiscal year and for each of the prior three years.

Subp. 3. **Application fee.** A \$500 application fee must be included with each application.

Subp. 4. **Assumption of liability agreement.** The parent company of an applicant must agree to assume the applicant's liabilities under the no-fault act if the applicant alone fails to satisfy part 2770.6500, subpart 2, item B, subitems (1) to (5). This agreement must be in a form prescribed by the commissioner. If required, a completed assumption of liability agreement form must be provided before an application can be considered complete.

Subp. 5. **Resolution of governing body.** If an applicant is a political subdivision, then a certified copy of a resolution from its governing body authorizing the political subdivision to seek self-insurance authority must be included with an application.

Subp. 6. **Commissioner's action.** The commissioner shall grant or deny authorization to self-insure within 60 days of receiving all application materials.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764

### 2770.6500 AUTHORIZATION STANDARDS.

Subpart 1. **Political subdivisions.** The commissioner shall grant self-insurance authority to an applicant that is a political subdivision if it satisfies these conditions:

- A. at least 25 motor vehicles are registered in its name; and
- B. it has, or has contracted with a licensed vendor of risk management services to provide, the administrative resources needed to:
  - (1) process, review, and pay claims;
  - (2) evaluate the medical and rehabilitation needs of automobile accident victims; and
  - (3) estimate current and future loss liabilities.

A political subdivision that has satisfied the foregoing conditions is not required to satisfy the security requirement of part 2770.6800.

Subp. 2. **All other applicants.** The commissioner shall grant self-insurance authority to an applicant that is not a political subdivision if the following conditions are satisfied:

- A. the applicant satisfies subpart 1, item B;
- B. either the applicant alone or the parent company alone:

- (1) satisfies subpart 1, item A;
- (2) has existed for at least five years;
- (3) has a current net worth, or the equivalent, of at least \$5,000,000;
- (4) had positive net income, or the equivalent, during the last five-year period

and in at least three of those years; and

(5) had positive net funds flow during the last five-year period and in at least three of those years;

C. neither the applicant nor its parent company, if one exists, has sought protection under the United States Bankruptcy Code during the last three years; and

D. the funds flow, debt structure, profitability, and overall financial integrity of the applicant and its parent company, if one exists, demonstrate a continuing ability of the applicant to satisfy any financial obligations that have been and might be incurred under the no-fault act.

**Statutory Authority:** *MS s 65B.48*

**History:** *9 SR 734; 9 SR 764; 10 SR 1265*

### 2770.6600 COMMISSIONER'S DECISION.

Subpart 1. **Approval.** The commissioner shall authorize an applicant to self-insure by issuing a self-insurance certificate to the applicant. The certificate must include the dates when self-insurance authority begins and ends.

Subp. 2. **Denial.** The commissioner may deny self-insurance authority by informing the applicant by mail of the decision.

**Statutory Authority:** *MS s 65B.48*

**History:** *9 SR 734; 9 SR 764*

### 2770.6700 RENEWAL.

Authorization to self-insure ends 150 days after the end of a self-insurer's fiscal year. Authorization may be renewed for one year if a self-insurer informs the commissioner no later than 120 days after the end of its fiscal year that it wishes to continue to self-insure. The commissioner shall issue a new certificate of authority to each self-insurer whose self-insurance authority is renewed.

**Statutory Authority:** *MS s 65B.48*

**History:** *9 SR 734; 9 SR 764*

### 2770.6800 SECURITY REQUIREMENT.

Subpart 1. **Surety bond required.** An authorized self-insurer, except political subdivisions that have satisfied the requirements of part 2770.6500, subpart 1, items A and B, shall maintain a surety bond written by a corporate surety authorized to do business in Minnesota. The bond must be filed with the commissioner and name the "Commissioner of Commerce – State of Minnesota" as its obligee.

Subp. 2. **Bond form.** The surety bond must be executed on forms prescribed and made available by the commissioner, or on other forms not materially different from the forms prescribed by the commissioner. The commissioner shall refuse to accept surety bonds executed on forms that are not consistent with the requirements of this part or the purpose of parts 2770.6100 to 2770.7300.

Subp. 3. **Condition, cancellation.** The condition of the surety bond must be the execution of the self-insurer's legal obligations as a self-insurer. The bond cannot be canceled unless 30 days' notice is provided by the surety to the commissioner. After cancellation, the bond must remain in force for those liabilities incurred by the self-insurer from the time the bond first became effective until its cancellation, regardless of when compensation was or may be claimed, awarded, or paid.

Subp. 4. **Penalty sum.** The bond must provide a penalty sum of \$100,000 or 125 percent of the self-insurer's total outstanding liabilities, whichever is greater. The penalty sum must be consistent with the latest report of outstanding loss liabilities as required in part 2770.6900.

Subp. 5. **Use of bond by commissioner.** In the event the commissioner determines that the self-insurer has violated the condition of the bond, the commissioner may draw upon the penalty sum to pay any unpaid claim obligations incurred by the self-insurer and to recover any costs or expenses incurred by the Department of Commerce that are directly attributed to administering the self-insurer's claims.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764; 10 SR 1265; L 1995 c 233 art 3 s 2; L 1995 c 248 art 3 s 2

### 2770.6900 REPORTING REQUIREMENTS.

Subpart 1. **Financial statements.** Authorized self-insurers shall provide these items to the commissioner no later than 120 days after the end of each fiscal year:

A. a certified financial statement for the self-insurer's most recently ended fiscal year, and a copy of the self-insurer's most recent form 10K filed with the Securities and Exchange Commission, if applicable;

B. a certified financial statement for the parent company's most recently ended fiscal year, if applicable, and a copy of the parent company's most recent form 10K filed with the Securities and Exchange Commission, if applicable; and

C. any quarterly financial statements for the applicant and the parent company, if applicable, issued since the end of the latest fiscal year for which a certified financial statement has been provided to the commissioner.

Subp. 2. **Status report.** Authorized self-insurers shall provide to the commissioner, on forms prescribed and made available by the commissioner, information needed to maintain accurate records of the self-insurers' address, relevant personnel, scope of self-insurance under the no-fault act, and other administrative matters. The status report shall be provided at the same time as the self-insurer notifies the commissioner of its intention to seek renewal of self-insurance authority, as required in part 2770.6700.

Subp. 3. **Loss liabilities report.** Authorized self-insurers shall provide, by March 1 of every year, a report of paid and outstanding loss liabilities incurred under the no-fault act evaluated as of December 31 of the prior year. The loss liabilities report must be on forms prescribed and made available by the commissioner.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764

### 2770.7000 QUARTERLY FINANCIAL STATEMENTS.

If the commissioner determines that a deterioration in the funds flow, net worth, debt structure, profitability, or general financial integrity of the self-insurer or its parent company, if a parent company exists, adversely affects the self-insurer's ability to satisfy its financial obligations under the no-fault act, then the commissioner shall require an authorized self-insurer to submit quarterly financial statements for the self-insurer and its parent company.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764

### 2770.7100 ASSIGNED CLAIMS PLAN, UNFAIR PRACTICES.

Self-insurers authorized under this chapter are reparation obligors under Minnesota Statutes, section 65B.43, subdivision 9, and shall participate in the assigned claims plan in Minnesota Statutes, section 65B.63. Self-insurers authorized under this chapter are also subject to Minnesota Statutes, sections 72A.17 to 72A.32, regulating trade and claim service practices.

**Statutory Authority:** *MS s 65B.48*

**History:** 9 SR 734; 9 SR 764

**2770.7200 TERMINATION OF SELF-INSURANCE STATUS.**

An authorized self-insurer shall inform the commissioner at least 30 days after becoming insured. Self-insurance authority terminates immediately upon becoming insured.

**Statutory Authority:** *MS s 65B.48*

**History:** *9 SR 734; 9 SR 764*

**2770.7300 REVOCATION OF SELF-INSURANCE AUTHORITY.**

The commissioner shall revoke a self-insurer's authorization to self-insure:

A. if the commissioner determines that a self-insurer:

- (1) does not satisfy applicable authorization standards in part 2770.6500;
- (2) is not complying with a lawful order of the commissioner;
- (3) is not complying with Minnesota Statutes, chapter 65B;
- (4) has not complied with parts 2770.6700 to 2770.7100; or
- (5) is not complying, or has not complied with any other statutory require-

ment; and

B. if the commissioner determines that the self-insurer has failed, or is unable, to remedy circumstances that will, in the future, prevent the self-insurer from complying with standards or requirements of this chapter.

**Statutory Authority:** *MS s 65B.48*

**History:** *9 SR 734; 9 SR 764*

**2770.7400** [Repealed, L 1995 c 233 art 3 s 2; L 1995 c 248 art 3 s 2]

**AUTO INSURANCE NONRENEWALS****2770.7500 STATUTORY AUTHORITY.**

Parts 2770.7500 to 2770.8500 apply to all companies writing policies of private passenger vehicle insurance. They are adopted under Minnesota Statutes, section 65B.17, subdivision 2.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764*

**2770.7600 PURPOSE.**

Parts 2770.7500 to 2770.8500 are designed to limit the reasons a policy of private passenger vehicle insurance may not be renewed.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764*

**2770.7700 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 2770.7500 to 2770.8500, the terms defined in this part have the meanings given them.

Subp. 2. **Chargeable accident.** "Chargeable accident" means an accident in which the insurer nonrenewing the policy makes a payment under bodily injury, property damage, or collision coverages, except under the following conditions:

A. In a collision loss, where the insurer recovers 80 percent or more of the insurers loss through subrogation.

B. The automobile was damaged through being struck while being lawfully parked. An automobile rolling from a parked position, or a door opened into traffic causing an accident, is not considered being lawfully parked.

C. The insured or other driver of the automobile has been paid by the other party, or has a judgment against the other party in the accident.

D. The accident was one in which the damage was caused by the vehicle being rear-ended by another vehicle, unless the driver of the struck vehicle has been convicted of a moving traffic violation in conjunction with the accident.

E. The driver of the other vehicle in the accident has been convicted of a moving violation in conjunction with the accident, and the driver of the insured vehicle has not been convicted of a moving violation in conjunction with the accident.

F. The insured automobile was damaged by contact with a "hit-and-run" vehicle, if this contact is reported to the police, highway patrol, or sheriff within 24 hours after discovery.

"Chargeable accident" also includes any accident for which payment is made under the comprehensive portion of the physical damage coverage of a policy under the following conditions:

(1) a vehicle falling through the ice of any body of water;

(2) a single vehicle accident in which the loss would normally be paid under collision coverage but glass breakage is paid under the comprehensive coverage of a policy that does not have collision coverage; or

(3) payments made under personal injury protection coverage to an insured driver who is involved in a single vehicle accident in which damage to property occurs.

**Subp. 3. Commercial vehicle.** "Commercial vehicle" is as defined in Minnesota Statutes, section 65B.43, subdivision 12.

**Subp. 4. Emergency vehicle.** "Emergency vehicle" means an automobile used in response to an emergency if the operator is responding to a call of duty as a paid or volunteer member of any police or fire department, first aid squad, or any law enforcement agency.

**Subp. 5. Experience period.** "Experience period" means three years from the date of a chargeable accident or incident referred to in part 2770.7800, subpart 2, to the renewal date of the policy and in the case of a moving traffic violation, three years from the date of occurrence to the renewal date of the policy.

**Subp. 6. Hit and run vehicle.** "Hit and run vehicle" means a vehicle that leaves the scene of an accident in violation of Minnesota Statutes, section 169.09, subdivisions 1, 2, 4, and 5, or the comparable provisions of the laws of another jurisdiction where the accident occurred.

**Subp. 7. Multiline contract.** "Multiline contract" means an insurance contract that insures more than one line of insurance under one contract, such as homeowners and automobile coverages within one contract.

**Subp. 8. Nonrenewal.** "Nonrenewal" includes any nonrenewal notice sent to a named insured informing the named insured that the insurer is terminating or intends to terminate a policy as of a certain date. In order to be valid, the notice must comply with all other applicable laws and rules, including Minnesota Statutes, section 65B.17, and part 2770.8100.

Nonrenewal also includes:

A. any reduction in the limits of liability of coverage, except a termination or modification of towing coverage;

B. an increase of a physical damage deductible unless all the existing policies and those policies to be accepted as new business by the insurer in this state will have the same higher deductibles applied; and

C. the transfer of a named insured from one rating plan to another within the same company, or the transfer of a named insured from one company to another within a group of insurance companies, if the transfer results in a higher premium. This does not apply to a surcharge on an existing policy.

**Subp. 9. Points.** "Points" means the grading system by which each chargeable accident and violation is assigned a certain number of points to determine if a policy is subject to nonrenewal.

**Subp. 10. Policy.** "Policy" means a policy of automobile insurance as defined in Minnesota Statutes, section 65B.14, subdivision 2. The term also includes motorcycles and commercially rated policies of less than five vehicles.

Subp. 11. **Private passenger vehicle.** “Private passenger vehicle” is as defined in Minnesota Statutes, section 65B.001, subdivision 3.

Subp. 12. **Private passenger vehicle insurance.** “Private passenger vehicle insurance” is as defined in Minnesota Statutes, section 65B.001, subdivision 2. The term includes commercially rated policies of less than five vehicles.

Subp. 13. **Violations.** “Violations” means all moving traffic violations that are recorded by the Department of Public Safety on a household member’s motor vehicle record, and violations reported by a similar authority in another state, or reported by the insured, except for equipment violations, driving an unregistered vehicle, driving with an expired driver’s license, or driving without a valid driver’s license in possession.

**Statutory Authority:** *MS s 65B.17*

**History:** 9 SR 764

### 2770.7800 REASONS FOR NONRENEWAL.

Subpart 1. **Entire policy.** The grounds for nonrenewal of an entire policy are limited to one or more of the following reasons:

A. The reasons stated in Minnesota Statutes, section 65B.15, subdivision 1.

B. An insured equals or exceeds the relevant number of points specified in part 2770.8000.

C. Termination of the agency contract, provided that if a named insured is 65 years of age or older, the insurer shall notify the named insured of his or her right to continue the policy in force if the named insured makes the request in writing prior to the termination date. This item does not apply if the insurer assigns the terminated agent’s book of business to another agent.

D. An insurer ceases to write auto insurance in Minnesota. An insurer writing both commercial vehicle insurance and private passenger auto insurance can cease to write either line and continue to offer coverage in the other line.

E. A commercial auto policy governed by these parts may be nonrenewed if the insurer ceases writing a selected classification and all insureds in the classification are nonrenewed. It may do so by nonrenewing all risks in the classification, and by not rewriting any business in that class for a period of one year after the last risk is nonrenewed.

F. Failure of the insured to provide necessary underwriting information upon written request from the insurer. Before a nonrenewal notice can be issued under this part, two written requests asking for the information must be sent to the insured stating the reasons why the information is necessary. The second notice must inform the insured of the intent to nonrenew the policy if the information is not received. Medical reports and examinations required by the insurer must be paid for by the insurer.

G. An insured has two or more total theft of vehicle claims during the experience period and the vehicles are not recovered.

H. If an insurer encounters a situation in which the insurer believes that the nonrenewal would not be arbitrary and capricious but the situation is not addressed by these parts, the following procedure may be taken:

(1) Notify the commissioner in writing, at least 90 days prior to the policy renewal date, by referring to this part and by stating the reasons for the proposed nonrenewal action.

(2) If the commissioner determines that the situation is not covered by these parts, but could possibly warrant a nonrenewal, the penalties in part 2770.8500 must be waived. The commissioner may decline to render an opinion.

(3) The waiver of penalty decision must be retained by the insurer. A copy of the waiver of penalty decision must be returned to the commissioner by the insurer with its response to a written complaint made by the insured.

(4) The commissioner’s decision regarding waiver of penalties will have no bearing on the final decision as to the approval or disapproval of the nonrenewal action.

(5) There is no precedential value in the commissioner’s action under this part and each request must be judged on individual considerations.

Subp. 2. **Physical damage portion of policy.** The grounds for nonrenewal of the physical damage portion of a policy are limited to the following:

A. If three or more comprehensive claim payments have been made during the experience period, or two or more comprehensive payments have been made during the most recent 12-month period, a policy that does not have a comprehensive deductible may be changed to a deductible not greater than \$100, or a policy that has a comprehensive deductible may be increased to the next highest deductible level offered by the insurer or up to \$100, whichever is greater. Only one increase of deductibles is allowed during the experience period unless additional payments are made after the increase of a deductible. A change in a deductible requires a nonrenewal notice.

B. The physical damage portion of a policy may be nonrenewed if there has been a total of three payments for a single vehicle insured or four payments for a multiple vehicle insured during the experience period for any combination of the following:

- (1) comprehensive payments, except towing and those caused by natural causes;
- (2) chargeable accident collision payments; or
- (3) collision payments due to hit and run vehicles.

**Statutory Authority:** *MS s 65B.17*

**History:** 9 SR 764

#### 2770.7900 SCHEDULE OF POINTS FOR VIOLATION OR CHARGEABLE ACCIDENT.

Subpart 1. **In general.** Subparts 2 to 7 show the points assigned to each violation and chargeable accident during the experience period.

Subp. 2. **Four points.** Four points will be assigned for each of the following:

- A. leaving the scene of an accident without stopping to report;
- B. a felony involving the use of a motor vehicle, including manslaughter, criminal negligence, or assault originating out of the use of a motor vehicle;
- C. theft of, or unlawful taking of, a motor vehicle;
- D. any violation that results in the suspension or revocation of an operators' license, such as an implied consent or a DWI; and
- E. unlawful driving after suspension or revocation of an operators' license.

Subp. 3. **Two and one-half points.** Two and one-half points will be assigned for reckless driving.

Subp. 4. **One and one-half points.** One and one-half points will be assigned for careless driving.

Subp. 5. **One point.** One point will be assigned for:

A. a chargeable accident where total payment exceeds \$500, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident; and

B. an open bottle violation.

Subp. 6. **Three-fourths point.** Three-fourths of a point will be assigned for the second and each subsequent violation for speeding during the experience period per individual operator.

Subp. 7. **One-half point.** One-half point will be assigned for:

A. the first violation for speeding during the experience period per individual operator;

B. a chargeable accident where total payment is \$500 or less, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident;

C. allow open bottle violation; and

D. all other violations.

**Statutory Authority:** *MS s 65B.17*

**History:** 9 SR 764

**2770.8000 POINTS FOR NONRENEWAL.**

Subpart 1. **Schedule.** The following schedule shows the number of points that must be accumulated before a policy can be nonrenewed:

Number of household vehicles insured by the same insurer	Number of Points required to nonrenew
1	2
2	3
3	3-1/2
4 or more	4

Subp. 2. **Exceptions.** If one operator accumulates three points or more, a policy or policies may be nonrenewed regardless of the number of insured vehicles in the household. If at the time the nonrenewal was sent, a household member owns an automobile and a policy of his or her own, then that household member's driving record cannot be used to determine a basis for nonrenewal of policies of other household members.

Accidents or violations occurring while operating a commercial vehicle or an emergency vehicle cannot be used to accumulate points for nonrenewing a private passenger vehicle policy, except for violations in the four-point category.

**Statutory Authority:** *MS s 45.023; 65B.17*

**History:** *9 SR 764; 12 SR 845*

**2770.8100 NONRENEWAL NOTICES.**

A nonrenewal notice must be on a form approved by the Department of Commerce and it must contain on the front of the the notice specific reasons for the nonrenewal and the information required by Minnesota Statutes, section 65B.19 regarding the right of complaint and the availability of the Minnesota Automobile Insurance Plan. The make and year of the vehicle being nonrenewed must be shown on the notice. The specific reason given for the nonrenewal must include the following information:

A. in the case of violations: the name of the driver, the type of violation, the date of the violation, and the point value of each violation;

B. in the case of chargeable accidents: the name of the driver, whether the payment is in excess of or under \$500, the date of the accident, and the point value of each accident; and

C. in the case of physical damage nonrenewals under part 2770.7800, subpart 2, items A and B: the date of the loss and the type of the loss.

The printing of these items on the back of the notice or on a separate sheet will not comply with this part.

The named insured cannot waive his or her right to receive a nonrenewal notice unless advised fully, in writing, as to his or her rights under the nonrenewal statutes and these parts.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764*

**2770.8200 RECORD KEEPING.**

Each insurance company shall keep a register of all cancellations, as defined in Minnesota Statutes, section 65B.15, and nonrenewals, as defined in Minnesota Statutes, section 65B.17 and part 2770.7700, subpart 8. This register must be available to the commissioner of commerce, or a designee, at any time. The termination register must be retained for three years and need not include terminations for nonpayment of premium.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764; 17 SR 1279*

**2770.8300 AUTOMATIC COVERAGE ON NEWLY ACQUIRED AND REPLACEMENT VEHICLES.**

Parts 2770.7500 to 2770.8500 also apply to newly acquired vehicles and replacement vehicles which qualify for the automatic coverage provisions of a policy.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764*

**2770.8400 NONRENEWAL OF MULTILINE CONTRACTS.**

Nothing in parts 2770.7500 to 2770.8500 prohibits an insurance company from nonrenewing a multiline insurance contract. However, if these parts prevent nonrenewal of the automobile insurance portion of the contract, then the insurance company shall issue to the named insured a policy of automobile insurance providing coverage as included in the multiline contract.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764*

**2770.8500 PENALTIES.**

Subpart 1. **Generally.** Failure to comply with parts 2770.7500 to 2770.8500 subjects the insurers to the following penalties during each calendar year period:

- A. first violation, \$100;
- B. second violation, \$300; and
- C. third and subsequent violation, \$500.

Monetary penalties must be waived if the commissioner determines that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the insurer at the time of the sending of the nonrenewal notice, or if the nonrenewal was subject to the waiver of penalty provisions in part 2770.7800, subpart 1, item H.

Subp. 2. **Disapproval by commissioner.** Any nonrenewal of a policy in violation of parts 2770.7500 to 2770.8500 must be disapproved by the commissioner of commerce under Minnesota Statutes, section 65B.21.

Subp. 3. **Additional penalties.** Nothing contained in this part prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

Subp. 4. **Application and effective date.** Monetary penalties become effective for any nonrenewal in violation of parts 2770.7500 to 2770.8500 sent on or after January 1, 1984.

**Statutory Authority:** *MS s 65B.17*

**History:** *9 SR 764*

**HEALTH CLAIMS APPEALS ARBITRATION****2770.9010 ADMINISTRATION.**

The administration of arbitration under Minnesota Statutes, section 72A.327 shall be by the American Arbitration Association or other agency as designated by the commissioner. The administration is subject to the continuing supervision of the commissioner.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

**2770.9020 APPOINTMENT OF ARBITRATION PANEL.**

Subpart 1. **List of arbitrators.** The commissioner shall establish three lists of qualified individuals who are eligible to serve on the three-member arbitration panel, under Minnesota Statutes, section 72A.327, paragraph (c). One list shall include names and address of individuals with medical expertise as identified by contributing members under Minnesota Statutes, section 65B.01, subdivision 2. The second list shall include names and addresses of per-

sons with medical expertise as identified by professional societies. The third list shall include names and addresses of other members of the public designated by the commissioner as eligible to serve on the three-member arbitration panel. The commissioner may, from time to time, add or delete names of individuals from any of the three lists.

**Subp. 2. Three-member panel.** The commissioner shall deliver the three lists described in subpart 1 to the American Arbitration Association. Upon initiation of an arbitration, the American Arbitration Association shall administer the establishment of the three-member arbitration panel according to Minnesota Statutes, section 72A.327, paragraph (c), by making a recommendation to the commissioner as to the nine potential arbitrators. Unless the commissioner disapproves the recommendations within three business days, the recommendations shall be deemed approved. Under procedures established by the American Arbitration Association and immediately following nomination by the American Arbitration Association for consideration as a member of the arbitration panel, each potential arbitrator shall be required to disclose any circumstances likely to create a presumption or possibility of bias or conflict which may disqualify the person as a potential arbitrator. Each nominee shall supplement the disclosures as circumstances require. A party to an arbitration may advise the American Arbitration Association of any reason why the arbitrator should withdraw or be disqualified from serving before exercising strikes. An objection to a potential arbitrator shall be determined initially by the American Arbitration Association, subject to appeal to the commissioner. If an arbitrator should resign, be disqualified, or unable to perform the duties of the office, the American Arbitration Association shall arrange for the appointment of another arbitrator in accordance with parts 2770.9010 to 2770.9170.

**Subp. 3. Oaths.** Arbitrators, upon accepting appointment to the panel, shall take an oath or affirmation of office. The arbitrators may require witnesses to testify under oath or affirmation.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9030 INITIATION OF ARBITRATION.**

**Subpart 1. Notice of right to appeal.** At the time an insurer denies a claim to which the claimant has a right to appeal under Minnesota Statutes, section 72A.327, the insurer shall advise the claimant, in writing, of the claimant's right to appeal the denial to the commissioner. The insurer shall also advise the claimant that information on the appeal and arbitration procedures may be obtained from the American Arbitration Association.

**Subp. 2. Filing of appeal.** Upon request, the American Arbitration Association will provide a claimant with a petition form for initiating arbitration, together with a copy of parts 2770.9010 to 2770.9170. Arbitration is initiated by the claimant filing the signed, executed form together with the required filing fee, with the American Arbitration Association.

**Subp. 3. Denial of claim.** If an insurer fails to respond within 30 days after a claim is duly presented to the insurer, the claim is considered denied for the purpose of parts 2770.9010 to 2770.9170.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9040 FILING FEE.**

The filing fee to be paid under parts 2770.9030, subpart 2 and 2770.9050 is the fee set in Rule 8 of the Rules of Procedure for No-fault Arbitration adopted by the Minnesota Supreme Court under Minnesota Statutes, section 65B.525.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9050 NOTICE.**

On the filing of the petition form by the claimant, the American Arbitration Association shall send a copy of the petition to the insurer together with a request for payment of the filing

fee. In addition, the American Arbitration Association shall send a copy of the petition to the commissioner within ten business days of the claimant's filing with the American Arbitration Association.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9060 CONCILIATION AND PREHEARING PROCEDURES.**

Through prehearing conference or other joint communication to the parties, the arbitration panel may conciliate the claim. The arbitration panel shall encourage the parties to narrow the issues so far as possible in an effort to shorten the hearing. At least ten days before the hearing, the arbitration panel shall ask the parties to stipulate to facts not in dispute, and may ask each party to furnish the other parties with copies of each document or exhibit which that party intends to offer in evidence.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9070 COMMUNICATION WITH ARBITRATION PANEL.**

All communication, oral or written, from a party to the arbitration panel, must be through the American Arbitration Association for transmittal to the arbitrators. In any and all cases, oral communication with the arbitration panel must be done jointly and with the knowledge of the opposing party.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9080 TIME AND PLACE OF ARBITRATION.**

If conciliation is not successful, an informal arbitration hearing will be held in the office of the American Arbitration Association or some other appropriate place in the general locale of the claimant's residence, or other place agreed upon by the parties. The arbitration panel shall fix the time and place for the hearing. At least 14 days before the hearing, the American Arbitration Association shall mail notice to each party or to a party's designated representative. Notice of hearing may be waived by any party. A party requesting postponement shall make their request to the arbitration panel, through the American Arbitration Association, who shall rule on all such requests. A postponement fee shall be charged against the party causing the postponement as set forth in the rules adopted by the Minnesota Supreme Court, under Minnesota Statutes, section 65B.525.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9090 WITNESSES, SUBPOENAS, DEPOSITION.**

The arbitration panel may, upon its own initiative or at the request of any party, issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence. The subpoenas issued shall be served, and upon application to the district court by either party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas for a civil action. Provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in the district courts.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9100 DISCOVERY.**

All parties may exchange information on a voluntary basis. Formal discovery of any kind beyond exchange of medical reports and other exhibits to be offered at the hearing is discouraged. However, upon application and a showing of good cause that the information sought is material to a party's presentation at hearing, the arbitration panel may permit any

discovery allowable under the Minnesota Rules of Civil Procedure for the district courts. Any medical examination considered necessary by the insurer shall be completed within 30 days following commencement of the case unless extended by the arbitration panel.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9110 EVIDENCE.**

The parties may offer evidence as they desire and shall produce additional evidence as the arbitration panel considers necessary to an understanding and determination of the issues. The arbitration panel shall be the judge of the relevancy and materiality of any evidence offered, and conformity to legal rules of evidence shall not be necessary. The parties are encouraged to offer, and the arbitration panel is encouraged to receive and consider, evidence by affidavit or other document, including medical reports, statements of witnesses, officers, accident reports, medical texts, and other similar written documents which would not ordinarily be admissible as evidence in the courts of this state. In receiving this evidence, the arbitration panel shall consider any objections to its admission in determining the weight to which it considers it is entitled.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9120 ARBITRATOR'S FEES.**

An arbitrator shall be compensated for services and for any use of office facilities in the amount set in Rule 16 of the Rules of Procedure for No-fault Arbitration adopted by the Minnesota Supreme Court under Minnesota Statutes, section 65B.525.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9130 CLOSE OF HEARING.**

The arbitration panel shall specifically inquire of all parties as to whether they have any further evidence. If they do not, the arbitration panel shall declare the hearing closed. If briefs or documents are to be filed, the hearing shall be declared closed as of the final date set by the arbitration panel for the receipt of briefs or documents. The time limit within which the arbitration panel is required to make its recommendation to the commissioner shall begin to run on the close of the hearing.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9140 REOPENING HEARING.**

At any time before the recommendation is made, a hearing may be reopened by the arbitration panel upon own motion, or upon application of a party.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9150 RECOMMENDATION AND REPORT TO COMMISSIONER.**

The arbitration panel shall promptly render a written report to the commissioner, in which it recommends a resolution to the claim at issue. The report shall include the panel's findings of fact and conclusions on all material issues, and shall be dated and signed by all members of the arbitration panel. Unless otherwise agreed to by the parties, the report shall be delivered to the commissioner no later than 30 days after the close of the hearing or the reopened hearings. In making its recommendation to the commissioner, the arbitration panel may assign actual costs and disbursements incurred, or any parts thereof, to one or both parties.

A copy of the arbitration panel's report shall be served upon each party or the party's representative by first class mail within five days of delivery of the report to the commission-

er. Personal service of the report upon a party or in any other manner which may be prescribed by law shall also constitute legal delivery.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9160 ACTION BY COMMISSIONER.**

Subpart 1. **Filing of exceptions.** Within ten days from the date the arbitration panel's report is delivered to the commissioner, a party to the arbitration proceedings may file with the commissioner written exceptions and written arguments to the report.

Subp. 2. **Decision or order.** The commissioner shall render a decision within 30 days after the submission of the arbitration panel's report and subsequent exceptions and arguments under part 2770.9150. A copy of the decision and any applicable order shall be served upon each party or the party's representative, and the American Arbitration Association, by first class mail.

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*

#### **2770.9170 APPEAL.**

A person aggrieved by an order under parts 2770.9010 to 2770.9170 shall have the right to appeal the order as provided in Minnesota Statutes, section 72A.327, paragraph (d).

**Statutory Authority:** *MS s 45.023; 72A.327*

**History:** *15 SR 1264*