

**1415.4000 SUBROGATION INTEREST IN THIRD-PARTY RECOVERY.**

Subpart 1. **Determination of subrogation interest by division.** Where there is no dispute about the facts or the calculation of the subrogation interest, credit, or sum payable to the employee under Minnesota Statutes, section 176.061, subdivision 5, the insurer and employee may submit a petition based on stipulated facts under Minnesota Statutes, section 176.322, to the Workers' Compensation Division for an order determining subrogation interest and credit.

A. The petition must contain substantially the following:

(1) information identifying both the district court action if any and the workers' compensation claim involved;

(2) the total proceeds of the third-party settlement or award;

(3) the amount of legal fees and costs of the third-party claim;

(4) the subrogation interest of the employer itemized by type of benefits paid such as but not limited to:

(a) temporary total disability;

(b) temporary partial disability;

(c) permanent total disability;

(d) permanent partial disability; and

(e) medical expenses where Minnesota Statutes, section 176.061, subdivision 7, claim was not made;

(5) the name, address, and telephone number of the attorney for each party if any; and

(6) the signatures of all parties indicating agreement with the information in subitems (1) to (5).

B. The parties may also, but are not required to, submit a proposed calculation of the subrogation interest, including the future credit amount and the sum payable to the employee.

C. The petitioners must file one clean copy of the petitions and attachments, suitable for imaging. The petition must be served on the special compensation fund where it has a subrogation interest based on payments made pursuant to Minnesota Statutes, section 176.183, or a known potential interest under Minnesota Statutes 1990, section 176.131, or Minnesota Statutes 1994, section 176.132.

D. The division may refer a petition based on stipulated facts submitted under this subpart to the office for further proceedings where the parties disagree how the subrogation interest, credit, or sum payable to the parties should be calculated.

E. Except as provided in item D, after receipt of the petition, the division shall serve on the petitioners, and special compensation fund if appropriate, an order containing the following:

- (1) the information upon which the subrogation order is based;
  - (2) the calculation of the subrogation interest, including the future credit amount and the sum payable to the employee;
  - (3) an explanation of the effect of the credit upon future benefit entitlement;
- and
- (4) notice of the parties' right to appeal the order within 30 days of its service pursuant to Minnesota Statutes, section 176.322.

Subp. 2. **Alternative petitions and orders.** Instead of petitioning the division for an order under subpart 1, parties may request an award from a judge by submitting a stipulated agreement under Minnesota Statutes, section 176.521, or by filing a petition under Minnesota Statutes, section 176.291, for a determination of subrogation interest and credit.

**Statutory Authority:** *MS s 14.51; 175.17; 175.171; 176.081; 176.155; 176.231; 176.285; 176.312; 176.361; 176.83*

**History:** *29 SR 1448*

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