

**5220.2770 FAILURE TO PAY OR DENY; PENALTY.**

Subpart 1. **Basis.** Where payment is not made in a timely manner and no denial of primary liability is filed with the commissioner and served on the employee as provided by Minnesota Statutes, section 176.221, subdivision 1, the division may assess the penalties provided in Minnesota Statutes, section 176.221, subdivisions 3 and 3a.

Subp. 2. **Amount.** The commissioner's designee must use the following procedure to determine the amount of the penalty.

A. The commissioner's designee must complete a delayed payment worksheet containing information identifying the claim and setting forth the time period of late payment.

B. Calculation of the amount of the penalty will be in the following manner:

(1) the 14-day period is first calculated. The period will begin on the next day after either the first day of lost time or day of notice, whichever is latest;

(2) the number of days after the 14-day period until payment is made constitute the days late;

(3) the penalty due for the number of days late is calculated under Minnesota Statutes, section 176.221, subdivision 3.

C. Where an old injury recurs causing disability, an extension under Minnesota Statutes, section 176.221, subdivision 1, is filed, and payment is not made within 30 days, calculation of the amount owing under item B shall be made using a period of 30 days rather than 14 days.

D. Where no compensation has been paid but the insurer has failed to file and serve on the employee a denial of liability within the statutory 14- or 30-day limit on a claim required to be reported to the division, a penalty of up to \$2,000 may be assessed under Minnesota Statutes, section 176.221, subdivision 3a, as follows:

(1) one to 15 days late, \$250;

(2) 16 to 30 days late, \$500;

(3) 31 to 60 days late, \$1,000; and

(4) over 60 days late, \$2,000.

E. Where the insurer has filed a frivolous denial under part 5220.2570, subpart 10, a penalty may be assessed under Minnesota Statutes, section 176.221, subdivision 3a, as follows:

(1) one to five violations in the two-year period before the assessment, \$1,000; and

(2) six or more violations in the two-year period before the assessment, \$2,000.

Subp. 3. **Payable to.** This penalty is payable to the commissioner for deposit in the assigned risk safety account.

Subp. 4. **Repeated failure.** An insurer that has been penalized for failure to pay benefits or deny under Minnesota Statutes, section 176.221, on five or more percent of their claims required by statute to be filed within a given calendar year will be subject to the action set out in Minnesota Statutes, section 176.231, subdivision 2.

**Statutory Authority:** *MS s 14.388; 175.17; 175.171; 176.129; 176.138; 176.221; 176.225; 176.231; 176.238; 176.83; 176.84*

**History:** *11 SR 1530; 18 SR 2546; 23 SR 1484; 35 SR 2015*

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