

5220.2810 FAILURE TO RELEASE MEDICAL DATA; PENALTY.

Subpart 1. **Application for penalty.** Any party or the division may request a penalty assessment against a collector or possessor for failure to release medical data in accordance with Minnesota Statutes, section 176.138. The application must be in writing, clearly state the factual basis upon which the penalty is requested, and be accompanied by copies of the written requests for medical data made by the applicant and any response received. The application also must be accompanied by a copy of the written notification to the employee of the request for medical data, unless the employee requested the medical data.

Subp. 2. **Assessment of penalty.** Upon receipt of an application for a penalty assessment, the division shall assess a penalty if it determines that the request meets the following requirements:

A. the medical data requested is related to a current claim for compensation, which means any claim for compensation under Minnesota Statutes, chapter 176, for which benefits are currently being paid or are being claimed by an employee, whether or not a claim petition has been filed;

B. the requested medical data is specifically identified and in existence at the time of the request;

C. the requested medical data is directly related to a current injury or disability for which compensation is claimed or being paid;

D. the applicant sent written notification of the request for medical data to the employee at the time the request was made;

E. if required by federal law, appropriate authorizations for release of information were furnished; and

F. the requested medical data was not provided within seven working days after receipt of the request by a party and receipt of appropriate authorizations, if required by federal law.

Subp. 3. **Amount.**

A. The division must send a warning letter before a monetary penalty is assessed unless the initial request for records is from the division. The warning letter must advise the collector or possessor against whom the penalty is sought of the obligation to provide medical data under Minnesota Statutes, section 176.138, and that a penalty will be assessed if it fails to provide the requested data within seven working days after the warning letter and to file written verification of the release of the data or a copy of the data with the division within that time.

B. If the requested data is not provided and written verification filed with the division within seven working days after receipt of a required warning letter or the division's request where no warning letter is required, a penalty of \$300 shall be imposed.

C. If the requested data is not provided and written verification filed with the division within 30 days after the date of a required warning letter or the division's request where no warning letter is required, a penalty of \$450 will be imposed.

D. If the requested data is not provided and written verification filed with the division within 60 days after the date of a required warning letter or the division's request where no warning letter is required, a penalty of \$600 will be imposed.

Subp. 4. **Payable to.** The amount of any penalty assessed under this part is payable to the commissioner for deposit in the assigned risk safety account.

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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