

1 Department of Labor and Industry
2 Worker's Compensation Division and Office of Administrative
3 Hearings

4
5 Adopted Joint Rules of Practice of the Workers' Compensation
6 Division and the Office of Administrative Hearings

7
8 Rules as Adopted

9 1415.0100 SCOPE AND PURPOSE.

10 Parts 1415.0100 to 1415.3500 govern all workers'
11 compensation matters in litigation before settlement judges in
12 the Workers' Compensation Division of the Department of Labor
13 and Industry and compensation judges in the Office of
14 Administrative Hearings under Minnesota Statutes, section
15 176.305. Parts 1415.0100 to 1415.3500 do not apply to
16 administrative conferences conducted by the division under
17 Minnesota Statutes, sections 176.102, 176.103, 176.135, 176.136,
18 176.242, and 176.243.

19 1415.0200 GENERAL AUTHORITY.

20 Subpart 1. Assignment or transfer of cases. The chief
21 hearing examiner has responsibility for the assignment of cases
22 for trial to compensation judges. The chief hearing examiner
23 may transfer to another compensation judge the proceedings on
24 any case in the event of the death, extended absence, or
25 disqualification of the compensation judge to whom it has been
26 assigned, and may otherwise reassign a case if necessary to
27 expedite the proceedings if no oral testimony has been received
28 in the case.

29 Subp. 2. Authority of compensation judges. In any case
30 which has been regularly assigned to a judge for trial, a
31 compensation judge shall have full power, jurisdiction, and
32 authority to hear and determine all issues of fact and law
33 presented except those issues specifically reserved to the
34 commissioner, the department, or the board, panel, or Court of
35 Appeals, by the act. The judge shall issue interlocutory and

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1 final orders, findings, decisions, and awards necessary to the
2 full adjudication of a case.

3 1415.0300 DEFINITIONS.

4 Subpart 1. Scope. For the purposes of parts 1415.0100 to
5 1415.3500, the following terms have the meanings given them.

6 Subp. 2. Act. "Act" means the Workers' Compensation Act,
7 Minnesota Statutes, chapter 176.

8 Subp. 3. Board. "Board" means the Medical Services Review
9 Board.

10 Subp. 4. Calendar judge. "Calendar judge" means the
11 workers' compensation judge from the Office of Administrative
12 Hearings responsible for hearing motions and other proceedings
13 in cases not yet assigned to a particular compensation judge.

14 Subp. 5. Chief hearing examiner. "Chief hearing examiner"
15 means the chief hearing examiner of the Office of Administrative
16 Hearings.

17 Subp. 6. Commissioner. "Commissioner" means the
18 commissioner of the Department of Labor and Industry.

19 Subp. 7. Compensation judge. "Compensation judge" means a
20 workers' compensation judge from the Office of Administrative
21 Hearings.

22 Subp. 8. Court of appeals. "Court of appeals" means the
23 workers' compensation court of appeals.

24 Subp. 9. Division. "Division" means the Workers'
25 Compensation Division of the Department of Labor and Industry.

26 Subp. 10. DVR. "DVR" means the Division of Vocational
27 Rehabilitation, Department of Economic Security.

28 Subp. 11. Fund director. "Fund director" means the
29 director of the Special Compensation Fund, Workers' Compensation
30 Division, Department of Labor and Industry.

31 Subp. 12. Judge. "Judge" means a calendar or compensation
32 judge from the Office of Administrative Hearings or a settlement
33 judge from the Department of Labor and Industry.

34 Subp. 13. Office. "Office" means the Office of
35 Administrative Hearings.

36 Subp. 14. Panel. "Panel" means the Rehabilitation Review

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1 Panel.

2 Subp. 15. **Petition.** "Petition" means a claim filed by or
3 on behalf of an injured or deceased employee, employer, insurer,
4 or special compensation fund which initiates a contested
5 workers' compensation case requiring assignment for hearing.

6 Subp. 16. **Petitioner.** "Petitioner" means the injured
7 employee, an heir or dependent of a deceased employee or a party
8 filing on their behalf, an employer or insurer, or the special
9 compensation fund.

10 Subp. 17. **Settlement judge.** "Settlement judge" means a
11 workers' compensation judge from the Department of Labor and
12 Industry.

13 1415.0400 MEDICAL AUTHORIZATIONS.

14 An employee shall provide the employer and insurer with
15 appropriate signed medical authorizations within ~~15-working~~ 30
16 calendar days of receipt of a written request for them. A
17 written request for medical authorization must inform the
18 employee of the ~~15-day~~ 30-day requirement. In pending
19 litigation failure to comply with the request for appropriate
20 medical authorizations constitutes grounds for striking the case
21 from the active trial calendar until authorizations are
22 furnished. The employer or insurer may bring a motion to strike
23 the case from the calendar if authorizations have not been
24 furnished and the employer or insurer is unable to adequately
25 defend its case.

26 1415.0500 LEGAL DOCUMENTS.

27 Forms and documents used or filed in all workers'
28 compensation proceedings before the division or the office must
29 be on standard size 8-1/2 by 11 inch paper.

30 Unless otherwise provided by law, requests for action by
31 the division or office after the filing of a petition must
32 contain the caption, the employee's social security number, any
33 appropriate identification numbers of the case, and indicate the
34 type of action requested.

35 All legal documents filed by an attorney must include the

1 attorney's Minnesota Supreme Court license number.

2 1415.0600 EXAMINATION OF WORKERS' COMPENSATION FILES.

3 Persons desiring to examine a file maintained by the
4 division or office shall present a written authorization to
5 inspect the file to designated personnel of the division or
6 office. The authorization must be signed and dated by a party
7 to the claim who is either the employee, the employer, the
8 insurer, a dependent in death cases, or a legal guardian in
9 cases of mental or physical incapacity. The authorization must
10 specify the person or party authorized to review the file. The
11 authorization is placed in and becomes part of the file.

12 This part does not grant greater access to the files than
13 that given by the Minnesota Data Privacy Act or the Workers'
14 Compensation Act.

15 1415.0700 SERVICE.

16 Subpart 1. Service by state. The division and the office
17 must serve all notices, findings, orders, decisions, or awards
18 upon the parties ~~or their attorneys or agents of record~~ by first
19 class mail at their addresses of record or by personal service.

20 If the division or office has received notice that a party
21 is represented by an attorney or authorized agent, documents
22 required to be served on the party must also be served on the
23 attorney or agent.

24 Subp. 2. Service by parties. A party may serve documents
25 by first class mail or by personal service. Service of
26 documents required to be served on a party must also be served
27 on the party's attorney or authorized agent. Filed documents
28 must be accompanied by an affidavit or proof of service in a
29 form acceptable to the district courts.

30 Subp. 3. Computation of time. Computation of time for
31 service is governed by Minnesota Statutes, section 645.15.

32 1415.0800 NOTICE OF REPRESENTATION.

33 Subpart 1. Filing. When an employee is represented by an
34 attorney, written notice of representation must be filed with
35 the division, or if the case has been certified to the office,

1 with the office.

2 A. The notice of representation must be signed by the
3 attorney, signed by the employee or, dependent, or heir, and
4 include the address and telephone number of the attorney, the
5 attorney's Minnesota Supreme Court license number, the
6 employee's social security number, and the date of the claimed
7 injury or disease. A copy of the fully executed retainer
8 agreement must be attached to the notice of representation filed
9 with the division or office.

10 B. Copies of the notice must be sent to the employer,
11 the insurer, and other parties, if any.

12 C. Failure to file the notice and retainer agreement
13 will be considered in determining attorney fees according to
14 Minnesota Statutes, section 176.081, subdivision 5.

15 Subp. 2. Substitution of attorney. If the employee or,
16 dependent, or heir is represented by an attorney who may have an
17 undetermined claim for fees and the employee or, dependent, or
18 heir subsequently desires to change attorneys, the attorney
19 assuming representation shall file a substitution of attorney
20 and consent form signed by the client, the previous attorney,
21 and the new attorney, together with a copy of the new retainer
22 agreement. The new notice of representation must be filed
23 within 20 calendar days of the signing of a retainer
24 agreement if a claim petition has been filed or if the original
25 notice of representation has been served by the preceding
26 attorney.

27 Subp. 3. Appearance without attorney. If a party is not
28 represented by an attorney at legal proceedings conducted by the
29 division or the office, the presiding official shall advise the
30 party of the right to representation by an attorney and ask if
31 the party wishes to proceed without an attorney.

32 1415.0900 NOTICE OF CLAIM FOR WORKERS' COMPENSATION BENEFITS.

33 Subpart 1. Notice required. Prior to the filing of a
34 claim petition for workers' compensation benefits, the employee
35 or, dependent, or heir or the claimant's attorney shall notify
36 the parties against whom the claim is made, including all

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1 employers and insurers that will be named as parties and the
 2 special compensation fund if it will be named as a party, of the
 3 claim pursuant to Minnesota Statutes, section 176.271,
 4 subdivision 2.

5 Subp. 2. ~~Form of notice. -- The notice of claim must~~
 6 ~~specifically state, if applicable:~~

7 ~~A. -- the exact dates of temporary total disability,~~
 8 ~~temporary partial disability, or permanent total disability~~
 9 ~~claimed and the part of the body involved;~~

10 ~~B. -- the percentage of permanent partial disability~~
 11 ~~claimed and the part of the body involved;~~

12 ~~C. -- the amount of dependency benefits claimed;~~

13 ~~D. -- an itemization of penalties claimed;~~

14 ~~E. -- an itemization of unpaid medical expenses claimed~~
 15 ~~under Minnesota Statutes, section 176.135; and~~

16 ~~F. -- an itemization of other expenses or benefits~~
 17 ~~claimed.~~

18 Subp. 3. Supporting documentation. The employee or,
 19 dependent, or heir must attach to the notice of claim, if
 20 applicable, all medical reports, medical bills, if available,
 21 and other bills supporting the claim.

22 Subp. 4 3. Defective notice. If the division determines
 23 that the notice of claim is defective, the employee or,
 24 dependent, or heir will be notified of the deficiency. The
 25 claim petition is not considered filed until the deficiency is
 26 corrected. However, the claim petition will be considered filed
 27 absent the correction where compliance with this part would
 28 result in the claim being barred by Minnesota Statutes, section
 29 176.151 or other statutes.

30 1415.1000 COMMENCEMENT OF PROCEEDINGS.

31 Subpart 1. Commencement of proceedings. All proceedings
 32 for adjudication of claims for personal injuries or occupational
 33 diseases are instituted by petition addressed to the division,
 34 and must be on forms prescribed by the division, containing:

35 A. the name, address, and social security number of
 36 the employee;

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1 B. the name and address of each employer at the time
2 an injury or disease is alleged to have occurred;

3 C. the name of each employer's workers' compensation
4 insurer;

5 D. the date of each injury or occupational disease
6 claimed;

7 E. the position held by the employee at the time of
8 the alleged injury or disease;

9 F. the weekly wage at the time of injury or disease;

10 G. the nature of the injury or disease;

11 H. a statement that the injury or disease arose out
12 of and in the course of the employment and that the employer had
13 knowledge or notice of the injury or disease;

14 I. an itemization of all benefits claimed, including
15 the type of disability and the time period for which coverage is
16 claimed;

17 J. an itemization of medical benefits claimed;

18 K. the name, address, and claim or policy number of
19 any third party who has paid medical, disability, welfare, or
20 unemployment benefits, or rehabilitation benefits provided by
21 DVR; and

22 L. the name, address, telephone number, and Minnesota
23 Supreme Court license number of the ~~employee's~~ petitioner's
24 attorney.

25 Subp. 2. Service of petition, filing. The petitioner
26 shall serve a copy of the petition on each adverse party
27 personally or by first class mail. "Adverse party" includes all
28 employers, insurers, potential intervenors, and the fund
29 director, if the ~~employee~~ employer is uninsured or the special
30 compensation fund is named. The original petition, together
31 with the copy of the notice of claim required by Minnesota
32 Statutes, section 176.271, subdivision 2 and any medical or
33 other supporting documentation not filed with the notice of
34 claim, must be filed with the division with proof of service.

35 Subp. 3. Defects in petition. If the division or office
36 notifies the petitioner or the petitioner's attorney of any

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1 defect in the petition, the defect must be corrected and the
2 corrected petition served on the other parties. If the party
3 fails to correct a substantial defect, the claim will be
4 stricken from the active calendar.

5 Subp. 4. Amended petitions. A party may file an amended
6 petition. Amended petitions must be served on the other
7 parties. If a new claim is raised and an adverse party objects
8 to it, the judge shall grant a continuance for the portion of
9 the case involving new issues if the adverse party has
10 insufficient time to prepare for a proceeding before the office
11 or division regarding new issues raised in the amended petition.

12 1415.1100 NOTICE TO POTENTIAL INTERVENORS.

13 Subpart 1. Responsibilities of attorneys. All attorneys,
14 whether representing employees, employers, or any other parties
15 to a workers' compensation proceeding, shall ask their clients
16 whether a third party, other than the workers' compensation
17 insurer, has paid monetary benefits or treatment expense to the
18 employee or on the employee's behalf. Attorneys shall
19 specifically ask their clients whether the DVR has provided
20 rehabilitation services to the employee.

21 Subp. 2. Notice to third parties. If inquiry discloses
22 that a third party has made a payment, the attorney discovering
23 that fact then has the duty to promptly place the third party on
24 written notice of its right to petition for intervention and
25 reimbursement. The DVR must be given notice if inquiry
26 discloses that the DVR provided rehabilitation services to the
27 employee. The attorney shall attach to the notice a copy of
28 part 1415.1200, a copy of all pleadings in the case, and a copy
29 of all notices and orders served in the case to date. The
30 notice must specifically advise:

31 A. that the petitioner has commenced a proceeding to
32 recover workers' compensation benefits, and that under Minnesota
33 Statutes, section 176.361 and part 1415.1200 the third party has
34 the right to petition for intervention and reimbursement of
35 payments of monetary benefits, treatment expenses, or
36 rehabilitation services;

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1 B. the name and address of parties to the proceeding
2 and the name and address of their attorney;

3 C. the name of a third party's insured, the nature of
4 the payments made, and any identifying claim and policy number;

5 D. that the failure of a third party to comply with
6 part 1415.1200 will result in a denial of the claim for
7 reimbursement unless the judge determines that the error or
8 omission is merely technical.

9 Subp. 3. Time to notify. Attorneys shall comply with this
10 part within 30 days after the filing of an answer, or within 60
11 days of receipt of a petition if no answer is required.
12 Attorneys shall promptly notify a potential intervenor whose
13 interest arises upon payment made or services rendered after the
14 claim petition or answer was filed.

15 1415.1200 INTERVENTION.

16 Subpart 1. Motion. A person desiring to intervene in a
17 workers' compensation case as a party shall submit a timely
18 motion to intervene to the compensation or settlement judge to
19 whom the case has been assigned. If the case has not yet been
20 assigned, the motion shall be made to the calendar judge if the
21 case has been certified to the office, or to the division if the
22 case has not been certified to the office.

23 A. The motion must be served on all parties either
24 personally or by first class mail. A motion to intervene must
25 be served and filed within 60 days after a person has received
26 notice that a petition has been filed as provided in part
27 1415.1100. An untimely motion is subject to denial under
28 subpart 6. In any other situation, timeliness will be
29 determined by the judge in each case based on circumstances at
30 the time of filing.

31 B. The motion must show how the moving party's
32 interests may be determined or affected by the case; state the
33 reasons for which intervention is sought; and indicate the
34 moving party's statutory right to intervene. The commissioner
35 may intervene by showing an interest in administering,
36 enforcing, or defending the rule or law which is being

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1 challenged in the proceeding. The motion must be accompanied by
2 the following, if applicable:

3 (1) an itemization of disability payments showing
4 the period during which the payments were or are being made; the
5 weekly or monthly rate of the payments; and the amount of
6 reimbursement claimed;

7 (2) a summary of the medical or treatment
8 payments, or rehabilitation services provided by DVR, broken
9 down by creditor, showing the total bill submitted, the period
10 of treatment or rehabilitation covered by that bill, the amount
11 of payment on that bill, and to whom the payment was made;

12 (3) copies of all medical or treatment bills on
13 which some payment was made;

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

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

19 (6) a proposed order allowing intervention with
20 sufficient copies to serve on all parties;

21 (7) the name and telephone number of the person
22 representing the intervenor who has authority to reach a
23 settlement of the issues in dispute;

24 (8) proof of service;

25 (9) at the option of the intervenor, a proposed
26 stipulation which states that all of the payments for which
27 reimbursement is claimed are related to the injury or condition
28 in dispute in the case and that, if the petitioner is successful
29 in proving the compensability of the claim, it is agreed that
30 the sum be reimbursed to the intervenor; and

31 (10) if represented by an attorney, the name,
32 address, telephone number, and Minnesota Supreme Court license
33 number of the attorney.

34 Subp. 2. Stipulation. If the person serving the motion
35 for intervention has included a proposed stipulation, all
36 parties shall either execute and return the signed stipulation

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1 to the intervenor who must file it with the division or office
 2 or serve upon the intervenor and all other parties and file with
 3 the division or office specific and detailed objections to any
 4 payments made by the intervenor which are not conceded to be
 5 correct and related to the injury or condition the petitioner
 6 has asserted is compensable. If a party has not returned the
 7 signed stipulation or filed objections within 30 days of service
 8 of the motion, the intervenor's right to reimbursement for the
 9 amount sought is established provided that the petitioner's
 10 claim is determined to be compensable.

11 Subp. 3. Attendance by intervenor. Unless a stipulation
 12 has been signed and filed or the intervenor's right to
 13 reimbursement has otherwise been established, the intervenor
 14 shall attend all settlement or pretrial conferences and shall
 15 attend the regular hearing if ordered to do so by the
 16 compensation judge.

17 Subp. 4. Order. If an objection to intervention remains
 18 following settlement or pretrial conferences, the calendar judge
 19 shall rule on the intervention and the order is binding on the
 20 compensation judge to whom the case is assigned for hearing.

21 Subp. 5. Presentation of evidence by intervenor. Unless a
 22 stipulation has been signed and filed or the intervenor's right
 23 to reimbursement has otherwise been established, the intervenor
 24 shall present evidence in support of the claim at the hearing
 25 unless otherwise ordered by the compensation judge.

26 Subp. 6. Effects of noncompliance. Failure to comply with
 27 this part will result in a denial of the claim for reimbursement
 28 unless the compensation judge determines that the noncompliance
 29 is merely technical.

30 1415.1300 JOINDER OF PARTIES.

31 Subpart 1. Motion. Upon a motion of a party or upon a
 32 judge's own motion, a judge may order the joinder of additional
 33 parties necessary for the full adjudication of the case.

34 Subp. 2. Service. A party requesting joinder of
 35 additional parties shall serve a copy of the motion on all
 36 existing parties, and the party to be joined, and file the

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1 original with proof of service with the judge no later than the
2 date the pretrial statement is due. The party to be joined must
3 also be served with copies of all pleadings and notice of the
4 date, time, and place set for a settlement or pretrial
5 conference.

6 Subp. 3. Late joinder. When a party requests joinder
7 after the date the pretrial statement was due, the motion must
8 be accompanied by an affidavit of the moving party stating why
9 joinder at a later date should be allowed. The judge shall
10 allow joinder at a later date when the moving party has shown
11 that the party to be joined is a necessary party; that the
12 moving party was unable, through due diligence, to previously
13 ascertain the name of or necessity of joining the party; and
14 that the joinder is necessary for a full and final determination
15 of the rights or liabilities of the parties.

16 Subp. 4. Delay. If joinder is ordered less than ten days
17 before the hearing date, the judge shall continue the matter to
18 allow the parties sufficient preparation time.

19 If the judge has denied the joinder because of the moving
20 party's failure to meet the time requirements, the case will not
21 be stricken, continued, or otherwise delayed for the purpose of
22 joinder, unless the attorney for the petitioner consents to it.

23 Subp. 5. Contents of motion. All motions for joinder must
24 include:

- 25 A. the party to be joined and its insurer, if any;
- 26 B. the date and nature of the claimed personal injury
27 or impairment;
- 28 C. the detailed circumstances, in affidavit form,
29 showing that the party to be joined is a necessary party;
- 30 D. the supporting medical opinions relied upon, if
31 applicable; and
- 32 E. if the party to be joined is the special
33 compensation fund, the detailed circumstances, in affidavit
34 form, showing the specific basis claimed for joinder, including
35 the date of registration of prior impairment or injury where
36 applicable.

1 Subp. 6. Order. The judge shall issue an order granting
2 or denying the joinder.

3 1415.1400 ANSWER.

4 Subpart 1. Service, filing. An answer must be served and
5 filed with the division within 20 days after service of the
6 petition unless an extension has been obtained under Minnesota
7 Statutes, section 176.321, subdivision 3. The answer must be
8 accompanied by proof of service upon the petitioner,
9 petitioner's attorney, and other parties to the proceedings.

10 Subp. 2. Form of answer. The answer must include:

11 A. specific responses to all material allegations
12 regarding the date and nature of injury, the employment status,
13 notice, wage, relationship of the injury to employment,
14 insurance, benefits paid, medical issues raised, matters in
15 dispute, affirmative defenses, and additional matters deemed
16 necessary by the answering party;

17 B. medical reports upon which the answer is based, if
18 available;

19 C. the date, time, and place for a medical
20 examination by the employer's or insurer's doctor. If the
21 medical examination has already taken place, the answer must so
22 state. A request for an extension of time for scheduling the
23 examination will be subject to the approval of the division or a
24 compensation or settlement judge; and

25 D. the name, address, telephone number, and Minnesota
26 Supreme Court license number of the attorney representing the
27 answering party.

28 Subp. 3. Failure to answer. If a party fails to answer a
29 petition within the 20-day period, an opposing party may apply
30 for a default award under part 1415.1500.

31 Subp. 4. Refusal. The division shall not accept an answer
32 which does not comply with subpart 2.

33 1415.1500 DEFAULT AWARD.

34 Subpart 1. Filing. If a party against whom an award is
35 sought has failed to answer within the time allowed, the party

1 entitled to an award by default shall serve the other parties
2 and file with the division or the office if the matter has been
3 certified to the office:

4 A. a notice of motion and motion for default award
5 with proof of service;

6 B. an affidavit of no appearance and no answer; and

7 C. an affidavit stating the essential facts.

8 Subp. 2. Response to motion. The defaulting party must
9 respond to the motion within 20 days. If an answer is filed
10 within the 20-day response period, a default will not be awarded
11 unless the employee shows substantial prejudice due to the delay.

12 Subp. 3. Hearing, order. If the judge requires proof of
13 the facts alleged in the claim petition, a hearing on the motion
14 will be scheduled. If a hearing is scheduled, the parties must
15 be served with notice of the hearing at least 20 days before the
16 hearing. The parties may present the issues fully, including
17 the right to introduce evidence and cross-examine adverse
18 witnesses. Whether or not a hearing is held, the judge shall
19 issue an order or award based upon the facts presented.

20 1415.1600 AWARD ON THE PLEADINGS.

21 After the answer is filed, a party may move for an award on
22 the pleadings if the hearing will not be delayed because of the
23 motion. If the parties to a proceeding stipulate to an award
24 being entered on the pleadings, the chief hearing examiner shall
25 immediately assign the matter to a compensation judge for
26 determination on the pleadings. If, on a motion for an award on
27 the pleadings, matters outside the pleadings are presented to
28 and not excluded by the court, the court on its own motion shall
29 assign the matter for hearing on those issues on which testimony
30 is necessary.

31 1415.1700 DISMISSAL.

32 Subpart 1. Voluntary dismissal. If contested matters are
33 resolved by voluntary agreement between the parties, and a
34 stipulation for settlement is not necessary, the parties may
35 request that the petition commencing proceedings be dismissed.

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1 Unless otherwise stated in the order of dismissal, the dismissal
2 is without prejudice.

3 Subp. 2. Involuntary dismissal. The judge may, on the
4 judge's own motion or upon motion of a party with notice to the
5 parties, dismiss an action or claim for failure to prosecute; or
6 to substantially comply with this chapter, the act, or an order
7 of a judge; ~~or any other reason allowable in the district courts~~
8 ~~of Minnesota.~~

9 1415.1800 SETTLEMENT CONFERENCE BY DIVISION.

10 Subpart 1. Purpose. A settlement conference is for the
11 primary purpose of assisting the parties in resolving disputes
12 and for the secondary purpose of narrowing the issues and
13 preparing for hearing.

14 Subp. 2. Time limits. Within ten days after a claim
15 petition is filed, the commissioner shall refer the matter to a
16 settlement judge. If the judge determines that a settlement
17 conference is appropriate, the judge shall schedule the
18 settlement conference within 60 days of receipt of the matter
19 from the commissioner. The parties must be notified of the
20 date, time, and place of the settlement conference.

21 If the judge determines that a settlement conference is not
22 appropriate, the judge shall certify the matter to the chief
23 hearing examiner within 60 days of receipt of the matter from
24 the commissioner. If a settlement conference is held, the judge
25 shall retain jurisdiction if settlement is reached or upon
26 consent of the parties so long as progress is being made toward
27 a settlement. A party may bring a motion at any time to have
28 the matter certified to the office on the grounds that no
29 progress is being made.

30 Subp. 3. Attendance. All parties, including intervenors
31 unless otherwise excused, shall attend any settlement conference
32 conducted by a judge. A representative of a party shall be
33 prepared to engage in meaningful settlement negotiations and
34 shall have authority to reach a full settlement on the issues in
35 dispute or have immediate access by telephone to a person having
36 authority to reach a full settlement.

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1 Subp. 4. Preconference discussions. The parties shall
2 discuss the possibility of settlement before a settlement
3 conference if they believe that a reasonable basis for
4 settlement exists.

5 Subp. 5. Information provided. At the settlement
6 conference, the parties shall provide the information required
7 by part 1415.1900, subpart 5.

8 Subp. 6. Settlement not reached. If, following a
9 settlement conference, a settlement has not been reached but the
10 parties have reached an agreement on any facts, legal or medical
11 issues, or level of benefits, the judge presiding over the
12 settlement conference shall, if he or she approves of those
13 matters agreed upon, issue an order confirming and approving
14 those matters agreed upon. The order is binding on the
15 compensation judge who is subsequently assigned to hear the case.

16 If a settlement is not reached at the settlement
17 conference, the settlement judge shall certify the matter to the
18 chief hearing examiner.

19 1415.1900 PRETRIAL PROCEDURES.

20 Subpart 1. Independent medical evaluation. If the claim
21 is disputed and the employer and insurer require an independent
22 medical evaluation, it must schedule the evaluation within 30
23 days of the filing of the claim petition and complete the
24 evaluation within 120 days of the filing of the claim petition.

25 Subp. 2. Conference. All cases are subject to a pretrial
26 conference with a calendar or compensation judge at which all
27 parties shall attend or be represented, unless a calendar or
28 compensation judge orders otherwise. A compensation judge shall
29 order that a pretrial conference be conducted for the purpose of
30 settlement, narrowing of the issues, or trial preparation, if
31 any party requests that one be conducted. The chief hearing
32 examiner or compensation judge may set a pretrial conference on
33 his or her own motion once the matter has been received from the
34 commissioner. If parties are represented by attorneys, the
35 attorneys shall bring with them their appointment calendars. If
36 a party is not represented by an attorney, the party shall

1 appear personally and be prepared to set a date for the hearing.
2 Parties or their attorneys attending a pretrial conference shall
3 be prepared to participate in meaningful settlement discussions
4 and must have authority to settle-their-respective-claims reach
5 a full settlement on the issue in dispute or have immediate
6 access by telephone to a person having authority to reach a full
7 settlement.

8 Subp. 3. Location, notice of conference. A pretrial
9 conference must be conducted by telephone if the set location
10 would require a party to travel more than 50 miles to attend,
11 unless the party prefers to be physically present. If a
12 telephone conference is scheduled, the parties not in attendance
13 must be available by telephone at the time of the conference.
14 Written notice of the pretrial conference must be given at least
15 20 days before the conference.

16 Subp. 4. Settlement discussions. Prior to a pretrial
17 conference, the parties shall discuss the possibility of
18 settlement if they believe a reasonable basis for settlement of
19 all or some of the issues exists. Parties or attorneys
20 appearing at pretrial conferences shall be prepared to
21 participate in meaningful settlement discussions and shall have
22 authority to reach a full settlement on the issues in dispute or
23 have immediate access by telephone to a person having authority
24 to reach a full settlement.

25 Subp. 5. Conference procedures. At the pretrial
26 conference:

27 A. Parties shall be prepared to state the issues.

28 B. Parties shall state the names, and addresses, if
29 known, of all witnesses they intend to call.

30 C. Parties shall give notice of amendments to
31 pleadings that may still be necessary.

32 D. Parties shall file copies of all medical reports
33 not already on file. Reports of medical examinations completed
34 after settlement or pretrial conferences must be filed as soon
35 as available before the hearing.

36 E. Each party shall state what exhibits, including

1 photographs, motion picture films, video tapes, and documentary
2 evidence, are intended to be used at the hearing. Copies of
3 these exhibits must be made available to opposing counsel no
4 later than ten days before the hearing. If any party requests
5 showing of motion picture films or video tapes before the
6 hearing, it shall pay the expense for the showing and may tax
7 this expense as a disbursement.

8 F. If the petitioner plans to introduce hospital
9 records into evidence, the petitioner or petitioner's attorney
10 shall provide written authorizations allowing opposing counsel
11 to examine those records if the authorizations have not
12 previously been provided.

13 G. If the petitioner is claiming medical or other
14 treatment expenses, the petitioner or the attorney shall state
15 those expenses at the time of the settlement or pretrial
16 conferences, and shall furnish opposing counsel with copies of
17 itemized bills for the expenses at least ten days before the
18 settlement or pretrial conference.

19 H. If the petitioner is claiming temporary total
20 disability, the petitioner or attorney shall state the dates of
21 time lost from work.

22 I. If the petitioner is claiming temporary partial
23 disability, the petitioner or attorney shall state the dates of
24 the claim, the approximate amount of the claim, and the names
25 and addresses of the employers for whom the employee worked
26 during the period of the claim. Authorizations to permit
27 opposing counsel to confirm wages earned in those employments
28 must be furnished, if requested, at least ten days before the
29 pretrial conference. An itemized breakdown of the claim for
30 temporary partial disability must be submitted to the
31 compensation judge and opposing counsel at least ten days before
32 the hearing.

33 J. The parties or their attorneys shall state whether
34 payment of disability benefits, medical treatment, or funeral
35 expenses has been made by a party other than the workers'
36 compensation carrier and whether DVR has provided rehabilitation

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1 services. If payment has been made, the name and address of the
2 party making payment must be furnished to the calendar or
3 compensation judge, together with any identifying policy or
4 claim numbers.

5 K. If a dispute exists on the wage rate at the time
6 of the injury, the attorney for the employer and insurer shall
7 furnish to opposing counsel, at least ten days before the
8 pretrial conference, copies of the relevant wage records of the
9 petitioner.

10 L. Unless previously filed, the attorney for the
11 petitioner shall give the calendar or compensation judge a copy
12 of the retainer agreement with the petitioner and state the
13 amount of retainer fee paid. ~~The attorney shall be prepared at~~
14 ~~the time of hearing or settlement to show the reasonableness of~~
15 ~~any attorney's fees or costs, in accordance with Minnesota~~
16 ~~Statutes, section 176.081.~~

17 Subp. 6. Pretrial statement. At the time a case is first
18 set for a pretrial conference or before setting the date for a
19 hearing, the calendar or compensation judge may order the
20 parties to file a pretrial statement containing items in subpart
21 5 which the judge deems appropriate. In determining whether to
22 require a pretrial statement, the judge shall consider the
23 number of parties involved in the case, the nature, and extent
24 of the medical issues, and the nature, extent, and type of
25 disability claimed. When a pretrial statement is ordered, the
26 petitioner shall serve the statement on the other parties and
27 file it within 20 days of the order. The responding parties
28 shall serve and file their statement within 30 days of the
29 order. Thereafter, a petitioner may serve and file an amended
30 pretrial statement based solely on information presented in the
31 responding parties' statements and not on new issues. The
32 amended statement must be filed within 40 days of the order.

33 In a petition or objection to discontinuance proceeding,
34 each party if so ordered must file a pretrial statement within
35 ten days of the pretrial order. Thereafter, a party may serve
36 and file an amended pretrial statement based solely on

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1 information presented in another party's statement and not on
2 new issues. The amended pretrial statement must be filed within
3 15 days of the pretrial order.

4 Subp. 7. Evidence not disclosed at conference. Evidence,
5 or other matters listed in subpart 5 which have not been
6 disclosed at a settlement or pretrial conference or in a
7 pretrial statement except impeachment or rebuttal witnesses, may
8 not be presented at the hearing unless it is shown to the
9 compensation judge that:

10 A. the evidence or other matters offered were
11 discovered subsequent to the filing of a pretrial statement or
12 pretrial conference, whichever occurs last;

13 B. the evidence or other matters offered were not
14 discoverable through the exercise of due diligence before that
15 time; and

16 C. the other parties have been advised of the
17 evidence or other matters before the hearing and have had an
18 opportunity to review them.

19 Subp. 8. Matters agreed upon. If, following a pretrial
20 conference, a settlement has not been reached but the parties
21 have reached an agreement on any facts, legal or medical issues,
22 or levels of benefits, the judge presiding over the pretrial
23 conference shall, if he or she approves of those matters agreed
24 upon, issue an order confirming and approving those matters
25 agreed upon. Issues once agreed upon and approved may be
26 reopened by the compensation judge only upon motion of a party
27 on the basis of newly discovered evidence which was not
28 reasonably discoverable at the earlier time.

29 Subp. 9. Medical, treatment issues. If the petition
30 includes a claim for medical or other health care treatment or
31 supplies under Minnesota Statutes, section 176.135, the issues
32 will be determined as provided in part 1415.2900, subpart 3,
33 item F. If a claim petition raises medical or health care
34 issues over which a judge has no jurisdiction together with
35 other issues over which the judge does have jurisdiction, the
36 claim petition will be referred first to the office for a

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1 determination of the nonmedical issues and then it will be
 2 returned to the division for a determination on the medical or
 3 health care issues.

4 1415.2000 SETTLEMENTS.

5 Subpart 1. Stipulations. Stipulations for settlement are
 6 allowed under Minnesota Statutes, sections 176.081, subdivision
 7 7a, and 176.521 and must conform to those sections and to the
 8 requirements of this part.

9 Subp. 2. Filing. All stipulations for settlement must be
 10 filed within 30 days of the date the settlement was negotiated.
 11 Stipulations must be filed with the division unless the matter
 12 has been certified to the office, in which case the stipulation
 13 must be filed with the office.

14 Subp. 3. Approval. Stipulations for settlement are
 15 subject to approval by a compensation judge or settlement judge
 16 except in cases filed under Minnesota Statutes, section 176.081,
 17 subdivision 7a, or where all parties are represented by
 18 attorneys and the settlement does not include a final and
 19 complete settlement of the employee's right to medical
 20 compensation or rehabilitation benefits. If the stipulation
 21 includes a final and complete settlement of medical or
 22 rehabilitation benefits, those issues are subject to approval by
 23 a judge under part 1415.2900, subpart 3, item F.

24 If a settlement is made under Minnesota Statutes, section
 25 176.081, subdivision 7a, the offer and acceptance when filed,
 26 must include findings of fact, conclusions, and an award on all
 27 issues, including attorney's fees and costs. It must be filed
 28 with the division or the office which must immediately issue the
 29 agreed upon award. If approval is not required under Minnesota
 30 Statutes, section 176.521, the award shall be immediately signed
 31 by the compensation judge or settlement judge, served on all
 32 parties, and filed with the commissioner.

33 Subp. 4. Contents. Stipulations for settlement must
 34 contain, if applicable:

- 35 A. A brief statement of the admitted material facts.
 36 B. A detailed statement of the matters in dispute.

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1 stating the positions of the parties and supported by medical
2 reports or other documents.

3 C. The weekly wage and compensation rate of the
4 petitioner employee.

5 D. An itemization of the sums, if any, previously
6 paid by the employer and insurer.

7 E. A statement that all medical, rehabilitation, or
8 treatment expenses have been paid by the employer and insurer,
9 or an itemization of the expenses which have not been paid by
10 the employer and insurer, indicating which payments, if any,
11 have been made by insurer, and which payments, if any, have been
12 made by the employee. The stipulation must specifically state
13 whether a third party has paid expenses, monetary benefits, or
14 whether DVR has provided rehabilitation services. If so, the
15 stipulation must list the name and address of the third party,
16 relevant claim or policy numbers, and indicate whether the third
17 party has petitioned to intervene.

18 F. The number of weeks, rate of compensation, and, in
19 cases of permanent partial disability, the percentage loss or
20 loss of use upon which the compromise agreement is based.

21 G. ~~Where-applicable,~~ A statement that the employee
22 has been fully advised of the provisions of Minnesota Statutes,
23 sections 176.132 and 176.645, and the effect of the settlement
24 upon any future claims for supplementary benefits or adjustment
25 of benefits.

26 H. ~~Where-applicable,~~ A statement that the petitioner
27 is claiming or waiving the right to make application for an
28 award of attorney's fees against the employer or insurer under
29 Minnesota Statutes, section 176.081, subdivision 7 or 8,
30 176.135, or 176.191.

31 I. Where rehabilitation, retraining, or medical
32 benefits are closed out, a statement in which the claims and
33 contentions of the parties are sufficiently specific to provide
34 a basis for the judge's determination that the settlement as a
35 whole is fair, reasonable, and in conformity with the act.

36 Subp. 5. Attorney's fees detailed. Stipulations for

1 settlement of cases in which the petitioner has engaged the
2 services of an attorney must be accompanied by a statement of
3 attorney's fees on a form prescribed by the commissioner and an
4 itemization of the costs incurred, specifying who will be
5 responsible for payment of each cost. The statement must
6 provide sufficient information to show the reasonableness of the
7 requested fees and costs under Minnesota Statutes, section
8 176.081, if approval is required. If no fees are requested, the
9 stipulation must so state.

10 Subp. 6. Medical reports. Stipulations for settlement
11 must be accompanied by copies of all relevant medical reports in
12 the possession of the parties which have not previously been
13 filed.

14 Subp. 7. Award. The parties involved in the settlement
15 must submit an award on stipulation prepared for signature by a
16 judge.

17 Subp. 8. Copy to client. The attorney representing the
18 petitioner shall give a copy of the stipulation for settlement
19 to the client when the client signs the stipulation.

20 Subp. 9. Signatures. Stipulations for settlement shall be
21 signed by all parties as required by Minnesota Statutes, section
22 176.521.

23 Subp. 10. Payment. The employer and insurer shall make
24 payments under an award on stipulation within 14 days from the
25 date the award on stipulation is filed with the commissioner.

26 1415.2100 OBJECTIONS TO DISCONTINUANCE AND PETITIONS TO
27 DISCONTINUE COMPENSATION PAYMENTS.

28 Subpart 1. Hearing. When either an objection to
29 discontinuance of compensation payments or a petition to
30 discontinue benefits has been filed and the matter has been
31 referred to the chief hearing examiner, it must be set for
32 hearing on a priority basis not less than 30 days nor more than
33 75 days from the date of the receipt of the matter from the
34 commissioner.

35 Subp. 2. Objection to discontinuance as claim petition.
36 Any objection filed more than 120 days after service of a notice

1 of intention to discontinue, a notice of discontinuance, or an
 2 administrative decision of the commissioner allowing the
 3 discontinuance, whichever is latest, will be treated as a claim
 4 petition for purposes of scheduling a hearing and will not be
 5 heard on a priority basis.

6 Subp. 3. Petitions for discontinuance after administrative
 7 conference. After an administrative conference on a notice of
 8 intention to discontinue, a petition to discontinue under
 9 Minnesota Statutes, section 176.242, subdivision 5, filed more
 10 than 120 days following the issuance of the commissioner's
 11 administrative decision disallowing the discontinuance will not
 12 be given priority status for the purpose of scheduling a hearing.

13 1415.2200 DISCOVERY.

14 Subpart 1. Demand. Each party shall, within 30 days of a
 15 demand by another party, unless a shorter time is indicated by
 16 this part, disclose or furnish the following:

17 A. The names and addresses of all known witnesses
 18 that a party intends to call at the hearing, including doctors
 19 by cross-examination or who will testify by report only. All
 20 witnesses unknown at the time of the disclosure must be
 21 disclosed within 15 days after they become known if a prior
 22 demand has been made.

23 B. Relevant written or recorded statements made by
 24 witnesses on behalf of a party. The demanding party must be
 25 permitted to inspect and reproduce such statements at the
 26 demanding party's expense. A party unreasonably failing upon
 27 demand to make the disclosure required by this part, upon proper
 28 motion made to the compensation judge at the hearing, may be
 29 foreclosed from presenting evidence at the hearing through
 30 witnesses not disclosed or through witnesses whose statements
 31 are not disclosed.

32 C. Medical privilege is waived as to the injuries or
 33 conditions alleged in the petition by the filing of the petition
 34 alleging injury or occupational disease. Medical authorizations
 35 must be furnished within ~~15~~ 30 calendar days of an adverse
 36 party's demand. All medical reports must be provided, upon

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1 demand to adverse parties. The petitioner shall disclose the
2 names and addresses of all persons who have treated the
3 petitioner employee in the past for injuries or conditions
4 identical or related to those alleged in the petition, the dates
5 of the treatment, and provide medical authorization for each.

6 Subp. 2. Depositions. Under Minnesota Statutes, section
7 176.411, subdivision 2, depositions may be taken in the manner
8 which the law provides for depositions in civil actions in the
9 district courts for the state, except where a judge orders
10 otherwise.

11 A. When a party has objected to the taking of a
12 deposition, the party requesting the deposition shall bring a
13 motion before the judge, before whom the case is pending at the
14 time of the motion, who shall determine whether the deposition
15 should proceed. The motion must state, with specificity, the
16 facts or other reasons supporting the need for the deposition.
17 The judge shall order the deposition to proceed if the judge
18 finds that:

19 (1) the deposition is needed for the proper
20 presentation of a party's case;

21 (2) the deposition is not for purposes of delay;

22 (3) unusual or extraordinary circumstances exist
23 which compel extensive discovery; or

24 (4) the issues or amounts in controversy are
25 significant enough to warrant extensive discovery.

26 B. Depositions to preserve testimony or to present
27 testimony due to the unavailability of the witness are allowed.
28 The deposition must be taken sufficiently in advance of the
29 hearing so that the deposition is filed before or at the
30 commencement of the hearing, unless, for good cause shown, the
31 party taking the deposition has the permission of the calendar
32 judge or compensation judge to whom the case has been assigned
33 for hearing to take or file the deposition subsequent to the
34 hearing.

35 C. Under Minnesota Statutes, section 176.155,
36 subdivision 5, the cross-examination of a physician or health

1 care provider before a hearing is specifically allowed. When a
2 deposition for the purpose of cross-examination of a physician
3 or health care provider is taken under this item, redirect
4 examination is allowed. Unless ordered otherwise by a
5 compensation judge, the cross-examination deposition must be
6 completed and the original filed with the office at or before
7 the hearing.

8 D. The original deposition taken for purposes of
9 presenting testimony in the case must be filed with the office
10 if the matter has been referred to the chief hearing examiner
11 for assignment, or with the division if the matter has not been
12 certified to the chief hearing examiner for hearing. The
13 original deposition taken solely for purposes of discovery must
14 be sealed and filed as in the case of evidentiary depositions
15 but will not be reviewed or used in any fashion by the
16 compensation judge unless the deposition is formally entered as
17 evidence in the case.

18 E. The party initiating the taking of any deposition,
19 including a cross-examination deposition under Minnesota
20 Statutes, section 176.155, subdivision 5, is responsible for all
21 costs of the deposition, including witness fees and court
22 reporter fees.

23 Subp. 3. Motions for additional discovery. Upon the
24 motion of a party, the judge having jurisdiction at the time of
25 the motion may order discovery of other relevant material or
26 information, recognizing all privileges recognized at law. The
27 judge may order discovery available under the rules of civil
28 procedure for the district courts of Minnesota provided that the
29 discovery:

30 A. is needed for the proper presentation of a party's
31 case;

32 B. is not for purposes of delay; and

33 C. the issues or amounts in controversy are
34 significant enough to warrant extensive discovery.

35 Subp. 4. Motion for direct testimony by physician or
36 health care provider. A motion for full testimony of a

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1 physician or health care provider must comply with part
2 1415.2900, subpart 9~~7~~-item-C~~7~~-subitem-1 3.

3 Subp. 5. Penalties. Upon the failure of a party to
4 reasonably comply with discovery or a judge's order under this
5 part, the following orders of the compensation judge are allowed
6 upon a party's motion:

7 A. an order that the subject matter of the order for
8 discovery or other relevant facts is established in accordance
9 with the moving party's claim; or

10 B. an order ~~refusing-to-allow~~ prohibiting the party
11 failing to comply to support or oppose designated claims or
12 defenses, or prohibiting that party from introducing designated
13 matters in evidence.

14 Subp. 6. Proprietary information. When a party is asked
15 to reveal material which that party considers proprietary
16 information or trade secrets, he or she may bring the matter to
17 the attention of the appropriate judge, who shall make
18 protective orders as are reasonable and necessary or as
19 otherwise provided by law.

20 Subp. 7. Employment expert examinations. If an employee
21 claims that his or her ability to earn has been substantially
22 reduced because of the injury in combination with other factors,
23 the employee must submit to a physical and oral examination by
24 the employer's or insurer's expert, if requested by the employer
25 or insurer. The employee shall provide appropriate
26 authorizations relating to wages and employment to adverse
27 parties, upon demand. Expert reports must be provided, upon
28 demand, to adverse parties. A party who objects to the scope of
29 the requested examination may bring a motion for protection.
30 The motion must be served on the parties and filed with the
31 division, or the office if the matter has been certified to the
32 office. The judge shall issue an order allowed by Rule 26.03 of
33 the rules of civil procedure for the district courts.

34 1415.2300 TEMPORARY ORDERS.

35 Subpart 1. Payment of benefits by insurer or
36 self-insurer. If an insurer or self-insurer voluntarily agrees

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1 to pay benefits under Minnesota Statutes, section 176.191,
2 subdivision 1, it shall file a formal petition for a temporary
3 order.

4 A. The petition must contain:

5 (1) the name of the employer and its insurer or
6 self-insurer consenting to payment;

7 (2) the dispute involved, including the name and
8 address of any other employer and insurer, if known, that may be
9 liable for workers' compensation benefits and the date of the
10 alleged injury while working for that employer;

11 (3) the beginning date of the employee's present
12 disability, and the compensation rate that the insurer or
13 self-insurer will pay; and

14 (4) a statement of whether an intervenor or
15 potential intervenor has paid or is paying the employee or the
16 employee's dependents substitute wage benefits such as group
17 disability benefits, general assistance, or aid to families with
18 dependent children (AFDC).

19 B. The original petition for a temporary order, with
20 proof of service on necessary parties, must be filed with the
21 division, the office, or the court of appeals, depending upon
22 where the matter is pending.

23 C. Attorney fees for the employee's attorney must be
24 withheld from the periodic payments made to the employee under
25 the temporary order unless the employee's attorney waives the
26 withholding of attorney fees, or the employee has no attorney.

27 D. The petition for temporary order must be
28 accompanied by a prepared formal order in substantially the
29 following form:

30 "I (name) have examined the petition for temporary
31 order and the compensation files and records in this
32 case. It appears that a temporary order for payment
33 of compensation benefits should be issued pending a
34 final determination under Minnesota Statutes, section
35 176.191, subdivision 1;

36 NOW, THEREFORE, IT IS ORDERED that (name of insurer or

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1 self-insurer), having consented to payment of
 2 compensation benefits under Minnesota Statutes,
 3 section 176.191, shall pay to (name), the employee,
 4 compensation at the weekly rate of \$(amount), during
 5 the period of the employee's disability, beginning
 6 (date) and shall also pay reasonable medical expenses
 7 and rehabilitation benefits related to this disability
 8 of the employee.

9 IT IS FURTHER ORDERED that following a final
 10 determination of liability and if it has been
 11 determined that some other employer or insurer is
 12 liable for all or part of the compensation paid
 13 pursuant to this temporary order, then the division,
 14 the compensation judge, or Court of Appeals shall
 15 order the parties held liable to reimburse (name of
 16 paying party) for that part of the compensation paid
 17 under this temporary order, for which the other
 18 parties are held liable, including interest at the
 19 rate of 12 percent a year.

20 Dated at _____, Minnesota
 21 this _____ day of _____.

COMPENSATION JUDGE OR
 COURT OF APPEALS

26 By _____"

28 The original and enough copies of the order to serve
 29 necessary parties and attorneys representing them must be filed.

30 Subp. 2. Payment of benefits by special compensation
 31 fund. An employee seeking payment of benefits by the special
 32 compensation fund or the fund requesting to pay benefits under
 33 Minnesota Statutes, section 176.191, subdivision 2, shall file a
 34 formal petition for temporary order with the commissioner.

35 A. The petition shall contain:

36 (1) evidence that all parties agree that benefits
 37 are payable under the act;

38 (2) a statement that written demand for payment
 39 under Minnesota Statutes, section 176.191, subdivision 1, has
 40 been made against all employers and insurers party to the claim

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1 and that the payment demand has been refused;

2 (3) the names and addresses of all employers and
3 insurers or self-insurers who are parties to the claim;

4 (4) a statement as to the dispute involved and
5 the dates of all alleged injuries while working for each
6 employer;

7 (5) the beginning date of the employee's present
8 disability, the compensation rate applicable for each injury
9 date, the proposed compensation rate to be paid by the special
10 compensation fund, and an itemization of all medical expenses
11 and rehabilitation benefits requested to be paid under the
12 temporary order;

13 (6) copies of medical reports supporting the
14 claimed period of disability and the causal relationship of that
15 disability to the petitioner's employment; and

16 (7) a statement of whether an intervenor or
17 potential intervenor has paid or is paying the employee or the
18 employee's dependents substitute wage benefits such as group
19 disability benefits, general assistance, or aid to families with
20 dependent children (AFDC).

21 B. The original of the petition for temporary order,
22 with proof of service on necessary parties, must be filed with
23 the division, the office, or the court of appeals, depending
24 upon where the matter is pending.

25 C. Attorney fees for the employee's attorney must be
26 withheld from the periodic payments made to the employee under
27 the temporary order unless the employee's attorney waives the
28 withholding of attorney fees or the employee has no attorney.

29 D. The petition for temporary order must be
30 accompanied by a prepared formal order in substantially the
31 following form:

32 "I, (name), have examined the petition for temporary
33 order and the compensation files and records in this
34 case. It appears that a temporary order for payment
35 of compensation benefits should be issued pending a
36 final determination, as provided by Minnesota

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1 Statutes, section 176.191, subdivision 2;
 2 NOW, THEREFORE, IT IS ORDERED that the State
 3 Treasurer, as custodian of the special compensation
 4 fund shall, under Minnesota Statutes, section 176.191,
 5 subdivision 2, pay to (name), the employee,
 6 compensation at the weekly rate of \$(amount), during
 7 the period of employee's disability beginning (date),
 8 and shall also pay reasonable medical expenses and
 9 rehabilitation benefits related to this disability of
 10 the employee.

11 IT IS FURTHER ORDERED that following a final
 12 determination of liability and if it has been
 13 determined that one or more employers or insurers are
 14 liable for all or part of the compensation paid
 15 pursuant to this temporary order, then the division,
 16 the compensation judge, or Court of Appeals shall hold
 17 the parties liable to reimburse the State Treasurer,
 18 as custodian of the special compensation fund, for
 19 that part of the compensation paid under the temporary
 20 order, for which the other parties are held liable,
 21 including interest at the rate of 12 percent a year.

22 Dated at _____, Minnesota
 23 this _____ day of _____.

WORKERS' COMPENSATION
 DIVISION

 Commissioner of
 Labor and Industry"

30 The original and enough copies of the order to serve
 31 necessary parties and attorneys representing them must be filed.

32 Subp. 3. Necessary parties. For the purpose of this part,
 33 the following are necessary parties:

- 34 A. the employee or, dependent, or heir;
- 35 B. insurers or self-insurers named in the petition
 36 for temporary order;
- 37 C. an employer who is uninsured or whose insurer for
 38 the date of the alleged injury in that employment is unknown;
- 39 D. the fund director, if the petition is made under

40 Minnesota Statutes, section 176.191, subdivision 2; and

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1 E. intervenors and potential intervenors.

2 Subp. 4. Answer. Within ten days after being served with
3 a copy of the petition for temporary order and proposed order,
4 employers or their insurers, an intervenor, or the fund director
5 may file a verified answer to the petition stating objections to
6 the proposed order.

7 Subp. 5. Circumstances of nonapproval of temporary order.
8 A temporary order will not be approved if made contingent upon
9 the employee's waiver of the right to claim an additional award
10 under Minnesota Statutes, section 176.225, or waiver of the
11 right to have attorney fees assessed against the employer and
12 insurer in addition to compensation under Minnesota Statutes,
13 section 176.081, subdivision 8, or if it would prejudice an
14 intervenor's claim for reimbursement.

15 Subp. 6. Effect of filing. A hearing date will not be
16 assigned upon filing of a petition for temporary order unless it
17 is accompanied by a petition for contribution or reimbursement.

18 1415.2400 PETITIONS FOR CONTRIBUTION OR REIMBURSEMENT.

19 Subpart 1. Contents. Petitions for contribution or
20 reimbursement in cases pending before the office must describe
21 in detail the basis of the claim for contribution or
22 reimbursement against the additional employer, insurer, or the
23 state treasurer, custodian of the special compensation fund.
24 The petition must be supported by medical evidence, signed, and
25 verified. If a claim petition is currently pending, and the
26 party from whom contribution or reimbursement is sought is not a
27 party, the petition for contribution or reimbursement must be
28 accompanied by either a petition for joinder of the party from
29 whom reimbursement or contribution is sought, or a petition for
30 consolidation under part 1415.2500. The two actions may be
31 combined on a joint petition.

32 Subp. 2. Filing. A petition for contribution or
33 reimbursement must be filed no later than ten days before a
34 pretrial conference or within 20 days of receipt of a pretrial
35 order if a pretrial conference is not automatically set. Copies
36 of all pleadings, including a notice of pretrial conference must

1 be served upon the additional employers or insurers by the party
2 bringing the petition.

3 Subp. 3. Answer. Within 20 days after being served with a
4 copy of a petition for contribution or reimbursement, employers
5 or their insurers, other than the petitioning party, shall file
6 a verified answer to the petition under Minnesota Statutes,
7 section 176.321 and, if not already set for a pretrial
8 conference, the matter may be set for a pretrial conference
9 under part 1415.1900.

10 1415.2500 CONSOLIDATION.

11 Subpart 1. Authorization. Consolidation of two or more
12 related cases may be ordered for the purpose of receiving
13 evidence. Consolidation may be ordered upon motion by a party
14 to the calendar or compensation judge or upon the calendar or
15 compensation judge's own motion if the judge determines:

16 A. that separate cases present substantially the same
17 issues of fact and law;

18 B. that a holding in one case would affect the rights
19 of the parties in the other case; and

20 C. that the consolidation would not substantially
21 prejudice the rights of any party.

22 Notwithstanding the requirements of this part, the parties
23 may stipulate to consolidation.

24 Subp. 2. Receipt of evidence. After consolidation,
25 documentary evidence previously received in an individual case
26 must be reintroduced in the consolidated proceedings under a
27 master file if the compensation judge assigned to try the case
28 designates one file as a master file. When so combined, the
29 evidence becomes part of the record of each of the several
30 consolidated cases. Evidence received after the order of
31 consolidation is a part of the record of each case.

32 Subp. 3. Notice of order. Following an order for
33 consolidation, the calendar or compensation judge shall promptly
34 serve the order on the parties. The order must contain:

35 A. a description of the cases for consolidation;

36 B. the reasons for consolidation; and

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1 C. notification of a consolidated pretrial conference
2 if one has been requested.

3 Subp. 4. Objection to consolidation. A party may object
4 to consolidation or move for severance by filing with the
5 calendar judge or compensation judge, if one is assigned, and
6 serving upon all parties at least seven days before the hearing,
7 a motion for severance from consolidation which includes reasons
8 for the motion.

9 If the judge finds that justice will be best served by
10 granting severance, the judge shall grant the motion for
11 severance.

12 Subp. 5. Service of pleadings and decisions. Separate
13 pleadings must be filed and separate findings, orders,
14 decisions, and awards will be made and filed in each case
15 consolidated for hearing.

16 1415.2600 DISQUALIFICATION.

17 Subpart 1. By judge. A compensation judge shall withdraw
18 from participation in a case at any time if the judge deems
19 himself or herself disqualified, prejudiced, or biased for any
20 reason.

21 Subp. 2. By a party. A party or his attorney may file an
22 affidavit of prejudice if the party reasonably believes that a
23 hearing before the assigned judge cannot be fair due to the
24 judge's prejudice or bias. The affidavit must be served on
25 opposing parties and filed with the chief hearing examiner not
26 more than ten days after the filing party has received notice of
27 the assigned judge or has knowledge of the grounds for
28 disqualification, whichever occurs last. Each party is allowed
29 one filing per case under this subpart. Upon filing of the
30 affidavit with proof of service, the chief hearing examiner
31 shall assign the case to another judge.

32 A party or the party's attorney may file a motion to
33 disqualify a compensation judge for a cause other than or in
34 addition to that described in an affidavit of prejudice. The
35 motion must be supported by an affidavit detailing the facts
36 establishing the grounds for disqualification and filed with the

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1 chief hearing examiner not more than ten days after the moving
2 party has received notice of the assigned judge or has knowledge
3 of the grounds for disqualification, whichever occurs last. The
4 motion will be decided by the chief hearing examiner or a
5 designee.

6 Subp. 3. Continuances. Unless required because of the
7 unavailability of a compensation judge to hear the case, no
8 continuance will be granted because of a disqualification under
9 this part. If a continuance is necessary, another hearing will
10 be scheduled as early as possible.

11 Subp. 4. Consolidated cases. Consolidated cases are
12 considered one case under this part.

13 Subp. 5. Settlement and pretrial conferences. This part
14 is not applicable to settlement or pretrial conferences.

15 1415.2700 SUBPOENAS.

16 Subpoenas may be obtained without charge from the office or
17 the division. The name, address, and telephone number of the
18 party or attorney requesting service of the subpoena must be
19 included on the subpoena before service is tendered in
20 accordance with Minnesota Statutes, section 357.22.

21 The settlement or calendar judge, or compensation judge, if
22 the case has been assigned for hearing, shall quash or modify a
23 subpoena upon a party's motion if the judge finds that it is
24 unreasonable or oppressive. The motion must be promptly made,
25 no later than the date specified in the subpoena for compliance.

26 1415.2800 CONTINUANCES.

27 Subpart 1. Continuances not favored. Requests for
28 continuances are inconsistent with the requirement that workers'
29 compensation proceedings be expeditious, are not favored, and
30 will be granted only upon a clear showing of good cause. The
31 parties are expected to submit for decision all matters in
32 controversy at a single hearing and to produce at the hearing
33 all necessary evidence, including witnesses, documents, medical
34 reports, payroll statements, and all other matters considered
35 essential in the proof of a party's claim or defense.

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1 Subp. 2. Request. When a continuance is requested before
2 the hearing date, the party requesting the continuance shall
3 first contact all other parties to determine whether mutual
4 agreement to the continuance can be reached and, if the
5 continuance is granted, the availability of all parties for
6 hearing at future specific dates. When all parties are in
7 agreement with the request for continuance and have agreed to a
8 date for a future hearing, which date has been approved by the
9 compensation or calendar judge before whom the matter is
10 pending, and when the continuance request is made no less than
11 ten working days before the hearing date, the continuance will
12 be granted.

13 Subp. 3. Motion. If all parties have not agreed to a
14 continuance, requests for continuances must be made to the
15 compensation or calendar judge before whom the matter is
16 pending. When made more than ten working days before the
17 hearing date, the request must be in writing in the form of a
18 motion for continuance and served on all parties. If less than
19 ten working days remain before the hearing date, notice of the
20 motion must be made orally. A hearing on the motion will be
21 conducted only if ordered by the compensation or calendar judge
22 to whom the motion is made.

23 Subp. 4. Good cause. Good cause does not include:

24 A. when an insurer retains more than one counsel on
25 its own payroll who practice in the field of workers'
26 compensation law, and counsel assigned to the case is
27 unavailable because of engagement in another court or otherwise,
28 unless all the counsel are committed elsewhere;

29 B. when a law firm consists of more than one member
30 who practice in the field of workers' compensation law, and
31 counsel assigned to the case is unavailable because of
32 engagement in another court or otherwise, unless all the counsel
33 are committed elsewhere;

34 C. unavailability of an individual law practitioner
35 because of engagement in another court, if he has failed to
36 notify the judge in charge of the trial court calendar of that

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1 court that he has been assigned to a date and time certain in a
2 workers' compensation case; or

3 D. unavailability of a medical or other witness if
4 the deposition of the witness could have been taken after
5 receipt of the notice of hearing date and before the hearing.

6 1415.2900 THE HEARING.

7 Subpart 1. Notice. A place, date, and time certain will
8 be assigned to each case. Written notice of the hearing will be
9 given as soon as the assigned date is known, but must be given
10 at least 30 days in advance of the hearing, except:

11 A. when notice is waived by the parties;

12 B. when a different time is expressly agreed to by
13 the parties; or

14 C. when the notice is governed by contrary law or
15 rule.

16 The notice must include the place of hearing, the amount of
17 time allowed for the hearing, and the name of the compensation
18 judge assigned, if known. Oral or written notice of the date,
19 time, and place of the hearing given to the parties by a judge
20 at a settlement or pretrial conference is sufficient notice. An
21 attorney who receives notice of the hearing date at the
22 settlement or pretrial conference must notify his or her
23 client. Cases will be set for one location only, that most
24 convenient for the petitioner. Adequate time will be allowed so
25 that the case may be completely heard in one sitting. If an
26 additional hearing date is required, it must be agreed to by all
27 parties and the compensation judge. If the parties cannot
28 agree, the compensation judge shall set the date and time.

29 Subp. 2. Availability of witnesses. As soon as the
30 parties know the hearing date, they shall immediately notify all
31 witnesses in writing and arrange for their presence or for the
32 taking of their deposition under part 1415.2200.

33 Subp. 3. Medical evidence. Rules governing medical
34 evidence are as follows:

35 A. If a party believes that the oral testimony of a
36 physician or health care provider is crucial to the accurate

1 determination of the employee's disability, the party shall
2 prepare, serve on all other parties, and file with the office a
3 written motion and supporting affidavits, requesting a written
4 finding from a judge on the cruciality of the oral testimony.
5 An affidavit must contain facts sufficient upon which the judge
6 can make a determination; a mere statement that the attorney
7 believes that the testimony is crucial is insufficient without a
8 further factual basis. The motion must be served and filed no
9 later than 25 days prior to the scheduled hearing date. Any
10 party may file an objection to the motion. Objections must be
11 filed within ten calendar days of service of the motion. A
12 compensation judge shall, after waiting for objections to be
13 filed, issue an order granting or denying the motion, stating
14 the reasons for the order.

15 B. Whether or not a motion has been filed, the judge
16 shall issue an order requiring that the full testimony be
17 presented in person or by oral deposition if the judge finds
18 that the oral testimony of a physician or health care provider
19 may be crucial to the accurate determination of the employee's
20 disability.

21 C. If, during the course of a hearing, or within 25
22 days before the hearing, a judge determines, on a party's or the
23 judge's motion, that the appearance of the physician or health
24 care provider is crucial to the accurate determination of the
25 employee's disability, the judge shall either continue the
26 hearing to a date, time, and place for the testimony to be
27 taken, or order that the testimony be taken in full by oral
28 deposition.

29 D. The production of medical evidence in the form of
30 written reports is required by Minnesota Statutes, section
31 176.155, subdivision 5. These reports must include, in the
32 following order:

- 33 (1) the date of the examination;
34 (2) the history of the injury;
35 (3) the patient's complaints;
36 (4) the source of all facts in the history and

1 complaints;

2 (5) findings on examination;

3 (6) opinion as to the extent of disability and
4 work limitations, if any;

5 (7) the cause of the disability and, if
6 applicable, whether the work injury was a substantial
7 contributing factor toward the disability;

8 (8) the medical treatment indicated;

9 (9) if permanent disability is an issue, an
10 opinion as to whether or not the permanent disability has
11 resulted from the injury and whether or not the condition has
12 stabilized. If stabilized, a description of the disability with
13 a complete evaluation;

14 (10) if a permanent partial disability is a
15 result of two or more injuries or occurrences; or if part of the
16 permanent disability is a result of a preexisting disability
17 that arises from a congenital condition, traumatic injury, or
18 incident, whether or not compensable under Minnesota Statutes,
19 chapter 176; the physician or health care provider shall
20 apportion the disability between the injuries, occurrences, or
21 conditions;

22 (11) if future medical care or treatment is
23 anticipated, a statement of the nature and extent of treatment
24 recommended and, if possible, the anticipated results;

25 (12) the reason for each opinion; and

26 (13) if applicable, a statement that the
27 physician or health care provider has read the rules concerning
28 determination of permanent partial disability, understands them,
29 and has applied those rules in making the determination.

30 E. Medical reports to be used at the hearing must be
31 served on the parties and filed with the office, with proof of
32 service, sufficiently in advance of the hearing to allow other
33 parties the opportunity to cross-examine the physician or health
34 care provider, if desired, unless the delay in filing the report
35 was caused by a failure of the employee to report for an adverse
36 medical examination or to provide medical support for the claim

1 on a timely basis, or other good cause. If the report is filed
2 too late to allow the cross-examination, the record will be held
3 open to allow other parties to cross-examine the physician or
4 health care provider after the hearing.

5 F. If the claim petition includes a claim for medical
6 or other health care treatment or supplies under Minnesota
7 Statutes, sections 176.103, 176.135, and 176.136, and the
8 parties agree at or before the hearing to the reasonableness and
9 necessity of the treatment or supplies, the judge shall approve
10 or disapprove the agreement to settle that portion of the claim
11 provided the agreement is placed in the record of the
12 proceeding. If the parties are unable to reach agreement on the
13 issues of medical or other health care treatment or supplies,
14 that portion of the claim must be referred back to the division
15 upon conclusion of the hearing for a determination under
16 Minnesota Statutes, sections 176.103, 176.135, and 176.136. The
17 parties may, however, present medical evidence at the hearing
18 for later use by the division in determining medical issues. A
19 party has the right, even if another party objects, to present
20 medical evidence at the hearing. An intervenor who has paid
21 health care benefits and whose claim remains unsettled is a real
22 party in interest with an independent right to pursue its claim
23 under Minnesota Statutes, section 176.103.

24 Subp. 4. Rights of parties. All parties have the right to
25 present evidence, to cross-examine witnesses, and to present
26 rebuttal testimony.

27 Subp. 5. Witnesses. A party may be a witness and present
28 other witnesses at the hearing. Oral testimony at the hearing
29 must be under oath or affirmation. At the request of a party or
30 upon the judge's motion for good cause, the compensation judge
31 may exclude witnesses other than parties from the hearing room
32 so that they cannot hear the testimony of other witnesses.

33 Subp. 6. Rules of evidence. Rules of evidence are as
34 follows:

35 A. Except as provided by the act and parts 1415.0100
36 to 1415.3500 the compensation judge is not bound by the common

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1 law, statutory rules of evidence, or technical or formal rules
2 of pleading or procedure.

3 B. All evidence to be considered in the case,
4 including records and documents in the possession of a party, or
5 an accurate photocopy, must be offered and made a part of the
6 record in the case. An independent investigation by the
7 compensation judge under Minnesota Statutes, section 176.391,
8 subdivision 1, is part of the record if the parties are aware of
9 the investigation and have had an opportunity to participate in
10 it.

11 C. Documentary evidence in the form of copies of
12 excerpts from books, documents, or records may be received or
13 incorporated by reference upon agreement of the parties or if
14 ordered by the compensation judge.

15 D. The compensation judge may take administrative
16 notice of general, technical, or scientific facts within the
17 judge's specialized knowledge under Minnesota Statutes, section
18 14.60, subdivision 4, but shall do so on the record and with the
19 opportunity for any party to contest the facts so noticed.

20 E. A party may call an adverse party and question,
21 contradict, and impeach the party on material matters in all
22 respects as if they had been called by the other party. The
23 adverse party may be examined by counsel according to the rules
24 of civil procedure for the district courts of Minnesota
25 applicable to direct examination, and may be cross-examined,
26 contradicted, and impeached by any party adversely affected by
27 the testimony. An adverse party includes:

28 (1) the adverse party's managing agent or
29 employees;

30 (2) an officer, director, managing agent, or
31 employee of the state, excluding judges, members of the panel or
32 board, mediators, and other employees of the division designated
33 to conduct conferences or hearings; and

34 (3) an officer, director, managing agent, or
35 employee of:

36 (a) a political subdivision of the state;

1 (b) a public or private corporation;

2 (c) a partnership or association; or

3 (d) a political body.

4 Subp. 7. The record. Record requirements are as follows:

5 A. The compensation judge shall maintain the official
6 record, other than the stenographic notes of a hearing reporter
7 if one was used, in each case until the issuance of the judge's
8 final order.

9 B. The record in a compensation case shall contain:

10 (1) all pleadings, motions, and orders, including
11 the judgment roll, and the entire record from any previous
12 hearing which is relevant to the issues under consideration;

13 (2) evidence received or considered unless,
14 through agreement of the parties or by order of the compensation
15 judge, custody of an exhibit is given to one of the parties;

16 (3) those parts of the division's official file
17 on the matter which the compensation judge incorporates;

18 (4) offers of proof, objections, and the
19 resulting rulings;

20 (5) the compensation judge's order;

21 (6) memoranda and data submitted by a party in
22 connection with the case and accepted by the judge;

23 (7) a transcript of the hearing, if one was
24 prepared; and

25 (8) the audio-magnetic recording tapes used to
26 record the hearing, if any.

27 C. The chief hearing examiner shall direct that the
28 verbatim record of a hearing be transcribed if requested by any
29 person. If the record is transcribed by the office, persons who
30 request copies of the transcript must pay a reasonable fee. If
31 transcribed by someone other than the office, the person
32 requesting a transcript must pay the person preparing the
33 transcript a reasonable fee.

34 D. Charges for transcripts prepared by the office
35 shall be set by the chief hearing examiner, with the approval of
36 the department of finance, and all money received for

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1 transcripts prepared by the office are payable to the State
2 Treasurer, Office of Administrative Hearings Account.

3 E. Under Minnesota Statutes, section 176.421,
4 subdivision 4, clause (3), a party may petition the chief
5 hearing examiner for an order directing that a transcript be
6 prepared, for purposes of appeal to the court of appeals, at no
7 cost to the appellant. A petition filed under this provision
8 must include:

9 (1) the caption of the case;

10 (2) case identification numbers;

11 (3) the name, address, and telephone number of
12 the attorney representing the appellant; and

13 (4) if appellant is an individual, a sworn
14 affidavit from the appellant which must include:

15 (a) appellant's monthly personal income from
16 all sources, including income from trusts, bonds, and savings
17 certificates;

18 (b) a list, at market value, of all stocks,
19 bonds, savings certificates, or other certificates of
20 indebtedness held by the appellant, and by the appellant's
21 spouse if residing in the same household;

22 (c) the monthly personal income from all
23 sources of appellant's spouse, if residing in the same household;

24 (d) a statement of the monthly expenses for
25 the appellant's household;

26 (e) if the appellant owns any rental
27 property, a statement showing the appellant's equity in the
28 property and the monthly income and expense for the property;
29 and

30 (f) if the appellant owns outright or is
31 purchasing the property in which he or she resides, a statement
32 showing the market value of the property, the appellant's equity
33 in the property, and the present monthly payments, if any; and

34 (5) if appellant is a legal entity not an
35 individual, a sworn affidavit from the legal representative of
36 the appellant must include:

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1 (a) appellant's monthly income from all sources, including
2 income from trust, bonds, and other securities holdings;

3 (b) a list, at market value, of all stocks, bonds, or other
4 certificates of indebtedness held by appellant;

5 (c) a statement of the monthly expenses for appellant
6 including salaries, taxes, rent, and insurance;

7 (d) if the appellant owns any rental property, a statement
8 showing the appellant's equity in the property and the monthly
9 income and expense for the property; and

10 (e) if the appellant owns outright or is purchasing the
11 property in which it is located, a statement showing the market
12 value of the property, the appellant's equity in the property,
13 and the present monthly payments, if any.

14 Subp. 8. Continuances during hearing. If it appears in
15 the interests of justice that further testimony should be
16 received, the compensation judge may continue the hearing to a
17 future date. Oral notice on the record shall be sufficient if
18 given at the time of the original hearing. Otherwise, the
19 notice of the date for the continued hearing must be in writing
20 and served on all parties.

21 Subp. 9. Hearing procedure. The hearing procedure is as
22 follows:

23 A. The compensation judge shall not communicate,
24 directly or indirectly, with any party concerning issues of fact
25 or law in a pending case, except upon notice and opportunity for
26 all parties to participate. After the first witness is sworn
27 all of the proceedings must be on the record, including motions,
28 objections, offers of proof, rulings of the judge, arguments of
29 the parties, or other comments of the parties, their
30 representative, or the judge. A compensation judge shall not
31 order a court reporter to refrain from recording anything said
32 during the course of a hearing without the consent of the
33 parties present nor shall a compensation judge turn off an
34 audio-magnetic recording device being used to record the
35 proceedings, other than for reasonable breaks, without the
36 consent of the parties present. The judge shall be in complete

1 charge of the hearing. It is the judge's duty to see that the
2 witnesses testify clearly so that the reporter may obtain a
3 clear and transcribable record of all proceedings.

4 B. Unless the compensation judge determines that the
5 substantial rights of the parties will be ascertained better in
6 some other manner, the hearing will be conducted in the
7 following manner:

8 (1) After opening the hearing, the compensation
9 judge shall, unless all parties are represented by counsel,
10 state the procedural rules for the hearing.

11 (2) Stipulations, settlement agreements, or
12 consent orders entered into by the parties before the hearing
13 must be entered into the record.

14 (3) If the compensation judge requests opening
15 statements, the party with the burden of proof shall proceed
16 first. Other parties shall make opening statements in a
17 sequence determined by the compensation judge.

18 (4) After opening statements, the party with the
19 burden of proof shall begin the presentation of evidence. That
20 party will be followed by the other parties in a sequence
21 determined by the compensation judge.

22 (5) Cross-examination of witnesses will be
23 conducted in a sequence determined by the compensation judge.

24 (6) When the parties and witnesses have been
25 heard and if the compensation judge believes that legal issues
26 remain unresolved, final arguments may be presented in a
27 sequence determined by the compensation judge. Final argument
28 may, in the discretion of the compensation judge, be in the form
29 of written memoranda or oral argument, or both. The
30 compensation judge shall decide when memoranda must be
31 submitted. Final arguments shall be limited to legal issues
32 only.

33 (7) After final argument, if any, the hearing
34 will end unless it is continued by the compensation judge. If
35 continued, it must either be continued to a time and day
36 announced at the hearing on the record, or continued to a date

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1 to be determined later, with at least 15 days written notice to
2 the parties, including those joined at the hearing.

3 (8) The record of the case will be closed upon
4 receipt of the final written memorandum, transcript, if any, or
5 late-filed exhibits which the parties and the compensation judge
6 have agreed should be received into the record, whichever occurs
7 last.

8 C. These procedures are to be followed in the hearing:

9 (1) Counsel offering an objection shall briefly
10 state the specific legal grounds for the objection, unless
11 invited by the judge to argue.

12 (2) Arguments in opposition to, or in support of,
13 objections must be brief.

14 (3) Before calling a witness to the stand,
15 counsel shall instruct the witness to be responsive to the
16 questions and to wait until the question is completed and a
17 ruling made on an objection before answering. Counsel shall not
18 instruct a witness while on the stand as to the manner of
19 answering questions but may request the court to instruct the
20 witness.

21 (4) A party calling a witness for whom an
22 interpreter is required shall advise the court in advance of the
23 need for an interpreter.

24 (5) Persons in the hearing room shall not
25 converse in a disruptive manner, read newspapers, smoke, chew
26 gum, eat food, or drink liquids other than water while the
27 hearing is in session, and counsel shall so instruct parties
28 they represent, witnesses they call, and persons accompanying
29 them.

30 Subp. 10. Disruption of hearing. No television, newsreel,
31 motion picture, still, or other camera, and no mechanical
32 recording devices, other than those provided by the office may
33 be operated in the hearing room during the course of the hearing
34 unless permission is obtained from the compensation judge.
35 Permission is subject to conditions set by the compensation
36 judge to avoid disruption of the hearing.

1 Under Minnesota Statutes, section 624.72, no person may
2 interfere with the free, proper, and lawful access to or egress
3 from the hearing room. No person may interfere or threaten
4 interference with a hearing, or disrupt or threaten disruption
5 of a hearing. In the event of interference or disruption or
6 threat of interference or disruption, the compensation judge
7 shall read this item to those persons causing the interference
8 or disruption and proceed as the judge deems appropriate.

9 1415.3000 THE COMPENSATION JUDGE'S DECISION.

10 Subpart 1. Basis for decision. The compensation judge
11 shall not consider factual information or evidence which is not
12 a part of the record.

13 Subp. 2. Compensation judge's decision. Within 60 days
14 after the close of the record, the compensation judge shall
15 prepare a decision and serve it on the parties. The
16 compensation judge's decision must include, in the following
17 order:

18 A. The date and location of the hearing and the
19 compensation judge's name.

20 B. Appearances by parties, if representing
21 themselves, or their attorneys, giving the full name and mailing
22 address, including zip code, of each.

23 C. The date the record of the hearing was closed.

24 D. A notice of the right of parties to appeal and how
25 the appeal can be perfected.

26 E. A determination of each contested issue of fact or
27 law. In cases involving many issues, the compensation judge may
28 organize the decision by major subissues if the judge determines
29 that organizing the decision in that manner will aid the reader
30 in understanding its contents.

31 F. A memorandum if necessary to delineate the reasons
32 for the decision or to discuss the credibility of witnesses.

33 Subp. 3. Readability. A decision must be clear, concise,
34 and written in a prose style which can be read and understood by
35 persons of average intelligence. English, rather than Latin
36 terms must be used unless it is necessary to use Latin terms.

1 Subp. 4. Proposed decision filed by party. A party may
 2 file a proposed decision with the compensation judge. The
 3 proposed decision must conform to this part and be served on the
 4 other parties. It must be in a form which would allow the
 5 compensation judge to sign and issue the decision if it is
 6 acceptable. It must also include a brief memorandum explaining
 7 the decision on each issue.

8 Subp. 5. Decision, extension of time. If the parties
 9 consent to extend the time for issuance of the decision, the
 10 written consent must include a statement of the reasons for the
 11 extension. It must be filed with the compensation judge and a
 12 copy filed with the chief hearing examiner. If the chief
 13 hearing examiner extends the time for issuance of the decision,
 14 the extension must be in writing and served on the parties of
 15 record.

16 1415.3100 REHEARING.

17 When a compensation judge has issued the findings,
 18 conclusions, and decision, the judge's jurisdiction over the
 19 case ends, except for taxation of disbursements or awarding of
 20 attorney's fees, unless the case is referred to the compensation
 21 judge by the court of appeals and the chief hearing examiner for
 22 supplemental findings, taking of additional testimony,
 23 rehearing, or other action. Compensation judges may correct
 24 clerical or mathematical errors in decisions any time before
 25 appeal.

26 1415.3200 ATTORNEY FEES.

27 Subpart 1. Controlling statute. Fees for legal services
 28 are governed by Minnesota Statutes, section 176.081.

29 Subp. 2. Withholding of attorney fees. Upon receipt of
 30 the notice of representation, the employer and insurer may
 31 withhold attorney fees on genuinely disputed portions of claims
 32 under Minnesota Statutes, section 176.081. Attorney fees must
 33 be withheld on genuinely disputed portions of claims if the
 34 employee's attorney so requests.

35 Subp. 3. Statement of fees, petition for disputed or

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1 excess attorney's fees. The following procedures must be
2 followed in claiming fees:

3 A. If the claim for attorney fees does not exceed the
4 fees allowed by Minnesota Statutes, section 176.081, subdivision
5 1, clause (a), the party claiming fees shall file a statement of
6 attorney's fees on a form prescribed by the commissioner,
7 including:

- 8 (1) the caption of the case;
- 9 (2) the employee's social security number;
- 10 (3) the date of injury or disease;
- 11 (4) a list of benefits which were genuinely in
12 dispute and which would not have been recovered without the
13 attorney's involvement;
- 14 (5) the amount of retainer received from the
15 employee;
- 16 (6) the amount the employee advanced for expenses;
- 17 (7) the amount the employer and insurer are
18 currently withholding as attorney's fees, if known;
- 19 (8) the amount claimed for attorney's fees;
- 20 (9) a statement that the attorney is licensed to
21 practice law in the state;
- 22 (10) a statement of whether or not an application
23 is being made for attorney fees under Minnesota Statutes,
24 sections 176.081, subdivisions 7 and 8, and 176.191;
- 25 (11) a notice that the employee or insurer has
26 ten calendar days to object to the attorney fees requested;
- 27 (12) the date the statement was served on the
28 employer and insurer; and
- 29 (13) the full address and phone number of the
30 employee's attorney.

31 The statement must be accompanied by the retainer
32 agreement, if not previously filed, and a copy of the usual
33 billing statement given to the employee. If, at the hearing or
34 in a stipulation for settlement, all parties state on the record
35 or include in the stipulation that they have no objection to the
36 statement of attorney's fees, the judge shall issue an

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1 appropriate order without waiting ten calendar days. An oral
2 statement of attorney fees may be presented at the hearing on
3 the record if the case has been tried to a conclusion, no
4 objection is made at the hearing, and a retainer agreement is
5 filed. An oral statement of attorney fees must contain the
6 information in this item.

7 B. If a party claims fees in excess of the amounts
8 listed in Minnesota Statutes, section 176.081, subdivision 1,
9 clause (a), the party shall file a petition for disputed or
10 excess attorney's fees on a form prescribed by the commissioner,
11 including:

- 12 (1) the caption of the case;
- 13 (2) the employee's social security number;
- 14 (3) the date of the claimed injury or disease;
- 15 (4) an exhibit showing specific legal services
16 performed, the date performed, and the time spent;
- 17 (5) the number of hours spent in the employee's
18 representation;
- 19 (6) a statement of expertise and experience in
20 workers' compensation matters;
- 21 (7) a brief description of the factual, medical,
22 and legal issues in dispute;
- 23 (8) the nature of proof required in the case;
- 24 (9) a list of the benefits which were genuinely
25 in dispute and which would not have been recovered without the
26 attorney's involvement;
- 27 (10) the amount of the retainer;
- 28 (11) the amount employee advanced for expenses;
- 29 (12) the amount claimed in fees;
- 30 (13) the amount the employer and insurer is
31 currently withholding, if known;
- 32 (14) a list of the disbursements incurred and if
33 the disbursement has been paid, by whom;
- 34 (15) a statement that the attorney is licensed to
35 practice law in the state;
- 36 (16) a statement of whether or not an application

1 is being made for attorney fees under Minnesota Statutes,
2 sections 176.081, subdivisions 7 and 8, and 176.191;

3 (17) whether or not a hearing on attorney fees is
4 requested;

5 (18) the date the statement was served on the
6 employer and insurer; and

7 (19) the full address and phone number of the
8 employee's attorney.

9 The petition must be accompanied by a copy of the retainer
10 agreement, if not previously filed, and proof of service.

11 Subp. 4. Fees, objection. If a timely objection to the
12 statement of attorney's fees is filed, the compensation judge or
13 settlement judge shall use Minnesota Statutes, section 176.081,
14 subdivision 5, only as to those issues specifically raised by
15 the objection.

16 Subp. 5. Filing. A statement of attorney's fees or
17 petition for disputed or excess attorney's fees under this part
18 must be filed with the compensation judge assigned to hear the
19 case or a calendar judge if no assignment has been made, or a
20 settlement judge if the matter has not been certified to the
21 office.

22 Subp. 6. Settlements. In cases where an offer or
23 settlement has been made in writing under Minnesota Statutes,
24 section 176.081, subdivision 7a, and the offer has not been
25 accepted, upon receipt of the compensation judge's decision, the
26 following procedure must be followed:

27 A. The party seeking to impose the sanctions of
28 Minnesota Statutes, section 176.081, subdivision 7a, shall file
29 proof of the offer with the chief hearing examiner and serve the
30 other parties within ten calendar days of the date of the
31 compensation judge's decision. The filing must include an order
32 prepared for signature by the chief hearing examiner amending
33 the compensation judge's decision.

34 B. A party objecting to the entry of the order shall,
35 within five calendar days of receipt of the proposed order,
36 serve and file an objection, which may be in the form of a

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1 letter, stating in detail the reasons why the order should not
2 be signed. A response to the objection, if any, must be filed
3 within five calendar days of the objection.

4 C. If no objection is received, the chief hearing
5 examiner shall sign, serve, and file the order within ten
6 calendar days of its filing. If an objection has been received,
7 the chief hearing examiner shall rule within ten calendar days
8 after the filing of the objection. Parties do not have a right
9 to a hearing on the objection. The chief hearing examiner's
10 determination must be in writing and is appealable to the court
11 of appeals.

12 1415.3300 TAXATION OF COSTS AND DISBURSEMENTS.

13 Subpart 1. When allowed. This part applies to costs in
14 cases which have been heard by a compensation judge. Costs
15 associated with cases settled before hearing may be recovered by
16 agreement in a stipulation or retainer agreement.

17 Subp. 2. Informal request. Before submitting a formal
18 request for payment or reimbursement of costs and disbursements,
19 an informal request should be made by the taxing party on the
20 party from whom reimbursement is sought. If agreement cannot be
21 reached on all items, the taxing party may then proceed
22 formally, including in the formal request an indication of those
23 costs agreed upon.

24 Subp. 3. Service of formal request. Service of the
25 request for taxation of costs and disbursements must be made
26 upon the parties, or their attorneys, by the taxing party.

27 Subp. 4. Service of objection. An opposing party has ten
28 working days from the date of service upon him or her in which
29 to serve and file a formal objection to taxation or allowance,
30 with admission or proof of service upon the other parties.

31 Subp. 5. Hearing. If requested, a time for hearing before
32 the compensation judge to whom the matter has been assigned must
33 be fixed. A notice of hearing must be given to the parties by
34 the compensation judge.

35 1415.3400 OTHER HEARINGS.

1 Under Minnesota Statutes, section 14.50, all hearings not
2 discussed in this chapter but required to be conducted by a
3 compensation judge must be conducted in substantial compliance
4 with this chapter. In a dispute in which an immediate hearing
5 is necessary in order to carry out the purpose and intent of the
6 Minnesota workers' compensation law, the notice of hearing must
7 be given not less than five working days before the hearing.
8 Expedited assignment of judges to these hearings must be in a
9 manner which will allow the compensation judge's decision to be
10 issued immediately upon conclusion of the hearing or as soon
11 after the hearing as is reasonable and practical.

12 1415.3500 EXHIBITS; REMOVAL AND RETURN.

13 Subpart 1. Requests for removal. All requests for
14 permission to remove an exhibit or document from the official
15 file must be made to the compensation or settlement judge to
16 whom the file has been assigned or to the supervisor of the
17 docket section of either the office or the division.

18 Subp. 2. Return without consent or notice. Upon the
19 expiration of the time in which to appeal, all exhibits or other
20 documentary evidence may be returned to their source of origin
21 without the consent of the parties or notice to them. A copy of
22 the letter of transmittal of the exhibits or documents must
23 remain in the file as part of the record of the case.

24 Subp. 3. Request for return. Upon expiration of the time
25 in which to appeal, exhibits or other documentary evidence must
26 be returned to their source upon the request of the party which
27 produced or introduced the exhibit or evidence at the hearing.
28 A request for return of exhibits or documents must be made in
29 writing to the compensation judge or the division, include the
30 title and appropriate identification number of the case, and
31 identify the exhibits or documents requested. A telephone
32 number of the person making the request must be included with
33 the request.

34 1415.3600 SEVERABILITY.

35 If any provision of parts 1415.0100 to 1415.3500 is held to

1 conflict with a governing statute, applicable provisions of the
 2 Minnesota Administrative Procedure Act, or other relevant law;
 3 to exceed the statutory authority conferred; to lack a
 4 reasonable relationship to statutory purposes or to be
 5 unconstitutional, arbitrary, or unreasonable; or to be invalid
 6 or unenforceable for any other reason; the validity and
 7 enforceability of the remaining provisions of the rule shall in
 8 no manner be affected.

9

10 REPEALER. Minnesota Rules, parts 1410.0100, 1410.0200,
 11 1410.0300, 1410.0400, 1410.0500, 1410.0600, 1410.0700,
 12 1410.0800, 1410.0900, 1410.1000, 1410.1100, 1410.1200,
 13 1410.1300, 1410.1400, 1410.1500, 1410.1600, 1410.1700,
 14 1410.2000, 1410.2100, 1410.2200, 1410.2300, 1410.2400,
 15 1410.2500, 1410.2600, 1410.3000, 1410.3100, 1410.3200,
 16 1410.3300, 1410.3400, 1410.3500, 1410.3600, 1410.3700,
 17 1410.3800, 1410.3900, 1410.4000, 1410.4100, 1410.4200,
 18 1410.4400, 1410.4500, 1410.4600, 1410.4700, 1410.4800,
 19 1410.4900, 1410.5000, 1410.5100, 1410.5200, 1410.5300,
 20 1410.5400, 1410.5500, 1410.5600, 1410.5700, 1410.5800,
 21 1410.5900, 1410.6000, 1410.6100, 1410.6200, 1410.6300,
 22 1410.6400, 1410.6500, 1410.6600, 1410.6700, 1410.6800,
 23 1410.6900, 5220.3100, 5220.3300, 5220.3400, 5220.3500,
 24 5220.3700, 5220.3800, 5220.3900, 5220.4000, 5220.4100,
 25 5220.4200, 5220.4300, 5220.4301, 5220.4302, 5220.4303,
 26 5220.4304, 5220.4305, 5220.4800, 5220.4900, 5220.5100,
 27 5220.5200, 5220.5300, 5220.5400, 5220.5500, 5220.5600,
 28 5220.5700, 5220.6500, 5220.6600, 5220.6700, 5220.6800,
 29 5220.6900, 5220.7000, 5220.7100, and 5220.7200 are repealed.

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