

1 Department of Commerce

2

3 Adopted Permanent Rules Relating to Appeal of Denial of Health  
4 Claims

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6 Rules as Adopted

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APPEAL OF DENIAL OF HEALTH CLAIMS

8 2770.9010 ADMINISTRATION.

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

14 2770.9020 APPOINTMENT OF ARBITRATION PANEL.

15 Subpart 1. List of arbitrators. The commissioner shall  
16 establish three lists of qualified individuals who are eligible  
17 to serve on the three-member arbitration panel, under Minnesota  
18 Statutes, section 72A.327, paragraph (c). One list shall  
19 include names and address of individuals with medical expertise  
20 as identified by contributing members under Minnesota Statutes,  
21 section 65B.01, subdivision 2. The second list shall include  
22 names and addresses of persons with medical expertise as  
23 identified by professional societies. The third list shall  
24 include names and addresses of other members of the public  
25 designated by the commissioner as eligible to serve on the  
26 three-member arbitration panel. The commissioner may, from time  
27 to time, add or delete names of individuals from any of the  
28 three lists.

29 Subp. 2. Three-member panel. The commissioner shall  
30 deliver the three lists described in subpart 1 to the American  
31 Arbitration Association. Upon initiation of an arbitration, the  
32 American Arbitration Association shall administer the  
33 establishment of the three-member arbitration panel according to  
34 Minnesota Statutes, section 72A.327, paragraph (c), by making a  
35 recommendation to the commissioner as to the nine potential

1 arbitrators. Unless the commissioner disapproves the  
2 recommendations within three business days, the recommendations  
3 shall be deemed approved. Under procedures established by the  
4 American Arbitration Association and immediately following  
5 nomination by the American Arbitration Association for  
6 consideration as a member of the arbitration panel, each  
7 potential arbitrator shall be required to disclose any  
8 circumstances likely to create a presumption or possibility of  
9 bias or conflict which may disqualify the person as a potential  
10 arbitrator. Each nominee shall supplement the disclosures as  
11 circumstances require. A party to an arbitration may advise the  
12 American Arbitration Association of any reason why the  
13 arbitrator should withdraw or be disqualified from serving  
14 before exercising strikes. An objection to a potential  
15 arbitrator shall be determined initially by the American  
16 Arbitration Association, subject to appeal to the commissioner.  
17 If an arbitrator should resign, be disqualified, or unable to  
18 perform the duties of the office, the American Arbitration  
19 Association shall arrange for the appointment of another  
20 arbitrator in accordance with parts 2770.9010 to 2770.9170.

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

25 2770.9030 INITIATION OF ARBITRATION.

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

34       Subd. 2. **Filing of appeal.** Upon request, the American  
35 Arbitration Association will provide a claimant with a petition

1 form for initiating arbitration, together with a copy of parts  
2 2770.9010 to 2770.9170. Arbitration is initiated by the  
3 claimant filing the signed, executed form together with the  
4 required filing fee, with the American Arbitration Association.

5 Subp. 3. Denial of claim. If an insurer fails to respond  
6 within 30 days after a claim is duly presented to the insurer,  
7 the claim is considered denied for the purpose of parts  
8 2770.9010 to 2770.9170.

9 2770.9040 FILING FEE.

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

14 2770.9050 NOTICE.

15 On the filing of the petition form by the claimant, the  
16 American Arbitration Association shall send a copy of the  
17 petition to the insurer together with a request for payment of  
18 the filing fee. In addition, the American Arbitration  
19 Association shall send a copy of the petition to the  
20 commissioner within ten business days of the claimant's filing  
21 with the American Arbitration Association.

22 2770.9060 CONCILIATION AND PREHEARING PROCEDURES.

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

32 2770.9070 COMMUNICATION WITH ARBITRATION PANEL.

33 All communication, oral or written, from a party to the  
34 arbitration panel, must be through the American Arbitration

1 Association for transmittal to the arbitrators. In any and all  
2 cases, oral communication with the arbitration panel must be  
3 done jointly and with the knowledge of the opposing party.

4 2770.9080 TIME AND PLACE OF ARBITRATION.

5 If conciliation is not successful, an informal arbitration  
6 hearing will be held in the office of the American Arbitration  
7 Association or some other appropriate place in the general  
8 locale of the claimant's residence, or other place agreed upon  
9 by the parties. The arbitration panel shall fix the time and  
10 place for the hearing. At least 14 days before the hearing, the  
11 American Arbitration Association shall mail notice to each party  
12 or to a party's designated representative. Notice of hearing  
13 may be waived by any party. A party requesting postponement  
14 shall make their request to the arbitration panel, through the  
15 American Arbitration Association, who shall rule on all such  
16 requests. A postponement fee shall be charged against the party  
17 causing the postponement as set forth in the rules adopted by  
18 the Minnesota Supreme Court, under Minnesota Statutes, section  
19 65B.525.

20 2770.9090 WITNESSES, SUBPOENAS, DEPOSITION.

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

31 2770.9100 DISCOVERY.

32 All parties may exchange information on a voluntary basis.  
33 Formal discovery of any kind beyond exchange of medical reports  
34 and other exhibits to be offered at the hearing is discouraged.

1 However, upon application and a showing of good cause that the  
2 information sought is material to a party's presentation at  
3 hearing, the arbitration panel may permit any discovery  
4 allowable under the Minnesota rules of civil procedure for the  
5 district courts. Any medical examination considered necessary  
6 by the insurer shall be completed within 30 days following  
7 commencement of the case unless extended by the arbitration  
8 panel.

9 2770.9110 EVIDENCE.

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

24 2770.9120 ARBITRATOR'S FEES.

25 An arbitrator shall be compensated for services and for any  
26 use of office facilities in the amount set in Rule 16 of the  
27 Rules of Procedure for No-fault Arbitration adopted by the  
28 Minnesota Supreme Court under Minnesota Statutes, section  
29 65B.525.

30 2770.9130 CLOSE OF HEARING.

31 The arbitration panel shall specifically inquire of all  
32 parties as to whether they have any further evidence. If they  
33 do not, the arbitration panel shall declare the hearing closed.  
34 If briefs or documents are to be filed, the hearing shall be

1 declared closed as of the final date set by the arbitration  
2 panel for the receipt of briefs or documents. The time limit  
3 within which the arbitration panel is required to make its  
4 recommendation to the commissioner shall begin to run on the  
5 close of the hearing.

6 2770.9140 REOPENING HEARING.

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

10 2770.9150 RECOMMENDATION AND REPORT TO COMMISSIONER.

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

22 A copy of the arbitration panel's report shall be served  
23 upon each party or the party's representative by first class  
24 mail within five days of delivery of the report to the  
25 commissioner. Personal service of the report upon a party or in  
26 any other manner which may be prescribed by law shall also  
27 constitute legal delivery.

28 2770.9160 ACTION BY COMMISSIONER.

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

34 Subp. 2. **Decision or order.** The commissioner shall render

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

7 2770.9170 APPEAL.

8 A person aggrieved by an order under parts 2770.9010 to  
9 2770.9170 shall have the right to appeal the order as provided  
10 in Minnesota Statutes, section 72A.327, paragraph (d).