

1 Department of Labor and Industry

2

3 Adopted Permanent Rules Relating to Reimbursement of
4 Supplementary Benefits

5

6 Rules as Adopted

7 5222.0100 DEFINITIONS.

8 Subpart 1. Generally. As used in this chapter, the
9 following terms have the meanings given them.

10 Subp. 2. Commissioner. "Commissioner" means commissioner
11 of the Department of Labor and Industry.

12 Subp. 3. Proposed effective date of permanent total
13 disability. "Proposed effective date of permanent total
14 disability" is the date, supported by documented medical reports
15 and/or rehabilitation reports, on which the employer or insurer
16 and employee agree that permanent total disability began.

17 Subp. 3a. Proposed effective date of offset. "Proposed
18 effective date of offset" is the date when the statutory
19 requirements have been met and the insurer proposes to take the
20 offset, the employee has been paid \$25,000 in permanent total
21 disability benefits after the date of permanent total
22 disability, and the employee is simultaneously receiving a
23 government benefit as defined in subpart 5 4.

24 Subp. 4. Government disability benefits. "Government
25 disability benefits" means disability benefits paid by any
26 government disability program within the meaning of Minnesota
27 Statutes, section 176.101, subdivision 4. It includes, but is
28 not limited to, social security disability benefits, old age and
29 survivor benefits, fire relief association benefits, police
30 relief association benefits, and public employee's retirement
31 benefits.

32 Subp. 5. [See Repealer.]

33 Subp. 6. Rehabilitation plan. "Rehabilitation plan" means
34 the plan established for the employee pursuant to Minnesota
35 Statutes, section 176.102.



1 Subp. 7. **Supplementary benefits.** "Supplementary benefits"
2 means benefits paid pursuant to Minnesota Statutes, section
3 176.132.

4 Subp. 8. [See Repealer.]

5 5222.0200 AUTHORITY AND PURPOSE.

6 Parts 5222.0100 to 5222.1000 are promulgated pursuant to
7 the authority granted to the commissioner by Minnesota Statutes,
8 sections 176.132, subdivision 4, 175.17, clause (2), and 176.83.
9 The purpose of these parts is to specify the procedure by which
10 an employer may apply for an administrative finding of permanent
11 total disability in order to obtain reimbursement for
12 supplementary benefits pursuant to Minnesota Statutes, section
13 176.132.

14 5222.0300 SCOPE.

15 Parts 5222.0100 to ~~5222.1100~~ 5222.1000 apply only if all of
16 the following prerequisites are met:

17 A. The employee is and has been receiving disability
18 benefits under Minnesota Statutes, section 176.101, subdivision
19 1, 3a, or 4, without substantial interruption by suitable
20 gainful employment after the proposed effective date of
21 permanent total disability.

22 B. The employee is receiving government disability
23 benefits.

24 C. The employee will be eligible for supplementary
25 benefits after a finding of permanent total disability is made
26 and the waiting period requirements of Minnesota Statutes,
27 section 176.132, subdivision 1, are met.

28 D. The issue of whether the employee's total
29 disability is permanent for the period on or after the proposed
30 effective date of permanent total disability is not pending and
31 has not been decided in any judicial or quasi-judicial
32 administrative proceeding, including administrative conferences
33 under Minnesota Statutes, section 176.239.

34 E. The employer or insurer and employee agree that
35 the employee's total disability is permanent within the meaning

1 of Minnesota Statutes, section 176.101, subdivision 5 and
2 applicable case law.

3 F. The employer or insurer and employee agree to the
4 date on which the employee's permanent total disability began.

5 5222.0400 PROCEDURE.

6 Subpart 1. Generally. The employer or insurer must comply
7 with the procedures set forth in this part by submitting a
8 signed agreement to the commissioner for a finding of permanent
9 total disability.

10 Subp. 2. Contents of agreement. This agreement must state:

11 A. the name of the employee;

12 B. the social security number of the employee;

13 C. the name of the employer;

14 D. the insurer of the employer, or that the employer
15 is self-insured;

16 E. the date of the injury which gave rise to
17 permanent total disability;

18 F. the date on which the employee became permanently
19 totally disabled;

20 G. the date on which the employee became eligible for
21 government disability benefits;

22 H. the date on which the employer or insurer will
23 apply the offset;

24 I. the names of the medical and vocational providers
25 submitting the reports showing the employee is permanently
26 totally disabled as of the date stated in item F and the dates
27 of those reports;

28 J. the status of the rehabilitation plan as active,
29 inactive, or nonexistent; and

30 K. the signatures of the employer or insurer and the
31 employee.

32 Subp. 3. [See Repealer.]

33 Subp. 4. Filing of medical reports. Any medical reports
34 which are identified pursuant to subpart 2, item I, but have not
35 been previously filed with the commissioner, must be attached to

1 the agreement.

2 Subp. 5. Filing of rehabilitation reports. Any reports of
3 qualified rehabilitation consultants which have not been
4 previously filed with the commissioner must be attached to the
5 agreement.

6 Subp. 6. Benefit amounts. The agreement must state the
7 amount of weekly benefits currently received by the employee for
8 government disability, total disability, and supplementary
9 benefits. The agreement must also state the amount of each of
10 these benefits which will be received by the employee if the
11 agreement is approved.

12 Subp. 7. Signing of agreement. The agreement must be
13 signed by an authorized representative of the employer or of the
14 employer's insurer. It must also state the telephone number of
15 each person signing the agreement.

16 Subp. 8. Instructions to employee. The employer or
17 insurer must mail two copies of the agreement with instructions
18 to the employee and, if represented, a copy to the employee's
19 attorney by first class mail, and must so affirm.

20 Subp. 9. Filing with commissioner. A copy signed by the
21 employee must be filed with the commissioner before action will
22 be taken on the request.

23 5222.0500 APPROVAL BY COMMISSIONER.

24 An agreement is deemed approved upon the signature of the
25 commissioner. Approval by the commissioner constitutes a
26 finding of the employee's permanent total disability as of the
27 proposed effective date of permanent total disability. The
28 commissioner must approve an agreement unless grounds for
29 disapproval exist pursuant to part 5222.0600.

30 5222.0600 DISAPPROVAL BY COMMISSIONER.

31 An agreement for a finding of permanent total disability
32 shall be disapproved if any of the following grounds are present:

33 A. The agreement is incomplete, is inaccurate, or is
34 not in conformity with any provision of parts 5222.0100 to
35 ~~5222.0110~~ 5222.1000. For example, the submission of medical

1 reports which fail to show that the employee is permanently
2 totally disabled on and after the proposed date of the permanent
3 total disability renders an agreement incomplete and inaccurate
4 and not in conformity with the rules. Agreements which are
5 disapproved on any of these grounds may be resubmitted under the
6 procedure authorized in part 5222.0400.

7 B. The employer or insurer has not complied with the
8 provisions of Minnesota Statutes, section 176.102 regarding the
9 provision of rehabilitation services to the employee. This
10 shall apply only if the injury giving rise to total disability
11 occurred on or after October 1, 1979.

12 C. The commissioner concludes that the medical and
13 rehabilitation reports do not support the assertion that the
14 employee's total disability is permanent within the meaning of
15 Minnesota Statutes, section 176.101, subdivision 5, and
16 applicable case law.

17 D. The commissioner concludes that the available
18 information does not support the proposed effective date of the
19 employee's permanent total disability.

20 5222.0650 NOTICE OF DECISION.

21 A copy of the decision approving or disapproving the
22 agreement will be mailed to each party within 30 days of the
23 receipt by the Special Compensation Fund of a complete agreement
24 under 5222.0400.

25 5222.0700 EFFECT OF DISAPPROVAL.

26 Disapproval of an agreement by the commissioner is without
27 prejudice to a party's right to petition for a hearing pursuant
28 to Minnesota Statutes, section 176.305 for a finding or revision
29 of a finding of permanent total disability.

30 5222.0750 EFFECT OF APPROVAL.

31 Approval of an agreement by the commissioner constitutes a
32 final order determining permanent total disability.

33 5222.0900 SEVERABILITY.

34 If any provision of this chapter is held to conflict with a

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

9 REPEALER. Minnesota Rules, parts 5222.0100, subparts 5 and 8;
10 and 5222.0400, subpart 3; and 5222.0800, are repealed.