

1 Office of Administrative Hearings and the Department of Labor  
2 and Industry  
3 Adopted Joint Permanent Rules Relating to Workers' Compensation  
4 Litigation Procedures

RECEIVED  
05 APR 22 AM 8:26  
ADMINISTRATIVE  
HEARINGS

5 1415.0100 SCOPE AND PURPOSE.

6 This chapter governs all workers' compensation matters in  
7 litigation before compensation judges in the Office of  
8 Administrative Hearings and administrative conferences conducted  
9 at the Workers' Compensation Division of the Department of Labor  
10 and Industry and the Office of Administrative Hearings under  
11 Minnesota Statutes, sections 176.102, 176.106, 176.135, 176.136,  
12 176.137, and 176.239. Additional rules of the office regarding  
13 workers' compensation litigation procedures are contained in  
14 chapter 1420. The two chapters together contain the litigation  
15 rules in workers' compensation cases. Rules regarding appeals  
16 to the Workers' Compensation Court of Appeals are contained in  
17 chapter 9800.

18 1415.0300 DEFINITIONS.

19 Subpart 1. **Scope.** For the purposes of this chapter, the  
20 following terms have the meanings given them.

21 Subp. 2. **Act.** "Act" means the Workers' Compensation Act,  
22 Minnesota Statutes, chapter 176.

23 Subp. 3. [See repealer.]

24 Subp. 4. [See repealer.]

25 Subp. 5. **Chief judge.** "Chief judge" means the chief  
26 administrative law judge of the Office of Administrative

1 Hearings.

2 Subp. 6. **Commissioner.** "Commissioner" means the  
3 commissioner of the Department of Labor and Industry.

4 Subp. 7. [See repealer.]

5 Subp. 8. **Court of appeals.** "Court of appeals" means the  
6 workers' compensation court of appeals.

7 Subp. 8a. **Days.** "Days" means calendar days unless  
8 specifically provided otherwise. Days are computed as provided  
9 in Minnesota Statutes, section 645.15.

10 Subp. 9. **Division.** "Division" means the Workers'  
11 Compensation Division of the Department of Labor and Industry.

12 Subp. 10. [See repealer.]

13 Subp. 10a. **Imaging.** "Imaging" means the technology and  
14 process by which paper documents are scanned and stored  
15 digitally for subsequent retrieval and processing. The  
16 documents are indexed according to type of document, employee  
17 name, Social Security number, and date of injury. Once indexing  
18 is complete, the document is automatically routed to staff at  
19 the division or office as needed and it is a part of the  
20 permanent division file. The paper is confidentially recycled.

21 Subp. 10b. **Insurer.** "Insurer" means the workers'  
22 compensation insurer for the employer and includes self-insured  
23 employers. For the purposes of these rules only, "insurer" also  
24 includes the special compensation fund where the employer was  
25 uninsured on the date of injury.

26 Subp. 11. [See repealer.]

27 Subp. 11a. **Intervenor.** "Intervenor" means a party under

1 Minnesota Statutes, section 176.361, who has an interest in a  
2 pending workers' compensation proceeding such that the person or  
3 entity may either gain or lose by an order or decision in the  
4 case, and the person or entity has filed a motion or application  
5 to intervene under part 1415.1250 and Minnesota Statutes,  
6 section 176.361.

7 Subp. 12. **Judge.** "Judge" means a workers' compensation  
8 judge from the Office of Administrative Hearings.

9 Subp. 13. **Office.** "Office" means the Office of  
10 Administrative Hearings.

11 Subp. 14. [See repealer.]

12 Subp. 15. **Petition.** "Petition" means a claim filed by or  
13 on behalf of an injured or deceased employee, employer, insurer,  
14 special compensation fund, or any other person or entity  
15 authorized by law to file a petition which initiates a contested  
16 workers' compensation case requiring assignment for hearing.

17 Subp. 16. **Petitioner.** "Petitioner" means the injured  
18 employee, an heir or dependent of a deceased employee or a party  
19 filing on their behalf, an employer or insurer, the special  
20 compensation fund, or any other person or entity authorized by  
21 law to file a petition.

22 Subp. 17. [See repealer.]

23 Subp. 18. **Potential Intervenor.** "Potential intervenor"  
24 means a person or entity under Minnesota Statutes, section  
25 176.361, who has an interest in a workers' compensation  
26 proceeding such that the person or entity may either gain or  
27 lose by an order or decision in the case, and the person or

1 entity has not filed a motion or application to intervene under  
2 part 1415.1250 and Minnesota Statutes, section 176.361.

3 1415.0500 LEGAL DOCUMENTS.

4 Forms and documents used or filed in all workers'  
5 compensation proceedings before the division or the office must  
6 be on white standard size 8-1/2 by 11 inch paper, and must  
7 contain the case identifying information required by Minnesota  
8 Statutes, section 176.275, and must also indicate the type of  
9 action requested. Pleadings and motions must also include the  
10 full caption of the case listing all parties.

11 All legal documents filed by an attorney must include the  
12 attorney's Minnesota Supreme Court license number.

13 1415.0600 EXAMINATION OF WORKERS' COMPENSATION FILES.

14 Persons desiring to examine a file maintained by the  
15 division or office shall present a written authorization to  
16 inspect the file to designated personnel of the division or  
17 office. Files are generally reviewed at the division, except  
18 when the file is in paper form only and located at the  
19 office. Files examined at the division are subject to the  
20 requirements of part 5220.2880. The authorization must be  
21 signed and dated by a party to the claim who is either the  
22 employee, the employer, the insurer, a dependent in death cases,  
23 or a legal guardian in cases of mental or physical incapacity.  
24 The authorization must specify the person or party authorized to  
25 review the file. The authorization is placed in and becomes  
26 part of the file.

1 This part does not grant greater access to the files than  
2 that given by the Minnesota Data Privacy Act or the Workers'  
3 Compensation Act.

4 1415.0700 SERVICE AND FILING.

5 Subpart 1. **Service by state.** The division and the office  
6 must serve all notices, findings, orders, decisions, or awards  
7 upon the parties by first class mail at their addresses of  
8 record, by personal service, or, if authorized by the recipient,  
9 by facsimile or electronic mail.

10 If the division or office has received notice that a party  
11 is represented by an attorney, the attorney must be served with  
12 all documents. Service on the attorney is considered service on  
13 that party, except that all final orders, decisions, awards,  
14 orders striking a case from the calendar, continuance orders,  
15 and notices of proceedings must also be served directly on the  
16 party.

17 Subp. 1a. **Digitized signatures.** All orders, decisions,  
18 awards, or other documents issued by an employee of the office  
19 or the division authorized to sign the document may be signed by  
20 digitized signature pursuant to Minnesota Statutes, section  
21 176.281. Digitized signatures must be affixed as follows:

22 A. The signatory must either personally affix, or  
23 instruct another office or division employee to affix, a  
24 digitized signature to a document or group of documents.

25 B. The person affixing a digitized signature must  
26 ensure that all information required by item C is completed and  
27 accurate.

1           C. A digitized signature must include the typed name  
2 and title of the signatory, the date of issuance, and  
3 immediately below the typed name and title, a certificate in  
4 lieu of original signature. The certificate in lieu of original  
5 signature must include certification that the document was  
6 approved and issued by the signatory on the date indicated and  
7 explain how to confirm the authenticity of the document.

8           Subp. 2. **Service by parties.** A party may serve documents  
9 by first class mail, by personal service, or, if authorized by  
10 the recipient, by facsimile or electronic mail. All documents  
11 filed in connection with a proceeding at the division or office  
12 must be served on all parties and filed, together with an  
13 affidavit of service, with the division. If a party is  
14 represented by an attorney in the matter, the attorney must be  
15 served with all documents. Service on the attorney is  
16 considered service on that party, except where Minnesota  
17 Statutes, chapter 176, requires otherwise.

18           Subp. 3. **Computation of time.** Computation of time for  
19 service is governed by Minnesota Statutes, section 645.15.

20           Subp. 4. **Filing with state.**

21           A. Except as provided in item B, all documents must  
22 be filed with the division. Filed documents must be accompanied  
23 by an affidavit of service in a form acceptable to the district  
24 courts. A document is filed upon its receipt by the division or  
25 the office by 4:30 p.m. on a state business day. Documents  
26 received after 4:30 p.m. on a state business day are considered  
27 filed on the next open state business day.

1           B. If the document requires attention by the office  
2 within two business days, it must be filed with the office.  
3 Stipulations for settlement require attention by the office  
4 within two business days. Exhibits for video hearings are filed  
5 with the office as provided in part 1415.2900, subpart 6.  
6 Exhibits submitted while a hearing record is open are filed with  
7 the office.

8           C. Because documents are destroyed after imaging, a  
9 party shall retain an original document and file a copy with the  
10 division except when filing a notice of appeal, or where the  
11 department division has notified the party that an original must  
12 be filed because the quality or authenticity of a document is at  
13 issue. The original notice of appeal under Minnesota Statutes,  
14 section 176.421, must be filed with the office and copied to the  
15 division. This filing must be by mail or in person. A filing  
16 by facsimile or electronic transmission is not effective.

17       Subp. 5. **Electronic or fax filing.** A party is authorized  
18 to file a document with the office or the division by facsimile  
19 if the document is 15 pages or less in length. A party may file  
20 a document by electronic transmission only as authorized by the  
21 division or office. A notice of appeal, as provided in subpart  
22 4, may not be filed by facsimile or electronic transmission.  
23 The filed facsimile or transmitted information has the same  
24 force and effect as the original. Where the quality or  
25 authenticity of a document is at issue, the division or the  
26 office shall require the original document to be filed. Where  
27 the division or office has not identified quality or

1 authenticity as an issue and the document is filed by facsimile  
2 or electronic transmission, the party shall not also file the  
3 original document.

4 1415.0800 NOTICE OF REPRESENTATION.

5 Subpart 1. Filing. When a party is represented by an  
6 attorney, written notice of representation must be filed with  
7 the division. A notice of representation is not necessary when  
8 the attorney files a signed pleading as the attorney for the  
9 party or a copy of a fully executed retainer agreement.

10 A. The notice of representation of an employee,  
11 dependent, or heir must be signed by the attorney, signed by the  
12 employee, dependent, or heir, and include the address and  
13 telephone number of the attorney, and the attorney's Minnesota  
14 Supreme Court license number.

15 B. Copies of the notice or retainer agreement must be  
16 served pursuant to part 1415.0700.

17 Subp. 2. Substitution of attorney. If a party is  
18 represented by an attorney and the party subsequently desires to  
19 change attorneys, the attorney assuming representation shall  
20 file a notice of representation and a copy of the new retainer  
21 agreement. The new notice of representation and new retainer  
22 agreement must be filed and served on all parties and the  
23 previous attorney within 20 days of the signing of a retainer  
24 agreement.

25 Subp. 3. [See repealer.]

26 1415.1000 COMMENCEMENT OF PROCEEDINGS.



1           Subpart 1. **Commencement of proceedings.** Except for a  
2 potential intervenor claim under part 1420.1850, subpart 4, or a  
3 request for an administrative conference, or where otherwise  
4 provided by law, a proceeding for adjudication of a claim by a  
5 party under Minnesota Statutes, chapter 176, is commenced by  
6 petition and must be in the form prescribed by the division,  
7 containing:

8                               [For text of items A to D, see M.R.]

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

10          F. the nature of the injury or disease;

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

17          I. an itemization of medical benefits claimed;

18          J. the name, address, and claim or policy number of  
19 any potential intervenor;

20          K. the name, address, telephone number, and Minnesota  
21 Supreme Court license number of the petitioner's attorney; and

22          L. whether an interpreter or reasonable accommodation  
23 of disability is needed.

24           Subp. 2. **Service of petition, filing.** The petitioner  
25 shall serve a copy of the petition, together with all  
26 attachments, on all other parties named in the caption. The  
27 petition and medical, vocational, or other reports supporting

1 each claim, must be filed with the division with an affidavit of  
2 service.

3 Subp. 3. [See repealer.]

4 Subp. 4. **Amended petitions and requests.** When an  
5 amendment to a petition or to a medical or rehabilitation  
6 request seeks to add, subtract, or change a party to the claim  
7 or injury date, the petitioner must file an amended petition or  
8 medical or rehabilitation request on the form or in the format  
9 prescribed by the division. The judge or the commissioner shall  
10 disallow an amended petition or medical or rehabilitation  
11 request or continue the proceeding if the adverse party has  
12 insufficient time to prepare for a proceeding regarding the new  
13 issues or parties. Service of amended petitions is governed by  
14 part 1420.1300, subpart 2. A motion for joinder under part  
15 1420.1300 rather than an amended petition must be filed to add a  
16 party when there are fewer than 120 days before a scheduled  
17 hearing.

18 Subp. 5. **Letter amendment to petition or request.** If a  
19 petitioner seeks to add an additional claim, withdraw a claim,  
20 or otherwise change the claimed benefits or other assertions  
21 that do not change the identified parties, the petitioner may  
22 amend the claim by filing an amendment to the petition or  
23 request in the form of a letter setting forth the amendment;  
24 however, a judge or the commissioner shall disallow an amendment  
25 or continue the proceeding if the adverse party has insufficient  
26 time to prepare for a proceeding regarding the new issues.

27 1415.1100 NOTICE TO POTENTIAL INTERVENORS.

1           Subpart 1. **Responsibilities of attorneys.** All attorneys,  
2 whether representing employees, employers, or any other parties  
3 to a workers' compensation proceeding, shall ask their clients  
4 whether a third party, other than the workers' compensation  
5 insurer, has paid or provided benefits or services to the  
6 employee or on the employee's behalf, or whether there is an  
7 outstanding order under Minnesota Statutes, chapter 518, for an  
8 employer to withhold sums for the payment of support or  
9 maintenance that may entitle the person or entity to intervene  
10 as a party under Minnesota Statutes, section 176.361.

11           Subp. 2. **Notice to potential intervenors.** If inquiry  
12 discloses the existence of a potential intervenor, the attorney  
13 must promptly serve the potential intervenor with written notice  
14 of its right to petition for intervention and reimbursement  
15 pursuant to subpart 3. Notice to potential intervenors under  
16 Minnesota Statutes, section 176.361, may not be given before a  
17 proceeding at the office or division has been commenced. The  
18 attorney shall attach to the notice a copy of all pleadings in  
19 the case, and a copy of all notices and orders served in the  
20 case to date. The notice need not be filed with the division  
21 except as required by part 1420.1850. If a party files the  
22 notice to potential intervenors, the party shall omit the  
23 attachments in the copy filed with the division unless directly  
24 relevant to a dispute. The notice must specifically advise:

25           A. that the petitioner has commenced a proceeding to  
26 recover workers' compensation benefits, and that under part  
27 1415.1250 and Minnesota Statutes, section 176.361, the potential

1 intervenor has the right to petition for intervention and  
2 reimbursement of payments of monetary benefits, treatment  
3 expenses, or vocational rehabilitation services;

4 B. the name and address of parties to the proceeding  
5 and the name and address of their attorney;

6 C. the name of a potential intervenor's insured, if  
7 applicable, the nature of the payments made or services  
8 provided, and any identifying claim and policy number;

9 D. that the failure of a potential intervenor to file  
10 a motion for intervention within 60 days of service of the  
11 notice or within 30 days of notice of an administrative  
12 conference or expedited hearing ~~may~~ shall result in a denial of  
13 the claim for reimbursement unless otherwise provided by law;

14 E. that, unless an intervenor's right to  
15 reimbursement is established by stipulation or otherwise,  
16 failure to personally attend scheduled administrative  
17 conferences and hearings when required by Minnesota Statutes,  
18 section 176.361, subdivision 4, or appear by an alternative  
19 method approved by the commissioner or a judge, will result in a  
20 denial of the claim for reimbursement; and

21 F. how the potential intervenor may obtain a copy of  
22 the intervention statute, rule, and sample form.

23 Subp. 3. **Time to notify.** Attorneys shall comply with this  
24 part within 30 days after the service of an answer; or within 60  
25 days of service of a petition if no answer has been filed; and  
26 when a medical or rehabilitation request or response is filed.  
27 Attorneys shall promptly notify a potential intervenor whose

1 interest arises upon payment made or services rendered after the  
2 petition, answer, rehabilitation request, or medical request was  
3 filed, but not before a proceeding at the office or division has  
4 been commenced.

5 Subp. 4. **Failure to notify potential intervenors.** Failure  
6 to comply with the notice requirements of this part may result  
7 in the matter being stricken from the hearing or conference  
8 calendar, or other sanction under part 1420.3700, if the judge  
9 or commissioner finds the noncompliance materially prejudices  
10 the rights and liabilities of the other parties or the potential  
11 intervenor.

12 Further proceedings may be ordered under part 1420.1850 if  
13 an intervenor or potential intervenor claims to have been  
14 effectively excluded from a binding determination or from  
15 settlement negotiations or has been unable to reach a resolution  
16 of its claim at the time the other parties have resolved their  
17 claims.

18 1415.1250 INTERVENTION.

19 Subpart 1. **Motion.** A person desiring to intervene in a  
20 workers' compensation case under this chapter must serve and  
21 file a motion or application to intervene within 60 days of  
22 notice under part 1415.1100 or, for an expedited hearing, within  
23 30 days of notice under part 1420.2150, subpart 5, or within 30  
24 days of notice of an administrative conference under part  
25 1415.3700.

26 Subp. 2. **Personal appearance by intervenor.** Unless a  
27 stipulation has been signed and filed or the intervenor's right

1 to reimbursement has otherwise been established, the intervenor  
2 shall personally attend all scheduled administrative conferences  
3 and hearings where required by Minnesota Statutes, section  
4 176.361, unless an alternative to personal appearance is allowed  
5 by the commissioner or the judge.

6 1415.3200 ATTORNEY FEES.

7 Subpart 1. **Controlling statute.** Fees for legal services  
8 are governed by Minnesota Statutes, sections 176.081 and 176.191.

9 [For text of subp 2, see M.R.]

10 Subp. 3. **Statement of fees.**

11 A. An attorney claiming attorney fees must serve on  
12 the employee and the insurer, and file with the division, a  
13 statement of attorney's fees on a form prescribed by the  
14 commissioner, including:

15 (1) a list of benefits which were genuinely in  
16 dispute and which would not have been recovered without the  
17 attorney's involvement and any certification or noncertification  
18 of a dispute issued under Minnesota Statutes, section 176.081,  
19 subdivision 1, paragraph (c);

20 (2) the amount of attorney fees previously paid  
21 for the same injury;

22 (3) the amount the employer and insurer are  
23 currently withholding as attorney's fees, if known;

24 (4) the amount claimed for attorney's fees;

25 (5) a statement that the attorney is licensed to  
26 practice law in the state;

27 (6) a statement of whether or not an application

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

3 (7) a notice that the employee or insurer has ten  
4 calendar days to object to the attorney fees requested;

5 (8) the date the statement was served on the  
6 employee, employer, and insurer;

7 (9) the full address and phone number of the  
8 employee's attorney;

9 (10) the number of hours spent in representation  
10 of the employee and the attorney's hourly fee; and

11 (11) an itemization of costs incurred and by whom  
12 paid.

13 The statement must be accompanied by the retainer  
14 agreement, if not previously filed. Any party may object to the  
15 statement of fees in writing within ten days of the date the  
16 statement was served. If, at the hearing or in a stipulation  
17 for settlement or mediation agreement, all parties state on the  
18 record or include in the stipulation or mediation agreement that  
19 they have no objection to the statement of attorney's fees, the  
20 judge or commissioner may issue an appropriate order without  
21 waiting ten days. Except where excess fees are requested in  
22 item B, an oral statement of attorney fees may be presented at  
23 the hearing on the record if the case has been tried to a  
24 conclusion, no objection is made at the hearing, and a retainer  
25 agreement is filed. An oral statement of attorney fees must  
26 contain the information in this item.

27 B. If a party claims fees in excess of the amounts

1 listed in Minnesota Statutes, section 176.081, subdivision 1,  
2 paragraph (a) or (b), the party shall attach the following  
3 additional information to the statement of attorney fees  
4 prescribed in item A:

5 (1) an exhibit showing specific legal services  
6 performed, the date performed, and the number of hours spent for  
7 each service in representation of the employee;

8 (2) a statement of expertise and experience in  
9 workers' compensation matters;

10 (3) a brief description of the factual, medical,  
11 and legal issues in dispute;

12 (4) the nature of proof required in the case and  
13 the responsibility assumed by counsel; and

14 (5) whether or not a hearing on attorney fees is  
15 requested.

16 Subp. 4. [See repealer.]

17 Subp. 5. [See repealer.]

18 Subp. 6. [See repealer.]

19 Subp. 7. **Genuinely disputed portions of claims.** This  
20 subpart provides the applicable principles for the commissioner,  
21 compensation judge, or Workers' Compensation Court of Appeals to  
22 determine whether the benefit paid or payable was genuinely  
23 disputed for the purpose of calculation of a contingent fee  
24 under Minnesota Statutes, section 176.081, subdivision 1.

25 The statement of attorney fees or petition for excess  
26 attorney fees must include, for each benefit paid or awarded for  
27 which an attorney fee is sought, sufficient information to allow



1 the fee determiner to apply the principles contained in this  
2 subpart.

3 The principles applicable to determine whether a benefit  
4 was genuinely disputed are as follows:

5 A. If primary liability had been denied for the  
6 claim, all compensation paid or awarded to the employee or  
7 dependent other than payment of medical and rehabilitation  
8 expenses, is used to compute the attorney's fee.

9 B. If there was no dispute concerning the rate,  
10 amount, duration, or eligibility for a benefit and the benefit  
11 was timely paid, the benefit may not be used to compute the fee.

12 C. The fee may not be computed on the entire amount  
13 of a benefit where only a portion of the benefit is disputed.  
14 Only the disputed portion of the benefit may be used to compute  
15 the fee.

16 D. If eligibility for the benefit is disputed, the  
17 entire benefit during the period for which eligibility was  
18 disputed is used to compute the fee.

19 E. If the rate of the benefit is disputed, only the  
20 amount paid or awarded above the rate admitted and timely paid  
21 is used to compute the fee.

22 F. If the duration of the benefit is disputed, only  
23 the portion of the benefit not conceded and not timely paid is  
24 used to compute the fee.

25 G. Benefits allegedly admitted but not timely paid  
26 may be used to compute the fee.

27 H. Benefits timely paid may not be used to compute

1 the fee except where primary liability for the entire claim or  
2 eligibility for the benefit had been generally denied.

3 I. The difference between the compensation eventually  
4 paid or awarded and the amount admitted and timely paid is used  
5 to compute the fee.

6 J. The following benefits may be used to compute the  
7 fee:

8 (1) remodeling compensation pursuant to Minnesota  
9 Statutes, section 176.137, which was in dispute under this  
10 subpart;

11 (2) a penalty sum awarded to the employee or  
12 dependent for a benefit which was in dispute under this subpart;

13 (3) interest on a benefit which was in dispute  
14 under this subpart; and

15 (4) a benefit which was in dispute under this  
16 subpart although reimbursable to an intervenor.

17 K. Generally, each benefit is evaluated separately,  
18 however, if the rate, duration, or eligibility for permanent  
19 partial disability is disputed, the difference between the  
20 permanent partial disability which was conceded and timely paid  
21 and the amount of disputed permanent partial disability  
22 eventually paid or awarded is used to compute the fee.

23 L. The principles of this subpart apply to settlement  
24 sums. Attorney fees for a portion of a lump sum award allocated  
25 to medical or rehabilitation expenses must comply with Minnesota  
26 Statutes, section 176.081, subdivision 1.

27 Subp. 8. Determinations without a hearing. The office

1 shall assign an attorney fee statement to a judge when action by  
2 a judge is needed. The judge shall take action on the attorney  
3 fee statement within 30 days of the filing of the statement by  
4 issuing an order advising the parties of how the attorney fee  
5 statement will be addressed or scheduling a conference or  
6 hearing on attorney fees.

7 If an objection to the requested fee has been filed and the  
8 interested parties waive their right to a hearing, the fees may  
9 be determined under Minnesota Statutes, section 176.305 or  
10 176.322, without a hearing. A hearing must be scheduled and  
11 heard on the record if an objection has been filed and all  
12 interested parties have not waived their right to a hearing.  
13 Where no objection to the requested fee has been filed, the  
14 judge or court before whom the matter is pending shall issue a  
15 summary decision under Minnesota Statutes, section 176.305,  
16 regarding the amount of attorney fees owing under this part and  
17 Minnesota Statutes, section 176.081 or 176.191.

18 1415.3300 TAXATION OF COSTS AND DISBURSEMENTS.

19 Subpart 1. **When allowed.** This part applies to costs in  
20 disputed cases. Costs associated with cases settled before  
21 hearing may be recovered by agreement in a stipulation or  
22 retainer agreement.

23 [For text of subp 2, see M.R.]

24 Subp. 3. **Service of formal request.** The taxing party  
25 shall serve the request for taxation of costs and disbursements  
26 upon the parties.

27 Subp. 4. **Service of objection.** An opposing party has ten

1 working days from the date of service upon him or her to serve  
2 and file a formal objection to taxation or allowance.

3 Subp. 5. **Hearing.** If a party requests a hearing on costs,  
4 the office shall schedule a hearing and give notice of the  
5 hearing to the parties.

6 1415.3500 EXHIBITS.

7 Subpart 1. **Retention and retrieval of exhibits.** For  
8 purposes of this part, an exhibit is a document or other  
9 evidence that is introduced at a hearing and is marked, offered,  
10 and accepted into the record by a judge as an exhibit. Exhibits  
11 do not become a permanent part of the division file; however,  
12 the judge's lists of exhibits must be retained in the division  
13 file. Exhibits must be retained by the division or the office  
14 for 60 days after a final decision is served and filed in the  
15 case. During this 60-day period, exhibits may be retrieved by  
16 the submitting party upon request to the division. If no party  
17 has retrieved the exhibits after 60 days, the exhibits will be  
18 destroyed.

19 Subp. 2. [See repealer.]

20 Subp. 3. [See repealer.]

21 1415.3700 ADMINISTRATIVE CONFERENCES.

22 Subpart 1. **Scope.** This part governs administrative  
23 conferences conducted under Minnesota Statutes, sections 176.106  
24 and 176.239. Rehabilitation disputes are also governed by part  
25 5220.0950.

26 Subp. 2. **Notice.** Unless the issue will be decided on the

1 basis of written submissions, or unless the parties agree on a  
2 shorter notice period, the division or office must notify the  
3 parties and intervenors or potential intervenors under Minnesota  
4 Statutes, section 176.361, of the date, time, and place of the  
5 conference at least 14 days before the conference date under  
6 Minnesota Statutes, section 176.106, and at least ten days  
7 before the conference under Minnesota Statutes, section  
8 176.239. The qualified rehabilitation consultant, if one is  
9 assigned, must be notified of a rehabilitation conference. The  
10 special compensation fund must be notified of all administrative  
11 conferences where the fund is reimbursing benefits to an insurer  
12 or self-insurer under Minnesota Statutes 1990, section 176.131,  
13 or Minnesota Statutes 1994, section 176.132, or a claim has been  
14 made under the above referenced statutes against the fund for  
15 benefits by any of the parties, or the fund is paying benefits  
16 under Minnesota Statutes, section 176.191. The notice must  
17 include the statutory authority to hold the conference and  
18 indicate whether issues from another petition or request form  
19 have been joined for consideration at the conference. ~~Telephone~~  
20 ~~notice-of-the-conference-at-least-three-working-days-before-the~~  
21 ~~conference-date-is-sufficient-for-a-discontinuance-or-other~~  
22 ~~expedited-conference-if-timely-service-of-notice-by-mail-cannot~~  
23 ~~be-made.~~

24 Subp. 3. **Appearances.** All parties, and the qualified  
25 rehabilitation consultant if the conference is conducted under  
26 Minnesota Statutes, section 176.106, concerning rehabilitation  
27 services, must be given notice and the opportunity to attend

1 administrative conferences or, at their option, to present  
2 documents on their behalf. A potential intervenor may attend  
3 the conference. Intervenors are required to appear as provided  
4 in part 1415.1250, subpart 2, and Minnesota Statutes, section  
5 176.361, subdivision 4. A party may be represented by an  
6 attorney. The employee and insurer, or designated person having  
7 authority to act on behalf of the party regarding the matter in  
8 dispute, is required to attend an administrative conference  
9 under Minnesota Statutes, section 176.239, unless health  
10 reasons, distances, or other good cause prevents attendance. If  
11 absent because of distance, the employee and insurer or  
12 authorized designee of the employee and insurer must be  
13 available by telephone at the scheduled conference time.

14       **Subp. 4. Information considered.** The presiding official  
15 shall permit the parties to present their positions and reports  
16 or other documents or information relevant to the issues  
17 involved. Reasonable opportunity for parties to refute  
18 statements or other information submitted must be allowed.  
19 Copies of documents submitted must be simultaneously supplied to  
20 the other parties.

21       **Subp. 5. Concurrent litigation.** When the same or a nearly  
22 identical issue in the same case is pending with the office, the  
23 Workers' Compensation Court of Appeals, or another court, the  
24 division must decline to issue a decision and defer to the  
25 office or court if issuing a decision will result in an  
26 inconsistent determination.

27       **Subp. 6. Continuance.** Continuances are disfavored and

1 will be granted only upon a showing of good cause for the  
2 inability or failure to appear at a conference. Good cause  
3 generally means that circumstances beyond the control of the  
4 party or party's representative prevent attendance at the  
5 scheduled time.

6 Subp. 7. **Intervenors.** If, at the time of the conference,  
7 the division or office determines that a potential intervenor  
8 has not been notified of the conference, the conference must be  
9 canceled or continued, the parties may enter into an agreement  
10 which does not compromise the rights of the potential  
11 intervenor, or the division or office must issue a decision  
12 which does not compromise the rights of the potential intervenor.

13 Subp. 8. **Testimony cost.** The division shall not order  
14 reimbursement of costs for testimony at an administrative  
15 conference.

16 Subp. 9. **Administrative conference documents.**

17 A. Documents submitted to the office during an  
18 administrative conference are not maintained in the permanent  
19 division file. A party desiring to file an administrative  
20 conference document in the permanent division file must file the  
21 document with the division.

22 B. A party submitting a document to be considered at  
23 a conference scheduled to be conducted at the office by video  
24 technology must prefile the document with the office at the  
25 location of the judge at least one full business day before the  
26 conference date. Mailed or delivered documents to be considered  
27 at the video conference must be placed in a separate, sealed

1 envelope and marked with the name and date of the case and the  
2 employee's file number, and must be identified as conference  
3 documents of the submitting party. Faxed documents may not  
4 exceed 15 pages and must be clearly marked as video conference  
5 documents for immediate hand delivery to the judge; must include  
6 the name and file number of the employee and the date of the  
7 conference; and must identify the submitting party. An adverse  
8 party must also receive the documents for a video conference at  
9 least one full business day before the conference date.

10       Subp. 10. **Resolution forum.** Administrative conferences  
11 concerning rehabilitation issues are conducted by the division  
12 unless the division refers the matter to the office.  
13 Administrative conferences concerning the discontinuance of  
14 benefits under Minnesota Statutes, section 176.239, are  
15 conducted by the office. Administrative conferences concerning  
16 medical disputes are conducted by the division under this part  
17 and part 1415.3800 unless the division refers the matter to the  
18 office. Administrative conferences concerning medical disputes  
19 referred by the division to the office are conducted informally  
20 by the office under this part and part 1415.3800, or more  
21 formally in a hearing pursuant to part 1420.2900. Except where  
22 the insurer is disputing that the injury arose out of and in the  
23 course of employment, a claim petition containing only medical  
24 or rehabilitation issues shall be resolved by the division  
25 unless the division refers the matter to the office.

26 1415.3800 MEDICAL DISPUTES.

27       Subpart 1. **Definition.** For purposes of this part,



1 "medical disputes" means any dispute arising under Minnesota  
2 Statutes, sections 176.135, 176.1351, and 176.136, as determined  
3 by the division or office under Minnesota Statutes, sections  
4 176.103 and 176.106.

5 Subp. 2. **Medical claim, request.** To request an  
6 administrative conference under Minnesota Statutes, section  
7 176.106, on a medical dispute, an employee or, insurer may  
8 initiate-a-medical-claim-by-filing, or health care provider as  
9 defined by Minnesota Statutes, section 176.011, subdivision 24,  
10 must file a medical request form with the division. A medical  
11 request form may be filed by a health care provider ~~as-defined~~  
12 ~~by-Minnesota-Statutes, section-176.011, subdivision-24,~~ only  
13 where the insurer has denied payment on the basis that a charge  
14 is excessive under Minnesota Statutes, section 176.136,  
15 subdivision 2. For purposes of filing by a health care  
16 provider, a claim is not considered denied based on  
17 excessiveness where the insurer asserts that the injury did not  
18 arise out of and in the course of employment or where the  
19 disputed treatment is for a condition which the insurer asserts  
20 is not wholly or partly casually related to the work injury.  
21 The requesting party shall serve the medical request form and  
22 attachments pursuant to part 1415.0700 and shall serve potential  
23 intervenors. The requesting party shall specify the medical  
24 disputes and attach supporting documents. A health care  
25 provider filing a medical request form must attach evidence of  
26 the insurer's denial of payment based on excessiveness, an  
27 itemized statement of charges, and the appropriate record as

1 defined in part 5221.0100, subpart 1a. The requesting party  
2 must also specify the name and address of any potential  
3 intervenor, and the claim or policy number, if known.

4 Subp. 3. **Medical claims response.** If the employee or  
5 health care provider has filed a medical request form, the  
6 insurer must file a medical response form with the division and  
7 serve copies on the other parties no later than 20 days after  
8 service of the medical request form or within the time period  
9 provided by part 5221.6050, subpart 7. Failure to file a  
10 required form will be considered in the determination of  
11 disputed issues, penalties, and interest charges, and may result  
12 in a determination based solely on the written submissions of  
13 the requester when an administrative conference is not scheduled.

14 Subp. 4. **Medical claim; denial of liability.** If a medical  
15 request form has been mistakenly filed in a case in which  
16 initial issues of liability exist, the matter may be set for a  
17 settlement conference before a judge under Minnesota Statutes,  
18 section 176.305, or the requester will be instructed to file a  
19 claim petition, intervene in another proceeding, or other  
20 procedure as the division or office directs.

21 Subp. 5. **Penalties.** Where payment of medical charges is  
22 not made in compliance with part 5221.0600 and Minnesota  
23 Statutes, section 176.135, a penalty may be assessed under part  
24 5220.2740.

25 1415.3900 DISCONTINUANCE CONFERENCES.

26 Subpart 1. **Purpose.** The purpose of an administrative  
27 conference under Minnesota Statutes, section 176.239, is to

1 determine whether reasonable grounds exist for a discontinuance  
2 of weekly benefits. If the parties do not reach an agreement on  
3 the issues, they will be resolved by a decision of the judge.  
4 When the division has referred a medical or rehabilitation issue  
5 to the office under part 1415.3700, subpart 10, the medical or  
6 rehabilitation issue may also be discussed and clarified at the  
7 conference, and a decision issued under Minnesota Statutes,  
8 section 176.102 or 176.106, if:

9           A. all affected parties consent; or

10           B. a notice that the issues will be joined is issued  
11 under part 1415.3700, subpart 2.

12           Subp. 2. **Request.** The employee may request that the  
13 office schedule an administrative conference to discuss a  
14 proposed discontinuance of benefits. If the proposed  
15 discontinuance is based on a reason other than a return to work,  
16 the employee's request for a conference must be personally  
17 delivered or received by the division or office no later than 12  
18 ~~calendar~~ days from the date a notice of intention to discontinue  
19 benefits, which was served on the employee and the employee's  
20 attorney, was filed. The employee shall direct a written  
21 request for a discontinuance conference to the division or a  
22 telephone request to the office. If the proposed discontinuance  
23 is based on a return to work, the employee's request must be  
24 received by the division or office within 30 days of the  
25 reported date of the employee's return to work. Allowance will  
26 be made, if appropriate, for nonreceipt or delay under Minnesota  
27 Statutes, section 176.285.

1           If the insurer discontinues, reduces, or suspends benefits  
2 without properly serving and filing a notice of intention to  
3 discontinue benefits and with the required attachments in a  
4 situation in which a notice of intention to discontinue benefits  
5 was required under part 5220.2630 and Minnesota Statutes,  
6 section 176.238, the employee may request an administrative  
7 conference within 40 days after the employee received the last  
8 payment but no later than 12 days after a notice of intention to  
9 discontinue benefits is properly served and filed, or 30 days  
10 after the employee returned to work if the notice is properly  
11 served and filed within 14 days after the insurer has notice of  
12 the employee's return to work.

13           **Subp. 3. Continuation of benefits.**

14           A. If an employee requests an administrative  
15 conference within the time set out in this part, benefits must  
16 be paid through the date of the conference unless:

17                   (1) the employee has withdrawn the request for a  
18 conference;

19                   (2) the employee fails to appear at the  
20 conference without good cause;

21                   (3) the employee has returned to work in which  
22 case benefits are due through the date of the employee's return  
23 to work;

24                   (4) the employee is receiving temporary partial  
25 benefits and the employee is no longer employed;

26                   (5) the employee dies;

27                   (6) no plausible information is presented by the

1 employee to dispute the proposed discontinuance of the benefits;

2 (7) notice of maximum medical improvement was  
3 served more than 90 days before the administrative conference;

4 (8) an approved retraining plan ended more than  
5 90 days before the administrative conference;

6 (9) the employee has failed to make a good faith  
7 effort to participate in the rehabilitation plan before the  
8 administrative conference, but is making a good faith effort at  
9 the time of the conference, in which case benefits may be  
10 discontinued between the date the notice of intention to  
11 discontinue benefits was served and filed and the administrative  
12 conference date;

13 (10) the workers' compensation claim was  
14 mistakenly accepted by the insurer and primary liability for the  
15 entire injury is now denied;

16 (11) the employee has received temporary partial  
17 benefits for the maximum period allowed under Minnesota  
18 Statutes, section 176.101, subdivision 2;

19 (12) the effects of the injury have totally  
20 resolved without residual disability or restrictions; or

21 (13) the employee has voluntarily retired from  
22 the labor market.

23 B. If the employee requests a continuance of the  
24 conference date that is granted and the employee is awarded  
25 ongoing benefits, benefits must be paid through the date of the  
26 conference and continuing. If the employee's request for a  
27 continuance is granted and the employee is not awarded benefits,

1 benefits need not be paid during the period of continuance. If  
2 the employer or insurer requested the continuance, benefits must  
3 be paid during the period of continuance. If the employee and  
4 insurer's joint request for a continuance is granted, benefits  
5 must be paid during the period of continuance unless the  
6 employee agrees in writing to waive the interim payment and  
7 await a decision regarding payment under subpart 5 following the  
8 administrative conference.

9       Subp. 4. **Scheduling.** Subject to part 1415.3700, subpart  
10 6, a discontinuance conference must be set within the time  
11 limits set by this subpart. Following a notice of intention to  
12 discontinue benefits, the office shall schedule an  
13 administrative conference no later than ten ~~calendar~~ days after  
14 receipt of a timely request for a conference. If no notice of  
15 intention to discontinue benefits was filed as required by part  
16 5220.2630 and the employee requests a conference, the office  
17 shall schedule a conference no later than ten ~~calendar~~ days  
18 after the division's receipt of the employee's request if the  
19 conference request is received within 40 days from the date the  
20 employee's last benefit payment was received.

21       Subp. 5. **The decision.** The decision must be based on  
22 information presented at the conference and information from the  
23 division file relating to authority to decide the issue, and  
24 information contained in the notice of intention to discontinue  
25 benefits and any attachments. The office shall mail a copy of  
26 the decision to the parties no later than five working days from  
27 the date of the conference.

1 Subp. 6. Penalties. Penalties may be imposed for an  
2 improper discontinuance of compensation under part 5220.2720 and  
3 Minnesota Statutes, section 176.238, subdivision 10, and for  
4 unreasonable or inexcusable delay or other grounds under parts  
5 5220.2760 and 5220.2790 and Minnesota Statutes, section 176.225,  
6 subdivisions 1 and 5. If the employee seeks a penalty in a  
7 discontinuance proceeding, the employee must provide reasonable  
8 prior written notice of the claim for penalties.

9 1415.4000 SUBROGATION INTEREST IN THIRD-PARTY RECOVERY.

10 Subpart 1. Determination of subrogation interest by  
11 division. Where there is no dispute about the facts or the  
12 calculation of the subrogation interest, credit, or sum payable  
13 to the employee under Minnesota Statutes, section 176.061,  
14 subdivision 5, the insurer and employee may submit a petition  
15 based on stipulated facts under Minnesota Statutes, section  
16 176.322, to the Workers' Compensation Division for an order  
17 determining subrogation interest and credit.

18 A. The petition must contain substantially the  
19 following:

20 (1) information identifying both the district  
21 court action if any and the workers' compensation claim  
22 involved;

23 (2) the total proceeds of the third-party  
24 settlement or award;

25 (3) the amount of legal fees and costs of the  
26 third-party claim;

27 (4) the subrogation interest of the employer

1 itemized by type of benefits paid such as but not limited to:

- 2 (a) temporary total disability;  
3 (b) temporary partial disability;  
4 (c) permanent total disability;  
5 (d) permanent partial disability; and  
6 (e) medical expenses where Minnesota

7 Statutes, section 176.061, subdivision 7, claim was not made;

8 (5) the name, address, and telephone number of  
9 the attorney for each party if any; and

10 (6) the signatures of all parties indicating  
11 agreement with the information in subitems (1) to (5).

12 B. The parties may also, but are not required to,  
13 submit a proposed calculation of the subrogation interest,  
14 including the future credit amount and the sum payable to the  
15 employee.

16 C. The petitioners must file one clean copy of the  
17 petitions and attachments, suitable for imaging. The petition  
18 must be served on the special compensation fund where it has a  
19 subrogation interest based on payments made pursuant to  
20 Minnesota Statutes, section 176.183, or a known potential  
21 interest under Minnesota Statutes 1990, section 176.131, or  
22 Minnesota Statutes 1994, section 176.132.

23 D. The division may refer a petition based on  
24 stipulated facts submitted under this subpart to the office for  
25 further proceedings where the parties disagree how the  
26 subrogation interest, credit, or sum payable to the parties  
27 should be calculated.



1 E. Except as provided in item D, after receipt of the  
2 petition, the division shall serve on the petitioners, and  
3 special compensation fund if appropriate, an order containing  
4 the following:

5 (1) the information upon which the subrogation  
6 order is based;

7 (2) the calculation of the subrogation interest,  
8 including the future credit amount and the sum payable to the  
9 employee;

10 (3) an explanation of the effect of the credit  
11 upon future benefit entitlement; and

12 (4) notice of the parties' right to appeal the  
13 order within 30 days of its service pursuant to Minnesota  
14 Statutes, section 176.322.

15 Subp. 2. **Alternative petitions and orders.** Instead of  
16 petitioning the division for an order under subpart 1, parties  
17 may request an award from a judge by submitting a stipulated  
18 agreement under Minnesota Statutes, section 176.521, or by  
19 filing a petition under Minnesota Statutes, section 176.291, for  
20 a determination of subrogation interest and credit.

21 1415.4100 SEVERABILITY.

22 If any provision of this chapter is held to conflict with a  
23 governing statute, applicable provisions of the Minnesota  
24 Administrative Procedure Act, or other relevant law; to exceed  
25 the statutory authority conferred; to lack a reasonable  
26 relationship to statutory purposes or to be unconstitutional,  
27 arbitrary, or unreasonable; or to be invalid or unenforceable

1 for any other reason, the validity and enforceability of the  
2 remaining provisions of the rule shall in no manner be affected.

3 **REPEALER.** Minnesota Rules, parts 1415.0200; 1415.0300, subparts  
4 3, 4, 7, 10, 11, 14, and 17; 1415.0400; 1415.0800, subpart 3;  
5 1415.0900; 1415.1000, subpart 3; 1415.1200; 1415.1300;  
6 1415.1400; 1415.1500; 1415.1600; 1415.1700; 1415.1800;  
7 1415.1900; 1415.2000; 1415.2100; 1415.2200; 1415.2300;  
8 1415.2400; 1415.2500; 1415.2600; 1415.2700; 1415.2800;  
9 1415.2900; 1415.3000; 1415.3100; 1415.3200, subparts 4, 5, and  
10 6; 1415.3400; 1415.3500, subparts 2 and 3; 1415.3600; 5220.2605;  
11 5220.2610; 5220.2620; 5220.2640; 5220.2655; 5220.2690; and  
12 5220.2920, subparts 1, 2, 3, 4, 5, 7, and 8, are repealed.