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ADMINISTRATIVE
HEARINGS

1 **Office of Administrative Hearings**

2 **Adopted Permanent Rules Relating to Workers' Compensation Litigation Procedures**
3 **in the Office of Administrative Hearings**

4 **1420.0100 SCOPE AND PURPOSE.**

5 This chapter governs workers' compensation matters in litigation before the Office of
6 Administrative Hearings. Except for parts 1420.0300 and 1420.3700, this chapter applies
7 to litigation initiated by the filing of a petition and does not apply to administrative
8 conferences. This chapter does not apply to matters pending at the Department of Labor
9 and Industry. Chapter 1415 contains joint rules with the Department of Labor and
10 Industry concerning workers' compensation litigation procedures. The two chapters
11 together contain the litigation rules in workers' compensation cases. Rules regarding
12 appeals to the Workers' Compensation Court of Appeals are contained in chapter 9800.

13 **1420.0200 DEFINITIONS.**

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

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

18 Subp. 3. **Chief judge.** "Chief judge" means the chief administrative law judge of the
19 Office of Administrative Hearings.

20 Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department
21 of Labor and Industry.

22 Subp. 5. **Court of appeals.** "Court of appeals" means the Workers' Compensation
23 Court of Appeals.

24 Subp. 6. **Days.** "Days" means calendar days unless specifically provided otherwise.

25 Subp. 7. **Division.** "Division" means the Workers' Compensation Division of the
26 Department of Labor and Industry.

1 Subp. 8. **Expedited hearing.** "Expedited hearing" means a hearing that is required to
2 be heard within a shorter time period than an ordinary hearing under the act.

3 Subp. 9. **Insurer.** "Insurer" means the workers' compensation insurer for the
4 employer and includes self-insured employers. For the purposes of this chapter only,
5 "insurer" also includes the special compensation fund where the employer was
6 uninsured on the date of injury.

7 Subp. 10. **Intervenor.** "Intervenor" means a party under Minnesota Statutes, section
8 176.361, who has an interest in a pending workers' compensation proceeding such that
9 the person or entity may either gain or lose by an order or decision in the case, and the
10 person or entity has filed a motion to intervene under part 1415.1250 and Minnesota
11 Statutes, section 176.361.

12 Subp. 11. **Judge.** "Judge" means a compensation judge from the Office of
13 Administrative Hearings.

14 Subp. 12. **Office.** "Office" means the Office of Administrative Hearings.

15 Subp. 13. **Petition.** "Petition" means a claim filed by or on behalf of an injured or
16 deceased employee, employer, insurer, or special compensation fund which initiates a
17 contested workers' compensation case requiring resolution by the Office of
18 Administrative Hearings.

19 Subp. 14. **Petitioner.** "Petitioner" means the injured employee, an heir or dependent
20 of a deceased employee or a party filing on their behalf, an employer or insurer, or the
21 special compensation fund.

22 Subp. 15. **Potential Intervenor.** "Potential intervenor" means a person or an entity
23 under Minnesota Statutes, section 176.361, who has an interest in a workers'
24 compensation proceeding such that the person or entity may either gain or lose by an
25 order or decision in the case, and the person or entity has not filed a motion to intervene
26 under part 1415.1250 or Minnesota Statutes, section 176.361.

1 **1420.0300 PROFESSIONALISM AND CIVILITY.**

2 In matters pending at the office, lawyers and judges are expected to conduct
3 themselves with professionalism and civility. Personal courtesy and professional
4 integrity must be the standard for all interactions. The Minnesota Rules of Professional
5 Conduct and the professionalism aspirations endorsed by the Minnesota State Supreme
6 Court have also been endorsed by the office to ensure that all proceedings are
7 conducted in a civil manner.

8 **1420.1300 JOINDER OF PARTIES.**

9 Subpart 1. **Motion or amended petition.** Upon a motion of a party or upon a judge's
10 own motion, a judge may order the joinder of additional parties necessary for the full
11 adjudication of the case. The petitioner may also join an additional party by filing an
12 amended petition or motion according to part 1415.1000, subpart 4.

13 Subp. 2. **Service.** A party requesting joinder of additional parties shall serve a copy of
14 the motion on all existing parties and the party to be joined. The moving party or
15 petitioner joining a party by amended petition must also serve the party to be joined
16 with copies of all pleadings and notice of the date, time, and place set for a settlement or
17 pretrial conference or the hearing, if scheduled. Pleadings and attachments already filed
18 in the division file shall not be refiled. When a judge joins parties on the judge's own
19 motion, the office shall either serve the pleadings on the newly joined parties or
20 designate a party to do so.

21 **1420.1800 SETTLEMENT CONFERENCES.**

22 Subpart 1. **Purpose.** A settlement conference is for the primary purpose of assisting
23 the parties in resolving the disputes and for the secondary purpose of narrowing the
24 issues and preparing for hearing.

25 Subp. 2. **Attendance.** All parties, including intervenors unless otherwise excused,
26 shall attend personally or by representative any settlement conference conducted by a

1 judge. A representative of a party shall be prepared to engage in meaningful settlement
2 negotiations and shall have authority to reach a full settlement on the issues in dispute
3 or have immediate access by telephone to a person having authority to reach a full
4 settlement.

5 Subp. 3. **Preconference demand and offer.** The petitioner shall provide a claims
6 summary and settlement demand to the opposing parties one week in advance of a
7 settlement conference. The respondent shall ~~provide~~ respond to the opposing parties
8 with an offer of settlement or response at least one working day before the settlement
9 conference.

10 **1420.1850 RESOLUTION OF CLAIMS WITH INTERVENORS; HEARINGS.**

11 Subpart 1. **Stipulations without agreement of all intervenors or potential**
12 **intervenors.** A stipulation for settlement that does not include the agreement of all
13 intervenors or that seeks to preclude rights of potential intervenors must meet the
14 requirements of this subpart.

15 A. Where a potential intervenor has been excluded from the settlement for failure
16 to timely file a petition to intervene, a statement to that effect must be made in the
17 stipulation for settlement and the stipulation must be accompanied by a copy of the
18 notice given to the potential intervenor under part 1415.1100 and an affidavit of service.
19 If the judge finds a potential intervenor had proper notice or actual notice of the right to
20 intervene within a reasonable period of time before a case was finally concluded but
21 failed to act, the judge may order extinguishment of the potential intervenor's interest
22 under Minnesota Statutes, section 176.361.

23 B. Where other parties have reached an agreement to settle a claim but have been
24 unable to reach agreement with an intervenor, the requirements of subitem (1) or (2)
25 must be met.

26 (1) If the stipulation is signed by the intervenor, the stipulation must include a

1 statement that the parties negotiated with the intervenor in good faith but the
2 intervenor chooses not to enter into an agreement and reserves the right to petition for
3 hearing on the merits under subpart 3. By signing the stipulation in this manner, the
4 intervenor is waiving the right to a Parker/Lindberg hearing under subpart 2, but not
5 waiving the right to a hearing on the merits under subpart 3.

6 (2) If the stipulation, or a letter of agreement attached to the stipulation, is not
7 signed by the intervenor, the stipulation must include a statement that the parties were
8 unable to obtain a response from the intervenor despite good faith efforts, or were
9 unable to reach agreement with the intervenor despite the belief that the parties
10 negotiated with the intervenor in good faith and made a reasonable offer to settle the
11 intervention claim. At the time the stipulation is filed for approval, a copy of the
12 stipulation must be served on the intervenor. An affidavit of service of the stipulation
13 must accompany the stipulation when it is filed for approval.

14 **Subp. 2. Initial hearing on partial settlement.**

15 A. Where the principal parties have reached an agreement to settle a pending
16 matter but are unable to reach agreement with one or more intervenors as provided in
17 subpart 1, item B, subitem (2), the office shall schedule the matter for an expedited
18 hearing to be held within 60 days of the filing of the stipulation for settlement.

19 B. The purpose of the initial hearing is to determine whether the stipulation for
20 settlement of the other parties precludes the nonparticipating party from pursuing its
21 claim.

22 C. If the judge finds that the stipulation for settlement does not preclude the
23 intervenor from pursuing its claim and the stipulation for settlement is otherwise in
24 accordance with the law, the stipulation will be approved. An intervenor claim of
25 exclusion from the settlement negotiations or entitlement on the merits of the claim will
26 be scheduled for hearing at a later date as provided in subpart 3. ~~If the judge finds a~~

1 ~~potential intervenor had proper notice or actual notice within a reasonable period of~~
2 ~~time before a case was finally concluded but failed to act, and the employee's claim does~~
3 ~~not include the potential intervenor's claim, the judge may order extinguishment of the~~
4 ~~potential intervenor's claim.~~

5 **Subp. 3. Intervenor hearing on the merits.**

6 A. If the parties have not fully resolved the intervenor claim following the
7 procedures in subparts 1 and 2 and there is no action pending at the office, a party must
8 file a written petition under Minnesota Statutes, section 176.291, for a hearing on the
9 merits of the intervening party's claim. The petition must be filed within 30 days after
10 an award on stipulation is served and filed. If a petition is pending at the time an award
11 on stipulation is served and filed under subpart 2, the office shall schedule the
12 intervenor claims for a hearing on the merits for at least one-half day.

13 B. The intervenor may present evidence that the intervenor was effectively
14 excluded from meaningful settlement negotiations through lack of an offer of
15 settlement, lack of notice of the right to intervene, or an unreasonable or bad faith offer
16 of settlement. If the judge finds that the intervenor was effectively excluded from the
17 proceeding or negotiations, full reimbursement to the intervenor will be ordered. If the
18 judge does not find that the intervenor was excluded from the proceeding or
19 negotiations, the intervenor must present evidence regarding the compensability of the
20 employee's claim from which the intervenor's claim is derived as well as evidence of the
21 intervenor's claim. The intervenor has the burden of proving the claims.

22 **Subp. 4. Potential intervenor claims after final order.** If a potential intervenor claims
23 the potential intervenor was not served with a notice of the right to intervene and a
24 settlement or decision is now final, the potential intervenor may request a hearing on
25 the issue of whether the parties failed to provide proper notice under part 1415.1100.
26 The potential intervenor must, within 30 days of knowledge of the exclusion, file a
27 motion under part 1420.2250 for a hearing under subpart 3.

1 **1420.1900 PRETRIAL PROCEDURES.**

2 Subpart 1. **Conference.** All cases are subject to a pretrial conference with a judge. All
3 parties shall attend or be represented unless a judge orders otherwise.

4 Subp. 2. **Location, notice of conference.** A pretrial conference must be conducted by
5 telephone if the set location would require a party to travel more than 50 miles to
6 attend, unless the party prefers to be physically present. If a telephone conference is
7 scheduled, the parties not in attendance must be available by telephone at the time of
8 the conference. Written notice of the pretrial conference must be given at least 20 days
9 before the conference.

10 Subp. 3. **Pretrial statements; conference procedures.** At the pretrial conference, the
11 parties shall be prepared to state the claims and defenses with specificity; identify
12 witnesses; identify anticipated exhibits; disclose any photographs, videotapes, or other
13 documentary evidence intended to be used at the hearing; and identify any additional
14 potential intervenors. A pretrial statement must be served and filed prior to a pretrial
15 conference or delivered to the parties and the office at the pretrial conference. In cases
16 not expedited under part 1420.2150 and not scheduled for a pretrial, the pretrial
17 statement must be filed 30 days before the hearing. Pretrial statements may be amended
18 up to seven days before the hearing in response to an opposing party's statement. The
19 pretrial statement must include answers to the questions asked in the pretrial order or, if
20 no pretrial order was issued, to the questions in the standard pretrial order maintained
21 by the office, including whether or not security or an interpreter is needed. Pretrial
22 statements are not required in expedited cases unless specifically ordered by a judge.

23 **1420.2050 SETTLEMENT AGREEMENTS.**

24 Subpart 1. **Contents.** Stipulations for settlement must contain, if applicable, a brief
25 statement of the admitted material facts, a statement of the matters in dispute, the
26 positions of the parties and supporting documentation, the matters agreed upon, and

1 where the agreement is not conclusively presumed reasonable under Minnesota
 2 Statutes, section 176.521, sufficiently specific information for the judge to determine
 3 whether or not the settlement is fair, reasonable, and in conformity with the act. The
 4 party submitting the stipulation for settlement for approval must also provide a
 5 proposed award on stipulation prepared for signature by a judge.

6 Subp. 2. **Filing.** A stipulation for settlement must be filed within 45 days of the date
 7 the parties reached an agreement. If the stipulation is not timely filed, and good cause
 8 for the delay is not shown after notice to the parties, the judge ~~may~~ shall reinstate the
 9 matter on the active trial calendar, strike or dismiss the matter, or schedule the matter
 10 for another proceeding. The office ~~may schedule a settlement conference upon request~~
 11 to shall assist the parties in finalizing and filing a stipulation for settlement.

12 **1420.2150 EXPEDITED PROCEEDINGS.**

13 Subpart 1. **Expedited hearings.** A hearing will be held on an expedited basis only
 14 where all required statutory conditions have been met. If the statutory requirements are
 15 not met, the matter will be placed on the regular hearing calendar. A hearing will also
 16 be held on an expedited basis concerning a request for prior approval of surgery or
 17 other treatment if the surgery or treatment is urgently needed and if the surgery or
 18 treatment has not already been provided at the time of hearing.

19 Subp. 2. **Issues limited.**

20 A. The hearing on an objection to discontinuance is limited to the issues raised in
 21 the notice of intention to discontinue benefits.

22 B. The hearing on a petition to discontinue benefits is limited to the issues raised in
 23 the petition to discontinue benefits.

24 C. The hearing on a request for formal hearing is limited to the issues raised on the
 25 medical or rehabilitation request or response.

26 D. The hearing on a claim granted hardship status is limited to the issues raised on
 27 the original claim.

1 E. The hearing on a failure to answer under Minnesota Statutes, section 176.331, is
2 limited to the issues raised in the original petition.

3 F. The hearing on a request for approval of urgent medical treatment is limited to
4 the treatment approval issues.

5 Subp. 3. **Expansion of issues.** Expansion of the issues in an expedited proceeding will
6 only be allowed upon agreement of the parties and the office, except that an expedited
7 proceeding may be consolidated with another expedited proceeding.

8 (1) If the parties agree to expansion of the issues, the judge has 60 days rather
9 than 30 days to issue a decision.

10 (2) If the expansion of the issues will require substantially more discovery and
11 preparation time by any party, the expansion will not be allowed unless all parties agree
12 that the case may be removed from expedited status.

13 Subp. 4. **Incomplete pleadings.** If the office notifies a party that a pleading is
14 incomplete, the incomplete pleading must be corrected within ten days of notification in
15 order to maintain expedited status.

16 Subp. 5. **Intervention.** Once an expedited process is initiated or granted, the parties
17 must, within ten days, notify any remaining potential intervenors that the proceeding is
18 expedited and that a motion to intervene must be filed within 30 days from service of
19 the intervention notice rather than the 60 days allowed under part 1415.1250.

20 Subp. 6. **Discovery.** In expedited proceedings, reasonable discovery is allowed
21 provided it is conducted as expeditiously as possible and is completed before the date of
22 hearing. A judge may require the parties to comply with curtailed time limits in order to
23 ensure a timely hearing.

24 **1420.2200 DISCOVERY.**

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

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

5 B. nonprivileged written or recorded statements made by a party or by witnesses
6 on behalf of a party. The demanding party must be permitted to inspect and reproduce
7 such statements at the demanding party's expense. A party unreasonably failing upon
8 demand to make the disclosure required by this part, upon proper motion made to the
9 judge at the hearing, may be foreclosed from presenting evidence at the hearing through
10 witnesses not disclosed or through witnesses whose statements are not disclosed;

11 C. the petitioner shall disclose the names and addresses of all persons who have
12 treated the employee in the past for injuries or conditions identical or related to those
13 alleged in the petition, the dates of the treatment, and provide medical authorization for
14 each. Medical privilege is waived as to the injuries or conditions alleged in the petition
15 by the filing of the petition alleging injury or occupational disease;

16 D. wage and personnel records;

17 E. if temporary partial disability benefits are claimed, the employee must provide a
18 list of postinjury employers and authorizations for the release of wage information for
19 each or a complete set of wage records regarding the employee's claim; and

20 F. for the purpose of the pending hearing only, a party shall provide a response to
21 a party's request for admissions relevant to the matters in dispute, including, but not
22 limited to, the genuineness of any documents, whether the party is the person depicted
23 in surveillance, and whether or not surveillance accurately depicts the subject's activities
24 during the time covered by the surveillance. If a party fails to provide a response to a
25 request for admissions, the requesting party may file a motion to compel compliance
26 with discovery under part 1420.2250 or a motion to establish an admission or preclude
27 evidence under subpart 5.

1 Subp. 2. **Depositions.** Under Minnesota Statutes, section 176.411, subdivision 2,
2 depositions may be taken in the manner the law provides for depositions in civil actions
3 in the district courts for the state, except where a judge orders otherwise. Upon request
4 by an adverse party, a party must produce named witnesses for discovery deposition,
5 except as otherwise provided by this part or Minnesota Statutes, section 176.155,
6 subdivision 5.

7 A. When a party has objected to the taking of a deposition, the party requesting the
8 deposition shall bring a motion before the judge who will determine whether the
9 deposition should proceed. The motion must state, with specificity, the facts or other
10 reasons supporting the need for the deposition. The judge shall order the deposition to
11 proceed if the judge finds that:

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

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

14 (3) unusual or extraordinary circumstances exist which compel extensive
15 discovery; or

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

18 B. Depositions to preserve testimony or to present testimony due to the
19 unavailability of the witness are allowed. The deposition must be taken sufficiently in
20 advance of the hearing so that the deposition may be offered as an exhibit at the
21 hearing, unless, for good cause shown, the party taking the deposition has the
22 permission of the judge to take or file the deposition subsequent to the hearing.

23 C. Under Minnesota Statutes, section 176.155, subdivision 5, the cross-examination
24 of a physician or health care provider before a hearing is specifically allowed. When a
25 deposition for the purpose of cross-examination of a physician or health care provider is
26 taken under this item, redirect examination is allowed. Unless ordered otherwise by a
27 judge, the cross-examination deposition must be completed before the hearing.

1 D. Depositions taken for purposes of presenting testimony may be offered as an
2 exhibit at the hearing but need not be filed with the division before the hearing.

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

6 Subp. 3. **Motions for disputed or additional discovery.** Upon the motion of a party,
7 the judge may order discovery of other relevant material or information and resolve
8 disputes about the extent of discovery, recognizing all privileges recognized by law. The
9 judge may order discovery available under the Rules of Civil Procedure for the district
10 courts of Minnesota provided that the discovery:

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

12 B. is not for purposes of delay; and

13 C. the issues or amounts in controversy are significant enough to warrant
14 extensive discovery.

15 Subp. 4. **Motion for direct testimony by physician or health care provider.** A motion
16 for full testimony of a physician or health care provider must comply with part
17 1420.2900, subpart 3.

18 Subp. 5. **Penalties.** Upon the failure of a party to reasonably comply with discovery
19 or a judge's order under this part, the following orders of the judge are allowed upon a
20 party's motion:

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

23 B. an order prohibiting the party failing to comply to support or oppose
24 designated claims or defenses, or prohibiting that party from introducing designated
25 matters in evidence.

26 Subp. 6. **Protective orders.** When a party is asked to reveal material which that party
1420.2200

1 considers proprietary or privileged information, trade secrets, or sensitive medical data,
2 the party may bring the matter to the attention of the judge, who ~~may~~ shall issue a
3 protective order as is reasonable and necessary or as otherwise provided by law.

4 Subp. 7. **Employer's expert medical examinations.** If an employee claims that the
5 employee's ability to earn has been substantially reduced because of the injury in
6 combination with other factors, the employee must submit to a physical and verbal
7 examination by the employer's or insurer's expert under Minnesota Statutes, section
8 176.155, subdivision 1, if requested by the employer or insurer. Expert reports must be
9 provided, upon demand, to adverse parties. A party who objects to the scope of the
10 requested examination may bring a motion for protection. The motion must be served
11 as provided in part 1420.2250. The judge may issue an order allowed by Rule 26.03 of
12 the Rules of Civil Procedure for the district courts. An insurer seeking to require
13 attendance for the requested examination may file a motion to compel attendance under
14 part 1420.2250.

15 Subp. 8. **Disclosure of surveillance evidence.**

16 A. A party possessing relevant surveillance evidence must disclose the existence of
17 said evidence to opposing parties upon discovery demand but no later than 30 days
18 prior to the hearing date, or within five business days of the date it is obtained if the
19 evidence is obtained within 30 days of the hearing date. The surveillance evidence must
20 be disclosed at least five business days before a hearing. If a party offers undisclosed
21 surveillance, it is only admissible where the proponent makes an offer of proof to the
22 judge and establishes that admission of the undisclosed surveillance is vital to prevent a
23 miscarriage of justice or fraud.

24 Surveillance evidence under this part includes any photographic, video, digital,
25 motion picture, or other electronic recording or depiction of a party surreptitiously
26 taken or obtained without the party's expressed permission or knowledge. If the items

1 described in this subpart were not surreptitiously obtained, they are not considered
2 surveillance evidence. Surveillance evidence does not include the personal observations
3 of an investigator or witness or party whether surreptitiously obtained or not, or the
4 handwritten or recorded notes of observations. Surveillance evidence includes
5 surveillance reports.

6 B. At the time of disclosure of the existence of surveillance evidence under this
7 subpart, the party disclosing evidence shall provide a copy of the evidence to the
8 attorney representing the subject of the surveillance, or where the subject is
9 unrepresented, to the subject, and shall advise the other parties of the existence of
10 surveillance. A copy of the surveillance shall be presumed to have been disclosed when
11 sent by first class mail upon posting or delivered by messenger. In the case of
12 surveillance evidence disclosed within ten days of the hearing date, disclosure shall be
13 by messenger under this rule and not by first class mail. Where an edited version of
14 surveillance is disclosed, the subject of the surveillance may request the right to view or
15 inspect the unedited version or to be provided with a copy of the unedited version at
16 the insurer's expense.

17 **1420.2250 MOTION PRACTICE.**

18 Subpart 1. **Timing.** Unless otherwise provided or due to circumstances occurring just
19 prior to or after a pretrial conference, a motion must be served and filed on or before the
20 date set for a pretrial conference. An adverse party has ten days from the date the
21 motion was served to serve and file a response.

22 Subp. 2. **Contents of motion and response to motion.** A motion must be filed as a
23 separate document and may not be included within another pleading. A motion and a
24 response to a motion must contain the following information:

25 A. the complete case caption and descriptive title in the case caption;

26 B. a statement of the specific relief sought;

1 C. a statement of the grounds supporting or opposing the motion including
2 citations to applicable law and, if oral argument is requested in the motion, the reasons
3 it is needed;

4 D. if the motion is untimely, a showing of good cause for the delay; and

5 E. one copy of an order granting or denying the motion ready for signature by the
6 judge.

7 Motions and responses must also, as appropriate, include affidavits, memoranda,
8 briefs, or other support setting forth the legal or factual grounds for the motion. If
9 supporting documentation was previously filed, those documents may be incorporated
10 by reference.

11 Subp. 3. **Judge action on motion.** The office shall assign a motion to a judge when
12 action by a judge is needed. The judge shall take action on the motion within 30 days of
13 the filing of the motion by issuing an order, advising the parties of how the motion will
14 be resolved, or scheduling a conference or hearing to resolve the motion.

15 **1420.2350 TEMPORARY ORDERS.**

16 Subpart 1. **Petition.** The person or entity seeking to pay or receive payment under a
17 temporary order must file a petition. The petition for temporary order must contain:

18 A. an explanation of the nature of the dispute and an assertion that the claimed
19 benefits are payable under the act by at least one of the employers or insurers;

20 B. the names and addresses of all employers and insurers who are parties to the
21 claim or who may be liable for the benefits claimed;

22 C. the date of each alleged injury and the name of the employer and insurer on
23 each date;

24 D. the beginning date of the employee's present disability, the compensation rate
25 for each injury, the proposed compensation rate to be paid, and an itemization of all
26 benefits to be paid under the order;

1 E. copies of medical reports supporting the claimed period of disability and other
2 claimed benefits;

3 F. a statement identifying any intervenors or potential intervenors with proof the
4 intervenor was served with notice under part 1415.1100; and

5 G. a statement indicating whether the employee is represented by counsel, the
6 name and address of the attorney, and whether attorney fees should be withheld or paid
7 from payments made under the order.

8 Subp. 2. **Necessary parties.** For the purpose of this part, the following are necessary
9 parties:

10 A. the employee, dependent, or heir of a deceased employee;

11 B. insurers or self-insurers named in the petition for temporary order;

12 C. an employer who is uninsured or whose insurer for the date of the alleged
13 injury in that employment is unknown;

14 D. the special compensation fund if the employer, after reasonable inquiry,
15 appears to be uninsured; and

16 E. intervenors.

17 Subp. 3. **Proposed order.** The petition for temporary order must be accompanied by
18 an order ready for a judge's signature.

19 Subp. 4. **Objections.** A responding party has ten days after service of the petition in
20 which to serve and file an objection. The objection must clearly state the basis of the
21 objection and include supporting documentation.

22 1420.2400 PETITIONS FOR CONTRIBUTION OR REIMBURSEMENT.

23 Subpart 1. **Contents.** Petitions for contribution or reimbursement in cases pending
24 before the office must describe in detail the basis of a claim for contribution or
25 reimbursement against the additional employer, insurer, or the special compensation

1 fund. The petition must be supported by medical evidence and signed by the petitioner.
2 If a claim petition is currently pending, and the party from whom contribution or
3 reimbursement is sought is not a party, the petition for contribution or reimbursement
4 must be accompanied by either a petition for joinder of the party from whom
5 reimbursement or contribution is sought, or a petition for consolidation under part
6 1420.2500. The two actions may be combined on a joint petition.

7 Subp. 2. **Filing.** A petition for contribution or reimbursement must be filed no later
8 than ten days before a pretrial conference or 60 days before hearing if a pretrial
9 conference is not held. Copies of all pleadings, including a notice of pretrial conference,
10 must be served upon the additional employers or insurers by the party bringing the
11 petition.

12 Subp. 3. **Answer.** Within 20 days after being served with a copy of a petition for
13 contribution or reimbursement, employers or their insurers, other than the petitioning
14 party, shall file an answer to the petition under Minnesota Statutes, section 176.321.

15 1420.2500 CONSOLIDATION.

16 Subpart 1. **Authorization.** Except as provided in part 1420.2150, consolidation of two
17 or more related cases involving the same employee may be ordered for the purpose of
18 hearing. Consolidation may be ordered upon motion by a party to the judge, or upon
19 the judge's own motion, if the judge determines that:

- 20 A. separate cases present substantially the same or similar issues of fact and law;
- 21 B. a holding in one case would affect the rights of the parties in the other case; and
- 22 C. the consolidation would not substantially prejudice the rights of any party.

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

25 Subp. 2. **Objection to consolidation.** A party objecting to consolidation or moving for
26 severance must file with the judge and serve upon all parties at least seven days before

1 the hearing a motion for severance from consolidation which includes the reasons for
2 the motion.

3 Subp. 3. **Companion cases.** Two or more related cases involving different employees
4 may not be consolidated, however, companion cases involving the same or similar
5 issues may be grouped for scheduling purposes. In companion cases, the parties and the
6 judge shall prepare separate pleadings and orders for each case.

7 **1420.2600 REASSIGNMENT AND DISQUALIFICATION.**

8 Subpart 1. **Disqualification by judge.** A judge shall withdraw from participation in a
9 case at any time if the judge deems himself or herself disqualified, prejudiced, or biased
10 for any reason.

11 Subp. 2. **Disqualification by a party.** A party or the party's attorney may file an
12 affidavit of prejudice and motion to disqualify a judge if the party reasonably believes
13 that a hearing before the assigned judge cannot be fair due to the judge's prejudice or
14 bias. The affidavit must be served on opposing parties and filed with the chief judge not
15 more than ten days after the filing party has received notice of the assigned judge or has
16 knowledge of the grounds for disqualification, whichever occurs last. ~~Each party is~~
17 ~~allowed one filing per case under this subpart and Minnesota Statutes, section 176.312.~~
18 Upon filing of the motion and affidavit of prejudice, the chief judge or designee shall
19 issue an order and assign the case to another judge if appropriate. ~~For purposes of this~~
20 ~~part, "case" means the initial assignment of a judge for hearing and all subsequent~~
21 ~~hearings regarding the same parties with the same judge. If the parties to the claim~~
22 ~~subsequently change, only the new parties may request reassignment under subpart 3.~~

23 A party or the party's attorney may file a motion to disqualify a judge for a cause
24 other than or in addition to that described in an affidavit of prejudice. The motion must
25 be supported by an affidavit detailing the facts establishing the grounds for
26 disqualification and filed with the chief judge not more than ten days after the moving

1 party has received notice of the assigned judge or has knowledge of the grounds for
2 disqualification, whichever occurs last. The motion will be decided by the chief judge or
3 a designee.

4 Subp. 3. **Reassignment.** A request for reassignment under Minnesota Statutes, section
5 176.312, is subject to the same procedures set forth in ~~subparts 2, 4, and 5,~~ subpart 2, except
6 that an affidavit of prejudice is not required. Each party is allowed one filing per case
7 under this subpart and Minnesota Statutes, section 176.312. For purposes of this part,
8 "case" means the initial assignment of a judge for hearing and all subsequent hearings
9 regarding the same parties with the same judge. If the parties to the claim subsequently
10 change, only the new parties may request reassignment. If a judge assignment is made
11 just prior to a hearing, a party may request reassignment orally and then file the written
12 request for reassignment on or before the hearing date. If a judge assignment is made
13 just before the hearing, the written petition for reassignment may be faxed to the office
14 or filed in person on or before the date of hearing. The chief judge may reassign a case
15 or a particular hearing to a different judge as necessary when the assigned judge is
16 unavailable to hear the case as scheduled.

17 Subp. 4. **Consolidated cases.** Consolidated cases are considered one case under this
18 part.

19 Subp. 5. **Conferences.** This part is not applicable to settlement, administrative, or
20 pretrial conferences.

21 **1420.2605 DISPOSITION OF COVERAGE ISSUES.**

22 Subpart 1. **Motion.** If an answer filed under Minnesota Statutes, section 176.321,
23 raises an issue related to independent contractor or employment status, a party may
24 move to bifurcate the issue or issues for immediate and expedited resolution upon
25 stipulated facts under Minnesota Statutes, section 176.322, a summary decision under
26 Minnesota Statutes, section 176.305, or a hearing.

1 Subp. 2. **Filing.** The motion must be filed with the division pursuant to part
2 1420.2250. The motion must include evidence relied on in support of the motion by
3 verified affidavits or stipulated facts, any request for a hearing, and if desired, a written
4 brief not exceeding 25 pages in support of the motion.

5 Other parties to the proceeding may respond to the motion within 20 days after the
6 service of the motion under this part by submission of affidavits and, in the party's
7 discretion, a written brief not exceeding 20 pages. The movant will have ten days from
8 service of a response to the motion to file affidavits and, if desired, a written brief not
9 exceeding ten pages in rebuttal to any issue raised in opposition to the motion.

10 Subp. 3. **Decision; hearing.** The judge may determine the motion based on stipulated
11 facts, issue a summary decision, or schedule a hearing.

12 Subp. 4. **Hearing on the merits.** The office shall schedule a hearing on other issues
13 not decided under this subpart, if needed, following a final decision on the motion
14 under this subpart and any related appeal.

15 **1420.2700 SUBPOENAS.**

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

20 The judge shall quash or modify a subpoena upon a party's motion if the judge finds
21 that it is unreasonable or oppressive. The motion must be promptly made, no later than
22 the date specified in the subpoena for compliance.

23 **1420.2800 CONTINUANCES.**

24 Subpart 1. **Continuances not favored.** Requests for continuances are inconsistent
25 with the requirement that workers' compensation proceedings be expeditious.
26 Continuances are not favored and will be granted only upon a clear showing of good
27 cause.

1420.2800

1 Subp. 2. **Request.** When a continuance is requested before the hearing date, the party
2 requesting the continuance shall first contact all other parties to determine whether
3 mutual agreement to the continuance can be reached and, if the continuance is granted,
4 the availability of all parties for hearing at future specific dates. When all parties are in
5 agreement with the request for continuance and have agreed to a date for a future
6 hearing, which date has been approved by the office, and when the continuance request
7 is made more than 30 days before the hearing date, the continuance will be granted.

8 Subp. 3. **Motion.** A request for continuance must be in writing in the form of a
9 motion for continuance pursuant to part 1420.2250. Urgent requests may be made orally
10 to the assigned judge. For urgent requests on cases that have not been assigned to a
11 judge, the continuance request must be made to the telephone calendar line designated
12 by the office for such requests.

13 Subp. 4. **Good cause.** Good cause does not include:

14 A. when a law firm, or an insurer with in-house counsel, consists of more than one
15 attorney who practice in the field of workers' compensation law, and counsel assigned
16 to the case is unavailable because of engagement in another court or otherwise, unless
17 all counsel are committed elsewhere;

18 B. unavailability of a medical or other witness if the deposition of the witness
19 could have been taken after receipt of the notice of hearing date and before the hearing;
20 or

21 C. where the judge determines that the reason for the continuance was reasonably
22 foreseeable and avoidable.

23 **1420.2900 HEARING.**

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

- 1 A. when notice is waived by the parties;
- 2 B. when a different time is expressly agreed to by the parties;
- 3 C. when the notice is governed by contrary law or rule; or
- 4 D. when the hearing has been continued from an earlier date and the parties are all
- 5 available at an earlier date.

6 The notice must include the place of hearing, the amount of time allowed for the

7 hearing, and if known, the name of the judge assigned. If an additional hearing date is

8 required, the office will set the date and time.

9 Subp. 2. **Availability of witnesses.** As soon as the parties know the hearing date, they

10 shall immediately notify all witnesses in writing and arrange for the witnesses to be

11 present or for the taking of a deposition under part 1420.2200. A party calling a witness

12 for whom an interpreter is required shall advise the office in advance of the need for an

13 interpreter.

14 Subp. 3. **Medical evidence.** Rules governing medical evidence are as follows:

15 A. If a party believes that the oral testimony of a physician or health care provider

16 is crucial to the accurate determination of the employee's disability, the party shall file a

17 written motion pursuant to part 1420.2250.

18 B. If medical evidence is submitted in the form of written reports, rather than by

19 oral testimony, under Minnesota Statutes, section 176.155, subdivision 5, the reports

20 ~~must~~ should include:

- 21 (1) the date of the examination;
- 22 (2) the history of the injury;
- 23 (3) the patient's complaints;
- 24 (4) the source of all facts in the history and complaints;
- 25 (5) findings on examination;

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

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

4 (8) the medical treatment indicated;

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

8 (10) if a permanent partial disability is a result of two or more injuries or
9 occurrences, or if part of the permanent disability is a result of a preexisting disability
10 that arises from a congenital condition, traumatic injury, or incident, whether or not
11 compensable under Minnesota Statutes, chapter 176, the health care provider shall
12 apportion the disability between the injuries, occurrences, or conditions;

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

15 (12) the reason for each opinion; and

16 (13) if applicable, a statement that the health care provider has read the rules
17 concerning determination of permanent partial disability, understands them, and has
18 applied those rules in making the determination.

19 C. Medical reports to be used at the hearing must be served on the parties and filed
20 with the office, with an affidavit of service, sufficiently in advance of the hearing to
21 allow other parties the opportunity to cross-examine the health care provider, if desired,
22 unless the delay in filing the report was caused by a failure of the employee to report for
23 an adverse medical examination or to provide medical support for the claim on a timely
24 basis, or other good cause. If the report is filed too late to allow the cross-examination,
25 the record will be held open to allow other parties to either cross-examine the health
26 care provider after the hearing or provide a follow-up report from an expert of the other
27 parties.

1 Subp. 4. **Rights of parties.** All parties have the right to present evidence, to
2 cross-examine witnesses, and to present rebuttal testimony.

3 Subp. 5. **Witnesses.** A party may be a witness and present other witnesses at the
4 hearing. Oral testimony at the hearing must be under oath or affirmation. At the request
5 of a party or upon the judge's motion, the judge may exclude witnesses other than
6 parties from the hearing room so that they cannot hear the testimony of other witnesses.

7 Subp 6. **Evidence.**

8 A. The judge will accept only relevant and material evidence that is not repetitive
9 or cumulative.

10 B. Exhibits for hearings scheduled to be conducted by video technology must be
11 prefiled with the office at least three business days before the hearing. Mailed or
12 delivered exhibits must be placed in a separate, sealed envelope marked with the name
13 and date of the case, the file number, and must be identified as exhibits of the
14 submitting party. Faxed exhibits may not exceed 15 pages in length and must be clearly
15 marked as video hearing exhibits for immediate hand delivery to the judge, and must
16 include the name and file number of the case, the date of hearing, and identify the
17 submitting party. An adverse party must also receive the exhibits at least three business
18 days before the hearing.

19 Subp. 7. **Record requirements.** Record requirements are as follows:

20 A. The office shall maintain the official record, other than the stenographic notes of
21 a hearing reporter, in each case until the issuance of the final order.

22 B. The record shall contain:

23 (1) all pleadings, motions, and orders;

24 (2) subject to part 1415.3500, evidence received or considered unless, through
25 agreement of the parties or by order of the judge, custody of an exhibit is given to one of
26 the parties;

1 (3) those parts of the division's official file on the matter which the judge
2 incorporates on the record;

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

4 (5) the judge's order;

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

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

8 (8) until a final order is issued after any appeals, the audio-magnetic recording
9 tapes used to record the hearing, if any.

10 C. The chief judge shall direct that the verbatim record of a hearing be transcribed
11 if requested by any person. The person requesting a transcript must pay the person
12 preparing the transcript a reasonable fee.

13 D. Under Minnesota Statutes, section 176.421, subdivision 4, clause (3), a party
14 may petition the chief judge for an order directing that a transcript be prepared, for
15 purposes of appeal to the court of appeals, at no cost to the appellant. A petition filed
16 under this provision must include:

17 (1) the caption of the case;

18 (2) case identification numbers;

19 (3) the name, address, and telephone number of the attorney representing the
20 appellant; and

21 (4) a sworn affidavit from the appellant which must include a complete
22 accounting of all household income from any source, the market value of any holdings
23 including real estate, and all expenses on a monthly basis.

24 **Subp. 8. Hearing procedure.**

25 A. Unless the judge determines that the substantial rights of the parties will be

1 ascertained better in some other manner, the hearing will be conducted in the following
2 manner:

3 (1) After opening the hearing, the judge shall, unless all parties are represented
4 by counsel, state the procedural rules for the hearing.

5 (2) Stipulations entered into by the parties before the hearing must be entered
6 into the record.

7 (3) If the judge requests opening statements, the party with the burden of proof
8 shall proceed first. Other parties shall make opening statements in a sequence
9 determined by the judge.

10 (4) After opening statements, the party with the burden of proof shall begin the
11 presentation of evidence. That party will be followed by the other parties in a sequence
12 determined by the judge.

13 (5) Cross-examination of witnesses will be conducted in a sequence determined
14 by the judge.

15 (6) When the parties and witnesses have been heard and if the judge believes
16 that legal issues remain unresolved, final arguments may be presented in a sequence
17 determined by the judge. Final argument may, in the discretion of the judge, be in the
18 form of written memoranda or oral argument, or both. The judge shall decide when
19 memoranda must be submitted. Final arguments must be limited to legal issues only.

20 (7) The record of the case will be closed upon receipt of the final written
21 memorandum or transcript, if any, or late-filed exhibits which the judge has received
22 into the record, whichever occurs last.

23 Subp. 9. **Disruption of hearing.** Persons in the hearing room may not converse in a
24 disruptive manner, read newspapers, smoke, chew gum, eat food, or drink liquids other
25 than water, or otherwise disrupt the hearing while the hearing is in session, and counsel
26 shall so instruct parties they represent, witnesses they call, and persons accompanying

1 them. A cellular telephone must be turned off in the hearing room unless the judge
2 grants permission for it to be turned on. Guns and other weapons are not allowed in the
3 hearing room or on the premises of the office.

4 No television, video, digital, still, or other camera, and no electronic recording
5 devices, other than those provided by the office may be operated in the hearing room
6 during the course of the hearing unless permission is obtained from the judge.
7 Permission is subject to conditions set by the judge to avoid disruption of the hearing.

8 Under Minnesota Statutes, section 624.72, no person may interfere with the free,
9 proper, and lawful access to or egress from the hearing room. No person may interfere
10 or threaten interference with a hearing, or disrupt or threaten disruption of a hearing.

11 **1420.3150 AMENDED FINDINGS; APPEALS.**

12 Subpart 1. **Amended findings.** Upon issuance of findings and orders after a hearing,
13 the judge's jurisdiction over the case continues until a notice of appeal is filed or the
14 appeal period expires, whichever occurs first. While jurisdiction continues, amended
15 findings may be issued as needed to fully and fairly decide all issues litigated.

16 Subp. 2. **Filing fee for appeal.** When findings and orders are appealed under
17 Minnesota Statutes, section 176.421 or 176.442, each appellant must submit a \$25 filing
18 fee payable to the state treasurer, office of administrative hearings account.

19 **1420.3700 SANCTIONS.**

20 Subpart 1. **Generally.** Failure to comply with the order of a judge, or the willful
21 failure to comply with the applicable provisions of this chapter or other applicable law,
22 may subject a party or attorney to any of the following sanctions:

23 A. continuance of the proceeding;

24 B. striking of pleadings;

25 C. preclusion of evidence;

1 D. evidence sought deemed proven, where a party fails to comply with an order
2 compelling discovery;

3 E. dismissal of proceedings;

4 F. to pay the reasonable expenses, including attorney fees, incurred by the other
5 parties due to failure to appear, prepare, or participate in good faith; or

6 G. other sanction permitted by rule, statute, or case law, as the judge deems just or
7 appropriate under the circumstances.

8 Subp. 2. **Procedures.** A motion to impose sanctions may be brought by a party under
9 part 1420.2250 or upon the judge's own motion. An order for sanctions issued without a
10 hearing is a summary decision under Minnesota Statutes, section 176.305, subdivision
11 1a.

12 Subp. 3. **Failure to appear or notify.** The petitioner must notify the office and other
13 parties of settlement or other resolution of a conference or hearing immediately
14 following resolution of the case. If the petitioner fails to provide notice of resolution and
15 does not appear, and a court reporter, interpreter, or security guard appears, or the
16 office incurs an expense to reserve a facility with video equipment, the office may
17 impose a sanction of \$150 or the reasonable fee charged by the court reporter,
18 interpreter, security guard, or video facility if the fee is more than \$150. A party seeking
19 cancellation of a proceeding must take reasonable steps to notify the other parties of a
20 late settlement, rescheduling, or other cancellation of a proceeding. If the party seeking
21 cancellation fails to take reasonable steps to notify the other parties and a party makes
22 an appearance, the office may impose a reasonable sanction payable to the appearing
23 party to cover the expense incurred by the appearing party.

24 **1420.3800 SEVERABILITY.**

25 If any provision of this chapter is held to conflict with a governing statute, applicable
26 provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, or other

1 relevant law; to exceed the statutory authority conferred; to lack a reasonable
2 relationship to statutory purposes or to be unconstitutional, arbitrary, or unreasonable;
3 or to be invalid or unenforceable for any other reason, the validity and enforceability of
4 the remaining provisions of the rule shall in no manner be affected.