



STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

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April 11, 2005

Penny D. Johnson
Office of Administrative Hearings
Workers' Compensation Section
100 Washington Square
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Minneapolis, MN 55401

RE: Review of the Adopted Joint Workers' Compensation Litigation Rules of the Minnesota Department of Labor and Industry and Office of Administrative Hearings, Minnesota Rules, chapter 1415; and the Adopted Workers' Compensation Litigation Rules of the Office of Administrative Hearings, Minnesota Rules, chapter 1420. OAH Docket No. 70-0300-16531-1; Governor's Tracking Nos. AR068 and AR069, respectively.

Dear Ms. Johnson:

This is to inform you that the above-referenced rules, as modified by the agency, have been approved as to legality on April 11, 2005. The agency has agreed to make three changes to the rules, and the approval from this office is contingent upon the three changes as follows:

Minn. R. 1415.1100, subp. 2, item D

"... that the failure of a potential intervenor to file a motion for intervention within 60 days of service of the notice or within 30 days of notice of an administrative conference or expedited hearing may shall result in a denial of the claim for reimbursement, unless otherwise provided by law;" This change is needed and reasonable and does not make rule part 1415.1100 substantially different than originally proposed.

Minn. R. 1420.2050, subp. 2

"If the stipulation is not timely filed, and good cause for the delay is not shown after notice to the parties, the judge may shall reinstate the matter on the active trial calendar, strike or dismiss the matter, or schedule the matter for

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another proceeding. The office ~~may schedule a settlement conference upon request to~~ shall assist the parties in finalizing and filing a stipulation for settlement." This change is needed and reasonable and does not make rule part 1420.2050 substantially different than originally proposed.

Minn. R. 1420.2200, subp. 6

"When a party is asked to reveal material which that party considers proprietary or privileged information, trade secrets, or sensitive medical data, the party may bring the matter to the attention of the judge, who ~~may~~ shall issue a protective order as is reasonable and necessary or as otherwise provided by law." This change is needed and reasonable and does not make rule part 1420.2200 substantially different than originally proposed.

Recommended Technical Corrections

The technical corrections recommended below are not defects in the rules but are merely recommendations for clarification to the rules that the agency may adopt if it chooses to do so. Any changes that the agency makes in accordance with the recommendations described below are needed and reasonable, and do not make the identified rule parts substantially different than originally proposed.

Minn. R. 1415.0700, subp. 4, item C

The ALJ recommends that the agency make the following change if it reflects the intent of the agency: ". . . or where the department division has notified the party that an original must be filed because the quality or authenticity of a document is at issue."

Minn. R. 1415.3200, subp. 7

The ALJ recommends that the agency insert a comma to improve the readability of this subpart as follows: "The statement of attorney fees or petition for excess attorney fees must include, for each benefit paid or awarded for which an attorney fee is sought, sufficient information to allow the fee determiner to apply the principles contained in this subpart."

Minn. R. 1415.3800, subp. 2

The first sentence reads as follows: "An employee or insurer may initiate a medical claim by filing a medical request form with the division." If the agency intends for the filing of a medical request form with the division to be the only method by which to initiate a medical claim, the ALJ recommends a revision of the sentence as follows: "An employee or insurer seeking to initiate a medical claim must file a medical request form with the division."

Minn. R. 1415.3900, subp. 2 and subp. 4

The ALJ notes that these two subparts contain three references to "calendar days," which the agency has attempted to eliminate throughout the chapter based upon its definition of "days" in part 1415.0300, subp. 8a. Deleting the word "calendar" would make the rule more consistent throughout.

Minn. R. 1420.2350, subp. 2, item E

The ALJ recommends that the agency make the following change if the agency intends for potential intervenors to be necessary parties as well: "... intervenors and potential intervenors." The former rule language did include potential intervenors and the SONAR does not explain why potential intervenors are no longer included.

Minn. R. 1420.2400, subp. 1

The ALJ recommends the following change to improve the clarity of the rule: "The petition must be supported by medical evidence and signed by the petitioner."

Minn. R. 1420.3150, subp. 2

This rule language does not specify to whom the \$25 filing fee shall be paid. The ALJ recommends that the agency add language to clarify the rule.

With the approval of the adoption of these rules, our Office is sending this letter to the agency for its consideration of the suggested technical corrections. Please contact Maria Lindstrom at (612) 349-2527 with any questions and to inform OAH when the rules are ready for review after modification.

Sincerely,



GEORGE A. BECK
Administrative Law Judge

Enclosures

cc: Office of the Governor
Office of the Attorney General
Legislative Coordinating Commission
Revisor of Statutes