

October 15, 2024

VIA EFILING ONLY

Kim Parker
General Counsel
Minnesota Department of Public Safety
445 Minnesota St Ste 1000
Saint Paul, MN 55101
Kim.Parker@state.mn.us

**Re: In the Matter of the Proposed Permanent Rules Relating to Soft Body
Armor Reimbursement
OAH 25-9018-39833; Revisor R-4822**

Dear Kim Parker:

Enclosed herewith and served upon you is the **ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.26** in the above-entitled matter. The Administrative Law Judge has determined there are no negative findings in these rules.

The Office of Administrative Hearings has closed this file and is returning the rule record so that the Minnesota Department of Public Safety can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Please ensure that the agency's signed order adopting the rules is filed with our office. The Office of Administrative Hearings will request the finalized rules from the Revisor's office following receipt of that order. Our office will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the agency for its rulemaking record. The Department will then receive from the Revisor's office three copies of the Notice of Adoption of the rules.

The Department's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the State Register for publication. A permanent rule without a hearing does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

Kim Parker
October 15, 2024
Page 2

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Nichole Sletten". The script is cursive and fluid, with the first name "Nichole" and last name "Sletten" clearly distinguishable.

NICHOLE SLETTEN
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Revisor of Statutes

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Permanent
Rules Relating to Soft Body Armor
Reimbursement

**ORDER ON REVIEW OF
RULES UNDER
MINN. STAT. § 14.26**

The Minnesota Department of Public Safety (Department) is seeking review and approval of the above-entitled rules, which were adopted by the agency pursuant to Minn. Stat. § 14.26 (2024). On October 3, 2024, the Office of Administrative Hearings (OAH) received the documents that must be filed by the Department under Minn. Stat. § 14.26 and Minn. R. 1400.2310 (2023). Based upon a review of the written submissions and filings, Minnesota Statutes, Minnesota Rules, and for the reasons in the Memorandum that follows,

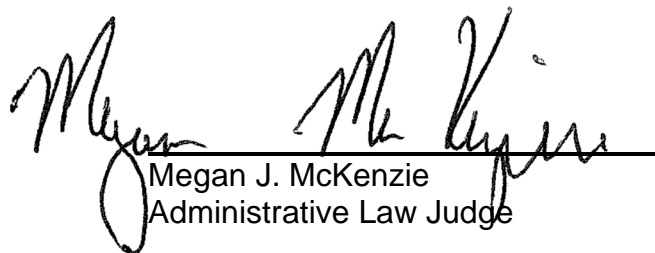
IT IS HEREBY DETERMINED:

1. The Department has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with the procedural requirements of Minnesota Statutes, Chapter 14 (2024), and Minnesota Rules, Chapter 1400 (2023).
3. The record demonstrates the rules are needed and reasonable.
4. The definition of “Applicant” does not provide sufficient clarity and should be modified as described in the Memorandum.

IT IS HEREBY ORDERED THAT:

The Administrative Law Judge **APPROVES** the proposed rules as to legality but urges changes to the definition of “Applicant” to provide clarity and consistency.

Dated: October 15, 2024



Megan J. McKenzie
Administrative Law Judge

MEMORANDUM

The Department requested review and approval of its rules governing soft-body-armor reimbursement for legality and form according to Minnesota Statutes, section 14.26. The proposed rules set forth the application process, reimbursement requirements, and the prioritization of claims for the Department's vest reimbursement program in light of the 2023 expansion of the program by the legislature. Previously the vest reimbursement program included only peace officers and heads of local law-enforcement agencies. The 2023 legislation expanded the program to include firefighters, emergency medical service providers, and the heads of public-safety agencies and entities that employ them.¹

Historically, claims by peace officers exceeded the funding allocated by the legislature.² Despite an increase in program funds following the 2023 expansion of the program, claims are expected to continue to exceed program funds.³ Accordingly, the proposed rules create a waiting list and set forth the priority in which claims will be paid.⁴

The Department proposes, generally, to prioritize payment of claims by individual public safety officers over claims by public safety agencies. Public safety agencies will eventually be paid as part of the waiting list priority, if the program continues to be funded, but may have longer waiting times than individuals. The Department's justification is twofold: (1) to prevent one or more large agencies from receiving most or all the funds in a reimbursement period, and (2) individual applicants benefit more from reimbursement because they are less able to absorb the cost of purchasing a vest than a large agency.⁵ While the Department's proposed prioritization does not differentiate between large and small public safety agencies, it is a reasonable and rational method of allocating limited funds.

The Department include the following definition of Applicant in the proposed rules:

"Applicant" includes a public safety officer and a public safety agency.

Use of the word "and" in this definition is problematic. One reading of the definition suggests that both an individual officer and the employing department must jointly apply for reimbursement as one "Applicant." But under the prioritization proposed by the Department, an Applicant is either a public safety officer or a public safety agency, not both, and properly identifying the applicant as an individual or agency has practical consequences for payment.

¹ 2023 Minn. Laws, ch. 52, art. 5, sec. 13.

² SONAR, pgs. 1-3.

³ *Id.*

⁴ *See.*

⁵ SONAR, pg. 24.

To avoid confusion and the potential misclassification of claims, the proposed definition of Applicant should be modified to clarify that an applicant is either an individual or an entity seeking reimbursement. For example, the definition could state: "Applicant means the public safety officer or public safety agency seeking reimbursement."

The proposed rules are otherwise reasonable and are approved as written.

M.J.M.