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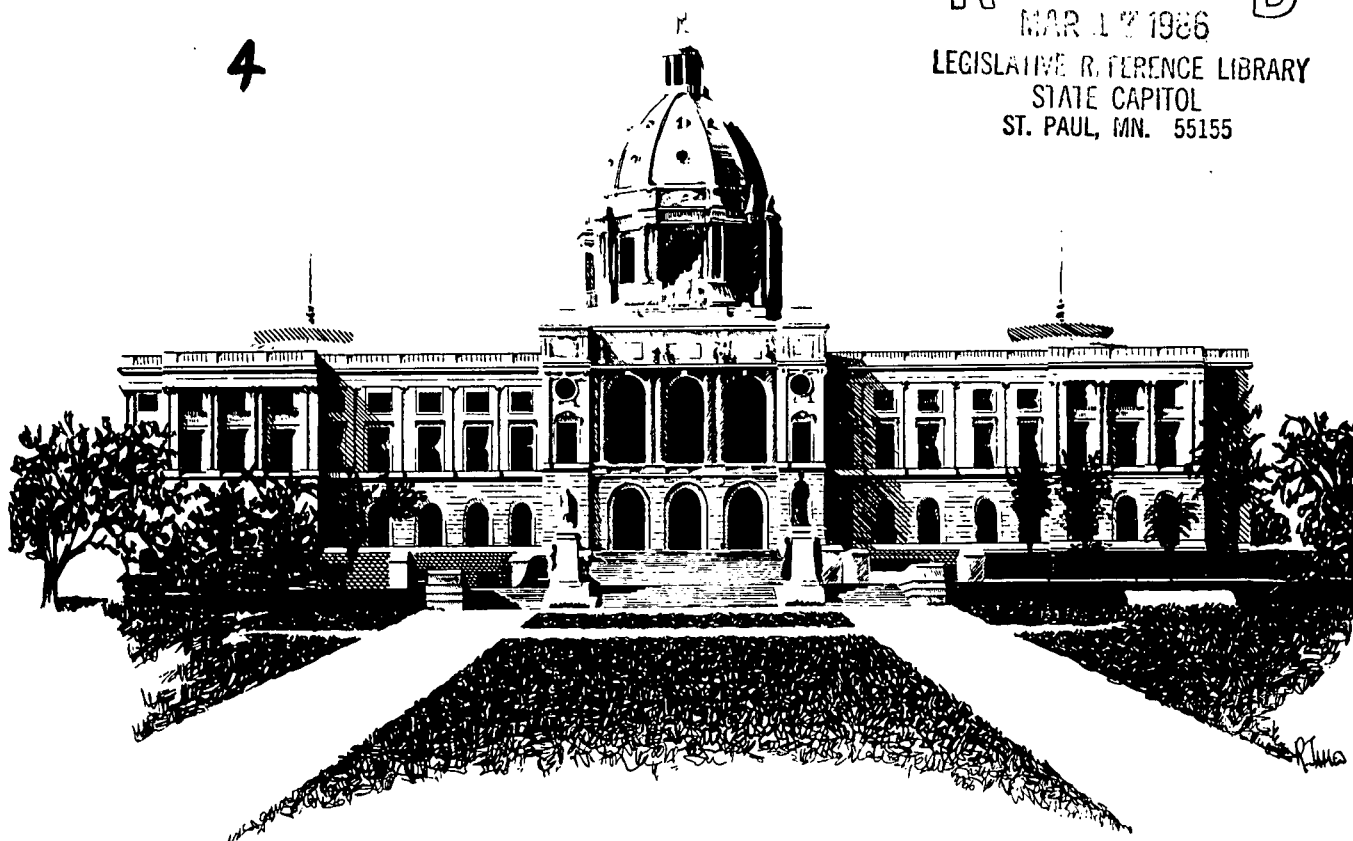
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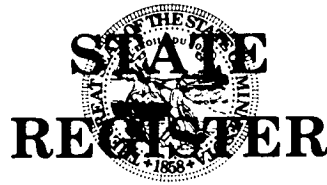
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VOLUME 10, NUMBER 38

March 17, 1986

Pages 1873-1952



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 10			
39	Monday March 10	Monday March 17	Monday March 24
40	Friday March 14	Friday March 21	Monday March 31
41	Friday March 21	Monday March 31	Monday April 7
42	Monday March 31	Monday April 7	Monday April 14

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION** also.

The **PROPOSED RULES** section contains:

- Calendar of public hearings on proposed rules.
- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the Minnesota Rules.
- Proposed emergency rules.
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The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The **OFFICIAL NOTICES** section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive

Issues 14-25, inclusive

Issue 26, cumulative for 1-26

Issues 27-38, inclusive

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The listings are arranged in the same order as the table of contents of the *Minnesota Rules 1985*.

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Chiropractic Examiners

Proposed Rules Relating to Chiropractic License Fees

Notice of Intent to Amend Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Chiropractic Examiners (hereinafter "Board") proposes to amend Minn. Rules pts.2500.1000 and 2500.1100. A copy of the proposed amendments is attached to this Notice. One additional free copy is available from the Board upon request. Procedures for the adoption of noncontroversial rules will be used, except that no public hearing will be held unless at least 20 percent of the persons who will be required to pay the proposed fees submit a written request for a public hearing to the Board during the 30-day comment period described below. See, Minnesota Statutes, section 16A.128, subdivision 2.a. (Minn. Laws 1985, 1 Sp. 13, § 101).

THE PUBLIC IS HEREBY ADVISED that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendments, and comment is encouraged.

2. Each comment should identify the portion of the proposed amendment addressed, the reason for the comments, and any change proposed.

3. If 20 percent or more of the persons who will be required to pay the proposed fees submit a written request for a public hearing during the 30-day comment period, a public hearing will be held.

4. All comments, including requests for a public hearing, shall be submitted to Kent J. Erickson, D.C., Executive Director, Minnesota Board of Chiropractic Examiners, Room 102, Colonial Office Building, 2700 University Avenue West, St. Paul, Minnesota 55114-1089.

5. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

6. The proposed amendments may be modified if the modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language.

7. Under the procedure for adopting noncontroversial rules, the Board must submit any action on its rules to the Attorney General for review of the form and legality of the rule change. Notice of the date of submission of the proposed amendments to the Attorney General for review will be mailed to any person requesting to receive the notice. Requests to receive notice must be submitted to Dr. Erickson at the above address.

8. Authority to amend Minn. Rules pts.2500.1000 and 2500.1100 is contained in Minn. Stat. §§ 16A.128, 148.05, 148.06, subd. 1, 148.07, subd. 1, 148.08, subd. 3, and 214.06. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Dr. Erickson at the above address.

9. The approval of the Commissioner of Finance for amendments or rules relating to fees is required by Minn. Stat. § 214.06, subd. 1. A document entitled "Commissioner of Finance Approval" in which the Commissioner has approved the proposed amendments to Minn. Rules pts.2500.1000 and 2500.1100 is available. Anyone wishing to receive a copy of this document may contact Dr. Erickson at the above address.

10. Promulgation of the proposed fee changes will not result in the expenditure of public monies by local public bodies and will not affect agricultural land in the state. Likewise, it is not believed that the changes will have a quantitative or qualitative impact on any small business. Persons representing small businesses are nevertheless invited to participate in the rulemaking process.

11. Any rule change made pursuant to this proceeding shall be effective five working days after publication in the *State Register* of a notice of the adoption of the change.

February 11, 1986

Kent J. Erickson, D.C.
Executive Director

Rules as Proposed

2500.1000 LICENSE APPLICATION FEE.

Applications for licensure must be accompanied by a fee of ~~\$75~~ \$150.

2500.1100 INDIVIDUAL ANNUAL LICENSE RENEWAL.

Subpart 1. [Unchanged.]

Subp. 2. **Renewal fees.** The license of each licensee shall expire at midnight on December 31 each year. Subject to the terms of part 2500.1200, the board shall renew the license upon receipt from the licensee of a license renewal fee of ~~\$75~~ \$100, plus any

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

applicable penalty fee as set forth in part 2500.1300. Each licensee shall submit the license renewal fee to the board no later than January 1 of the year for which the license renewal is requested.

Subp. 3. **Penalty fees.** A licensee shall submit to the board, in addition to the license renewal fee, a penalty fee of ~~\$5~~ \$10 per month for each month or portion of a month for which the license renewal fee is in arrears, the penalty not to exceed ~~\$50~~ \$100.

Department of Labor and Industry

Proposed Rules Relating to Workers' Compensation; Division Rules of Practice

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division, proposes to adopt the above-captioned amendments to Minn. Rules, parts 5220.2500-5220.5000 without a public hearing. The Department has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22-14.28 (1984).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (1984). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Steve Keefe
Commissioner, Department of Labor and Industry
5th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the adoption of these amendments is contained in Minn. Stat. § 175.17(2) and 176.83, subdivisions 1, 7, 8, 9 and 15 (1984). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

The Commissioner has determined that these rules do not have impact on small businesses directly. The duties contained in the rules are imposed upon self-insured employers which are by definition not small businesses, and insurers which are also not small businesses.

Upon adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written comments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material to the Attorney General, including modifications to the amendments as originally proposed, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Commissioner at the above address.

The text of the proposed amendments follows this notice in the *State Register*. The amendments revised and expand the Rules of Practice of the Workers' Compensation Division found in Minn. Rules, parts 5220.2500-5220.5000. The Rules of Practice provide procedural rules for the handling of nonlitigated workers' compensation claims before the Department of Labor and Industry. They include procedures for filing medical reports and notices, attorney fee requests following administrative conferences, peace officer death benefit claims, and procedures for administrative conferences, penalty assessments, allocation of dependency benefits, commencement of payment, and other miscellaneous procedures.

One free copy of the proposed amendments may be obtained by contacting Julie Kress at the above address or by calling (612) 296-8184.

February 28, 1986.

Steve Keefe
Commissioner, Department of
Labor and Industry

Proposed Rules Relating to Workers' Compensation; Division Rules of Practice

Rules as Proposed (all new material)

5220.2510 SCOPE AND PURPOSE.

Parts 5220.2510 to 5220.2950 together with parts 5220.0100 to 5220.1910 govern all workers' compensation matters before the commissioner of the Department of Labor and Industry except matters which are governed by the joint rules of practice of the Workers' Compensation Division and the Office of Administrative Hearings in parts 1415.0100 to 1415.3600.

5220.2520 DEFINITIONS.

Subpart 1. **Scope.** Terms used in parts 5220.2510 to 5220.2950, have the meanings given them in part 1415.0300 and this part.

Subp. 2. **Days.** "Days" refers to calendar days unless otherwise indicated.

Subp. 3. **Health care provider.** "Health care provider" has the meaning given it in Minnesota Statutes, section 176.011, subdivision 24.

Subp. 4. **Insurer.** "Insurer" includes self-insured employers.

Subp. 5. **Permanent total disability.** "Permanent total disability" means that after completion of medical and vocational assessment and rehabilitation, and after consideration of the employee's age, physical restrictions, transferable skills, and economic factors in the employee's employment community, the employee has not found and cannot be reasonably expected to find suitable gainful employment.

Subp. 6. **Section.** "Section" refers to the Rehabilitation and Medical Services Section of the Workers' Compensation Division of the Department of Labor and Industry.

5220.2530 FIRST REPORT OF INJURY.

The first report of injury must be submitted in duplicate to the division within the time limits established by Minnesota Statutes, section 176.231. It must be on a form prescribed by the commissioner, containing substantially, but not limited to, the following:

- A. the name, address, telephone number, date of birth, and social security number of the employee;
- B. the name, address, and telephone number of the insurer and any adjusting company;
- C. the name, address, and telephone number of the employer if different than item B;
- D. the date of the claimed injury or disease;
- E. the employer or insurer's claim number;
- F. the employee's wage information and the amount and type of any other compensation being paid to the employee;
- G. the employee's job title and employment status;
- H. the name of any other current employer of the employee and the employee's wage rate with the other employer;
- I. a description of the claimed injury, including the nature of the injury, the type of accident, the object involved in the accident, and the part of the body affected;
- J. where the injury occurred;
- K. the date notice was received by the employer and the name of the supervisor who received notice;

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- L. whether the employee lost time from work due to the injury and the amount of time lost;
- M. the name and address of the employee's treating physician;
- N. the name and address of the employee's next of kin if the injury or disease has resulted in the death of the employee; and
- O. the signature of the employer or the employer's authorized representative and the date of submission to insurer.

Failure to file the report in a timely manner may result in the assessment of the penalty set out in part 5220.2820.

5220.2540 PAYMENT OF TEMPORARY TOTAL, TEMPORARY PARTIAL, OR PERMANENT TOTAL COMPENSATION.

Subpart 1. **Time of payment.** Payment of compensation must be commenced within 14 days of:

- A. notice to or knowledge by the employer of an injury compensable under the act;
- B. notice to or knowledge by the employer of a new period of lost time due to a previous work-related injury unless an extension is requested under Minnesota Statutes, section 176.221, subdivision 1; or
- C. an order by the division, compensation judge, or workers' compensation court of appeals requiring payment of benefits which is not appealed.

Once temporary total or permanent total disability benefits have been commenced, they must continue to be paid on a regular basis. Payments are due on the date the employee would have received wages from the employer had the employee continued working.

The same time limits apply to payments of temporary partial disability benefits. If the current wage varies so that wage documentation for calculation of temporary partial disability benefits is necessary, payment is due ten days following the date the employee or employer sends wage verification to the insurer.

Subp. 2. **Place of payment.** With the exception of payments made subject to part 5220.2560 or other order of a compensation judge or the division, all payments of compensation must be made directly to the employee or dependent at a home address unless the employee or dependent, in writing, authorizes payment to be sent elsewhere. The employee or dependent may authorize payment to be sent to a bank, savings and loan association, or other financial institution by providing the employer or insurer with a written request for redirection of payment, the name and address of the institution, and the account number to which the payments should be credited. The insurer must comply with the request without a specific order from the division. The insurer must file a copy of the request with the division.

Subp. 3. **Notice to division.** The employer or insurer must keep the division advised of all payments of compensation and amounts withheld or paid for attorney fees by the filing of interim status reports 60 days after commencement of payment unless an R-1 form has been filed on the claim, and thereafter each year on the anniversary date of the injury unless another time interval is specified by the division.

The employer or insurer must also file with the division proof of payment which must indicate the amount of compensation paid and the date when the first payment was made, at each of the following times:

- A. the employer or insurer makes the first payment to the employee following the injury;
- B. payments are reinstated after they have been previously discontinued by a notice of discontinuance or an order of the division under part 5220.2640, subpart 7;
- C. monitoring period compensation is commenced under Minnesota Statutes, section 176.101, subdivision 3i; or
- D. payments are commenced by order of the division, a compensation judge, or the workers' compensation court of appeals.

Subp. 4. **Penalties.** If payment is not made within the time limits of subpart 1, and no denial of liability has been filed under part 5220.2570, subpart 1, or notice of appeal filed from an order of the division, compensation judge, or workers' compensation court of appeals, the division may assess penalties under Minnesota Statutes, sections 176.221 and 176.225, and parts 5220.2770, 5220.2780, and 5220.2790. A penalty for failure to file a notice required under this part may be assessed under part 5220.2830.

5220.2550 PAYMENT OF PERMANENT PARTIAL DISABILITY.

Subpart 1. **Time of payment.** Permanent partial disability must be paid at the time specified in Minnesota Statutes, sections 176.021 and 176.101. When permanent partial disability compensation is being paid periodically following the payment of temporary total benefits or following or concurrent with the payment of temporary partial benefits, the payments must be continued without interruption at the same intervals that the temporary benefits were paid.

A. When the extent of permanent partial disability is not disputed, upon receipt of a medical report containing a permanency rating, the employer or insurer must, within 30 days:

(1) make a lump sum payment or begin periodic payments to the employee; or

(2) inform the employee in writing of the disability rating and the time when the permanent partial disability payment will be payable under the statute.

B. When the extent of permanent partial disability is disputed, upon receipt of a medical report containing a permanency rating, the employer or insurer must, within 30 days:

(1) make a minimum lump sum payment or begin periodic payments based on no less than the lowest available medically documented rating; and

(2) notify the employee in writing that an adverse medical examination has been scheduled and the date, time, and place of the examination. The disability rating must be determined and any remaining permanent partial disability payments made or periodic payment begun, within 120 days of the insurer's receipt of the initial medical report containing a permanency rating; or

C. If permanent partial disability benefits are not currently payable, inform the employee in writing of the disability rating and the time when the permanent partial disability payment will be payable by statute.

Subp. 2. Notice to division.

A. For injuries before January 1, 1984, the employer or insurer must, when payment is made, file with the division and serve on the employee an itemized proof of payment indicating the amount of compensation paid and the date of payment together with a copy of the medical report upon which payment is based.

B. For injuries on or after January 1, 1984, when the insurer makes a lump sum payment of permanent partial disability benefits or begins periodic payment or determines a disability rating, the employer or insurer shall serve on the employee and file with the division a notice of permanent partial disability benefits which must be on a form prescribed by the commissioner, containing substantially, but not limited to, the following information:

(1) the name, address, and social security number of the employee;

(2) the name and address of the insurer and any adjusting company;

(3) the name of the employer;

(4) the date of the claimed injury;

(5) the employer or insurer's claim number;

(6) the type of permanent partial benefits payable, including the amount being paid, the percent of disability to the body as a whole, the part of the body affected, the whole body schedule upon which the percentage is based, and the date of payment of the lump sum, or the starting date of periodic payment;

(7) the number of weeks in the monitoring period under Minnesota Statutes, section 176.101, subdivision 3i;

(8) instructions to the employee explaining the benefits payable, the effect of a return to work on the receipt of further benefits, who to contact for further information, and the employee's right to a formal hearing before a compensation judge;

(9) a statement of whether the payment is a preliminary or final payment;

(10) a summary of previous permanent partial disability payments;

(11) copies of medical reports containing disability ratings if available;

(12) the signature and telephone number of the person making the decision to pay benefits; and

(13) the date the notice was served on the employee.

Subp. 3. Place of payment. Payment under this part is to be made as provided in part 5220.2540, subpart 2.

Subp. 4. Penalties. If benefits are not paid as required under subpart 1 or 2, the division may assess penalties under Minnesota Statutes, sections 176.221 and 176.225, and parts 5220.2750, 5220.2760, and 5220.2790. A penalty for failure to file a notice required by this subpart may be assessed under part 5220.2830.

5220.2560 ATTACHMENT AND GARNISHMENT OF BENEFITS.

Workers' compensation benefits are not subject to attachment or garnishment, although they may be withheld under Minnesota

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Statutes, sections 518.54, subdivision 6 and 518.611, and paid to the county for child support or spousal maintenance. If the other requirements of those statutes are met, the insurer shall file with the division a statement of the amount being withheld from the employee's benefits and paid to the county, a copy of the order for withholding of income, and verification of payments made to the county.

5220.2570 DENIALS OF LIABILITY.

Subpart 1. **Form.** When an employer or insurer denies liability for a work-related injury, it shall serve and file the documents prescribed by this part.

Subp. 2. **Denial of liability form.** A denial of liability under Minnesota Statutes, section 176.221, subdivision 1 (except a letter denial under subpart 4 or 5) must be on a form prescribed by the commissioner, containing substantially, but not limited to, the following:

- A. the name, address, and social security number of the employee;
- B. the name and address of the insurer and any adjusting company;
- C. the name of the employer;
- D. the date of the claimed injury;
- E. the employer or insurer's claim number;
- F. the signature, name, and telephone number of the person who made the determination;

G. a specific reason for the denial which must be in language easily readable and understandable to a person of average intelligence and education and clearly state the facts forming the basis for the denial. A denial which states only that the injury did not arise out of and in the course and scope of employment or that the injury was denied for lack of a medical report, for example, are not specific within the meaning of this item;

- H. the address and telephone numbers of division offices the employee can contact for information;
- I. instructions to the employee on the availability of rehabilitation benefits; and
- J. instructions to the employee regarding the statute of limitations for filing a workers' compensation claim.

Subp. 3. **Notice of intention to discontinue benefits.** A denial of liability filed more than 30 days after notice to or knowledge by the employer of a work-related injury which is required to be reported to the commissioner under Minnesota Statutes, section 176.231, subdivision 1, and for which benefits have been paid must be made by a notice of intention to discontinue benefits under part 5220.2630 and must clearly indicate that its purpose is to deny liability for the entire claim. The notice must advise the employee of the statute of limitations for commencing a claim related to this injury.

Subp. 4. **Letter denial for new period of temporary total.** A denial of liability for temporary total disability benefits for a new period of lost time due to a previous work-related injury must be in writing and include:

- A. the name, address, and social security number of the employee;
- B. the name and address of the insurer and any adjusting company;
- C. the name of the employer;
- D. the date of the claimed injury;
- E. the employer or insurer's claim number;
- F. the signature, name, and telephone number of the person who made the decision; and

G. a specific reason for the denial in language easily readable and understandable to a person of average intelligence and education and clearly state the facts forming the basis for the denial. A denial which states only that the injury did not arise out of and in the course and scope of employment, or that the injury was denied for lack of a medical report is not specific within the meaning of this item.

Subp. 5. **Letter denial for other benefits.** A denial of liability for a portion of benefits or any other compensation where primary liability has been accepted, must be in writing and include:

- A. the name, address, and social security number of the employee;
- B. the name and address of the insurer and any adjusting company;
- C. the name of the employer;
- D. the date of the claimed injury;
- E. the employer or insurer's claim number;

F. the signature, name, and telephone number of the person who made the decision; and

G. a specific reason for the denial in language easily readable and understandable to a person of average intelligence and education and clearly state the facts forming the basis for the denial. A denial which states only that the injury did not arise out of and in the course and scope of employment, or that the injury was denied for lack of a medical report is not specific within the meaning of this item.

Subp. 6. **Service.** The employer or insurer shall, as provided in part 5220.2890, serve on the employee the form or letter under subparts 1 to 5 with any relevant medical or other reports attached and a copy to the division.

Subp. 7. **Time for filing.** Denials of liability must be filed with the division within the following time limits:

A. A denial under subpart 2 must be filed within 14 days of notice to or knowledge by the employer of an injury which is required to be reported to the commissioner under Minnesota Statutes, section 176.231, subdivision 1. A denial under subpart 3 must be filed within 30 days after notice or knowledge where an extension has been requested in the event of a new period of temporary total or if payment has commenced.

B. A denial of liability under subpart 3 must be filed in accordance with part 5220.2630.

C. A denial of liability under subpart 4 must be filed within 14 days of notice or knowledge of a new period of lost time due to a previous work-related injury unless an extension is requested under Minnesota Statutes, section 176.221, subdivision 1.

Subp. 8. **Rejection of denials.** If a denial of liability does not provide specific reasons for the denial, the division may reject it within seven days of receipt and inform the denying party, in writing, of the right to submit a new denial. A copy of the rejection letter must be sent to the employee. An appropriately corrected denial that is filed within seven days of service of the division's rejection memo is considered filed as of the date of original filing.

Subp. 9. **Penalty.** Failure to pay or deny in a timely manner may result in the assessment of the penalty set out in parts 5220.2770 and 5220.2790.

5220.2580 CLAIM FOR REFUND FROM EMPLOYEE OR DEPENDENT.

Subpart 1. **Request for refund.** All requests for refunds or reimbursements by an employer or insurer for payments made under a mistake of fact, which were allegedly not received by an employee or dependent in good faith, must be made in writing to the employee with a copy immediately mailed to the attorney representing the employee or dependent, if any, and to the division.

Subp. 2. **Contents of request.** All requests must clearly indicate the basis for believing payments were not received in good faith, and set forth the following information:

A. amount of alleged overpayment;

B. what the original payment was made for;

C. the date on which the payment was made;

D. the mistake of fact or law which forms the basis for the claimed overpayment; and

E. a statement informing the employee that, if the employee has any questions regarding the legal obligations to repay any claims for overpayment, the employee should contact either a private attorney or the division.

5220.2590 MEDICAL REPORTS.

Subpart 1. **All significant reports.** Within 30 days of receipt of the information, insurers shall file or cause to be filed with the division all significant medical reports concerning the nature or extent of any injury or disease arising under the act.

Subp. 2. **Physician's first report.** Promptly after the first treatment or evaluation of an employee who alleges to have incurred injury on the job, the physician shall complete a physician's first report form and submit it to the insurer if known, or the division if the insurer is not known. The physician's first report must be on the form prescribed by the commissioner, containing substantially, but not limited to, the following:

A. a caption containing the patient's social security number, date of claimed injury, and name and address of employer, if known;

B. the name of patient;

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- C. the address of patient;
- D. the date of first examination by the reporting physician;
- E. the date of last examination;
- F. the history and date of injury or disease as given by patient;
- G. the findings: results of exam, lab work, X-rays;
- H. a preliminary diagnosis and International Classification of Diseases-9 code number;
- I. whether the injury or disease was caused, aggravated, or accelerated by the patient's employment activity;
- J. whether this injury or disease prevented the patient from working, and if so, whether the patient is totally unable to work or able to work with restrictions;
- K. if the patient is disabled, the dates of the disability and any work restrictions;
- L. whether an early rehabilitation assessment is recommended;
- M. whether permanent disability is likely, if so, what percentage disability to the whole body is likely;
- N. whether the patient had a preexisting condition which affected the current disability, if so, describe;
- O. whether any further medical care is necessary;
- P. whether the patient was hospitalized and the name and address of the hospital;
- Q. the date of admission to the hospital, if any;
- R. whether surgery has been performed;
- S. the name and address of any physician to whom the patient was referred;
- T. any additional remarks or information;
- U. certification of the report; and
- V. the physician's signature including a typed name, license number, address, and telephone number of the physician.

If a physician's first report is not submitted within ten days of a written request, the division may assess a penalty under Minnesota Statutes, section 176.231, subdivision 10 and part 5220.2830, subpart 1. Failure to release existing medical data may also result in assessment of a penalty under part 5220.2870.

Subp. 3. Report of maximum medical improvement. For injuries required to be reported to the commissioner occurring on or after January 1, 1984, upon the patient reaching maximum medical improvement, the physician shall promptly complete and submit to the insurer, if known, or to the division, if the insurer is not known, a report of maximum medical improvement on the form prescribed by the commissioner, containing substantially, but not limited to, the following information:

- A. a caption containing the patient's social security number, the date of the claimed injury, and the name of the employer, if known;
- B. the name of the patient;
- C. the address of the patient;
- D. the date maximum medical improvement (date after which no further significant recovery from or lasting improvement to a personal injury can reasonably be anticipated) was reached;
- E. the diagnostic conclusion and International Classification of Diseases-9 code number;
- F. the permanent partial disability rating as a percent of impairment to the body as a whole from the Minnesota workers' compensation permanent partial disability schedule and the section number and the name of the whole body schedule from which the rating was taken;
- G. whether the patient will medically be able to resume former employment;
- H. whether the patient had a preexisting condition which affected the current disability; if so, describe;
- I. whether surgery has been performed and if so, an explanation;
- J. whether further medical treatment is advised;
- K. any additional remarks or information;
- L. the certification of the report; and

M. the physician's signature report, including a typed name, license number, address, and telephone number of the physician.

If an employee has reached maximum medical improvement but a report of maximum medical improvement form is not filed within ten days of a written request, the division may assess a penalty for the failure under Minnesota Statutes, section 176.231, subdivision 10, and part 5220.2830, subpart 1.

Subp. 4. Charge for reports. The information contained in the physician's first report as described in subpart 2 and the report of maximum medical improvement as described in subpart 3 is required by the state and when it is obtained for purposes of submission to the division file in the matter, no charge may be assessed against the state or a party for it.

5220.2610 ADMINISTRATIVE CONFERENCES.

Subpart 1. Scope. This part governs administrative conferences conducted under Minnesota Statutes, sections 176.102, 176.103, 176.242, 176.2421, and 176.243, and applies to all medical, rehabilitation, discontinuance, and return to work conferences conducted by the division.

Subp. 2. Notice. The division must promptly notify the parties of the date, time, and place of the conference. The qualified rehabilitation consultant, if one is assigned, must be notified of a rehabilitation conference. The notice must explain the purpose of the conference. Telephone notice is sufficient for a discontinuance or return to work conference if timely service of notice by mail cannot be made.

Subp. 3. Appearances. All parties and the qualified rehabilitation consultant if the conference is conducted under section 176.102, must be given notice and the opportunity to attend administrative conferences or, at their option, to present documents on their behalf. Intervenor or a representative of the special compensation fund may attend the conference. A party may be represented by an attorney. The employee is required to attend an administrative conference under Minnesota Statutes, section 176.242, 176.2421, or 176.243 unless health reasons, distances, or other good cause prevents attendance. If absent because of distance, the employee must be available by telephone at the scheduled conference time.

Subp. 4. Presiding official. Conferences must be conducted by an impartial designee of the commissioner. The presiding official shall explain the purpose of the conference and the format to be followed. The presiding official may ask questions of the participants. Questioning of one party by other parties may be allowed at the discretion of the presiding official.

Subp. 5. Information considered. The presiding official shall permit the parties to state their positions and to present reports or other documents or exhibits relevant to the issues involved. Verbal presentation by a health care provider will be allowed only if the commissioner's designee makes a written determination that the appearance is crucial to the relevant issues as provided by Minnesota Statutes, section 176.155, subdivision 5, unless the health care provider initiated the claim under Minnesota Statutes, section 176.103. There is no provision in the statute for costs for testimony at a medical administrative conference. Reasonable opportunity to refute statements or other information submitted at the conference must be allowed. Copies of documents submitted at the conference must be supplied to the other parties.

5220.2620 MEDICAL CONFERENCES.

Subpart 1. Definitions. For purposes of this part, the following terms have the meanings given them.

"Medical issues" refers to all health care rendered under Minnesota Statutes, sections 176.135 and 176.136 and determinations under Minnesota Statutes, section 176.103, and includes:

- A. the reasonableness of a fee for health care services;
- B. the reasonableness and necessity of medications, health supplies, articles, and equipment;
- C. the failure to pay a bill for health care services, treatment, equipment or supplies, or other health care under Minnesota Statutes, section 176.135, subdivision 1;
- D. the reasonableness and necessity of treatment;
- E. the need for a second opinion prior to surgery;
- F. a request for change of physician;
- G. the employee's cooperation with medical treatment;
- H. the inability to secure a health care provider report;

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- I. the reasonableness and necessity of nursing services;
- J. the appropriateness of a medical service;
- K. the assessment of penalties for untimely response to medical billings; and
- L. other problems related to medical treatment and supplies.

Subp. 2. **Medical claim, request.** An employee, employer, insurer, or health care provider as defined by Minnesota Statutes, section 176.011, subdivision 24, may initiate a medical claim by filing an M-4 "request for assistance in resolving a workers' compensation medical issue" form or an M-10 "change of physician" form with the section and serve the other parties, including the employee, insurer, employer, and any health care provider directly involved in the dispute, specifying the medical issues in dispute and whether an administrative conference is requested. The requesting party must also specify the name and address of any third party who has paid or has been ordered to pay to reimburse medical or treatment expense, and the claim or policy number, if known. At the time the M-4 form is filed, the requesting party must mail a copy of the M-4 form to third parties who have paid benefits. A claim petition containing medical issues only or a referral of a medical issue from the office will be treated in the same manner as an M-4 form under this subpart.

Subp. 3. **Medical claims response.** If the employee or health care provider has filed an M-4 or M-10 form, the insurer must file an M-1 medical status report with the section and send copies to the other parties no later than 20 days after service of the M-4 or M-10 form. Failure to file a form will be considered in the determination of penalties and interest.

Subp. 4. **Medical claim; application to intervene.** To intervene, the potential intervenor must serve the parties and file with the section a written application to intervene promptly after service of the M-4 form on the applicant. The division shall issue to the applicant and the parties a written determination granting or denying permission to intervene in the case. The medical conference will not be held prior to five days following the intervention application period in Minnesota Statutes, section 176.361, unless the section has received from all potential intervenors either an application to intervene or notice that an application to intervene will not be filed.

Subp. 5. **Medical claim; denial of liability.** If an M-4 form has been mistakenly filed in a case in which initial issues of liability within the jurisdiction of the office exist, the matter will be certified to the office for hearing if the petitioner has standing to file a litigated claim. The date of filing of the form with the section is used by the office to determine when the hearing will be held. After initial issues over which the division does not have jurisdiction have been resolved, any remaining medical issues shall be scheduled for an administrative conference in accordance with part 5220.2610.

Subp. 6. **Conciliation of medical issues.** The division may attempt to resolve medical issues through telephone contact with the parties, if appropriate. If no resolution is reached, the division will schedule an administrative conference in accordance with part 5220.2610.

Subp. 7. **Medical claim; change of physician.** An injured employee seeking a change of physician shall contact the insurer and request the insurer's consent to the change. If the insurer consents to the change, the division need not authorize the change. If a party seeks a change of physician and the parties cannot agree to the change, the party requesting the change must file an M-10 form with the section under subpart 2 stating the reason for the request, the names of the present and proposed physicians, and whether an administrative conference is requested. The adverse party shall respond under subpart 2. The division may attempt to resolve the dispute through telephone contact with the parties, if appropriate. If no resolution is reached, the division must schedule an administrative conference in accordance with part 5220.2610. If the adverse party defaults by failing to respond to the proposed change of physician within 20 days of the filing of the M-10 form, the change must be granted absent a compelling reason to deny the request.

Subp. 8. **Medical and other issues on claim petition.**

A. If a claim petition contains medical as well as other issues and the employer or insurer admits primary liability, the case will be referred to a settlement judge under part 1415.1800. If the parties fail to reach a settlement, the settlement judge shall refer medical issues to the section for determination and refer the remaining issues to the office unless the complexity of the issues requires referral to the office before a medical determination can be made. In those complex cases, the case will be immediately referred to the office and the medical issues will not be determined until after the office issues a decision.

B. If a claim petition contains medical issues as well as other issues and the employer or insurer denies primary liability, the case will be referred to a settlement judge under part 1415.1800. If the settlement judge determines that a settlement conference is not appropriate or a settlement conference is held but a complete settlement is not reached, the case must be certified to the office.

A compensation judge may approve a stipulation for settlement of medical issues under part 1415.2000. If the medical issues are not resolved by agreement at the hearing, the matter must be immediately referred to the division to set for an administrative conference. An administrative conference in accordance with part 5220.2610 will be scheduled if conciliation is not attempted or is unsuccessful. If evidence was presented at the hearing related to medical issues under part 1415.2900, subpart 3, item F, which a

party wishes considered at the conference, that party shall identify the portion of the hearing record to be considered. At the conference, the parties must submit the information they wish to be considered.

Subp. 9. **The medical decision.** A written decision must be issued and must include a statement indicating the right to appeal the decision to the board and how to initiate the appeal.

Subp. 10. **Continuances.** Continuances are disfavored but must be granted upon a showing of good cause. A party may request a continuance before the conference if the party has good cause for inability to appear at the conference. Good cause does not include:

A. unavailability of the insurer's representative because of engagement in another court or otherwise, unless all representatives practicing in the workers' compensation field are committed elsewhere; and

B. unavailability of the employee's representative because of engagement in another court or otherwise, unless the representative's associates practicing in the workers' compensation field are all committed elsewhere.

Requests for continuance made within five business days after service of the conference notice and at least ten business days before the conference will receive priority in rescheduling. Requests made within the ten days prior to the conference will generally not be granted.

If at the time of the conference the commissioner's designee determines that a person's rights will be affected by the proceeding and that a person has not been notified of the conference, the conference will be continued.

Subp. 11. **Appeal.** An appeal of the decision shall be as provided in part 5217.0030 (joint rules for the rehabilitation review panel and the medical services review board).

Subp. 12. **Penalties.** Where payment of medical charges is not made in compliance with part 5221.0600, a penalty may be assessed under part 5220.2740.

5220.2630 DISCONTINUANCE OF COMPENSATION.

Subpart 1. **Generally.** When an insurer proposes or intends to reduce, suspend, or discontinue an employee's benefits, it shall file one of the following documents described in this part.

Subp. 2. Petition.

A. The filing of a petition to discontinue compensation with the division commences a formal action to reduce, suspend, or discontinue compensation.

B. The petition must include substantially all the items listed in part 1415.1000, subpart 1, except that items H to J must list the benefits which the insurer wishes to discontinue. In addition, it must contain a clear and concise statement of the facts upon which the proposed discontinuance is based. Service and filing of the petition must be in accordance with part 1415.1000, subpart 2.

C. Following the filing of a petition to discontinue benefits, the employer or insurer must continue paying compensation until the matter is resolved by agreement or until a judge orders otherwise.

D. The division shall refer the matter to the office under Minnesota Statutes, section 176.241.

Subp. 3. Notice of discontinuance.

A. The employer or insurer may discontinue compensation by the filing of a notice of discontinuance with the division and service of the notice on the other parties when the discontinuance results from:

(1) a return to work;

(2) a lump sum payment of full impairment compensation, economic recovery compensation, or permanent partial disability compensation;

(3) a final periodic payment of impairment compensation or economic recovery compensation;

(4) a final payment under an award, order, or stipulation; or

(5) for injuries occurring before August 1, 1975, where the employee is not permanently totally disabled, a final payment of temporary total disability or temporary partial disability based on a statutory maximum number of weekly payments.

B. A notice of discontinuance must be on the form prescribed by the commissioner, containing substantially, but not limited to, the following:

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- (1) the name, address, and social security number of the employee;
- (2) the name and address of the insurer and any adjusting company;
- (3) the name of the employer;
- (4) the date of the claimed injury or disease;
- (5) the employer or insurer's claim number;
- (6) the type of benefits being reduced or discontinued;
- (7) the effective date of the discontinuance;
- (8) the reason for the discontinuance, stated in language easily readable and understandable to a person of average intelligence and education and in sufficient detail to inform the employee of the factual basis for the discontinuance;
- (9) if the notice indicates a final payment, the document which awarded or indicated the amount of compensation to be paid must be specified;
- (10) the benefits previously paid, indicating the type of compensation and the applicable compensation rate or rates;
- (11) attorney fees withheld and paid;
- (12) total compensation paid;
- (13) whether permanent partial disability ratings have been received;
- (14) the date the notice was served on the employee;
- (15) the name, telephone number, and signature of the person making the decision to discontinue benefits;
- (16) instructions to the employee including who to contact for information regarding the discontinuance and how to request a formal hearing before a compensation judge;
- (17) copies of relevant medical reports in the insurer's possession bearing on the employee's current medical condition; and
- (18) copies of any other relevant documents. Supporting documents must be attached to all copies of the discontinuance notice served.

C. The discontinuance is effective on the date stated in the notice, provided that the stated date must be no earlier than the date the notice is served on the employee and filed with the division. If the basis of discontinuance is return to work, that date shall be stated in the notice and the discontinuance is effective on the date the employee returned to work.

D. If the reason for the discontinuance is the employee's return to work and the employee has received temporary total or temporary partial compensation for 45 workdays prior to the return to work and no approved rehabilitation plan is in effect at the time the 14-day check under Minnesota Statutes, section 176.243, subdivision 1, is due, a 14-day check must be made and an administrative conference may be requested under part 5220.2650.

E. The employee may object to the discontinuance by filing an objection to discontinuance under Minnesota Statutes, section 176.241, with the division. This commences a formal action. The case will then be referred to the office and scheduled for hearing under part 1415.2100. The burden of establishing the basis for the discontinuance is on the party proposing the discontinuance.

Subp. 4. Notice of intention to discontinue benefits.

A. To discontinue temporary total, temporary partial, or permanent total benefits in situations not specified in subpart 3, the employer or insurer must serve upon the employee and file with the division a notice of intention to discontinue benefits or a petition under subpart 2. The notice must be accompanied by a form prescribed by the commissioner containing the employer's name, the date of the injury or disease, and the name, social security number, and address of the employee with which to request an administrative conference on the proposed discontinuance.

B. A notice of intention to discontinue benefits must be on the form prescribed by the commissioner, containing substantially, but not limited to, the following:

- (1) the name, address, and social security number of the employee;
- (2) the name and address of the insurer and any adjusting company;
- (3) the name of the employer;
- (4) the date of the claimed injury or disease;
- (5) the employer or insurer's claim number;
- (6) the type of benefits being discontinued;

(7) the reason or reasons for the proposed discontinuance, stated in language which may easily be read and understood by a person of average intelligence and education, and in sufficient detail to inform the employee of the factual basis for the discontinuance;

(8) the effective date of the discontinuance;

(9) the benefits previously paid, indicating the type of compensation and the applicable compensation rate or rates;

(10) attorney fees withheld and paid;

(11) total compensation paid;

(12) whether permanent partial disability ratings have been received;

(13) the date the notice was served on the employee;

(14) the name, telephone number, and signature of the person making the decision to discontinue benefits;

(15) instructions to the employee detailing when and how to request an administrative conference, how to file an objection to discontinuance, who to contact for information about the discontinuance, how the employee's action or inaction will affect the continuation of benefits;

(16) copies of medical reports bearing on the employee's current medical condition which support the discontinuance; and

(17) copies of any other relevant documents. Supporting documents must be attached to all copies of the discontinuance notice served.

C. Continuation of benefits following a notice of intention to discontinue benefits is set out in part 5220.2640, subpart 3.

D. An employee may request a conference under part 5220.2640, subpart 2 following the filing of a notice of intention to discontinue benefits. If a notice of intention to discontinue benefits was required but was not filed, the commissioner may schedule a conference. At the conference the issue of jurisdiction shall be resolved prior to dealing with discontinuance issues. An insurer or employer may request a conference under part 5220.2640, subpart 2 at any time to discuss a proposed discontinuance of benefits.

E. Instead of requesting a conference under item D or after the conference determination, the employee may object to a proposed or allowed discontinuance by filing with the division an objection to discontinuance under Minnesota Statutes, section 176.241. This commences a formal action which will then be referred to the office and scheduled for hearing under part 1415.2100.

Subp. 5. **Notice by division of defect.** If a petition to discontinue compensation, a notice of discontinuance, or a notice of intention to discontinue benefits is filed without the information required by this part, the division may request that the employer or insurer file the required information within ten days of notice of the defect. The time for an employee to request an administrative conference ends ten days after the defect is corrected, served on the employee, and filed with the division.

Subp. 6. **Penalties.** Where compensation is discontinued, reduced, or suspended in violation of this part, a penalty may be assessed under parts 5220.2720 and 5220.2790.

5220.2640 DISCONTINUANCE CONFERENCES.

Subpart 1. **Purpose.** The purpose of an administrative conference under Minnesota Statutes, section 176.242, is to determine whether reasonable grounds exist for a discontinuance of weekly benefits. The conference is an informal procedure to encourage discussion and clarify issues. If the parties do not reach an agreement on the issues, they will be resolved by a decision of the division. If all affected parties consent, rehabilitation and medical issues may also be discussed and clarified and decisions issued under Minnesota Statutes, sections 176.102 and 176.103.

Subp. 2. **Request.** The employee may request that the division schedule an administrative conference to discuss a proposed discontinuance of benefits. The employee's request for a conference must be received by the department no later than ten calendar days from the date a notice of intention to discontinue benefits was received by the division. Allowance will be made, if appropriate, for nonreceipt or delay under Minnesota Statutes, section 176.285.

If the insurer discontinues, reduces, or suspends benefits without filing a notice of intention to discontinue benefits in a situation in which a notice of intention to discontinue benefits was required under part 5220.2630, subpart 8 the employee may request an administrative conference at any time after the discontinuance or reduction but no later than ten days after a notice of intention to discontinue benefits is filed.

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PROPOSED RULES

The employee's request should be on the form provided by the insurer which must include the employee's name, address, and social security number; the date of injury or disease; and the employer's name.

Subp. 3. Continuation of benefits.

A. If an employee requests an administrative conference within the time set out in this part, benefits must be paid through the date of the conference unless the employee has withdrawn the request for a conference or the commissioner determines that no conference is necessary subject to items B and C.

B. If an employee does not request an administrative conference or fails to appear at the conference without good cause and no continuance of the conference is allowed, benefits may terminate at the time stated in the notice of intention to discontinue benefits. The date for compensation to end must be no earlier than the day the notice of intention to discontinue benefits is served upon the employee and received by the division.

C. If an employee's request for a continuance under subpart 5 is granted and the employee is awarded ongoing benefits, benefits must be paid during the period of continuance. If the employee's request for a continuance is granted and the employee is not awarded benefits, benefits need not be paid during the period of continuance. If the employer or insurer requested the continuance, benefits must be paid during the period of continuance.

Subp. 4. **Scheduling.** Subject to subpart 5, a discontinuance conference must be set within the time limits set by this subpart. Following a notice of intention to discontinue benefits, the division shall schedule an administrative conference no later than ten calendar days after the division's receipt of a timely request for a conference. If no notice of intention to discontinue benefits was filed as required by part 5220.2630, subpart 8 and the employee requests a conference, the division shall schedule a conference no later than ten calendar days after the division's receipt of the employee's request. If no notice of intention to discontinue benefits has been filed where an employer or insurer requests a conference, the division shall schedule an administrative conference to be held no later than 30 days after receipt of the request.

Subp. 5. **Continuances.** Continuances are disfavored but must be granted upon timely request and a showing of good cause. An employee, employer, or insurer may request a continuance if the party shows good cause for inability or failure to appear at the conference.

A. Good cause does not include:

(1) a party's lack of actual notice of the conference date and time when that party requested the conference and the notice was properly served on the party;

(2) unavailability of the insurer's representative because of engagement in another court or otherwise, unless all representatives practicing in the workers' compensation field are committed elsewhere; and

(3) unavailability of the employee's representative because of engagement in another court or otherwise, unless the representative's associates practicing in the workers' compensation field are all committed elsewhere.

B. An order continuing the conference must state the date and time of the rescheduled conference. It must be promptly mailed to the persons previously notified.

Subp. 6. **Standard and burden of proof.** The employer or insurer must prove by a preponderance of the information presented that reasonable grounds for a discontinuance exist.

Subp. 7. **The decision.** The decision must be based on information presented at the conference and information from the division file if the parties have been notified that file information will be reviewed and are given an opportunity to comment on those items considered. A written decision must be issued and must include notice of the right to have the matter heard by a compensation judge if a party is dissatisfied with the decision and the procedure for doing so and notice of the right to be represented by an attorney at a hearing before a compensation judge. The division shall mail a copy of the decision to the parties no later than five working days from the date of the conference. The decision is deemed notice of rights under Minnesota Statutes, section 176.241, to those parties served.

Subp. 8. **Petition for hearing; objection to discontinuance.** Under Minnesota Statutes, section 176.241, if a discontinuance is denied, the employer or insurer may file a petition to discontinue or, if a discontinuance is allowed, the employee may file an objection to discontinuance. Where an objection or petition is filed the administrative decision is binding on the parties until a hearing on the objection or petition is held and a decision made by the compensation judge.

Subp. 9. **Penalties.** Penalties may be imposed for an improper discontinuance of compensation under Minnesota Statutes, section 176.242, subdivision 10, and part 5220.2720 and for unreasonable or inexcusable delay or other grounds under Minnesota Statutes, section 176.225, subdivisions 1 and 5, and part 5220.2790.

5220.2650 RETURN TO WORK CONFERENCES.

Subpart 1. **Purpose.** The purpose of an administrative conference under Minnesota Statutes, section 176.2421 or 176.243, is to

resolve disputed issues regarding payment of compensation following an employee's return to work. The conference is an informal procedure to encourage discussion, clarify issues, and reach agreement or obtain resolution by a decision of the division. If all affected parties consent, rehabilitation or medical issues may also be discussed, clarified, and a decision issued under Minnesota Statutes, sections 176.102 and 176.103.

Subp. 2. Scope. This part applies when an employee has received temporary total or temporary partial compensation for a total of at least 45 work days whether continuously or intermittently; and no rehabilitation plan in effect at the time the 14-day check is due has been approved under part 5220.0400, subpart 2. In addition, a return to work conference is also available when properly requested by the employee under subpart 4 and Minnesota Statutes, section 176.2421 because of an inability to work at least 14 working days upon the employee's return to work.

Subp. 3. Notice regarding employment and wages. Upon completion of a 14-day employment and wage confirmation under Minnesota Statutes, section 176.243, if the employee is not working or is earning a lower wage than at the time of injury, the insurer must file a notice regarding employment and wages. The notice must be accompanied by the form prescribed by the commissioner to request an administrative conference to object to the action taken, containing the items listed in subpart 4. The notice must be on the form prescribed by the commissioner, containing substantially the following:

- A. the name, address, and social security number of the employee;
- B. the name of the employer;
- C. the date of injury or disease;
- D. the insurer's claim number;
- E. the date on which the employee was contacted;
- F. whether or not the employee was employed on that date;
- G. the weekly wage on the contact date and whether the wage is less than, the same as, or greater than the wage at the time of the injury;
- H. the action to be taken by the insurer regarding payment of compensation;
- I. the date the notice was served on the employee;
- J. the name, signature, and telephone number of the person making the decision of the action to be taken;
- K. the name of the insurance company and any adjusting company;
- L. notice that the insurer may not be obligated to pay until a decision is made by the division that benefits must be paid; and
- M. notice that the employee may file an objection to discontinuance if a formal hearing is desired.

Subp. 4. Request. The employee may request an administrative conference to discuss the action taken by the insurer upon the employee's return to work. The employee must request a conference no later than ten calendar days from the date the insurer's notice to the commissioner regarding employment status and wages was mailed to or personally served on the employee. Alternatively, the employee may request a conference no later than ten calendar days from the day the employee ceased working if the employee ceased working within the first 14 working days following the employee's return to work due to medical reasons associated with the injury. Allowance will be made, if appropriate, for nonreceipt or delay under Minnesota Statutes, section 176.285. The request must include the employee's name, address, and social security number; the date of injury or disease; the employer's name and address, and the insurer's claim number, if known. If a notice regarding employment and wages was required under subpart 3, but has not been filed, the employee may request a return to work conference at any time after the notice was due but no later than ten days after the notice is served and filed by the insurer.

Subp. 5. Payment of benefits pending conference. If the insurer has properly discontinued compensation under a notice of discontinuance before the employee ceases working, the insurer is not obligated to pay benefits pending a decision of the commissioner. If the insurer has voluntarily commenced payment upon the employee's cessation of work, compensation must continue to be paid until a proper notice of intention to discontinue benefits or notice of discontinuance of benefits under part 5220.2610 is filed, or until a decision of the commissioner is made subsequent to an administrative conference, whichever occurs first.

Subp. 6. Scheduling. If the request for conference is made under Minnesota Statutes, section 176.243, the division must schedule

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PROPOSED RULES

an administrative conference to be held no later than 14 calendar days after receipt of a timely request for a conference. If the request for conference is made under Minnesota Statutes, section 176.2421, the division must schedule an administrative conference no later than ten calendar days after receipt of a timely request for a conference.

Subp. 7. **The decision.** The decision must be based on information presented at the conference and information from the division file if the parties have been notified that file information will be reviewed and are given an opportunity to comment on those items considered. A written decision must be promptly issued and must include notice of the right to have the matter heard by a compensation judge if a party is dissatisfied with the decision, the procedure for doing so, and notice of the right to be represented by an attorney at a hearing before a compensation judge.

Subp. 8. **Penalty.** Where the appropriate notice regarding employment and wages is not given or compensation is discontinued in violation of this part, a penalty may be assessed under part 5220.2730. Penalties for an improper discontinuance or failure to pay following the decision issued under this part may be assessed under parts 5220.2720, 5220.2780, and 5220.2790.

5220.2660 REHABILITATION CONFERENCES.

Subpart 1. **Governing rules.** Administrative conferences under Minnesota Statutes, section 176.102, are governed by parts 5220.0100 to 5220.1910, 5220.2610, and this part.

Subp. 2. **Scheduling.** A conference to determine a change of qualified rehabilitation consultant will be given priority status for scheduling purposes.

Subp. 3. **Continuances.** A party may request a continuance before the conference under part 5220.2620, subpart 10.

Subp. 4. **Decision.** A written decision must be issued and must include a statement indicating the right to appeal the decision to the panel and instructions regarding how to initiate the appeal.

Subp. 5. **Penalties.** A penalty for failure to provide rehabilitation services may be assessed under part 5220.2780.

5220.2670 MEDIATION.

Subpart 1. **Evaluation for mediation.** Any party to a workers' compensation dispute may, at any stage of the proceedings, request evaluation of a disputed matter by the mediation unit to determine suitability of the dispute for further action by the unit. If the dispute is found to be suitable for resolution by the mediation process, the mediation unit will contact the parties to the dispute or their attorneys, if they are represented, to attempt conciliation or schedule a mediation session.

Subp. 2. **Conciliation.** Conciliation is the resolution of a dispute through informal means without conducting a full conference. If the dispute is appropriate for conciliation, the mediation unit may conciliate an agreement of the parties.

Subp. 3. **Agreement to mediate.** If conciliation does not occur or is not successful and all parties consent to participate in the mediation process, the unit will schedule a mediation session. The mediation unit will notify the parties of the date, time, and place for the session. An agreement to mediate must be executed by the parties prior to the commencement of mediation.

Subp. 4. **Mediation resolution.** If the mediation session results in a resolution of one or more of the disputed issues, the parties shall sign a written statement outlining the agreement. The mediation resolution need not contain all of the items listed in part 1415.2000, but must include a list of the issues under discussion and agreements reached by the parties. An intervenor is not required to sign the statement if it provides for reimbursement in full to the intervenor.

Subp. 5. **Mediation award.** A designee of the commissioner shall review the mediation resolution as provided by Minnesota Statutes, section 176.521, and shall issue a mediation award if the terms conform with the workers' compensation act. The award and the resolution must be served on the parties by mail within ten days of the conclusion of mediation unless the parties agree to allow a party to draft the mediation resolution. Both documents will be attached to and become part of the judgment roll of the division's file.

5220.2680 SECOND INJURY LAW.

Subpart 1. **Registration application.** Application for registration of physically impaired employees must be on forms prescribed by the division and submitted in duplicate. The application must be typewritten.

Subp. 2. **Medical evidence.** Medical evidence of the physical impairment must be contained on the application or attached to the application. The evidence must show the date of the last examination, the nature of the impairment, the doctor's signature, the date of signature, and must be legible and suitable for microfilming.

Subp. 3. **Effect of acceptance.** The application for registration with satisfactory medical evidence when accepted by the division is prima facie evidence of the existence of the named physical impairment shown on the application, but is not determinative of registration, and the burden of proof upon the issue of impairment, if contested at any time prior to the subsequent injury, is upon the party asserting its existence.

Subp. 4. **Acceptance or rejection, hearing.** Should the division deem the application unacceptable prior to the subsequent injury,

the applicant may, within 60 days following the receipt of notice of rejection, petition the division in writing for a hearing upon the application. A copy of the petition must be served by the applicant upon the state treasurer, custodian of the special compensation fund, and upon the attorney general. Upon receipt of the petition, the division must set the matter for hearing, which must be conducted as provided by Minnesota Statutes, section 176.411, with right of appeal.

Subp. 5. **Notice of intention to claim reimbursement.** Notice of intention to claim reimbursement under Minnesota Statutes, section 176.131, subdivision 6, must be on forms prescribed by the division. In a claim under Minnesota Statutes, section 176.131, subdivision 1, forms must be filed within one year after the payment of sufficient weekly benefits or medical expenses to make claim against the special compensation fund. In a claim under Minnesota Statutes, section 176.131, subdivision 2, forms must be filed within one year from the first payment of weekly benefits or medical expense.

Subp. 6. **Claim for reimbursement.** Reimbursement will be made by an order of the division or workers' compensation court of appeals from the special compensation fund on a yearly basis upon application for reimbursement on forms prescribed by the division. The employer must file the original and one copy with the division. The application must be verified, set out in detail expenditures made and expenditures for which reimbursement is claimed, and must be supported by medical reports, showing the nature and extent of disability and relationship to the injury and physical impairment for which reimbursement is claimed. The employer must file the original and one copy of notice of intention to claim reimbursement and claim for reimbursement with the division.

5220.2690 THIRD-PARTY RECOVERY.

Subpart 1. **Duty to inform division.** Any employer or insurer, learning of a third-party recovery or settlement arising out of a personal injury for which the employer or insurer is or may be liable, shall inform the division of the possible, pending, or completed third-party action, indicating:

- A. name of the employee;
- B. employee's social security number;
- C. name of employer;
- D. date of injury;
- E. name and address of the attorney, if any, representing the employee in the third-party action; and

F. if the employee is not represented by an attorney in the third-party action, or if the name of the attorney is not known, the name and address of the insurer for the third party, together with the name of their insured and any identifying file or claim numbers.

Subp. 2. **Subrogation information.** The parties shall furnish the division with the information necessary to issue its order determining the subrogation rights of the employer and insurer, and any credit to which the employer and insurer may be entitled against compensation liability.

5220.2710 ASSESSMENT OF PENALTIES.

Subpart 1. **Notice of assessment.** All penalties assessed by the commissioner or an authorized designee under Minnesota Statutes, chapter 176, shall be assessed within two years of the violation by service of a notice of assessment upon the party against whom the penalty is assessed which shall contain substantially the following:

- A. a statement of the legal basis for the penalty assessment including a citation to the applicable statutes;
- B. a clear and concise statement of the factual basis for the penalty assessment;
- C. a statement of the right to object to the penalty assessment and the right to a hearing;
- D. the procedure and time limits for making an objection and obtaining a hearing;
- E. the amount of the penalty; and
- F. the date payment is due if a timely objection is not filed.

The notice of assessment must be served upon the employee if it is payable to the employee, the employer, and the insurer.

5220.2720 IMPROPER DISCONTINUANCES; PENALTY.

Subpart 1. **Basis.** A penalty assessment for improper discontinuance will be made by the division if appropriate where:

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A. benefits were discontinued without the notice required under Minnesota Statutes, section 176.241 and part 5220.2630;

B. the discontinuance occurred despite an administrative determination denying a request to discontinue under Minnesota Statutes, section 176.242 and part 5220.2640;

C. the discontinuance occurred without notice despite a final decision of a compensation judge, the workers' compensation court of appeals, or the supreme court requiring payment of ongoing benefits;

D. an administrative conference was requested and the request was not withdrawn, the discontinuance occurred before the administrative conference was held except where the employee requests a continued conference date and ongoing benefits are not awarded; or

E. when a notice of intention to discontinue benefits is required to be filed but the discontinuance is retroactive, taking effect prior to the date that the notice of intention to discontinue benefits is served and filed with the division.

Subp. 2. Amount. When the division makes a determination under subpart 1, notice will be given and fines assessed as follows:

A.(1) If an employer or insurer has not previously had a penalty assessed for violation of a particular item in subpart 1, the division will send notice to the employer or insurer that the division has determined the discontinuance is improper. The warning notice will direct the employer or insurer to reinstate benefits within ten days of service of notice or a penalty will be assessed.

(2) If the benefits are not reinstated or a proper discontinuance filed within the ten days allowed, the division will send notice that a \$100 penalty is imposed.

(3) If the benefits are not reinstated within 20 days after service of the warning notice, a penalty of an additional \$200 will be imposed.

(4) In addition to the penalties assessed under items B and C, if the benefits are not reinstated within 30 days after service of the warning notice, a penalty of an additional \$200 will be imposed.

B.(1) If an employer or insurer has had a penalty assessed for violation of an item in subpart 1 and again violates the same item, the division will send notice that a \$100 penalty is imposed.

(2) If the benefits are not reinstated within ten days after service of the first penalty assessment on that file, a penalty of an additional \$200 will be imposed.

(3) In addition to the penalties assessed under subitems (1) and (2), if benefits are not reinstated within 20 days after service of the first penalty assessment, a penalty of an additional \$200 will be imposed.

C. If that employer or insurer has been issued five or more penalties for violations in a six-month period, a separate penalty of \$500 for each additional violation within that six-month period will be assessed.

D. An additional penalty may be assessed under Minnesota Statutes, section 176.221, subdivision 3, of 100 percent of the amount of compensation to which the employee is entitled.

Subp. 3. Payable to. Penalties under this part are payable to the special compensation fund.

5220.2730 IMPROPER FOLLOW-UP ON RETURN TO WORK; PENALTY.

Subpart 1. Basis. Under Minnesota Statutes, section 176.243, subdivision 11, a penalty may be assessed if the insurer has discontinued the employee's compensation due to return to work and has not:

A. contacted the employee 14 days after the employee's return to work to determine whether the employee is still working and ascertain the wages being paid; or

B. if the employee is not working or is working at a reduced income:

(1) notified the commissioner, in writing, of that fact and stated the actions that will be taken regarding payment of compensation; or

(2) served a copy of the notice, by certified mail, upon the employee.

Subp. 2. Amount. When the division makes a determination of violation under subpart 1, notice will be given and fines assessed as follows:

A.(1) If the violation is the first violation by the employer or insurer of the requirement, a warning letter will be sent by the division to the employer or insurer giving notice that the action or inaction by the employer was improper. Suggested remedial steps will be listed giving acceptable alternative actions and a time limit for action of ten days. Warning of possible penalty assessments must be included in the letter;

(2) If, after ten days, the improper action or inaction has not been corrected, a fine of \$100 will be assessed. Warning of possible further penalty will be given if action to correct is not taken within ten days of the \$100 assessment;

(3) If, after 20 days, the improper action or inaction has not been corrected, penalty of an additional \$200 will be assessed;

(4) If, after 30 days, the improper action or inaction has not been corrected, penalty of an additional \$200 will be assessed;

(5) Further violations may result in a penalty of an additional \$500.

B.(1) If the violation is not the first violation by the employer or insurer of the requirement, the division will send notice that a fine of \$100 is assessed. Warning of possible further penalty if action to correct is not taken within ten days of the \$100 assessment will be given;

(2) If, after ten days, the improper action or inaction has not been corrected, a fine of an additional \$200 will be assessed;

(3) If, after 20 days, the improper action or inaction has not been corrected, a fine of an additional \$200 will be assessed;

(4) Further violations may result in a penalty assessment of an additional \$500.

C. If the employer or insurer has been issued penalties for five violations in the preceding six months, a separate penalty of \$500 for each additional violation within the six-month period will be assessed.

D. An additional penalty may be assessed under Minnesota Statutes, section 176.221, subdivision 3, of 100 percent of the amount of compensation to which the employee is entitled.

Subp. 3. **Payable to.** Penalties paid under this part are payable to the special compensation fund.

5220.2740 FAILURE TO MAKE TIMELY PAYMENT OF MEDICAL CHARGES; PENALTY.

Subpart 1. **Basis.** A penalty may be assessed where payment of medical charges is not made in a timely manner as provided in part 5221.0600.

Subp. 2. **Amount.** Under Minnesota Statutes, section 176.221, subdivision 6a, a penalty of up to 100 percent of the amount owing shall be assessed unless the commissioner determines, pursuant to subpart 3, that either no penalty or a lesser amount should be assessed. Upon receipt of information that payment of a medical charge has not been made in a timely manner, the commissioner shall notify the payer of the complaint and provide warning that a penalty may be assessed.

Alternatively, a penalty of up to \$1,000 under Minnesota Statutes, section 176.221, subdivision 3a, for failure to make payment may be assessed.

Subp. 3. **Exceptions.** In considering an assessment for less than the maximum amount, the commissioner's designee shall take into consideration, if applicable, at least the following factors:

- A. the amount of the bill;
- B. the record of payments by this payer;
- C. the timeliness and adequacy of information requests made;
- D. the adequacy of the provider's initial submission;
- E. the complexity of the medical issues; and
- F. apportionment or other complicating legal factors.

Subp. 4. **Payable to.** Penalties assessed under this part are payable to the special compensation fund.

5220.2750 FAILURE TO MAKE TIMELY PAYMENT OF ECONOMIC RECOVERY COMPENSATION OR IMPAIRMENT COMPENSATION; PENALTY.

Subpart 1. **Basis.** A penalty may be assessed where payment of economic recovery compensation or impairment compensation is not made in a timely manner as provided in Minnesota Statutes, section 176.101 and part 5220.2550.

Subp. 2. **Amount.** Under Minnesota Statutes, section 176.221, subdivision 6a, a penalty of up to 100 percent of the amount owing may be assessed. Where payment is less than ten days late, a penalty of up to 25 percent may be assessed. Where payment is at least ten but less than 20 days late, a penalty of up to 50 percent may be assessed. Where payment is at least 20 but less than 30 days late, a penalty of up to 75 percent may be assessed. Payment 30 or more days late may result in the 100 percent penalty assessment.

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In considering the amount of the assessment, the commissioner's designee shall take into consideration at least the following factors:

- A. the length of the delay;
- B. the amount of the claim;
- C. the effort made to comply;
- D. the past record of payment by this insurer; and
- E. the complexity of the issues involved.

Subp. 3. **Payable to.** The penalty is payable to the special compensation fund.

5220.2760 ADDITIONAL AWARD AS PENALTY.

Subpart 1. **Basis.** Penalties under Minnesota Statutes, section 176.225, subdivision 1, in an amount up to 25 percent of the total amount of the compensation award may be assessed on the grounds listed in that section, including:

A. underpaying, delaying payment of, or refusing to pay within 14 days of the filing of an order by the division or a compensation judge unless the order is appealed within the time limits for an appeal;

B. delay of payment, underpayment, or refusal to pay permanent partial disability benefits as provided in part 5220.2550; and

C. any other violation under Minnesota Statutes, section 176.225, subdivision 1, for which no other penalty is provided under the act.

Subp. 2. **Amount.** A penalty assessed under this part will be for at least ten percent of the compensation owing.

Subp. 3. **Payable to.** Penalties assessed under this part are payable to the employee.

5220.2770 FAILURE TO PAY OR DENY; PENALTY.

Subpart 1. **Basis.** Where payment is not made in a timely manner and no denial of primary liability is filed as provided by Minnesota Statutes, section 176.221, subdivision 1, the division may assess the penalties provided in Minnesota Statutes, section 176.221, subdivisions 3 and 3a.

Subp. 2. **Amount.** The commissioner's designee must use the following procedure to determine the amount of the penalty.

A. The commissioner's designee must complete a delayed payment worksheet containing information identifying the claim and setting forth the time period of late payment.

B. Calculation of the amount of the penalty will be in the following manner:

(1) the 14-day period is first calculated. The period will begin on the next day after the first day of lost time or day of notice whichever is latest;

(2) the number of days after the 14-day period until payment is made constitute the days late;

(3) the compensation due for the number of days late is calculated;

(4) amount:

(a) If payment is more than two weeks late the penalty is calculated at 100 percent of the compensation to which the employee is entitled at the time of payment or at the time of assessment if payment has not yet been made.

(b) If payment is less than two weeks late the penalty is calculated at 50 percent of the compensation to which the employee is entitled at the time of payment or at the time of assessment if payment has not yet been made.

C. Where an old injury recurs causing disability, an extension under Minnesota Statutes, section 176.221, subdivision 1, is filed, and payment is not made within 30 days, calculation of the amount owing under item B shall be made with a grace period of 30 days rather than 14 days.

D. Where no compensation has been paid but the insurer has failed to file a denial of liability within the statutory 14- or 30-day limit on a claim required to be reported to the division, a penalty of up to \$1,000 for violations occurring after April 24, 1984, may be assessed under Minnesota Statutes, section 176.221, subdivision 3a.

In considering the amount of the assessment, the commissioner's designee shall take into consideration at least the following factors:

- (1) the length of the delay;
- (2) the adequacy of the notice to the employer;

- (3) the amount of the claim;
- (4) efforts made to comply;
- (5) the past record of payment by this insurer; and
- (6) the complexity of the issues involved.

Subp. 3. **Payable to.** This penalty is payable to the special compensation fund.

Subp. 4. **Repeated failure.** An insurer that has been penalized for failure to pay benefits within three days of the due date or deny under Minnesota Statutes, section 176.221, on five or more percent of their claims required by statute to be filed within a given calendar year will be subject to the action set out in Minnesota Statutes, section 176.231, subdivision 2.

5220.2780 FAILURE TO PAY OR PROVIDE REHABILITATION UNDER ORDER; PENALTY.

Subpart 1. **Basis.** Where payment is not made within 14 days following an order as required by Minnesota Statutes, section 176.221, subdivisions 6a and 8, the division may assess the penalties provided in Minnesota Statutes, section 176.221, subdivisions 3 and 3a. Where rehabilitation services are not provided within 14 days following an order of the division as required by Minnesota Statutes, section 176.221, subdivision 6a, the division may assess the penalty provided in Minnesota Statutes, section 176.221, subdivision 3a.

Subp. 2. **Amount.** The maximum penalty available under Minnesota Statutes, section 176.221, subdivision 3 or 3a, shall be assessed where there has been a failure to pay under an order which has not been appealed. Less than the maximum penalty available under Minnesota Statutes, section 176.221, subdivision 3, may be assessed where immediate assessment is necessary.

Subp. 3. **Payable to.** The penalty is payable to the special compensation fund.

5220.2790 INEXCUSABLE DELAY IN MAKING PAYMENT.

Subpart 1. **Basis.**

A. When a claim has not been denied but payment is not made as provided by Minnesota Statutes, section 176.221, the failure is deemed inexcusable delay under Minnesota Statutes, section 176.225, subdivision 5.

B. Where other payment of temporary total, temporary partial, permanent total, or permanent partial disability benefits is not made within ten days of the date provided by statute or rule, the failure is deemed inexcusable.

Subp. 2. **Amount.** The amount of the increase in payment under Minnesota Statutes, section 176.225, subdivision 5, for a delay under subpart 1, item A, is calculated in the same manner as the calculation of penalty in part 5220.2770 except that only ten percent of the penalty assessed therein will be assessed under this part.

The amount of the increase in payment assessed under subpart 1, item B, will be calculated at ten percent of the payment found to be delayed.

Subp. 3. **Payable to.** The amount of any penalty assessed under this part is payable to the employee at the employee's home address.

Subp. 4. **Assessment.**

A. The procedure for assessment of a penalty under subpart 1, item A, must be made as provided in part 5220.2770.

B. The calculation of a penalty under subpart 1, item B, for late payment of temporary total, temporary partial, or permanent total disability benefits must be as follows:

- (1) The due date specified in part 5220.2540 or 5220.2550 is determined;
- (2) The number of days after the due date until payment is made constitute the days late;
- (3) The compensation due for the number of days late is determined.

(4) The penalty is calculated at ten percent of the sum due at the time of the assessment or ten percent of the sum paid in an untimely manner.

C. The calculation of a penalty for late payment of permanent partial disability benefits, including economic recovery compensation and impairment compensation under subpart 1, item B, must be as follows:

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(1) the due date specified in part 5220.2540 or 5220.2550 is determined;

(2) if payment of the sum due is not made within ten days of the due date, a penalty of ten percent of the sum due at the time of the assessment or ten percent of the sum paid in an untimely manner is assessed.

5220.2810 FAILURE TO RELEASE MEDICAL DATA; PENALTY.

Subpart 1. **Application for penalty.** Any party or the division may request a penalty assessment against another party or a health care provider for failure to release medical data in accordance with Minnesota Statutes, section 176.138. The application must be in writing, clearly state the factual basis upon which the penalty is requested, and be accompanied by copies of the written requests for medical data made by the applicant and any response received. The application also must be accompanied by a copy of the written notification to the employee of the request for medical data, unless the employee requested the medical data.

Subp. 2. **Assessment of penalty.** Upon receipt of an application for a penalty assessment, the division shall assess a penalty if it determines that the request meets the following requirements:

A. the medical data requested is related to a current claim for compensation, which means any claim for compensation under Minnesota Statutes, chapter 176, for which benefits are currently being paid or are being claimed by an employee, whether or not a claim petition has been filed;

B. the requested medical data is specifically identified and in existence at the time of the request;

C. the requested medical data is directly related to a current injury or disability for which compensation is claimed or being paid;

D. the applicant sent written notification of the request for medical data to the employee at the time the request was made;

E. if required by federal law, appropriate authorizations for release of information were furnished; and

F. the requested medical data was not provided within seven working days after receipt of the request by a party and receipt of appropriate authorizations, if required by federal law.

Subp. 3. Amount.

A. The division must send a warning letter before a monetary penalty is assessed. The warning letter must advise the party or health care provider against whom the penalty is sought of the obligation to provide medical data under Minnesota Statutes, section 176.138, and that a penalty will be assessed if it fails to provide the requested data within seven working days after the warning letter and to file written verification of the release of the data or a copy of the data with the division within that time.

B. If the requested data is not provided and written verification filed with the division within seven working days after receipt of the warning letter, a penalty of \$50 shall be imposed. If that party or health care provider has had more than three penalties assessed or warning letters sent in the preceding 12 months, the penalty will be \$200 as well as further penalties under items C and D.

C. If the requested data is not provided and written verification filed with the division within 30 days after the date of the warning letter, a penalty of \$100 will be imposed.

D. If the requested data is not provided and written verification filed with the division within 60 days after the date of the warning letter, a penalty of \$200 will be imposed.

Subp. 4. **Payable to.** The amount of any penalty assessed under this part is payable to the special compensation fund.

5220.2820 FAILURE TO MAKE TIMELY REPORT OF INJURY; PENALTY.

Subpart 1. **Basis.** A penalty shall be assessed under Minnesota Statutes, section 176.231, subdivision 10, against the employer:

A. if a work-related death or serious injury occurs to an employee and the commissioner is not notified within 48 hours; or

B. if any other injury which must be reported to the division occurs and the first report of injury is received by the division more than 14 days after the first day of lost time or 14 days after the date when notice was received by the employer, whichever is later.

Subp. 2. **Amount.** If the employer has violated subpart 1 and has had no similar violations in the 12-month period prior to the assessment, an advisory letter informing the employer of the violation and the statutory requirement must be sent. If the employer has had one violation of subpart 1 in the past 12 months, a penalty of \$50 must be assessed. If the employer has had two violations in the past 12 months, a penalty of \$100 must be assessed. If the employer has had three violations in the past 12 months, a penalty of \$150 must be assessed. If the employer has had four or more violations in the past 12 months, a penalty of \$200 must be assessed.

Subp. 3. **Assessment.** The penalty must be assessed by letter informing the employer of the number of violations in the past 12 months on record and the amount of the penalty. The letter must contain instructions for payment.

Subp. 4. **Payable to.** The penalty is payable to the treasury of the state of Minnesota.

Subp. 5. **Nonpayment.** If payment of a penalty assessed under this part is not made within 30 days of its assessment, the matter must be referred for collection.

5220.2830 OTHER FAILURE TO FILE REPORT IN MANNER OR WITHIN TIME LIMITS PROVIDED; PENALTY.

Subpart 1. **Basis.** The division may assess a penalty for failure to file a required report if:

A. a report required to be filed by Minnesota Statutes, section 176.231, is not filed in the manner or within the time limitations prescribed; or

B. a report on a form prescribed by the commissioner is requested by the commissioner but is not provided within 21 days.

Subp. 2. **Amount.** If, after a letter request from the commissioner or authorized designee, a report under this part is not received by the division within 21 days, a penalty of \$50 must be assessed. A failure to file a report after a second request will result in a penalty assessment of \$150. A subsequent failure will result in penalty assessments of \$200.

Subp. 3. **Nonpayment.** If payment of a penalty assessed under this part is not made within 30 days of its assessment, the matter must be referred for collection.

5220.2840 FAILURE TO MAKE PAYMENT TO SPECIAL FUND; PENALTY.

For payments under Minnesota Statutes, section 176.129, the original payment notice will give warning that failure to pay by the due date without requesting an extension or showing good cause will result in a penalty.

Within 30 working days after the due date, the fund director must send notice of penalty by certified mail to those who have not responded to the original payment notice. Payment of the original amount due plus a fine of 15 percent of the amount due or \$500, whichever is greater, must be made within 30 days of notice of penalty by the fund director or good cause must be shown, or a request for hearing must be filed with the division.

If the insurer penalized does not make payment within six months of the original payment notice, the fund director will refer the file to the department of commerce for consideration of license or permit revocation.

5220.2850 FAILURE OF UNINSURED OR SELF-INSURED TO PAY; PENALTY.

The fund director will make referrals to the attorney general's office to seek reimbursement of benefits paid from the special fund under Minnesota Statutes, section 176.183, subdivision 1 or 1a. Punitive damages of up to 50 percent of all benefits and other expenditures on the claim may also be assessed in the court action initiated by the attorney general's office.

5220.2860 FAILURE TO INSURE; PENALTY.

Penalties for failure to insure will be assessed by the commissioner as provided by Minnesota Statutes, section 176.181, subdivision 3. Referrals to the attorney general's office shall also be made as provided in that section.

5220.2870 PENALTY OBJECTION AND HEARING.

A party to whom notice of assessment has been issued may object to the penalty assessment by filing a written objection with the division on the form prescribed by the commissioner. The objection must be served on the special compensation fund, the employee if the penalty is payable to the employee, the insurer and the employer. The objection must be filed and served within 30 days after the date the notice of assessment was served on that party by the division. The written objection must contain a detailed statement explaining the legal or factual basis for the objection and including any documentation supporting the objection. Upon receipt of a timely objection, the division must refer unresolved issues for a hearing to determine the amount and conditions of any penalty.

5220.2880 EXAMINATION OF WORKERS' COMPENSATION FILES.

Subpart 1. **Division case.** Persons desiring to examine a file maintained by the division, including a section case file, shall present a written document authorizing their inspection of the file to designated personnel of the division. The authorization must be signed and dated within the preceding six months by a party to the claim who is either the employee, the employer, the insurer, the special compensation fund, a dependent in death cases, or a legal guardian in cases of mental or physical incapacity. The authorization must specify the person or party authorized to review the file. The authorization is placed in and becomes part of the file. Information from division files may not be released over the telephone without the written authorization required by this subpart.

Subp. 2. **Limitation on access.** This part shall not be construed to grant greater access to the files than that given by the Minnesota Government Data Practices Act or the Workers' Compensation Act.

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5220.2890 SERVICE.

Subpart 1. **Service by state.** The division must serve all notices, findings, orders, decisions, or awards upon the parties by first class mail at their addresses of record or by personal service.

If the division has received notice that a party is represented by an attorney or authorized agent, documents required to be served on the party must also be served on the attorney or agent.

Subp. 2. **Service by parties.** A party shall serve all documents and pleadings by first class mail or by personal service. Service of documents required to be served on a party must also be served on the party's attorney or authorized agent. Filed documents must be accompanied by an affidavit of mailing or proof of service.

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

5220.2910 EXHIBITS.

Subpart 1. **Request for removal.** A request for permission to remove an exhibit or document may be made by the party who submitted the item. A request for removal from the division file must be made to the supervisor of the records section of the division. A request for permission to remove an exhibit or document from the rehabilitation and medical services file must be made to the office manager of the rehabilitation and medical services section.

Subp. 2. **Return without consent or notice.** Upon the expiration of 120 days after a decision of the commissioner, if no further proceeding is commenced, exhibits or other documentary evidence may be returned to their source of origin without the consent of the parties or notice to them. A copy of the letter of transmittal of the exhibit or other documentary evidence must remain in the file as part of the record of the case. Following a decision under Minnesota Statutes, section 176.242 or 176.243, exhibits or other documentary evidence may be returned to their source of origin in the same manner as exhibits in other cases if a petition to discontinue benefits or objection to discontinue benefits has not been filed within 120 days of the commissioner's decision.

Subp. 3. **Request for return.** Upon the request of the party which produced or introduced the exhibit or evidence at the conference, and upon expiration of 120 days after a decision, exhibits or other documentary evidence must be returned to their source of origin. A request for return of exhibits or other documentary evidence must be made in writing to the person specified in subpart 1 and include the title, identification number of the case, and the identity of the exhibits or other evidence requested. The name and telephone number of the person making the request must be included with the request.

5220.2920 ATTORNEY FEES.

Subpart 1. **Applicable principles.** Attorney fees shall be awarded in accordance with the following principles after resolution of a disputed benefit or service issue, whether the matter is settled or a decision is issued.

A. No fee will be awarded unless the attorney is successful in obtaining workers' compensation benefits or services for the employee.

B. If the attorney is successful in obtaining benefits or services, the attorney is entitled to a reasonable fee for the services rendered.

C. In general, each party shall be responsible for its own fees, except as provided by Minnesota Statutes, section 176.081, subdivisions 7, 7a, and 8, or 176.191.

D. Attorney fees shall not be awarded piecemeal. Where more than one type of benefit is in dispute at any particular time, all benefits currently in dispute shall be considered in determining fees.

E. Attorney fees for recovery of medical or rehabilitation benefits or services shall be assessed against the employer or insurer only to the extent that the fee computed under Minnesota Statutes, section 176.081, subdivision 1, in connection with all benefits currently in dispute is not sufficient to provide a reasonable fee to the attorney.

F. In determining what amount of fee is reasonable for services rendered in connection with rehabilitation and medical services, the factors of Minnesota Statutes, section 176.081, subdivision 5, must be applied.

Subp. 2. **Withholding of attorney fees.** Upon receipt of the notice of representation, the employer and insurer may withhold attorney fees on genuinely disputed portions of claims under Minnesota Statutes, section 176.081. Attorney fees must be withheld on genuinely disputed portions of claims if the employee's attorney so requests.

Subp. 3. **Statement of fees, petition for disputed or excess attorney fees.** The following procedures must be followed in claiming fees.

A. If the claim for attorney fees does not exceed the fees allowed by Minnesota Statutes, section 176.081, subdivision 1, clause (a), the party claiming fees shall file a statement of attorney fees on a form prescribed by the commissioner, including:

- (1) the caption of the case;
- (2) the employee's social security number;

- (3) the date of injury or disease;
- (4) a list of benefits obtained which were genuinely in dispute and which would not have been recovered without the attorney's involvement, and the total dollar amount of benefits obtained;
- (5) the amount of retainer received from the employee;
- (6) the amount the employee advanced for expenses;
- (7) the amount the employer and insurer are currently withholding as attorney fees, if known;
- (8) the specific dollar amount claimed for attorney fees;
- (9) a statement that the attorney is licensed to practice law in the state;
- (10) a statement of whether or not an application is being made for attorney fees under Minnesota Statutes, sections 176.081, subdivisions 7 and 8, and 176.191;
- (11) a notice that the employee or insurer has ten calendar days to object to the attorney fees requested; and
- (12) the full address and phone number of the employee's attorney.

The statement must be accompanied by the retainer agreement, if not previously filed, and proof of service on the employer or insurer, and employee.

B. If a party claims fees in excess of the amount listed in Minnesota Statutes, section 176.081, subdivision 1, clause (a) or an objection to the statement under item A is filed, or it is requested that fees be assessed against the employer or insurer for refusal to pay rehabilitation or medical benefits or provide services, the party shall file a petition for disputed or excess attorney fees on a form prescribed by the commissioner, including:

- (1) the caption of the case;
- (2) the employee's social security number;
- (3) the date of the claimed injury or disease;
- (4) an exhibit showing specific legal services performed, the date performed, and the time spent;
- (5) the number of hours spent in the employee's representation and the attorney's hourly fee;
- (6) a statement of expertise and experience in workers' compensation matters;
- (7) a brief description of the factual, medical, and legal issues in dispute;
- (8) the nature of proof required in the case;
- (9) a list of the benefits obtained which were genuinely in dispute and which would not have been recovered without the attorney's involvement, and the total dollar amount of benefits obtained;
- (10) the amount of the retainer;
- (11) the amount the employee advanced for expenses;
- (12) the specific dollar amount claimed in fees;
- (13) the amount the employer and insurer is currently withholding, if known;
- (14) a list of the disbursements incurred and if the disbursement has been paid, by whom;
- (15) a statement that the attorney is licensed to practice law in the state;
- (16) a statement of whether or not an application is being made for attorney fees under Minnesota Statutes, sections 176.081, subdivisions 7 and 8, and 176.191;
- (17) whether or not a hearing on attorney fees is requested; and
- (18) the full address and phone number of the employee's attorney.

The petition must be accompanied by a copy of the retainer agreement, if not previously filed, and proof of service on the employer or insurer, and employee.

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Subp. 4. **Fees, objection.** If a timely objection to the statement of attorney fees is filed, the compensation judge or settlement judge shall use Minnesota Statutes, section 176.081, subdivision 5.

5220.2930 DEPENDENT'S BENEFITS.

Subpart 1. Allocation of compensation by judge.

A. A party may petition for an allocation of benefits under Minnesota Statutes, section 176.111, subdivision 10. The petition may contain a proposed allocation. The petition must be served on all parties and filed with the division within one year after the date of death or one year after the effective date of this rule, whichever is later. If a petition for allocation is not filed in a timely manner and the death occurred after June 30, 1981, the allocation will be as provided in subpart 2.

B. A party may object to the allocation by serving on all parties and filing an objection with the division within 20 days after service of the petition. The objection must contain a clear and concise statement of the specific grounds for the objection and must be accompanied by any documentary evidence supporting the objection.

C. A settlement judge shall rule on the petition without a hearing. If a party objects to the judge's decision, the party may request a hearing by filing with the division a written request for hearing within 30 days after the decision was filed. Upon receipt of a timely request for hearing, the matter will be referred to the office for hearing.

Subp. 2. **Allocation of compensation in other cases.** In all cases where there has been no allocation of benefits by a judge under subpart 1, and the death occurs after June 30, 1981, compensation to which dependents are entitled under Minnesota Statutes, section 176.111, shall be allocated as follows:

A. If the deceased employee leaves a surviving spouse and one dependent child, 84 percent of the compensation due under Minnesota Statutes, section 176.111, shall be paid to the surviving spouse and the remaining 16 percent of the compensation shall be paid for the benefit of the dependent child.

B. If the deceased employee leaves a surviving spouse and two or more dependent children, 75 percent of the compensation due under Minnesota Statutes, section 176.111, shall be paid to the surviving spouse and the remaining 25 percent shall be paid for the benefit of the dependent children.

This allocation shall apply from the date of death until a court-determined allocation is made, if any.

Subp. 3. **Date of death governs.** An allocation of benefits under this part shall be based upon facts existing as of the date of death. Reallocations based on a change of circumstances of the dependents after the date of death, such as remarriage, termination of dependency status of one or more of the dependents, or any other reason, are not permitted.

Subp. 4. **Factors in allocating.** Factors which may justify a different allocation from that provided in subpart 2 include special circumstances which necessitate greater income to one or more of the dependents and the existence of other adequate means of support, other than workers' compensation benefits, for certain dependents but not for others.

Subp. 5. **Offset for government survivor benefits.** An offset for government survivor benefits is allowed under Minnesota Statutes, section 176.111, subdivision 21, only to the extent that the government survivor benefits, when combined with the weekly workers' compensation benefits, exceed the weekly wage of the deceased employee at the time of death or exceeds the dependents allocated portion of the weekly wage for deaths occurring prior to July 1, 1981. For purposes of this offset, the weekly wage must be increased by the adjustments provided by Minnesota Statutes, section 176.645.

A. Deaths prior to July 1, 1981. If there is a surviving spouse and one or more dependent children in a single household, the offset must be computed twice, once separately for the spouse and once separately for the children, the children being taken as a group. For purposes of this computation, the weekly wage, as adjusted pursuant to Minnesota Statutes, section 176.645, is allocated between the spouse and children in the same proportion as benefits are allocated pursuant to this rule. Mother's insurance benefits must be allocated to the children.

B. Deaths after June 30, 1981.

(1) Surviving spouse responsible for support of all dependents. If the support of all dependent children is the responsibility of the surviving spouse, the offset shall be computed only once, taking the spouse and dependent children together as one group. All government survivor benefits, including mother's insurance benefits, received by any member of the group shall be lumped together for purposes of computing the offset.

(2) Surviving spouse not responsible for support of all dependents. If support of one or more of the dependent children is not the responsibility of the surviving spouse, the offset shall be computed twice, once for the surviving spouse and the children dependent on the surviving spouse, all taken as a group, and once for the children whose support is not the responsibility of the surviving spouse. For purposes of the offset, the weekly wage, as adjusted under Minnesota Statutes, section 176.645, must be allocated between the spouse and children in the same proportion as benefits are allocated pursuant to this part. Mother's insurance

benefits must be allocated to the group comprised of the dependent children for whose benefit the mother's insurance benefits are being paid.

5220.2940 PEACE OFFICER DEATH BENEFITS.

Subpart 1. **Application for benefits.** The application for payment from the peace officers benefit fund of Minnesota Statutes, section 352E.02 shall be submitted to the commissioner on a form prescribed by the commissioner. The form shall require at least the following:

- A. The name, social security number, and job title of the peace officer.
- B. A description of events preceding the death and the cause of death.
- C. Identification of dependents and spouse, together with proof of relationship.
- D. Whether a workers' compensation claim for death benefits has also been or will be made.

Subp. 2. **Investigation by commissioner.** Upon receipt of a completed application, the commissioner shall determine whether benefits are payable under Minnesota Statutes, chapter 352E. The commissioner shall make any inquiries or investigation necessary to the determination, and if necessary, shall require the filing of a first report of injury under Minnesota Statutes, chapter 176.

Subp. 3. **Denial of claim.** If the commissioner determines that benefits are not payable, or that there is insufficient information on which to make a determination, the commissioner shall deny the claim and inform the claimant.

Subp. 4. **Petition for payment.** Claimants who disagree with the denial and wish to pursue their claim shall file a petition for payment with the Department of Labor and Industry, following the procedures prescribed for the filing of claim petitions under Minnesota Statutes, chapter 176, and part 1415.1000. The petition shall name as respondent the administrator of the peace officers benefit fund and shall be served on the commissioner.

Subp. 5. **Subsequent procedures.** The petition will be treated as a claim petition under Minnesota Statutes, chapter 176, including referral to the office for hearing, if the case is not settled.

Subp. 6. **Consolidation with dependency benefit claim.** Upon order of a compensation judge, a claim under Minnesota Statutes, chapter 352E, must be consolidated with a claim for death benefits under Minnesota Statutes, chapter 176, if the factual issues are similar and consolidation would not unduly delay resolution of either claim. Consolidation shall not be construed as permitting application of the same legal standard to both claims.

Subp. 7. **Appeals.** A party aggrieved by an order of the compensation judge or the Workers' Compensation Court of Appeals may appeal pursuant to Minnesota Statutes, chapter 176, and rules applicable to cases under Minnesota Statutes, chapter 176.

Subp. 8. **Certification.** After investigation the commissioner may certify pursuant to Minnesota Statutes, section 352E.04. If a denied claim is appealed, after a final order that the benefit is due, the commissioner shall so certify.

5220.2950 SEVERABILITY.

If any provision of parts 5220.2510 to 5220.2940 is held to conflict with a governing statute, applicable provisions of the Administrative Procedure Act, or other relevant law; to exceed the statutory authority conferred; to lack a reasonable relationship to statutory purposes or to be unconstitutional, arbitrary, or unreasonable; or to be invalid or unenforceable for any other reason; the validity and enforceability of the remaining provisions of the rule shall in no manner be affected.

REPEALER. Minnesota Rules, parts 5220.2500; 5220.2600; 5220.2700; 5220.2800; 5220.2900; 5220.3000; 5220.3200; 5220.3600; and 5220.5000 are repealed.

Department of Natural Resources

Proposed Rules Relating to Boat and Water Safety

Notice of Intent to Amend a Rule without a Public Hearing

Notice is hereby given that the Minnesota Department of Natural Resources ("department") intends to adopt amendments to the above-referenced department rules without public hearing because of the noncontroversial nature of the amendments.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Persons interested in these rules and amendments shall have 30 days to submit comments on the proposed rules and amendments. The proposed rules and amendments may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Persons who wish to submit comments should submit such comments to Kim Elverum, Minnesota Department of Natural Resources, Box 46 - 500 Lafayette Road, St. Paul, MN 55146.

No public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, §§ 14.13-14.20.

Authority for the adoption of these rules is contained in Minnesota Statutes, § 361.25. A Statement of Need and Reasonableness describing the need for and reasonableness of the amendment has been prepared and is available upon request at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the address listed above.

A copy of the proposed amendment is attached.

February 27, 1986

Joseph N. Alexander
Commissioner
Minnesota Dept. of Natural Resources

Rules as Proposed

6110.1200 NAVIGATION OF WATERCRAFT ON THE WATERS OF THE STATE; SAFETY EQUIPMENT.

Subpart 1. Rules of the road. Rules of the road:

A. to C. [Unchanged.]

D. A nonmotorized watercraft has right-of-way over a motor-powered watercraft except when it is the overtaking watercraft. ~~Nonmotorized watercraft should not insist on this right-of-way when approaching large commercial vessels.~~ Motor-powered watercraft should always keep clear and pass astern of nonmotorized watercraft.

E. Small watercraft shall not insist on the right-of-way, nor unnecessarily impede the passage of large commercial vessels, which are restricted in their ability to maneuver by size, draft, or speed.

F. When watercraft are in a narrow channel, each shall keep as far to the right as may be safe or practical.

G. All watercraft shall yield the right-of-way to enforcement or other authorized emergency watercraft displaying a red or blue flashing light.

Subp. 2. Mode of operation of watercraft. Mode of operation:

A. to C. [Unchanged.]

D. No person shall operate a watercraft in the vicinity of a lock and dam on the Mississippi River from Upper St. Anthony Falls through Lock and Dam Number Eight in violation of the following:

(1) In the marked restricted area 600 feet upstream or 150 feet downstream of the dam, including auxiliary locks not in service.

(2) At greater than a slow-no wake speed in the lock or lock approach area. Slow-no wake, means the operation of a watercraft at the slowest possible speed necessary to maintain steerage, and in no case greater than five miles per hour.

(3) Enforcement, emergency, resource management, and other government personnel or contractors are exempt from this part when performing official duties or authorized work.

E. The operator of any watercraft, when signaled to do so by a conservation officer, sheriff, or sheriff's deputy shall bring the watercraft to a stop or maneuver it in a manner which will allow the officer to come alongside.

Subp. 3. Personal flotation (lifesaving) devices. Flotation devices:

A. to C. [Unchanged.]

D. All personal flotation devices required by ~~these rules~~ this subpart shall be:

(1) and (2) [Unchanged.]

(3) in serviceable condition free of tears, rot, punctures, or waterlogging, and with all straps and fasteners present and in good condition;

(4) either readily accessible or worn; except for those Type V devices which are required to be worn to be accepted as United States Coast Guard approved. Readily accessible means easily retrievable within a reasonable amount of time in an emergency. Personal flotation devices located in locked containers, under heavy objects or left in shipping bags are not considered readily accessible;

(5) [Unchanged.]

Subp. 4. to 7. [Unchanged.]

6110.1500 WATERWAY MARKERS.

Subpart 1. [Unchanged.]

Subp. 2. **Channel marker buoys.** Channel marker buoys:

A. [Unchanged.]

B. Where channel marker buoys are placed to indicate the location of a well defined boating channel, an all ~~black~~ green buoy and an all red buoy shall be placed in opposition to each other to indicate the course of the channel is located between them. In flowing water, the red buoy shall be situated on the right side of the channel when facing upstream. A green flashing light shall be used in conjunction with a ~~black~~ green buoy if it is to be lighted. When reflectorization is used with a ~~black~~ green buoy, it shall be green in color and no less than a four-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be odd. A red flashing light shall be used in conjunction with a red buoy if it is to be lighted. When reflectorization is used with a red buoy, it shall be red in color and no less than a four-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be even. Existing black buoys may be used through December 31, 1987.

C. and D. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

6110.1900 ACCIDENT REPORTS.

Each county sheriff shall report to the commissioner of natural resources promptly, on forms provided by the commissioner, each accident involving a watercraft, and every drowning, in order to properly evaluate the water safety program. In the event of death, the report shall be made within 48 hours; in event of serious injury which incapacitates the victim for more than 72 hours or involves property damage of over \$100 ~~\$200~~ report must be made within five days. Each charge of a violation of law made against a watercraft operator and each written warning thereof shall be reported. Each watercraft for hire which does not comply with the standards of safety for such watercraft shall also be reported.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Board of Animal Health

Adopted Rule Relating to Return of Cattle From Pasture

The rule proposed and published at *State Register*, Volume 10, Number 20, pages 1114-1115, November 11, 1985 (10 S.R. 1114) is adopted as proposed.

Department of Health

Adopted Rules Governing the Cost Effectiveness and Economic Impact of the Regulation of Human Service Occupations

The rule proposed and published at *State Register*, Volume 10, Number 14, pages 724-727, September 30, 1985 (10 S.R. 724); Volume 10, Number 27, pages 1473-1475, December 30, 1985 (10 S.R. 1473); and Volume 10, Number 29, page 1548, January 13, 1986 (10 S.R. 1548) is adopted as proposed.

Racing Commission

Adopted Rules Governing Horse Racing Regulations; Minnesota Racing Commission

The rules proposed and published at *State Register*, Volume 10, Number 21, pages 1151-1158, November 18, 1985 (10 S.R. 1151) are adopted as proposed.

Racing Commission

Adopted Rules Relating to Horse Medication

The rules proposed and published at *State Register*, Volume 10, Number 14, pages 759-764, September 30, 1985 (10 S.R. 759) are adopted with the following modifications:

Rules as Adopted

CHAPTER 7890

MINNESOTA RACING COMMISSION

HORSE MEDICATION

7890.0100 DEFINITIONS.

Subp. 4. **Bleeder.** "Bleeder" means, according to its context, either:

A. a horse which during a race or exercise is observed by the commission veterinarian or stewards his or her designee to be shedding blood from one or both nostrils or which is suspected of having bled and is so confirmed by an endoscopic examination conducted by the commission veterinarian within one hour following the race or exercise. Bleeder also includes and in which no upper airway injury is noted during an examination by the commission veterinarian immediately following such a race or exercise;

B. a horse which, within 1-1/2 hours of such a race or exercise, is observed by the commission veterinarian, through visual and/or endoscopic examination, to be shedding blood from the lower airway; or

C. a horse which has been shipped into Minnesota and which meets the criteria in part 7890.0140, subpart 6 3.

Subp. 8. **Depressant.** "Depressant" is a substance used to diminish the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other ~~functions~~ systemic function of the body.

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

B. Lasix®, provided, however, that if it is administered to a confirmed bleeder on a day it is entered to race, it must be given intravenously under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 ~~milligrams/milliliters~~ milligrams/milliliter or five percent solution) per administration.

7890.0110 MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race in which it is scheduled to run any medication (except as permitted by part 7890.0100, subpart 13, items A to D) by injection, oral or topical administration, rectal infusion or suppository, or by inhalation.

7890.0120 REPORTING PROCEDURES.

Subp. 2. **Administration of Bute to be reported.** The following procedures shall be observed when Bute is administered.

C. If Bute is not detected in a test sample taken from a horse registered to use such substance, disciplinary action shall be initiated against the attending trainer and, if applicable, the assistant trainer or substitute trainer.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist that any medication or Bute exceeding the allowable test level provided in part 7890.0100, subpart 13, item A, shall be considered prima facie evidence that such medication or substance was administered and carried in the body of the horse while participating in a race. Such finding shall also be considered prima facie evidence that the trainer and, if applicable, the assistant trainer or substitute trainer was negligent in the handling or care of the horse.

7890.0140 BLEEDERS.

Subpart 1. **Maintenance.** An up-to-date bleeder list shall be posted in the office of the racing secretary. **Examination of bleeders.** A horse which is alleged to have bled in Minnesota must be physically examined by the commission veterinarian in order to confirm its inclusion on the bleeder list, veterinarian's list, or both. The examination must be performed within 1-1/2 hours following the finish of a race or exercise in which the horse has participated. At the time of the physical examination the commission veterinarian may also require an endoscopic examination to confirm the source of hemorrhage. The endoscopic examination shall be conducted by a veterinarian employed by the horse's owner or his or her agent, and shall be conducted in the presence of and in consultation with the commission veterinarian. The commission veterinarian shall decide, based upon his or her experience and professional training, whether the amount of hemorrhage is sufficient to cause such horse to be certified as a bleeder.

Subp. 2. **Horses placed on bleeder list.** Bleeders shall be placed on the bleeder list and veterinarian's list and shall be ineligible to be entered in a race pursuant to subpart 5. **Confirmation of bleeder must be certified.** The confirmation of a bleeder examined pursuant to subpart 1 must be certified in writing by the commission veterinarian and such horse must be included on the bleeder list. Upon request, a copy of the certification shall be provided to the owner of the horse or his or her agent.

Subp. 3. **Endoscopic examination.** Within one hour of the finish of the race or exercise in which a horse has participated, the commission veterinarian may require an endoscopic examination in order to confirm the horse's inclusion on the bleeder list. The endoscopic examination shall be conducted by a veterinarian employed by the horse's owner or his or her agent, and shall be conducted in the presence of and in consultation with the commission veterinarian. The commission veterinarian shall decide, based upon his or her experience and professional training, whether the amount of hemorrhage is sufficient to cause such horse to be certified as a bleeder. **Bleeders imported from other jurisdictions.** A horse shipped into Minnesota from another jurisdiction may be considered a bleeder provided that the jurisdiction from which it was shipped certified the horse as a bleeder, and documentation to that effect is transmitted to and accepted by the commission veterinarian at the Minnesota racetrack to which it is shipped; and the transmission occurs prior to the initial entry of the horse into a race at the current race meeting.

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ADOPTED RULES

Subp. 4. **Confirmation of bleeder must be certified.** The confirmation of a bleeder must be certified in writing by the commission veterinarian and such horse must be included on the bleeder list. Upon request, a copy of such certification shall be provided to the owner of the horse or his or her agent Horses placed on bleeder list. Bleeders shall be placed on a bleeder list and the list shall be posted in the office of the racing secretary. Horses certified as having bled in Minnesota shall also be placed on the veterinarian's list at the time of the observed bleeding and shall be ineligible to be entered in a race pursuant to subpart 5.

Subp. 5. **Restrictions on confirmed bleeders.** Confirmed bleeders shall be subject to the following restrictions:

A. For the first observed bleeding in Minnesota, the horse shall be placed on the bleeder list and the veterinarian's list and shall not be removed from the veterinarian's list for at least 14 days, and not until the commission veterinarian has approved its removal without the approval of the commission veterinarian. Such a horse shall be ineligible to race for at least 16 days following the observed bleeding.

B. When a horse has been observed bleeding for the second time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least 28 days, and not until the commission veterinarian has approved its removal without the approval of the commission veterinarian. Such a horse shall be ineligible to race for at least 30 days following the observed bleeding.

Subp. 6. **Bleeders imported from other jurisdictions.** A horse shipped into Minnesota from another jurisdiction may be considered a bleeder provided there is compliance with the following procedures:

A. the jurisdiction from which it was shipped considered the horse a bleeder, and documentation to that effect is immediately transmitted to the stewards and the commission veterinarian at the Minnesota racetrack to which it is shipped; and

B. the commission veterinarian certifies the horse as a bleeder Lasix® may be administered to certified bleeders. Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of Lasix®. Once a horse has raced with Lasix®, it must continue to race with Lasix® in all subsequent races unless a request is made to discontinue the use. If the use of Lasix® is discontinued, the horse shall be prohibited from again racing with Lasix® unless it is later observed to be bleeding pursuant to subpart 1 or meets the requirements of subpart 3. Requests for the use of or discontinuance of Lasix® must be made to the commission veterinarian by the horse's trainer or assistant trainer on a form prescribed by the commission on or before the day of entry into the race for which the request is made.

Subp. 7. **Bleeders confined** ~~Confinement~~ **to security stall.** Once a horse is placed on the bleeder list has been permitted the use of Lasix®, it must be brought to the detention barn for treatment not less than four hours prior to scheduled post time for the race in which it is entered to start. Once at the detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.

Subp. 8. **Deadline for Lasix®.** ~~Bleeders entered to race~~ A horse entered to race with Lasix® must be treated at least four hours prior to post time. Immediately prior to treatment, a blood sample shall be taken by the commission veterinarian for analysis.

Subp. 9. **Administration of Lasix®.** Lasix® shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse or his or her agent under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliter or five percent solution) per administration.

EMERGENCY RULES

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

(Emergency rules published in this issue)

DEPARTMENT OF ECONOMIC SECURITY

(Now JOBS AND TRAINING)

3301.0100-.0230; .0260-.0650 [Emer] 1911

Department of Jobs and Training

Adopted Rules Relating to Employment

The rules proposed and published at *State Register*, Volume 10, Number 23, pages 1240-1265, December 2, 1985 (10 S.R. 1240) are adopted with the following modifications:

Rules as Adopted, Emergency

3301.0020 [Emergency] DEFINITIONS.

Subp. 6. **Coordinator.** "Coordinator" means the coordinator of the Office of Full ~~Employment and~~ Productivity and Opportunity.

Subp. 19. **Public assistance.** "Public assistance" means aid to families with dependent children, general assistance, and work readiness.

Subp. 20. **Registrant.** "Registrant" means a person who is registered for employment and training services.

Subp. ~~20-~~ 21. **Registration.** "Registration" means the process which must be completed by an individual prior to beginning employment and training services.

Subp. ~~21-~~ 22. **Service provider.** "Service provider" means a public, nonprofit, or private organization or agency with whom an LSU has a written contract to provide specified employment and training or support services.

Subp. ~~22-~~ 23. **Subsidized employment.** "Subsidized employment" means work in a job for which an individual's wages and benefits are partially or totally paid with government program funds.

Subp. ~~23-~~ 24. **Suitable employment.** "Suitable employment" means a job that meets existing health and safety standards set by federal, state, or local regulations, is within the physical and mental ability of the person as determined by a qualified professional, vocational advisor, pays at least the minimum wage prescribed by state or federal law and does not include temporary day labor.

EMERGENCY RULES

Subp. 24- 25. **Support services.** "Support services" means those services which are necessary to enable an individual to engage in employment and training, including child care, transportation, assistance with work-related expenses, and family services as described in parts 3301.0630 [Emergency] and 3301.0650 [Emergency].

Subp. 25- 26. **Unsubsidized employment.** "Unsubsidized employment" means a job for which the wages and benefits are paid entirely by the employer without government program funds.

Subp. 26- 27. **Vocational advisor.** "Vocational advisor" means a person employed by or under contract with the local agency who has sufficient education, training, or experience to enable the person to identify the types of available, suitable employment in a registrant's local labor market and the necessary qualifications for that employment; to identify the registrant's physical, social, vocational, and educational barriers to obtaining available, suitable employment; and to identify the types of services and activities necessary to enable the registrant to overcome the barriers and obtain suitable employment.

Subp. 27- 28. **Wage subsidy program.** "Wage subsidy program" means the Minnesota Employment and Economic Development wage subsidy program authorized by Minnesota Statutes, sections 268.672 to 268.682.

Subp. 28- 29. **WR.** "WR" means the work readiness program authorized under Minnesota Statutes, section 256D.051.

Subp. 29- 30. **Work-related expenses.** "Work-related expenses" means normal expenses associated with maintaining a job, including meals during work hours, work clothing, tools or supplies, any salary or wage deductions for union dues, and any other costs related to employment other than child care and transportation.

GENERAL ADMINISTRATION

3301.0030 [Emergency] PURPOSE AND APPLICABILITY.

Subp. 2. **Applicability.** Parts 3301.0030 to 3301.0650 [Emergency] apply to the ~~commissioners~~ commissioner of the Department of Jobs and Training ~~and the Department of Human Services or their designees~~ designee, county boards, local agencies, LSUs, and service providers which administer employment and training services and support services.

Subp. 3. **Preparation of written materials.** All referral forms, notices, and other information prepared by the commissioner, a county board, a local agency, an LSU, or a service provider pursuant to parts 3301.0010 to 3301.0650 [Emergency] for distribution to applicants, participants, recipients, or registrants must be prepared in clear and easily understood English. The commissioner shall prepare a written statement in English, Spanish, Laotian, Vietnamese, Cambodian, and Hmong that states that the written document accompanying the statement is very important, and that if the reader does not understand the document the reader should seek immediate assistance. The written statement must accompany all referral forms, notices, and other information given to applicants, participants, recipients, and registrants pursuant to parts 3301.0010 to 3301.0650 [Emergency].

3301.0040 [Emergency] CO-LOCATION.

Subp. 5. **Conditions for waiver of co-location for registration.** A waiver of co-location requirements will not be approved by the commissioner unless the LSU ensures that timely registration requirements will be met by either of the following:

A. the local agency, by contract or agreement, provides registration as described in part ~~3301.0160~~ 3301.0140 [Emergency], subpart 2, items A and B; or

B. the LSU demonstrates that the procedure currently used within the county provides registration to AFDC applicants and recipients throughout the work week during regular business hours and at a location within reasonable travel distance from the local agency. For purposes of this item, "reasonable travel distance" means no more than 15 minutes travel time from the local agency to the place of registration by the means of transportation actually available to the individual.

3301.0060 [Emergency] STANDARDS FOR PROGRAM ADMINISTRATION.

Subpart 1. **Standards for LSUs.** LSUs shall:

A. provide or arrange for necessary child care services;

B. ~~reimburse~~ provide or arrange for payment of allowable transportation costs as set forth in part 3301.0640 [Emergency];

C. establish ~~an informal grievance procedure~~ a conciliation process according to part 3301.0100 [Emergency] and ~~inform~~ provide written notice to all individuals applying for employment and training services of their right to ~~the procedure~~ this process and ~~their coexistent right to a fair hearing~~;

D. provide or arrange for delivery of other necessary support services such as defined those enumerated in part 3301.0650 [Emergency];

E. ensure that employability assessments, if required, are conducted to determine the suitability of employment and training services; the assessment must be prepared within 30 calendar days of the date the individual has registered for employment and training services;

EMERGENCY RULES

F. require that a vocational advisor conduct the employability assessment and prepare the employability development plan;
and

G. ~~require that public assistance applicants can register on the same day for employment and training services; and~~

~~H.~~ ensure that public assistance recipients are registered for employment and training services within time limits necessary to avoid delaying receipt of assistance, denying benefits, or reducing the amount of benefits.

Subp. 2. **Standards for service providers.** Service providers shall:

C. ensure that a vocational advisor conduct the employability assessment and prepare the employability development plan;
and

D. ~~require that public assistance applicants can register on the same day for employment and training services; and~~

~~E.~~ register public assistance recipients for employment and training services within time limits necessary to avoid delaying receipt of assistance, denying benefits, or reducing the amount of benefits.

GENERAL PARTICIPATION

3301.0070 [Emergency] PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 3301.0070 to 3301.0100 [Emergency] establish general standards for participation in employment and training services ~~by public assistance recipients and wage subsidy program registrants.~~

Subp. 2. **Applicability.** Parts 3301.0070 to 3301.0100 [Emergency] apply to all applicants for and ~~recipients of~~ participants in employment and training services ~~who are public assistance recipients and wage subsidy program registrants.~~

3301.0090 [Emergency] RIGHTS AND RESPONSIBILITIES OF PARTICIPATION.

Subpart 1. **Rights of all registrants.** Registrants for employment and training services shall be given:

A. ~~given~~ an employment assessment within 30 calendar days of the date of registration, if an assessment is required by the employment and training program;

B. ~~informed about~~ written notice describing the availability of support services necessary to allow participation in employment and training;

(1) at the time of registration for wage subsidy applicants; and

(2) during the assessment for all other programs;

C. ~~given a copy of the employability development plan, if required, at the time it is prepared;~~

~~D.~~ informed written notice of the and basis for all decisions adverse actions regarding eligibility and participation in employment and training services; and

D. written notice of a right to the fair hearing process set forth in part 3301.0100 [Emergency].

Subp. 2. **Rights of public assistance participants.** Public assistance recipients required to participate in employment and training services shall be given:

A. a copy of the employability development plan at the time it is prepared;

~~E.~~ informed B. written notice of the sanctions, if ~~any~~, which shall be imposed against an individual who fails to fulfill the responsibilities as described in subpart 2 ~~3~~ and the conditions of participation as described in part 3301.0080 [Emergency]; and

~~F.~~ informed C. written notice at the time of registration of the requirements with which they must comply;

G. informed of the right to notice of any adverse action regarding participation in employment and training services; and

H. informed of the right to a fair hearing as described in part 3301.0100 [Emergency] after an appeal of any adverse action regarding eligibility for or participation in employment and training services.

Subp. 2- ~~3.~~ **Responsibilities.** A ~~registrant~~ public assistance recipient required to participate in employment and training services shall:

C. accept an offer of suitable employment as determined in the employability development plan unless otherwise provided in parts 3301.0010 to ~~3301.0660~~ 3301.0650 [Emergency];

Subp. 3- ~~4.~~ **Disqualification.** The LSU shall require that ~~registrants~~ public assistance recipients required to participate in employment and training services and who fail to fulfill the responsibilities established in subpart 2 ~~3~~ without good cause are notified that they have 15 calendar days to fulfill those responsibilities or to request, in writing, a ~~grievance procedure pursuant to the~~ fair hearing process set forth in part 3301.0100 [Emergency] or ~~face possible disqualification be disqualified~~ from further employment and training services.

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3301.0100 [Emergency] FAIR HEARING PROCESS.

Subpart 1. ~~Responsibilities of the LSU.~~ The LSU shall require that one or more review officers are appointed to conduct informal grievance procedures concerning the actions listed in subpart 2 in accordance with the procedure in subparts 3 to 6. Review officers who are appointed must not have participated in any way in the action in question.

Subp. 2. ~~Grievable Adverse actions.~~ Employment and training services applicants and participants have the right option to request the LSU to conduct an informal grievance procedure on the a conciliation conference to attempt to resolve complaints arising from any of the following actions:

B. unauthorized termination from employment and training services provided funding for those services is available;

D. disqualification resulting from a determination of failure to participate as described in part 3301.0090 [Emergency], subparts 2 and 3; and

E. failure to provide or arrange for support services other than child care funded by sliding fee if eligibility is established and funds are available; and

F. the contents of an employability development plan prepared pursuant to part 3301.0150 [Emergency], subpart 2.

Subp. 3- 2. ~~Notice requirements.~~ The LSU shall require the service provider to notify the party applicant or participant, in writing, of any grievable adverse action. Notice of the proposed action must be mailed to employment and training applicants and participants at least 15 calendar days before the effective date of the action. The notice must clearly state what action the LSU or service provider intends proposes to take, the effective date of the proposed action, the reasons for the proposed action, the necessary corrective measures, the right to grieve the action option to request either a conciliation conference or an administrative hearing, where and how to make the request, the time limits for the grievance within which a request must be made, and the consequences of the action. The determinations described in subpart 1, items A and F must include written notice of the applicant's right to the election described in subpart 3, where and how to request the election, the time limit within which to make the request, and the reasons for the determination.

Subp. 4. ~~Notice of intent to grieve.~~ An individual applying for employment and training services or a participant who receives the notice described in subpart 3 must request the LSU, on or before the date specified in the notice, to conduct the grievance procedure 3. ~~Election.~~ An individual applying for employment and training services or a participant who receives a determination or notice of proposed action under subpart 2 must mail or deliver either a written notice of request for a conciliation conference to the LSU or a written notice of request for the hearing specified under subpart 5 to the LSU on or before the effective date of the proposed action or the date specified in the notice or the action will be final. An individual applying for employment and training services may request an the LSU to conduct a grievance procedure conciliation conference or the department to conduct a hearing on the actions specified in subpart 2 1, items C and E. The request must be in writing.

Subp. 5. ~~Informal grievance procedure 4. Conciliation conference.~~ The LSU shall provide an informal grievance procedure a conciliation conference within 30 days of receipt of a written request. The LSU shall give the employment and training applicant or participant ten calendar days' written notice of the hearing conference date. The applicant or participant and the LSU's representative has the right to appear, to call bring witnesses, and to submit new documentation. The written request and all actions and decisions the resolution, if any, of the procedure conference shall be maintained as part of the official record. The hearing officer LSU representative shall make a determination within ten days of the date of the informal grievance procedure issue a written resolution only if mutual agreement is reached between the representative and the applicant or participant. The resolution must be signed by both parties and issued on the same day as the conciliation conference is held. Participating in a conciliation conference or signing a resolution does not constitute a waiver of the right to an administrative hearing.

An applicant or participant may, within 15 calendar days of the conference, mail or deliver a written request to the LSU for an administrative hearing. Unless an appeal is requested, a determination, proposed action, or resolution of a conciliation conference will be final after the 15-day period has passed.

Subp. 6- 5. ~~Administrative hearing process.~~ A dissatisfied party may request within 15 calendar days of the mailing of an adverse determination. A fair hearing shall be conducted in the manner prescribed by Minnesota Statutes, section 268.10, subdivision 3, or the determination will be final. A right to review will be provided in accordance with Minnesota Statutes, section 268.10, subdivision 5. The proposed action will not take effect nor will disqualification shall not occur until the appeal is decided by the administrative hearing process.

REGISTRATION AND CERTIFICATION OF AFDC APPLICANTS AND RECIPIENTS

3301.0110 [Emergency] PURPOSE AND APPLICABILITY.

Subpart 1. ~~Purpose.~~ The purpose of parts 3301.0110 to 3301.0170 3301.0160 [Emergency] is to establish minimum standards for LSUs and county boards to register and certify applicants and recipients of AFDC in employment and training services; except

as otherwise provided in the federal work incentive program (WIN) in accordance with the Social Security Act, title IV C, section 432 (a).

Subp. 2. **Applicability.** Parts 3301.0110 to ~~3301.0170~~ 3301.0160 [Emergency] apply to all LSUs and county boards and to all counties in the WIN program, local agencies and AFDC applicants and recipients residing in a WIN project area.

3301.0120 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** In addition to the definitions in part 3301.0020 [Emergency], for the purposes of parts 3301.0110 to ~~3301.0170~~ 3301.0160 [Emergency] the following terms have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means a person who requests aid through AFDC and whose eligibility has not yet been determined.

Subp. 3. **Application.** "Application" means the ~~date an applicant submits the completed~~, receipt by the local agency of a signed and dated application form to the local agency for AFDC.

3301.0130 [Emergency] AUTHORITY TO DELEGATE OR CONTRACT.

The county board may contract with or delegate to the local agency, or contract with a service provider, the responsibility for conducting registration of AFDC applicants and recipients in accordance with parts 3301.0110 to ~~3301.0170~~ 3301.0160 [Emergency]. A single service provider must be selected for the registration of both applicants and recipients.

~~3301.0140 [Emergency] NOTIFICATION OF APPLICANTS AND RECIPIENTS.~~

The county board shall notify:

A. each applicant at the time of application that registration for employment and training services on the same day, if possible, is a condition of receiving AFDC, unless the applicant meets one of the criteria for exemption in Minnesota Statutes, section 256.736, subdivision 3; and that eligibility for employment and training services begins on the date of registration;

B. each recipient of the requirement to register for employment and training in order to remain eligible for AFDC, unless the recipient meets one of the criteria for exemption in Minnesota Statutes, section 256.736, subdivision 3;

C. each applicant or recipient in writing of the exempt or nonexempt determination at the time of application for AFDC or in accordance with item B;

D. each nonexempt applicant or recipient that refusal or failure to register will result in the sanctions in chapter 9500;

E. each applicant or recipient of the right to a hearing before a human services hearing officer to contest the termination or denial of benefits as the result of refusal to register pursuant to Minnesota Statutes, section 256.045; and

F. each applicant and recipient who is exempt according to Minnesota Statutes, section 256.736, subdivision 3, clauses (5) to (8) in writing of:

(1) the option to volunteer for employment and training services;

(2) the availability of child care and other support services; and

(3) the right to withdraw from employment and training at any time without loss of benefits as long as they remain exempt.

3301.0150 [Emergency] CHANGE OF STATUS.

Subpart 1. **Reporting requirement.** The county board shall inform applicants and recipients of the requirement to report to the local agency any changes which may affect their exempt or nonexempt status.

Subp. 2. **~~Notification of registration requirement after change in status.~~** If the local agency determines that a recipient's exempt status has changed to nonexempt, the local agency must inform the recipient in writing, at least ten calendar days before issuance of the next payment, of the requirement to register, including time and place, to avoid delay, denial, or reduction of benefits.

~~3301.0160~~ 3301.0140 [Emergency] REGISTRATION FOR EMPLOYMENT AND TRAINING.

Subp. 2. **Timely registration.** The following requirements apply to timely registration of applicants and recipients unless the county board is granted a waiver of co-location requirements according to part 3301.0040 [Emergency].

A. For applicants, the county board shall require that registration for employment and training services and be available simultaneously with application for AFDC ~~occur simultaneously~~. Simultaneous means that, at the time the applicant submits a completed, signed and dated AFDC application form to the local agency, the county board must register registration for employment and training services be available to the applicant for employment and training services.

Subp. 3. **Registration procedure.** The county board shall require that the registration procedure is limited to the steps necessary

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to establish the eligibility of the applicant or the continuing eligibility of the recipient. The county board will require that the applicant or recipient:

C. is informed of the available employment and training services, available support services, the rights and responsibilities of participation, and the sanctions that may apply; and

D. is ~~scheduled and~~ referred for an employability assessment.

~~3301.0161~~ 3301.0150 [Emergency] EMPLOYABILITY ASSESSMENT AND DEVELOPMENT PLAN.

Subp. 3. **Requirements for completion of employability development plan.** The written employability development plan shall be completed within 30 calendar days from the date of registration. Upon completion of the plan and provision of necessary support services, the registrant shall be certified as ready for employment or training except as provided in part ~~3301.0170~~ 3301.0160 [Emergency], subpart 1.

~~3301.0170~~ 3301.0160 [Emergency] SUPPORT SERVICES.

Subpart 1. **Provision of support services.** The county board shall require that a registrant not be certified unless ~~the needed~~ support services are arranged for or provided. Support services which shall include be provided by the county to all applicants and recipients required to register for employment and training services are: transportation, child care, other expenses related directly to participation in employment and training, and may include necessary family services ~~as~~. Family services are described in part 3301.0650 [Emergency].

3301.0230 [Emergency] CONDITIONS OF EMPLOYMENT.

Subpart 1. **Mandatory participation.** The county board may mandate participation of WR registrants in a CIP. However, the county may not require AFDC or GA recipients to participate in CIP. WR registrants who are required to participate in a CIP must accept and complete CIP placements ~~as a condition of continuing eligibility for or be disqualified from~~ WR services and payments.

Subp. 2. **Referral conditions.** The county board or its service provider may offer CIP employment to participants only after the following employment and training service priorities have been determined ~~inappropriate for the individual or~~ unavailable due to lack of funds or local labor market conditions:

Subp. 4. **Wages.** CIP participants shall be paid the state minimum wage ~~or, the prevailing same wage rate being paid~~ at the work site for similar work, or the wage paid to employees doing comparable work in that locality, whichever is greater.

Subp. 5. **Travel distance.** A participant shall not be required to travel more than two hours round trip between home and the work site, excluding time required to take children to and from a ~~day-care~~ child-care facility.

Subp. 6. **Support services.** A participant shall not be required to participate in CIP employment unless necessary support services ~~identified in the individual's employability development plan~~ are arranged for or provided.

3301.0270 [Emergency] STATUTORY TERMS INTERPRETED.

Subp. 3. **Supplies and materials.** "Supplies and materials" as used in Minnesota Statutes, section 268.677, subdivision 2 ~~and 268.678, subdivision 8~~ means usual consumable supplies and materials and does not include items ordinarily classified as equipment and capital items having a life expectancy of one year or more.

3301.0280 [Emergency] DEFINITIONS.

Subp. 2. **Farmer.** "Farmer" means a person whose major source of gross earned income is during the preceding year was derived from a family farm or family farm corporation as defined in Minnesota Statutes, section 500.24, subdivision ~~2b~~ 2, clause (b) or (c).

3301.0290 [Emergency] ELIGIBILITY AND PRIORITY.

Subp. 2. **Eligibility determination for farmers.** The LSU ~~shall request from the farmer or household member~~ following items shall be accepted by the LSU as documentation that serves as evidence of severe household financial need ~~including:~~

C. acceleration notices, delinquency notices, and collection letters from creditors; ~~or~~

D. professionally prepared financial statements;

E. commencement of a bankruptcy;

F. cancellation of a contract for deed; or

G. projected income statements prepared by the University of Minnesota Extension Service, an Area Vocational Technical Institute, or the Farmers Home Administration.

3301.0370 [Emergency] DEFINITIONS.

Subp. 2. **Diverted grant.** "Diverted grant" means the ~~lesser amount of either (a) the net income of the participant, or (b) the standard of assistance applicable to the participant~~ the GA grant or WR assistance payment available for a wage subsidy, not to

exceed the single person standard of assistance for any participant, and calculated according to part 3301.0380, subpart 6.

Subp. 3. **Employment or employment-related training.** "Employment" or "employment-related training" means a job or on-the-job training with:

B. an approved community investment program; and which pays ~~at least the minimum wage~~ wages at a rate set forth in part 3301.0230, subpart 4 and provides the participant with a net monthly income equal to or greater than 150 percent of the assistance standard of assistance for one person applicable to ~~the participant~~ all participants less the ~~residual monthly payment~~, if any, paid to the participant.

Subp. 4. **Net monthly income.** "Net monthly income" means the ~~total of income~~ remaining from the participant's gross monthly income ~~minus deductions, disregards, and exclusions~~ after subtracting disregarded and excluded income allowed by the commissioner of the Department of Human Services for the GA program.

Subp. 6. **Residual grant Monthly payment.** "Residual grant Monthly payment" means the amount equal to the standard of assistance applicable to ~~the participant~~ a single person reduced by the income received after application of earned income deductions and disregards.

3301.0380 [Emergency] RESPONSIBILITIES OF THE LOCAL AGENCY.

Subp. 2. **Assessment and referral.** The local agency or its service provider shall require that a vocational advisor assess the suitability and availability of ~~voluntary participants~~ for employment or employment-related training for voluntary GA participants through grant diversion pursuant to part 9500.1215, subpart 2 and, based on the employability development plan objectives, refer the participant to the appropriate employment or employment-related training.

Subp. 3. **Maximum amount of GA grant or WR assistance payment for diversion.** For purposes of the grant diversion process the amount of the GA grant or WR assistance payment available as a wage subsidy to an employer will not exceed the assistance standard for one person for each participant regardless of the composition of the participant's assistance unit as defined by the commissioner of human services under the GA program. When the grant diversion participant is a member of an assistance unit group and the GA grant or WR assistance payment to the assistance unit is greater than the assistance standard for one person, only the assistance standard for one person may be withdrawn from the amount of assistance paid to the assistance unit for the diversion process, and the balance must continue to be paid to the members of the assistance unit not participating in grant diversion.

Subp. 3-4. **Notification of participant requirements.** The local agency or service provider shall inform participants in writing of the following information:

E. the amount of the diverted grant; ~~and~~

F. the amount, if any, of the residual grant; ~~and~~

G. actions to be taken if a WR registrant or GA recipient required to participate in WR fails to complete the grant diversion period of participation.

Subp. 4-5. **Contract requirements.** The local agency or its contract service provider shall require a written contract with the employer which includes:

F. the requirement to pay the participant the same wage, fringe benefits, and provide the same workers' compensation coverage as is given other employees of the employer doing the same job, or if there is no identical job, a comparable job.

Subp. 5-6. **Calculation and payment of diverted grants and residual grants monthly payment.** The local agency will determine and pay the amount of the diverted grant and the amount, if any, of the ~~residual grant~~ monthly payment according to items A to D:

B. The local agency will apply the following steps to calculate the amounts of the diverted ~~and residual~~ grants and monthly payments:

(2) Subtract from the amount in subitem (1) the standard earned income ~~deductions~~ exclusions and disregards established by the commissioner of human services for GA recipients under Minnesota Statutes, chapter 256D.

(4) Compare the net income to the assistance standard of assistance for one person applicable to ~~the participant~~ all participants. The lower of the two amounts will be diverted to the employer as a subsidy for wages.

(5) If the net income is less than the applicable assistance standard of assistance for one person, the difference between the two is the ~~residual grant~~ monthly payment.

C. The local agency will continue to pay the participant the ~~full amount of the regular~~ standard of assistance until the participant has received one full calendar month of wages; thereafter the local agency ~~will~~ shall withhold the amount of the assistance standard for one person, and pay the diverted grant (subitem (4)) to the employer to subsidize wages and pay the residual grant monthly payment, if any, (subitem (5)) to the participant. The local agency may pay the subsidy for wages directly to the employer or reimburse a service provider that has paid the subsidy to the employer.

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D. A participant's and the assistance unit's eligibility for GA or WR is frozen at the time the participant begins work in a grant diversion placement. After a participant begins employment or employment-related training, changes in resources, household, or income will not affect GA or WR eligibility, the ~~residual grant~~ monthly payment amount, or diverted grant amount for the duration of the grant diversion placement.

Subp. 6- 7. **Support services.** The local agency or its contract service provider shall not refer a participant to employment or employment-related training that would require a participant to travel to a work site unless the local agency pays work-related transportation costs ~~in excess of excluding~~ the transportation deduction costs allowed as a disregard from earned income under the GA program. The local agency or its contract service provider shall not refer a participant who is the sole adult in an assistance unit with one or more children under the age of 12 to employment or employment-related training during hours when the child is at home unless the local agency pays the cost of ~~necessary~~ child care that is in excess of the child care deduction from earned income ~~or unless child care is otherwise available at no cost to the participant.~~

Subp. 7- 8. **Fiscal reporting.** The local agency shall submit fiscal, abstract, or summary reports as required by the commissioner.

Subp. 8- 9. **Disqualification of work readiness participants.** The local agency shall apply parts 9500.1218 and 9500.1219 [Emergency] if it determines that a WR registrant has failed without good cause to complete the grant diversion period, and shall apply parts 9500.1105 to 9500.1107 [Emergency] if it determines that a GA recipient required to participate in WR has failed without good cause to complete the grant diversion period.

3301.0400 [Emergency] PARTICIPANT RIGHTS AND RESPONSIBILITIES.

Subp. 2. **Failure of work readiness participants to complete grant diversion period.** A WR ~~participant~~ registrant or a GA recipient required to participate in WR who volunteers for grant diversion and fails to complete the grant diversion period without good cause ~~may~~ shall be disqualified from receipt of WR services and payments according to parts 9500.1218 and 9500.1219 [Emergency], or disqualified from receipt of GA in accordance with parts 9500.1105 to 9500.1107 [Emergency].

3301.0410 [Emergency] MAXIMUM PERIOD OF GRANT DIVERSION.

Subp. 2. **Work readiness.** A WR participant's assistance payment may be diverted:

B. for four consecutive months if the participant is ~~redetermined eligible for work readiness in the first 45 days of the second month of receipt of WR assistance and agrees to participate~~ has completed two months of WR and has been determined eligible for four additional months of WR and agrees to participate.

SUPPORTED WORK PROGRAM

3301.0420 [Emergency] PURPOSE AND APPLICABILITY.

Subpart 1- **Purpose.** The purpose of parts 3301.0420 to 3301.0440 [Emergency] is to establish the terms and conditions governing the supported work program for recipients of AFDC pursuant to Minnesota Statutes, section 268.86, subdivision 9.

Subp. 2- **Applicability.** Parts 3301.0420 to 3301.0440 [Emergency] apply to recipients of AFDC who have received public assistance for more than three years and who are residents of counties that have had more than three percent of their AFDC recipients on public assistance for three years or longer.

3301.0430 [Emergency] DUTIES OF THE COUNTY.

Subpart 1- **Program development criteria.** Counties who have had more than three percent of their AFDC recipients on public assistance for more than three years shall ensure the provision of supported work program to assist those recipients in making a transition to employment.

Subp. 2- **Program description.** The program must include:

- A. employability assessment;
- B. employability development plan prepared in consultation with the participant;
- C. job seeking skills training;
- D. referral to appropriate services, programs, or training that may result in job readiness and employment; and
- E. referral to suitable employment.

Subp. 3- **Identification of eligible AFDC recipients.** The county board shall require the local agency to identify recipients who have:

- A. received AFDC for more than three years;
- B. little or no work history; and
- C. little or no formal education beyond high school.

Subp. 4. ~~Contracted programming.~~ The county board may contract the provision of a supported work program with a service provider.

Subp. 5. ~~Notice to eligible recipients.~~ The county board shall require the local agency to inform recipients meeting the criteria in subpart 3 of their eligibility for the supported work program and their responsibilities to the program.

Subp. 6. ~~Referral of eligible recipients.~~ The local agency shall refer eligible recipients to the supported work program.

3301.0440 [Emergency] PARTICIPANT RESPONSIBILITIES.

Each supported work program participant shall:

A. attend the supported work program orientation, job readiness workshops, and peer group meetings during the period of participation; and

B. cooperate in all aspects of the program, including:

- (1) employability assessment and development of the employability development plan;
- (2) referrals to other appropriate services and programs;
- (3) referral to or offers of suitable employment; and
- (4) continuance of employment.

3301.0480 [Emergency] PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 3301.0480 to 3301.0620 [Emergency] is to govern the administration of the child care sliding fee programs for reducing, according to a sliding fee schedule, the costs of child care services to enable eligible families to seek or retain employment or to participate in employment education or training programs needed to obtain employment.

Subp. 2. **Applicability.** Parts 3301.0480 to 3301.0620 [Emergency] apply to all county boards and administering agencies authorized under Minnesota Statutes, section 268.91 to provide child care assistance to eligible families based on the availability of funds.

3301.0490 [Emergency] DEFINITIONS.

Subp. 3. **Child care services.** "Child care services" means service services as defined in Minnesota Statutes, section 268.91, subdivision 1, clause (a) which are provided for less than 24 hours a day which provides care for children age 14 and under, as a substitute for, or supplement to, parental care for a planned period of time and which are provided by licensed day-care facilities or by those exempt by Minnesota Statutes, section 245.791.

Subp. 5. **CSSA.** "CSSA" means Community Social Services Act.

Subp. 6. **Family.** "Family" means parents or other caretaker relatives and dependent children under 18 years of age living in the same home including children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities.

Subp. 6. **7. Family fee.** "Family fee" means the portion of the provider charge the family must contribute for child care costs.

Subp. 7. **8. Geographic area.** "Geographic area" means the area of the local service unit.

Subp. 8. **9. Income.** "Income" means all monthly income, before deductions, received from sources including wages or compensation by all family members 16 years or older, net income from self-employment, net farm income, social security payments, dividends, interest, rent received or royalties, general assistance payments, pensions and annuities, unemployment compensation, alimony, child support, veterans' pensions, or any combination of the above sources of income salaries from employment; earnings from self-employment; rents; social security benefits; old-age and survivor's benefits; supplemental security income; veteran's benefits; pensions; alimony; child support; wage subsidy; program wages or subsidies; periodic income from insurance annuities; interest or dividend income from investment or savings accounts; unemployment insurance benefits including federal supplemental compensation and extended benefits; payments from the Railroad Retirement Board; and workers' compensation payments. Wages or salary from summer jobs held by family members aged 16 and 17 shall not be considered income for purposes of determining family eligibility.

Subp. 9. **Monthly tax credit.** "Monthly tax credit" means the portion of the family fee to be claimed as a credit against tax liability according to the Internal Revenue Code.

Subp. 10. **Percent of tax credit.** "Percent of tax credit" means the proportion of specific expenses defined in the Internal Revenue Code and Minnesota income tax laws which can be claimed as a credit against tax liability.

Subp. 14. **Programs with demonstrated effectiveness.** "Programs with demonstrated effectiveness" means education or training programs approved by the commissioner of education under rules pursuant to Minnesota Statutes, section 124.625, which result in suitable employment as defined in part 3301.0020 [Emergency], subpart ~~23~~ 24.

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3301.0500 [Emergency] STANDARDS FOR COUNTIES.

Subpart 1. **Establishment of standards and procedures.** Counties shall adopt policies and procedures for the provision of child care services to enable parents to seek and obtain or retain employment or to participate in education or training. A county may use CSSA plan policies and procedures to the extent not in conflict with Minnesota Statutes, section 268.91 and parts 3301.0480 to 3301.0620.

Subp. 2. **Provision of child care.** Counties shall assist applicants for child care services who are financially eligible under part 3301.0560 [Emergency] and who are employed or who are seeking employment and training services to obtain skills necessary to secure suitable employment as specified in part 3301.0580 [Emergency], subpart 1, or participating in an education or training program as specified in part 3301.0580 [Emergency], subpart 2. This may include an arrangement with another provider or agency for support services.

3301.0520 [Emergency] ALLOCATION OF FUNDS.

Subpart 1. **Initial-year Allocation.** For fiscal year 1986, the commissioner shall allocate 45 percent of the total child care appropriation to the seven county metropolitan area and 55 percent to the area outside the metropolitan area. For fiscal year 1987 and succeeding years, the commissioner shall allocate 50 percent of the total appropriation to each of these areas.

Subp. 2. **Succeeding-years Reallocation of unused funds.** The commissioner shall reallocate unused funds after December 31 of each year at the commissioner's discretion based on need factors such as labor market conditions, demand for child care services, and number of persons applying for employment and training programs notwithstanding Minnesota Statutes, section 268.91, subdivision 3.

3301.0530 [Emergency] APPLICATION FOR ALLOCATION PLAN.

Subpart 1. **Application.** ~~The county shall make application on forms provided by the commissioner.~~

~~Subp. 2. Submittal of plan.~~ The county shall submit two copies of the application an annual plan to the commissioner by May 1 of each year.

~~Subp. 3. Application 2. Plan content.~~ The application plan shall contain:

B. a copy of the most recent information CSSA plan for child care services provided to the Department of Human Services under the Community Social Services Act for the target population which has need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment.

~~Subp. 4. 3. Approval.~~ The commissioner shall inform the county of the approval of the application plan within 30 calendar days of the submission deadline.

3301.0540 [Emergency] DUTIES OF THE ADMINISTERING AGENCY.

Subpart 1. **Advertisement of child care services.** The administering agency shall inform:

Subp. 2. **Assistance to applicants.** The administering agency shall provide written information about the program including types of available child care services, limits on availability, application requirements, assistance in making application, and, upon request, a copy of the fee schedule.

Subp. 3. **Notification procedures Application procedure.** The administering agency shall inform each applicant of the approval or denial of the application within 15 working days of receipt of a completed signed application. Notice of denial of an application must contain the reason for denial. Eligibility for assistance will be from the date of application accept signed and dated applications submitted by mail or delivered to the agency as long as the application was submitted within 15 calendar days of the date the applicant signed the form. The administering agency shall mail the notice of approval or denial of assistance within 30 calendar days of receipt of the application. The administering agency shall accept required documentation submitted by the applicant during but no later than the end of the agency's response time. With the consent of the applicant, the administering agency may extend the response time by 15 calendar days.

The date of eligibility for assistance will be the later of the date of signature on the application or the beginning date of employment, education, training, or employment services. The notice of approval of the application must state the following information: the final date of the eligibility period; that address, family size, income, and employment, education or training status be reported every six months; and that all changes in address, family size, and employment, education or training status and significant changes in income as described in part 3301.0560 [Emergency], subpart 4 must be reported immediately to the administering agency.

Notice of denial of an application must state the reason for denial. Failure to provide required documentation is just cause for eligibility denial.

Subp. 4. **Eligibility or family fee redetermination.** The administering agency shall redetermine either eligibility or family fee when notified by the applicant recipient of a change in family size or a significant change in income information provided in the initial

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application, or every six months, whichever occurs first. A significant change is any The administering agency will not take any action on reports of changes in monthly gross income unless the change in monthly gross income which results in a ten percent decrease or increase.

3301.0560 [Emergency] ELIGIBILITY CRITERIA.

Subpart 1. **Income level.** Families are eligible to receive child care service assistance if their income level is above the upper eligibility limit for AFDC but below 75 percent of the state median income they:

A. receive AFDC;

B. have household income below the eligibility level for AFDC for a family of the same size; or

C. have household income above the upper eligibility limit for AFDC but below 75 percent of the state median income.

Child care assistance must be available to families eligible under item A as in-kind services, and to families eligible under item B, at no cost.

Subp. 2. **Required proof of income eligibility.** Income of the applicant family shall be verified based on the 12-month period immediately preceding the application date or the most recent calendar year, or the current monthly income of the family multiplied by 12, whichever provides the most accurate assessment of the income available to the family. Verification of income shall be made through documentary evidence in the possession of the applicant or be obtained from the source of the income.

Subp. 3. **Continuing eligibility.** Families receiving assistance under one of the three criteria under Minnesota Statutes, section 268.91, subdivision 4, for financial eligibility may not be refused further assistance upon a change of financial status as long as the family's income does not exceed 75 percent of the state median income. The family must inform the administering agency of a significant change in financial status as described in part 3301.0540 [Emergency], subpart 4.

Subp. 4. **Recipient responsibilities.** The recipient is responsible for immediately notifying the administering agency of any change in the information provided in the initial application including significant changes in income. Significant changes in income are changes in monthly gross income which result in a ten percent increase or decrease. The recipient must provide to the administering agency the current status of the information provided in the initial application every six months during their eligibility period.

3301.0570 [Emergency] FAMILY FEE PAYMENT SCHEDULE.

The following is The schedule of monthly fee rates for families is based upon income and family size. The schedule will be adjusted annually based on the state median income and will be published in the State Register. The schedule below is for family sizes two through six and is based on the state median income published in the December 6, 1984 Federal Register.

The family fee is calculated by multiplying the annual income times a percentage base. The percentage base is indexed to the family's ability to pay. A portion of the family fee may be claimed as credit against tax liability according to the Internal Revenue Code and Minnesota income tax laws. The percent of tax credit which may be claimed depends on an individual's taxable income during a tax year.

CHILD DAY CARE INCOME ELIGIBILITY AND FEE SCHEDULE

(Using Increments of 2.5 Percent for Each Range up to 60 Percent of the State Median Income and One Percent Increments From 60 Percent to 75 Percent of the State Median Income)

Family of 2, State Median Income: \$19,493

60 percent of SMI = \$11,696

AFDC Income Level Threshold: \$5,209

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
25.0	\$ 5,209- 5,361	\$ 434- 447	.25	\$ 3	\$ 1.80	60.0
	5,362- 5,848	448- 487	.25	3	1.80	60.0
	5,849- 6,335	488- 528	.25	3	1.80	60.0
	6,336- 6,823	529- 569	.25	3	1.80	60.0
	6,824- 7,310	570- 609	.25	4	2.40	60.0
37.5	7,311- 7,797	610- 650	.50	8	4.80	60.0
	7,798- 8,285	651- 690	.50	8	4.80	60.0
	8,286- 8,772	691- 731	.50	9	5.40	60.0

EMERGENCY RULES

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
50.0	8,773- 9,259	732- 772	.50	9	5.40	60.0
	9,260- 9,747	773- 812	.50	10	6.00	60.0
	9,748-10,234	813- 853	.75	14	7.90	56.5
	10,235-10,721	854- 893	.75	15	8.50	56.5
	10,722-11,208	894- 934	.75	15	8.35	55.7
60.0	11,209-11,696	935- 975	.75	16	8.80	54.8
Add 25 Percent To Base (*)						
65.0	11,697-11,891	976- 991	1.0	26	14.15	54.4
	11,892-12,086	992-1,007	1.0	34	18.00	53.0
	12,087-12,281	1,008-1,023	1.0	42	22.10	52.6
	12,282-12,476	1,024-1,040	1.0	51	26.60	52.2
	12,477-12,670	1,041-1,056	1.0	60	31.10	51.8
	12,671-12,865	1,057-1,072	1.25	73	37.45	51.3
	12,866-13,060	1,073-1,088	1.25	81	41.25	50.9
	13,061-13,255	1,089-1,105	1.25	89	44.95	50.5
70.0	13,256-13,450	1,106-1,121	1.25	97	48.60	50.1
	13,451-13,645	1,122-1,137	1.25	105	52.20	49.7
	13,646-13,840	1,138-1,153	1.50	118	58.20	49.3
	13,841-14,035	1,154-1,170	1.50	123	58.80	47.8
	14,036-14,230	1,171-1,186	1.50	130	61.60	47.4
75.0	14,231-14,425	1,187-1,202	1.50	137	64.40	47.0
	14,426-14,620	1,203-1,218	1.50	144	67.10	46.6

(*) The 25 percent added to the base is calculated by establishing the difference between the midpoint of the range and the 60 percent of the state median income. 25 percent is then used from that figure.

Family of 3, State Median Income: \$24,078

60 percent of SMI = \$14,447

AFDC Income Level Threshold: \$6,337

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
25.0	\$6,337- 6,621	\$ 528- 552	.25	\$ 3	\$ 1.80	60.0
	6,622- 7,223	553- 602	.25	3	1.80	60.0
	7,224- 7,825	603- 652	.25	4	2.40	60.0
	7,826- 8,427	653- 702	.25	4	2.40	60.0
	8,428- 9,029	703- 752	.25	4	2.40	60.0
37.5	9,030- 9,631	753- 803	.50	9	5.40	60.0
	9,632-10,233	804- 853	.50	9	5.10	56.5
	10,234-10,835	854- 903	.50	10	5.65	56.5
	10,836-11,437	904- 953	.50	10	5.55	55.3
50.0	11,438-12,039	954-1,003	.50	10	5.30	53.0
	12,040-12,641	1,004-1,053	.75	16	8.30	51.8
	12,642-13,243	1,054-1,104	.75	16	8.10	50.5
	13,244-13,845	1,105-1,154	.75	16	7.90	49.3
60.0	13,846-14,447	1,155-1,204	.75	16	7.50	47.0

Add 25 percent to Base (*)

EMERGENCY RULES

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
65.0	14,448-14,688	1,205-1,222	1.0	28	13.05	46.6
	14,689-14,929	1,223-1,244	1.0	36	16.30	45.2
	14,930-15,169	1,245-1,264	1.0	45	20.20	44.8
	15,170-15,410	1,265-1,284	1.0	54	24.00	44.4
	15,411-15,651	1,285-1,304	1.0	63	27.70	44.0
	15,652-15,891	1,305-1,324	1.25	78	33.95	43.5
	15,892-16,132	1,325-1,344	1.25	86	37.10	43.1
	16,133-16,373	1,345-1,364	1.25	95	40.55	42.7
70.0	16,374-16,614	1,365-1,384	1.25	103	43.55	42.3
	16,615-16,855	1,385-1,405	1.25	110	45.10	41.0
	16,856-17,095	1,406-1,425	1.50	124	50.35	40.6
	17,096-17,336	1,426-1,445	1.50	132	53.10	40.2
	17,337-17,577	1,446-1,465	1.50	140	55.70	39.8
75.0	17,578-17,818	1,466-1,485	1.50	148	58.30	39.4
	17,819-18,059	1,486-1,505	1.50	156	60.85	39.0

(*) The 25 percent added to the base is calculated by establishing the difference between the midpoint of the range and the 60 percent of the state median income. 25 percent is then used from that figure.

Family of 4, State Median Income: \$28,667

60 percent of SMI = \$17,200

AFDC Income Level Threshold: \$7,393

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
25.0	\$ 7,393- 7,883	\$ 616- 657	.25	\$ 4	\$ 2.40	60.0
	7,884- 8,600	658- 717	.25	4	2.40	60.0
	8,601- 9,317	718- 776	.25	5	3.00	60.0
	9,318-10,033	777- 836	.25	5	2.80	56.5
	10,034-10,750	837- 896	.25	5	2.80	56.5
	10,751-11,467	897- 956	.50	10	5.55	55.3
37.5	11,468-12,183	957-1,015	.50	10	5.30	53.0
	12,184-12,900	1,016-1,075	.50	10	5.15	51.3
	12,901-13,617	1,076-1,135	.50	11	5.50	49.7
	13,618-14,333	1,136-1,195	.50	11	5.20	47.4
50.0	14,334-15,050	1,196-1,254	.75	17	7.80	45.8
	15,051-15,767	1,255-1,314	.75	17	7.55	44.5
	15,768-16,484	1,315-1,374	.75	17	7.10	41.8
	16,485-17,200	1,375-1,433	.75	17	6.90	40.6
Add 25 percent to base (*)						
65.0	17,201-17,487	1,434-1,457	1.0	29	11.55	39.8
	17,488-17,774	1,458-1,481	1.0	39	15.35	39.3
	17,775-18,060	1,482-1,505	1.0	48	18.00	37.5
	18,061-18,347	1,506-1,529	1.0	57	21.15	37.1
	18,348-18,634	1,530-1,553	1.0	66	23.95	36.3
	18,635-18,920	1,554-1,577	1.25	81	29.00	35.8
	18,921-19,207	1,578-1,601	1.25	90	31.50	35.0
	19,208-19,494	1,601-1,625	1.25	99	34.25	34.6
	19,495-19,780	1,626-1,648	1.25	108	36.95	34.2

EMERGENCY RULES

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
70.0	19,781-20,067	1,649-1,672	1.25	114	36.80	32.3
	20,068-20,354	1,673-1,696	1.50	129	41.15	31.9
	20,355-20,640	1,697-1,720	1.50	137	42.60	31.1
	20,641-20,927	1,720-1,744	1.50	145	44.50	30.7
	20,928-21,214	1,745-1,768	1.50	152	45.30	29.8
75.0	21,215-21,500	1,768-1,792	1.50	160	47.05	29.4

(*) The 25 percent added to the base is calculated by establishing the difference between the midpoint of the range and the 60 percent of the state median income. 25 percent is then used from that figure.

Family of 5, State Median Income: \$33,253

60 percent of SMI = \$19,952

AFDC Income Level Threshold: \$8,292

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
25.0	\$ 8,292- 9,145	\$ 691- 762	.25	\$ 4	\$ 2.40	60.0
	9,146- 9,976	763- 831	.25	5	3.00	60.0
	9,977-10,807	832- 901	.25	6	3.40	56.5
	10,808-11,639	902- 970	.25	6	3.30	54.8
	11,640-12,470	971-1,039	.25	6	3.10	52.2
37.5	12,471-13,301	1,040-1,108	.50	10	5.05	50.5
	13,302-14,133	1,109-1,178	.50	11	5.25	47.8
	14,134-14,964	1,179-1,247	.50	11	5.10	46.2
	14,965-15,795	1,248-1,316	.50	11	4.90	44.5
50.0	15,796-16,627	1,317-1,386	.50	11	4.55	41.4
	16,628-17,458	1,387-1,455	.75	17	6.80	39.8
	17,459-18,289	1,456-1,524	.75	17	6.30	37.1
	18,290-19,120	1,525-1,593	.75	18	6.35	35.4
60.0	19,121-19,952	1,594-1,663	.75	18	6.10	33.8
Add 25 percent to Base(*)						
65.0	19,953-20,284	1,664-1,690	1.0	30	9.60	31.9
	20,285-20,617	1,691-1,718	1.0	40	12.45	31.1
	20,618-20,950	1,719-1,746	1.0	50	15.35	30.7
	20,951-21,282	1,747-1,773	1.0	59	17.60	29.8
	21,283-21,614	1,774-1,801	1.0	69	20.00	29.0
	21,615-21,947	1,802-1,829	1.25	85	24.30	28.6
	21,948-22,280	1,830-1,857	1.25	93	24.90	26.8
	22,281-22,612	1,858-1,884	1.25	101	26.15	25.9
	22,613-22,945	1,885-1,912	1.25	111	28.30	25.5
	22,946-23,277	1,913-1,940	1.25	119	29.40	24.7
70.0	23,278-23,610	1,941-1,967	1.50	134	31.90	23.8

EMERGENCY RULES

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
	23,611-23,942	1,968-1,995	1.50	143	33.45	23.4
	23,943-24,275	1,996-2,023	1.50	149	32.80	22.0
	24,276-24,607	2,024-2,051	1.50	159	35.00	22.0
75.0	24,608-24,940	2,052-2,078	1.50	168	36.95	22.0

(*) The 25 percent added to the base is calculated by establishing the difference between the midpoint of the range and the 60 percent of the state median income. 25 percent is then used from that figure.

Family of 6, State Median Income: \$37,838

60 Percent of SMI = \$22,703

AFDC Income Level Threshold: \$8,292

% of SMI	Annual Gross Income Range	Monthly Gross Income Range	% Base	Family Fee	Monthly Tax Credit	% Tax Credit
25.0	\$ 9,204-10,405	\$ 767- 867	.25	\$ 4	\$ 2.25	56.5
	10,406-11,351	868- 946	.25	5	2.80	55.7
	11,352-12,297	947-1,025	.25	5	2.65	52.6
	12,298-13,243	1,026-1,104	.25	5	2.55	50.5
	13,244-14,189	1,105-1,182	.25	5	2.40	47.8
37.5	14,190-15,135	1,183-1,261	.50	11	5.00	45.8
	15,136-16,081	1,262-1,340	.50	11	4.70	42.7
	16,082-17,027	1,341-1,419	.50	11	4.50	40.6
	17,028-17,973	1,420-1,498	.50	12	4.70	38.9
50.0	17,974-18,919	1,499-1,577	.50	12	4.30	35.8
	18,920-19,865	1,578-1,655	.75	18	6.10	33.8
	19,866-20,811	1,656-1,734	.75	18	5.55	30.7
	20,812-21,757	1,735-1,813	.75	18	5.20	29.0
60.0	21,758-22,703	1,814-1,892	.75	18	4.70	25.9
Add 25 percent to Base(*)						
	22,704-23,081	1,893-1,923	1.0	31	7.80	25.1
	23,082-23,460	1,924-1,955	1.0	41	10.00	24.3
	23,461-23,838	1,956-1,986	1.0	51	11.95	23.4
	23,839-24,216	1,987-2,018	1.0	61	13.40	22.0
65.0	24,217-24,595	2,019-2,050	1.0	71	15.60	22.0
	24,596-24,973	2,051-2,081	1.25	88	19.35	22.0
	24,974-25,351	2,082-2,113	1.25	99	21.80	22.0
	25,352-25,730	2,114-2,144	1.25	110	24.20	22.0
	25,731-26,108	2,145-2,176	1.25	119	25.00	21.0
70.0	26,109-26,487	2,177-2,207	1.25	129	27.10	21.0
	26,488-26,865	2,208-2,239	1.50	147	30.90	21.0
	26,866-27,243	2,240-2,270	1.50	157	33.00	21.0
	27,244-27,622	2,271-2,302	1.50	168	35.30	21.0
	27,623-28,000	2,303-2,333	1.50	178	37.40	21.0
75.0	28,001-28,379	2,334-2,365	1.50	186	37.20	20.0

EMERGENCY RULES

(*) The 25 percent added to the base is calculated by establishing the difference between the midpoint of the range and the 60 percent of the state median income. 25 percent is then used from that figure.

3301.0580 [Emergency] EMPLOYMENT AND TRAINING ELIGIBILITY.

Subp. 2. ~~Setting aside of funds.~~ Counties shall set aside child care assistance funds for persons who are receiving assistance for education or training programs with demonstrated effectiveness. The funds must be set aside for the length of the program. If education or training extends beyond the program year, counties must set aside funds on a contingent basis. Resources to cover the assistance may be from the sliding fee program only or from a combination of funding sources for child care assistance.

Subp. 3. ~~Length of assistance.~~ Counties shall pay child care assistance to recipients for the length of the program or 24 months, whichever is shorter. Persons enrolled in programs for two or more years may select the 24-month period during which they will receive assistance. Child care during education or training. Counties shall provide child care assistance to persons participating in education or training programs with demonstrated effectiveness which are contained in an employability development plan submitted by the applicant. The administering agency shall accept an employability development plan prepared for the applicant by another employment or training program. The administering agency shall provide an employability development assessment and plan as defined by part 3301.0020 [Emergency], subparts 9 and 10, for applicants unable to obtain one prior to application through another program.

Counties shall pay child care assistance to persons eligible under this subpart for the length of the education or training program or 24 months, whichever is less. Persons enrolled in an education or training program for two or more years may select the 24-month period during which they will receive assistance.

Upon approval of an application for assistance under this subpart, counties must set aside funds from the current allocation to cover the child care assistance for the current sliding fee program year. If a person's education or training program extends beyond the sliding fee program year of initial eligibility determination, counties must set aside amounts to cover the person's eligible period of education or training upon receipt of the sliding fee allocations in subsequent years. Counties may cover the child care assistance for persons eligible under this subpart from a combination of funding sources other than sliding fee.

Subp. 4. ~~3. Local policies.~~ Counties may establish additional policies on continuation in and completion of training programs and transfer between programs. These policies must be in writing and be available to the public.

Subp. 5. ~~WIN participation.~~ The WIN assessment and employability development plan shall be followed in determining the eligibility for sliding fee child care assistance funds for employment and training services.

3301.0590 [Emergency] PROVISION OF SERVICE.

Subpart 1. ~~Service charge.~~ The county department shall determine annually the median service charge for each type of child care service available in the county and report that information on a form provided by the commissioner by August ~~December~~ 31 of each year.

3301.0600 [Emergency] PAYMENT OF ASSISTANCE.

Subp. 4. ~~Payment schedule.~~ The administering agency shall make payments at least monthly.

Subp. 5. ~~Sick child care.~~ The county may pay sick child care on a limited basis in addition to making payments for regular child care. Sick child care assistance payments may not exceed the day care center maximum set by the county for the sick child's age. For purposes of this subpart, sick child care means child care services as defined in part 3301.0490 [Emergency], subpart 3 which provide care to children who as a result of illness cannot attend the family's regular provider.

3301.0610 [Emergency] DATA COLLECTION AND EVALUATION.

Subpart 1. ~~Data collection.~~ The commissioner shall collect the following data by August 31 of each year:

G. the number of families who received AFDC in the six months prior to receiving assistance with child care costs other data as requested by the commissioner for purposes of program evaluation and monitoring.

3301.0620 [Emergency] FAIR HEARING PROCESS.

Subpart 1. ~~Responsibilities of the county.~~ The county shall ensure that one or more review officers are appointed to conduct informal grievance procedures concerning the issues in subpart 2 and in accordance with the procedures in subparts 3 to 6. Review officers who are appointed must not have participated, in any way, in the action in question.

Subp. 2. ~~Grievable Adverse actions.~~ Applicants and recipients have the right option to request the county to conduct an informal grievance procedure on a conciliation conference to attempt to resolve complaints arising from any of the following actions:

- A. a determination of ineligibility for child care assistance;
- B. unauthorized termination of child care assistance;

C. determination of the factors considered in setting the family fee; and

D. income redetermination resulting in change of a family fee.

For purposes of item B, a recipient may not appeal if the child care assistance was terminated during the period of time when funds were to be available on a contingent basis.

Subp. 3- 2. Notice requirements. The county shall notify the applicant or the recipient, in writing, of any grievable adverse action. The determinations described in subpart 1, items A and C must include written notice of the applicant's or recipient's right to the election described in subpart 3, where and how to request the election, the time limit within which to make the request, and the reasons for the determination. Notice of the action proposed actions described in subpart 1, items B and D must be mailed to the applicant or recipient at least 15 calendar days before the effective date of the action. The notice must clearly state what action the county intends proposes to take, the effective date of the proposed action, the reasons for the proposed action, the necessary corrective measures, the right to grieve the action option to request either a conciliation conference or an administrative hearing, where and how to make the request, the time limits for the grievance within which a request must be made, and the consequences of the action.

Subp. 4- Notice of intent to grieve. An applicant or recipient who receives the notice described in subpart 3 must request the county, in writing, to conduct the grievance procedure 3. Election. An applicant or recipient who receives a determination or a notice of proposed action under subpart 2 must mail or deliver either a written notice of request for a conciliation conference to the administering agency or a written notice of request for the hearing specified under subpart 5 to the administering agency on or before the effective date of the proposed action or the date specified in the notice, or the action will be final.

Subp. 5- Informal grievance procedure 4. Conciliation conference. The county shall provide an informal grievance procedure a conciliation conference within 30 days of receipt of a written request.

The county shall give the applicant or recipient ten calendar days' notice of the hearing conference date. The applicant or recipient and the county's representative has the right to appear, to call bring witnesses, and submit new documentation. The written request and all actions and decisions the resolution, if any, of the procedure conference shall be maintained as part of the official record. The hearing officer county's representative shall make a determination within ten days of the date of the informal grievance procedure issue a written resolution only if mutual agreement is reached between the county's representative and the applicant or recipient. The resolution must be signed by both parties and issued on the same day as the conciliation conference is held. Participating in a conciliation conference or signing a resolution does not constitute a waiver of the right to an administrative hearing.

An applicant or recipient may, within 15 calendar days of the conference, mail or deliver a written request to the administering agency for an administrative hearing. Unless an appeal is requested, a determination, proposed action, or resolution of a conciliation conference will be final after the 15-day period has passed.

Subp. 6- 5. Administrative hearing process. A dissatisfied party may request within 15 calendar days of the mailing of an adverse determination. A fair hearing shall be conducted in the manner prescribed by Minnesota Statutes, section 268.10, subdivision 3; or the determination will be final. A right to review will be provided in accordance with Minnesota Statutes, section 268.10, subdivision 5. The adverse determination proposed action will not take effect until the appeal is decided by the administrative hearing process.

3301.0640 [Emergency] TRANSPORTATION.

Subpart 1. Reimbursement rate Transportation costs. LSUs shall provide or arrange for advance payment or reimbursement of work-related transportation costs for participants in employment and training services. Participants will be reimbursed paid in advance at a rate of 16 15 cents per actual mile traveled to and from home and the agency approved employment and training site when a personal vehicle is used. A participant will be paid or reimbursed in advance actual costs when public transportation or carpooling is used. Upon receipt of the actual expense reports required in subpart 2, the LSU shall correct any underpayment or overpayment resulting from the advance payment. If the participant agrees in writing, an LSU may reimburse the participant for work-related transportation costs paid by the participant.

3301.0650 [Emergency] OTHER SUPPORT SERVICES.

Support services other than sliding fee child care and transportation shall be provided or arranged for by LSUs based on employment and training program requirements and availability of funds. Other support services include child care services other than sliding fee, work-related expenses as defined in part 3301.0020 [Emergency], subpart 29 and family services including:

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Energy and Economic Development Financial Management Division

Availability of Issuance Authority in Competitive Pool

Pursuant to Minn. Stats. (1984), § 474.20, the Department gives notice that the amount of Industrial Development Bond issuance authority available in the Competitive Pool as of March 5, 1986, is \$309,222,800.00 and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by March 10/25, 1986. Pursuant to Minn. Stat. (1984), § 474.19, Issuers must submit an application, a preliminary resolution, an application deposit and any other supporting documents required.

Balance of Competitive Pool on January 5, 1986 \$348,822,800.00

Add:

Returned Allocations: \$ NONE

Total Pool Available as of January 5, 1986 \$348,822,800.00

Allocations awarded from the Competitive Pool during the two months ending March 5, 1986 are:

<u>Issuer</u>	<u>Project</u>	<u>No. of Pts.</u>	<u>Amount</u>
2/20 Washington County HRA	55 Lake Place (Comml. Rdvlp.)		\$ 250,000.00
2/20 Washington County HRA	Foodplex I (mfg.)		\$ 3,000,000.00
2/20 Washington County HRA	Foodplex II (mfg.)		\$ 3,000,000.00
2/20 Washington County HRA	Foodplex III (mfg.)		\$ 2,000,000.00
2/20 Washington County	Foodplex IV (mfg.)		\$ 2,000,000.00
3/05 Maple Grove	Maple Investments (mfg.)		\$ 2,300,000.00
3/05 Warroad P.A.	Commercial Facilities Dvlp. (Comml. Rdvlp.)		\$ 2,400,000.00
3/05 Washington County HRA	Woodland Lakes I (Comml. Rdvlp.)		\$ 9,500,000.00
3/05 Washington County HRA	Woodland Lakes II (Comml. Rdvlp.)		\$ 9,190,000.00
3/05 Washington County HRA	Woodland Lakes III (Comml. Rdvlp.)		\$ 5,960,000.00
Total Allocations Awarded:			\$39,600,000.00

Amount of Issuance Authority Available as of
March 5, 1986 \$309,222,800.00

(Includes: Commercial Redevelopment \$ 41,264,560.00
Pollution/Waste Management \$122,612,980.00)

Department of Human Services Income Maintenance Bureau Health Care Programs Division

Outside Opinion Sought Concerning Amendments to Rules Establishing the Criteria for Determining the Appropriateness of Inpatient Hospital Admissions of and Services to Medical Assistance and General Assistance Medical Care Recipients

Notice is hereby given that the Minnesota Department of Human Services is considering amendments to Minnesota Rules, parts 9505.0500 to 9505.0540, establishing the criteria for determining the appropriateness of inpatient hospital admissions of and services to medical assistance and general assistance medical care recipients.

This rule is authorized by Minnesota Statutes, section 256B.503 and Minnesota Statutes, section 256D.03, subd. 7(b).

The proposed amendments include: 1) clarification of the definition of readmission; 2) extension of time within which medical review agent must mail written notice of decision on reconsideration request; 3) consideration of a request for retroactive admission certification; 4) criteria for inpatient psychiatric and chemical dependency treatment.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Deby Moerer
Health Care Program Investigator
Department of Human Services
444 Lafayette Road
St. Paul, Minn. 55101

Oral statements will be received during regular business hours over the telephone at 612/297-3713.

Statements of information and comment will be accepted until 4:30 p.m. on April 28, 1986. Any written material received by the Department shall become part of the record in the event the amended rules are promulgated.

Department of Jobs and Training

Updated Family Fee Payment Schedule for the Child Care Sliding Fee Program

Pursuant to Minnesota Rules [Emergency], part 3301.0570 (Child Care Sliding Fee Program), the Department of Jobs and Training hereby gives notice of the updated Family Fee Payment Schedule. This revised schedule is based on the 1986 state medium income estimate as published in the December 3, 1985 Federal Register. The schedules published are for family sizes two through six, and are effective until further notice. The fee schedules which have been published on this date as part of the Adopted Rules Relating to Employment, Minnesota Rules, parts 3301.0570 [Emergency] are no longer valid.

Any questions about the new schedules should be directed to:

Tom Romens
Room 690 American Center Building
St. Paul, Minnesota 55101
Telephone: 296-2647

March 10, 1986

Joseph Samargia, Commissioner
Department of Jobs and Training

Department of Jobs & Training
February 1, 1986

CHILD CARE INCOME ELIGIBILITY AND FEE SCHEDULE

Family of Two—State Median Income = \$20,934

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
Below 25%	\$0-5232	\$0-436	\$ 0
25.0	5233-5757	437-480	3
27.5	5758-6280	481-523	3
30.0	6281-6803	524-567	3
32.5	6804-7327	568-611	4
35.0	7328-7850	612-654	5
37.5	7851-8374	655-698	8
40.0	8375-8897	699-741	9
42.5	8898-9420	742-785	9
45.0	9421-9944	786-829	10
47.5	9945-10467	830-872	11

OFFICIAL NOTICES

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
50.0	10468-10990	873-916	15
52.5	10991-11514	917-960	16
55.0	11515-12037	961-1003	17
57.5	12038-12560	1004-1047	18
60.0	12561-12770	1048-1064	23
61.0	12771-12979	1065-1082	31
62.0	12980-13188	1083-1099	39
63.0	13189-13398	1100-1117	47
64.0	13399-13607	1118-1134	56
65.0	13608-13816	1135-1151	65
66.0	13817-14026	1152-1169	74
67.0	14027-14235	1170-1186	83
68.0	14236-14444	1187-1204	93
69.0	14445-14654	1205-1221	102
70.0	14655-14863	1222-1239	112
71.0	14864-15072	1240-1256	123
72.0	15073-15282	1257-1274	133
73.0	15283-15491	1275-1291	144
74.0	15492-15700	1292-1308	155

CHILD CARE INCOME ELIGIBILITY AND FEE SCHEUDLE

Family of Three—State Median Income = \$25,859

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
Below 25%	\$0-6464	\$0-539	\$ 0
25.0	6465-7111	540-593	3
27.5	7112-7758	594-647	3
30.0	7759-8404	648-700	4
32.5	8405-9051	701-754	4
35.0	9052-9697	755-808	6
37.5	9698-10344	809-862	6
40.0	10345-10990	863-916	8
42.5	10991-11637	917-970	8
45.0	11638-12283	971-1024	10
47.5	12284-12930	1025-1078	10
50.0	12931-13576	1079-1131	13
52.5	13577-14223	1132-1185	14
55.0	14224-14869	1186-1239	18
57.5	14870-15516	1240-1293	19
60.0	15517-15774	1294-1315	28
61.0	15775-16033	1316-1336	37
62.0	16034-16291	1337-1358	46
63.0	16292-16550	1359-1379	56
64.0	16551-16809	1380-1401	67
65.0	16810-17067	1402-1422	78
66.0	17068-17326	1423-1444	89
67.0	17327-17584	1445-1465	100
68.0	17585-17843	1466-1487	111
69.0	17844-18102	1488-1509	122

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
70.0	18103-18360	1510-1530	134
71.0	18361-18619	1531-1552	146
72.0	18620-18877	1553-1573	159
73.0	18878-19136	1574-1595	172
74.0	19137-19395	1596-1616	185

CHILD CARE INCOME ELIGIBILITY AND FEE SCHEDULE

Family of Four—State Median Income = \$30,785

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
Below 25%	\$0-7695	\$0-641	\$ 0
25.0	7696-8466	642-706	4
27.5	8467-9236	707-770	4
33.0	9237-10005	771-834	5
32.5	10006-10075	835-898	5
35.0	10776-11544	899-962	7
37.5	11545-12314	963-1026	10
40.0	12315-13084	1027-1090	11
42.5	13085-13853	1091-1154	11
45.0	13854-14623	1156-1219	12
47.5	14624-15393	1220-1283	13
50.0	15394-16162	1284-1347	16
52.5	16163-16932	1348-1411	17
55.0	16933-17701	1412-1475	19
57.5	17702-18471	1476-1539	20
60.0	18472-18779	1540-1565	29
61.0	18780-19087	1566-1591	39
62.0	19088-19395	1592-1616	48
63.0	19396-19702	1617-1642	57
64.0	19703-20010	1643-1668	66
65.0	20011-20318	1669-1693	76
66.0	20319-20626	1694-1719	87
67.0	20627-20934	1720-1745	98
68.0	20935-21242	1746-1770	111
69.0	21243-21550	1771-1796	122
70.0	21551-21857	1797-1821	136
71.0	21858-22165	1823-1847	150
72.0	22166-22473	1848-1873	165
73.0	22474-22781	1874-1898	180
74.0	22782-23089	1900-1924	196

CHILD CARE INCOME ELIGIBILITY AND FEE SCHEDULE

Family of Five—State Median Income = \$35,711

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
Below 25%	\$0-8927	\$0-744	\$ 0
25.0	8928-9820	745-818	4
27.5	9821-10713	819-893	5
30.0	10714-11606	894-967	6

OFFICIAL NOTICES

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
32.5	11607-12499	968-1042	6
35.0	12500-13391	1043-1116	7
37.5	13392-14284	1117-1190	10
40.0	14285-15177	1191-1265	11
42.5	15178-16070	1266-1339	12
45.0	16071-16963	1340-1414	13
47.5	16964-17855	1415-1488	14
50.0	17856-18748	1489-1562	17
52.5	18749-19641	1563-1637	18
55.0	19642-20534	1638-1711	19
57.5	20535-21426	1712-1786	20
60.0	21427-21783	1787-1815	30
61.0	21784-22141	1816-1845	38
62.0	22142-22498	1846-1875	46
63.0	22499-22855	1876-1905	57
64.0	22856-23212	1906-1934	68
65.0	23213-23569	1935-1964	81
66.0	23570-23926	1965-1994	95
67.0	23927-24283	1995-2024	110
68.0	24284-24640	2025-2053	126
69.0	24641-24997	2054-2083	142
70.0	24998-25355	2084-2113	158
71.0	25356-25712	2114-2143	175
72.0	25713-26069	2144-2172	192
73.0	26070-26426	2174-2202	209
74.0	26427-26783	2203-2232	227

CHILD CARE INCOME ELIGIBILITY AND FEE SCHEDULE

Family of Six—State Median Income = \$40,636

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
Below 25%	\$0-10158	\$0-847	\$ 0
25.0	10159-11175	848-931	4
27.5	11176-12191	932-1016	5
30.0	12192-13207	1017-1101	5
32.5	13208-14223	1102-1185	6
35.0	14224-15239	1186-1270	7
37.5	15240-16254	1271-1355	10
40.0	16255-17270	1356-1439	11
42.5	17271-18286	1440-1524	12
45.0	18287-19302	1525-1609	13
47.5	19303-20318	1610-1693	14
50.0	20319-21334	1694-1778	18
52.5	21335-22350	1779-1863	19
55.0	22351-23366	1864-1947	22
57.5	23367-24382	1948-2032	24
60.0	24383-24788	2033-2066	28
61.0	24789-25194	2067-2100	37
62.0	25195-25601	2101-2133	48

Percentage of SMI	Annual Gross Income	Monthly Range	Family Co-Payment
63.0	25602-26007	2135-2167	60
64.0	26008-26414	2168-2201	72
65.0	26415-26820	2202-2235	86
66.0	26821-27226	2236-2269	98
67.0	27227-27633	2270-2303	110
68.0	27634-28039	2304-2337	125
69.0	28040-28445	2338-2370	143
70.0	28446-28852	2372-2404	161
71.0	28853-29258	2405-2438	180
72.0	29259-29664	2439-2472	199
73.0	29665-30071	2473-2506	218
74.0	30072-30477	2507-2540	238

Office of the Secretary of State

Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is April 8, 1986.

ELEMENTARY-SECONDARY-VOCATIONAL (ESV) COMPUTER COUNCIL has 1 vacancy open for a representative of the data processing management, private sector. The council advises and assists the State Board of Education in the development of plans and standards for ESV-IS (elementary, secondary and vocational education management information systems) and SDE-IS (State Department of Education information system). Members are appointed by the Governor. Members receive \$35 per diem. For specific information contact the Elementary-Secondary-Vocational (ESV) Computer Council, Board of Education, Capitol Square Bldg., 550 Cedar, St. Paul 55101; (612) 297-3152.

EXPORT FINANCE AUTHORITY has 1 vacancy open for a member. The authority aids and facilitates the financing of exports from Minnesota. The finance authority powers shall be used exclusively to meet the credit needs of Minnesota exporters and to insure, co-insure and guarantee against export credit risks of Minnesota exporters. Members be knowledgeable in international finance, exporting or international law. Members are appointed by the Governor and confirmed by the Senate. Members receive \$35 per diem plus expenses. For specific information contact the Export Finance Authority, 90 W. Plato Blvd., St. Paul 55107; (612) 297-4659.

MINNESOTA OFFICE ON VOLUNTEER SERVICES ADVISORY COMMITTEE has 1 vacancy open for a representative from Regional Development Commission Region 2. The committee works with public and private sector organizations to promote volunteerism by effectively coordinating and channeling voluntary action. The committee advises and makes recommendations to the Governor and Director on program directions and policy issues relating to M.O.V.S. Members are appointed by the Commissioner of the Dept. of Administration. Three to five meetings per year at the State Capitol Complex. Members are reimbursed for expenses. For specific information contact the Minnesota Office on Volunteer Services Advisory Committee, 500 Rice St., St. Paul 55155; (612) 296-4731.

TEMPORARY JOINT UNDERWRITING ASSOCIATION has 6 vacancies open for 3 public members and 3 health care provider members. The association shall provide medical malpractice insurance coverage to any licensed health care provider unable to obtain this insurance through ordinary methods. Every personal injury liability insurer in the state shall be a member as a condition of obtaining and retaining a license to write insurance in Minnesota. The public members are appointed by the Governor and the health care provider members are appointed by the Commissioner of Commerce. Members receive \$35 per diem. For specific information contact the Temporary Joint Underwriting Association, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-1118.

Teachers Retirement Association Board of Trustees

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, March 27, 1986, at 9 a.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

Department of Transportation

Petition of City of Alexandria for a Variance from State Aid Standards for Clearance Requirements

Notice is hereby given that the City Council of the City of Alexandria has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on M.S.A.S. 113 (10th Avenue) between Cedar Street and Broadway.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit certain poles on the south side of said street which carry power and telephone lines to remain within the two foot clear zone measured from the face of the curb.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 6, 1986

Richard P. Braun
Commissioner of Transportation

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-175-06437	Purchase of High Resolution Color Graphics Terminal	Southwest State University	Marshall	Contact buyer
21-20011096	Purchase of Modems	Jobs & Training	St. Paul	Contact buyer
02-310-14542, 14543	Vertical & Horizontal Blinds	MN Correctional Facility	Shakopee	Contact buyer
43-000-06865	Furnish & Install Benches & Trash Receptacles	Iron Range Resources & Rehabilitation Board	Eveleth	Contact buyer
Contract	Photo & Nonphoto "Driver" Licenses	Public Safety		\$1,000,000-\$1,200,000
79-000-52210	Logic Analyzer	Transportation	Fort Snelling	Contact buyer
79-000-52228	Nuclear Moisture Density Gauges	Transportation	St. Paul	Contact buyer
27-156-48848	Lawn & Shrub Care	Normandale Community College	Bloomington	Contact buyer
Contract	Ind. Wrenches, Sockets, Tools & Tool Boxes	Various	Various	Contact buyer
07-300-37152	Surge Supressors Rebid	Public Safety	St. Paul	Contact buyer
29-000-43452 etc.	Boat Trailers	Natural Resources	Various	Contact buyer
29-004-07296	Used Farm Tractor	Natural Resources	New Ulm	Contact buyer
26-175-06474	Repair of Trane Centrifugal Chiller	Southwest State University	Marshall	Contact buyer
02-525-48366	Purchase of Computer System	Administration—Building Codes & Standard Division	St. Paul	Contact buyer
79-200-RM	Ready Mix Concrete—Bemidji	Transportation	Bemidji	Contact buyer
79-200-PC	Portland Cement—Bemidji	Transportation	Bemidji	Contact buyer
4709 & 10	Diplomas & Covers	Mankato State University	Mankato	Contact buyer
26-071-16480 & 1				
26-071-16440	Security Detection Devices	Mankato State University	Mankato	Contact buyer
55-103-03665	Auto. Floor Scrubbing Machine	Human Services—Moose Lake Regional Treatment Ctr.	Moose Lake	Contact buyer
26-137-03507	Modular Cooling Units	Mankato State University	Mankato	Contact buyer
Rebid				

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
43-000-06843	Food Service Equipment	Iron Range Resources & Rehabilitation Board—Iron Range Interpretive Center Amphitheatre	Chisholm	Contact buyer
26-071-16491	Sod	Mankato State University	Mankato	\$200,000-\$225,000
Contract 29-000-43575-6721	Addendum #2 Linens	Various	Various	\$200,000-\$225,000
02-410-48178	Snowmobile Renewal Notices	Natural Resources Administration—Information Management	St. Paul	Contact buyer
	Tape Cartridges	Iron Range Resources & Rehabilitation Board	St. Paul	Contact buyer
43-000-06842	House Lighting (Pkg. #10) for Ironworld USA—Amphitheater—Phase II, Chisholm, Mn.	Iron Range Resources & Rehabilitation Board	St. Paul	Contact buyer
43-000-06840	Sound and Communication System (Pkg. #6) for Ironworld USA—Amphitheater—Phase II, Chisholm, Mn.	Iron Range Resources & Rehabilitation Board		Contact buyer
79-900-00361	Furnish & Install Horizontal & Vertical Blinds	Transportation	St. Paul	Contact buyer
Rebid 79-400 SS	Sand Blasting Sand—Detroit Lakes	Transportation	St. Paul	Contact buyer
79-400 PC	Portland Cement—Detroit Lakes	Transportation	Detroit Lakes	Contact buyer
Contract 55-106-06141	Film Transparencies	Various	Various	\$49,000-\$50,000
	Carpeting & Install	Human Services—Willmar Regional Treatment Center	Willmar	Contact buyer
55-106-06141	Carpet & Install	Human Services—Willmar Regional Treatment Center	Willmar	Contact buyer
79-000-50604	Drafting Chairs	Transportation	Minneapolis	Contact buyer
07-500-36598	Radio Comm. Equipment	Public Safety	Various	Contact buyer
6567-29-000-43539	1986 Resident Bow & Arrow Deer License	Natural Resources	St. Paul	Contact buyer
6564-29-000-43545	Snowmobile & Watercraft Mail-Out Envelopes	Natural Resources	St. Paul	Contact buyer
6565-29-000-43537	1986 Resident Deer Firearms License	Natural Resources	St. Paul	Contact buyer
6435-29-000-43544	Regular Snowmobile Decals Expires June 30, 1989	Natural Resources	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Human Services Anoka Metro Regional Treatment Center

Request for Proposals for Medical Services for Psychiatry, Radiology, Podiatry, Neurology, Optometry, EEG Testing, Emergency Treatment, and Interpretive Service for Hearing-Impaired

Notice is hereby given that AMRTC, Mental Health Bureau, Department of Human Services, is seeking the services which are to be performed as requested by the Administration of AMRTC. Contracts will be written for the period beginning July 1, 1986 and ending June 30, 1987.

1. Psychiatric Services. Responsibilities will include psychiatric assessments, psychiatric treatment, attendance at Medical

Staff meetings, participation in the Utilization Review program, appearances at Special Review Board hearings, Probate Court hearings, and in-service education. Estimated total amount for all psychiatric contracts will not exceed \$130,000. annually.

2. Radiology Services. Responsibilities will include the interpretation of all x-rays and conduct fluoroscopy examinations, and provide consultation to medical staff. Total amount of contract will not exceed \$18,000 annually.

3. Podiatry Services. Responsibilities will include providing proper podiatry services in relation to Medical Assistance and Medicare guidelines, at times arranged by Medical Director or his designee. Total estimated amount of contract will not exceed \$2,500 annually.

4. Neurological Services. Responsibilities will include neurological consultation and supervisory training and assistance with neurological research and evaluation at AMRTC. The estimated total amount for all neurology contracts will not exceed \$21,000.

5. Optometry Services. Responsibilities will include eye exams and referrals, dispensing of eyewear, and consultation with medical staff. Total amount of contract will not exceed \$2,500 annually.

6. Electroencephalogram (EEG) Testing. Responsibilities will include conducting the EEG tests with a tracing for each test. Equipment will be furnished by AMRTC. Total amount of contract will not exceed \$2,500 annually.

7. Interpretive Service for hearing impaired patients. Responsibilities will include interpretation of treatment plans to hearing impaired patients, and daily interpretation during treatment, and assist in the communication of discharge plans. Total amount of contract will not exceed \$2,000 annually.

8. Emergency and/or inpatient and outpatient medical treatment for services not available at AMRTC. Total contract will not exceed \$35,000 annually.

Responses must be received by April 15, 1986. Direct inquiries to: Steve Johnson, Business Manager, AMRTC, 3300 Fourth Avenue North, Anoka, Minnesota 55303. Telephone: 422-4383.

Iron Range Resources and Rehabilitation Board

Request for Proposals to Operate a Gift Store

The Iron Range Resources and Rehabilitation Board (IRRRB) is seeking proposals from experienced retail merchandisers to operate the gift store serving the various users of IRONWORLD, USA (formerly the Iron Range Interpretative Center), located near Chisholm, Minnesota.

Cancellation of Solicitation

"This request for proposal does not obligate the state of Minnesota (IRRRB) to complete the project, and the state (IRRRB) reserves the right to cancel this solicitation if it is considered to be in the state's (IRRRB's) best interest."

Tasks of the Contractor

The gift store contractor shall staff, manage, and operate a retail outlet capable of serving smaller volumes of visitors to the Interpretative Center Building and, possibly, the Rail Engine House, and

Larger volumes of visitors (up to several thousand people) at the Festival Park, Plaza Areas, Amphitheatre, or Other Mutually Agreed Upon Locations throughout the rest of the Ironworld complex.

Specifics

A. The contractor shall stock and sell various gift and souvenir items, including shirts, hats, jewelry, postcards, photographs, knickknacks, toys, and other miscellaneous items mutually agreed upon by the contractor and the IRRRB.

B. The contractor shall stock and sell various hand-crafted items, including sweaters, blankets, rugs, wall hangings, art work and other miscellaneous items as mutually agreed upon by the contractor and the IRRRB. Note: Many of these items are hand-crafted by area people in their own homes, and considerations as to production, ordering, and inventory may have to be addressed. It may be that some such items might best merchandised on a consignment or some alternative basis. However, handcrafted indigenously produced specialties represent an area where the IRRRB perceives a great potential for future opportunity for both the contractor and regional producers of such items.

C. For both of the above, the contractor shall make such merchandise available for both daily and special event visitors, selling such items from both permanent (Gift Store, Rail Engine House) and temporary (Festival Park, Plaza Areas, Mobile Merchandise Units) sites as mutually agreed upon by the contractor and IRRRB. Note: The contractor may desire to sell some types of merchandise such as handcrafted items from permanent sites, such as the Gift Store or Rail Engine House. Some of the lower ticket items may lend themselves to sale from temporary sites. The contractor and the IRRRB shall discuss and come to a mutual agreement on this subject.

STATE CONTRACTS

D. During special events such as Ethnic Days, or special amphitheatre performances, or in support of various exhibits or displays of a special or ongoing nature, the IRRRB may request that the contractor offer special items appropriate for the occasion, display, or exhibit.

E. For all merchandise offered, prices and quality shall be mutually agreed upon by the contractor and the IRRRB.

Cost of Contract

This, of course, is a negotiable item. However, IRRRB suggests that respondents propose lease/rental arrangements as 5-20% of gross gift store sales. Note: A consultant's study projects that gross IRONWORLD merchandise revenues for the period June 15-September, 1986 will be between \$200,000.00-\$300,000.00

Tentative Proposal/Contract Timelines

Publication in *State Register*: Monday, March 17, 1986.

Response Period: Tuesday, March 18, 1986—4:30 P.M., Tuesday, April 8, 1986.

Tentative Respondent Interviews: April 16-18, 1986.

Anticipated Date of Contract Award (Pending IRRRB Approval): May 1, 1986.

Effective Contract Date: On or near June 1, 1986.

Term of Contract: June 1, 1986-March 31, 1987.

Statutory Proposal Requirements:

In accordance with the provisions of Minnesota Statute § 363.073, for state contracts in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have a certificate of compliance issued by the Commissioner of Human Rights before a proposal may be accepted. The proposal will not be accepted unless it includes one of the following:

A. A copy of the firm's current certificate issued by the Commissioner of Human Rights.

B. A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights.

C. A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

Any questions concerning a Certificate of Compliance may be referred to the Contract Compliance Unit of the Minnesota Department of Human Rights at (612) 296-5663.

For further information and formal RFP documents, contact: Iron Range Resources and Rehabilitation Board, Highway #53 South, P.O. Box 441, Eveleth, Minnesota 55734, Brian Hiti at 218-744-2993.

Iron Range Resources and Rehabilitation Board

Request for Proposals for a Food/Beverage Operation at Ironworld

Request for proposals for experienced food/beverage operators to provide comprehensive food, beer, and wine service for the various users of IRONWORLD, USA (formerly the Iron Range Interpretative Center), located in Chisholm, Minnesota.

Cancellation of Solicitation

"This request for proposal does not obligate the state of Minnesota (IRRRB) to complete the project, and the state (IRRRB) reserves the right to cancel this solicitation if it is considered to be in the state's (IRRRB's) best interest."

Tasks of the Contractor

The food and beverage contractor shall staff, manage, and operate food and beverage concessions capable of seating 45-60 people at the Ethnic Kitchen, and

Food and beverage concessions capable of servicing up to several thousand people throughout the rest of the Ironworld complex, at the Food Kiosk and Plaza Area, Mobile Food/Beverage Units, and Other Mutually Agreed Upon Locations.

Specifics

A. The contractor shall provide luncheon and evening ethnic specialties as mutually agreed upon by the contractor and the IRRRB.

B. The contractor shall provide non-alcoholic beverages, fast food, and incidental snack offerings as mutually agreed upon by the contractor and the IRRRB.

C. The contractor shall provide beer and wine as mutually agreed upon by the contractor and the IRRRB.

D. For all of the above, the contractor shall provide such services for both daily and special event visitors. The above will be made available at both permanent sites (Ethnic Kitchen, Food Kiosk) and temporary sites (Mobile Food/Beverage Units, etc.).

Cost of the Contract

IRRRB suggests that respondents propose lease/rental arrangements as 5-20% of gross food and beverage sales. A consultant's study projects that gross Ironworld food and beverage revenues for the period June 15-September 1986 will be between \$400,000.00-\$550,000.00.

Tentative Proposal/Contract Timelines

Publication in *State Register*: Monday, March 17, 1986.

Response Period: Tuesday, March 18, 1986—4:30 P.M., Tuesday, April 8, 1986.

Tentative Respondent Interviews: April 16-18, 1986.

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Public Employment Retirement Association

Addendum to Request for Proposal for Actuarial Services

As a follow-up to the Public Employees Retirement Association's (PERA) Request for Proposals for providing actuarial services printed in the February 17, 1986 issue of the *State Register*, we wish to clarify the following:

In order for an actuary to be able to perform the required tasks specified in Section IV, it would be necessary for the actuary to load and reconcile all the data in our data base.

Also in Section IV, Item C covers approximately 25 bills presented to the Legislature for amendment each year.

In developing the budget for the proposal, we request that a subtotal be indicated for the anticipated costs to be incurred in the process of the reconciliation of the annual actuarial valuation, and that a second subtotal be listed for the expected costs associated with the review of the previously mentioned 25 legislative bills. All of the remaining actuarial services are to be expressed in terms of hourly rates of compensation.

We hope this will assist you in the preparation of your proposal. If you have any questions, please contact our office.

STATE CONTRACTS

Supreme Court Legal Services Advisory Committee

Request for Proposals for Legal Services

The Legal Services Advisory Committee is requesting proposals for legal services and alternative dispute resolution programs for low income people.

Inquiries should be directed to:

J. L. Rehak
230 State Capitol
St. Paul, MN 55155
(612) 296-6822

Application Deadline: April 15, 1986.

STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Education Division of Development and Partnership

Availability of Federal Funds for Adult Education

The Minnesota Department of Education announces the availability of funds to subsidize Adult Education under Public Law 91-230, as amended.

The purpose of Public Law 91-230 is to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will:

- “(1) enable all adults to acquire basic skills necessary to function in society,
- (2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and
- (3) to make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.”

Applications for grants to carry out the purposes of this Act may be submitted by local educational agencies and by public or private non-profit agencies, organizations and institutions.

Application procedures and forms may be obtained after March 20, 1986 by writing to: Brian Kanes, Coordinator, Adult Basic and Continuing Education, Minnesota Department of Education, 998 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

All applications must be delivered to the Department of Education, Community Education Section on or before June 1, 1986.

Department of Education Division of Development and Partnership

Availability of Federal Funds for Adult Education Special Experimental Demonstration Projects and Teacher Training

The Minnesota Department of Education announces the availability of funds to subsidize Special Experimental Demonstration Projects and Teacher Training under Section 310 of Public Law 91-230, as amended, whose purpose is to provide funds for:

“(1) Special Projects which will be carried out in furtherance of the title and which:

(A) Involve the use of innovative methods, including methods of teaching persons of Limited English speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

(B) Involve programs of adult education, including education of persons of limited English speaking ability, which are part of community school programs, carried out in cooperation with other federal, federally assisted, state, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems or people with educational deficiencies; and

(2) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purpose of this title.”

Applications for grants to carry out the purposes of this Act may be submitted by local educational agencies and by public or private non-profit agencies, organizations and institutions.

Application procedures and forms may be obtained after March 20, 1986 by writing to: Brian Kanes, Coordinator, Adult Basic and Continuing Education, Minnesota Department of Education, 998 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

All applications must be delivered to the Department of Education, Community Education Section on or before June 1, 1986.

Department of Jobs and Training Division of Rehabilitation Services Minnesota Supported Employment Project

Availability of Funds to Assist Providers in Developing Supported Employment as a Service Delivery Method

The Minnesota Supported Employment Project announces the availability of grant funding to assist new providers in starting or existing providers in changing over to supported employment as a method of service delivery to severely disabled citizens of Minnesota. Supported employment is paid employment of at least 20 hours per week in locations where disabled workers have frequent daily interactions with people without disabilities who are not paid caregivers and where not more than 8 people with disabilities work together. It is intended for persons for whom employment without long-term, ongoing support on the jobs site would be considered unlikely.

Any public or private non-profit agency, organization or corporation (able to qualify under Minnesota Statutes, Chapter 317, or Section 501 (c) (3) of the Internal Revenue Code) with the authority and ability to bring about desirable outcomes for the target population is eligible to apply.

Total amount available for projects is \$200,000 for the period from July 1, 1986 through June 30, 1987 with average grant awards anticipated to average from \$25-40,000.

Copies of the Request for Proposals for this project are available from:

Minnesota Supported Employment Project
Division of Rehabilitation Services
390 North Robert Street, Fifth Floor
St. Paul, Minnesota 55101

ATTN: Ed Boeve

Proposals must be received by 4:30 p.m. on April 28, 1986.

STATE GRANTS

Department of Jobs and Training Division of Rehabilitation Services Minnesota Supported Employment Project

Availability of Funds to Provide Training and Technical Assistance in Developing Local Communities Ability to Provide Supported Employment Services

Minnesota Supported Employment Project announces the availability of a grant to be awarded an eligible applicant to help local communities in Minnesota develop the competencies necessary to make supported employment a strong and viable service option for individuals who have severe disabilities. The successful applicant will be expected to provide consumers, parents, guardians, advocates, new and existing service provider management and staff, case managers and others with training and technical assistance that is intense and longitudinal in nature.

Any public or private non-profit agency, organization, or corporation (able to qualify under Minnesota Statutes, Chapter 317, or Section 501 (c) (3) of the Internal Revenue Code) with the ability to bring about the desired outcomes of the project is eligible to apply.

There is \$115,000 available in the first year of operation for training and technical assistance. Second year funding may also be available.

Copies of the Request for Proposals for this project are available from:

Minnesota Supported Employment Project
Division of Rehabilitation Services
390 North Robert Street, Fifth Floor
St. Paul, Minnesota 55101

ATTN: John Flanders

Proposals must be received by no later than 4:30 p.m. on Monday, April 7, 1986.

Supreme Court Lawyer Trust Account Board

Notice of Grant Cycle, July 1, 1986 to June 30, 1987

The Minnesota Supreme Court has established a program to use the interest on lawyer trust accounts to improve the delivery of legal services to the poor, to promote the development of law-related education for the public, and to develop programs to enhance the administration of justice.

The Lawyer Trust Account Board has announced a grant program to distribute funds to projects in any of three program areas. The Board will support not only traditional approaches, but will encourage projects which show innovative approaches to recognized needs throughout the state. The Board is soliciting proposals. For application information, contact the Executive Director, 318A State Capitol, St. Paul, MN 55155. The application deadline is April 15, 1986.

SUPREME COURT CALENDAR

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155-612-296-2581.

APRIL, 1986

WEDNESDAY, APRIL 2, 1986

85-119 and 85-131 IN THE MATTER OF THE WELFARE OF: J.W. AND A.W. (Attorney: Ahlstrom, Ann Stiehm, Assistant Hennepin County Attorney) (Opposing Counsel: Shiah, Thomas H., Attorney for Respondent-Father). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

May a court deny a respondent in a dependency and neglect hearing the right to present evidence and cross-examine state witnesses as a sanction under Minnesota Rules of Juvenile Procedure, Rule 57, on the grounds that the respondent refused to answer deposition questions designed to further a criminal investigation?

Were the allegations in the dependency and neglect petition proved by clear and convincing evidence as required by Rule 59.05, Minnesota Rules of Juvenile Procedure? [Issues as in brief of Appellant]

85-687 RAMSEY COUNTY COMMUNITY HUMAN SERVICES DEPARTMENT (Attorney: Timmons, Michele L.) VS. DAVILA, PABLO (Attorney: Collins, Buckley, et al, and Mark W. Gehan). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did the Court of Appeals correctly determine that the Ramsey County Civil Service Commission had authority to fashion an alternative disciplinary sanction?

Did the Ramsey County Civil Service Commission abuse its discretion in fashioning alternative disciplinary sanctions? [Issues from brief of Respondent, Davila]

THURSDAY, APRIL 3, 1986

85-723 TUMA, KEITH J. (Attorney: Becker, Bernard P. and Eric S. Janus) vs. DEPARTMENT OF ECONOMIC SECURITY (Attorney: Barone, James Patrick, Special Assistant Attorney General). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Where eligibility for extended unemployment compensation depends, in part, on the number of wage credits "earned" during the base period, may a claimant who has earned sufficient credits during the base period nonetheless be denied benefits solely on the ground that his employer did not pay him the wages until after the base period?

Whether the wages of a discharged employee which are not paid until eight days after discharge are "delayed beyond the usual time of payment" under Minn. Stat. section 268, .04, subd. 26?

85-278 and 85-289 and 85-304 IN THE MATTER OF THE APPLICATION OF NORTHWESTERN BELL TELEPHONE CO. (Attorney: McDonough, Lawrence R., Attorney for St. Cloud Area Ratepayers) (Opposing Counsel: Maun, Green, et al, and James A. Gallagher, NW Bell Telephone). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Have the St. Cloud Area Ratepayers sufficiently preserved their right to challenge the MPUC's November Order?

Is the MPUC's January Order Denying Reconsideration supported by the record?

May the MPUC award compensation based on its general statutory authority?

Is Relator Henry entitled to recover intervention costs under Minn. Stat. 237.075, subd. 10?

Are the standards adopted and applied by the MPUC for reviewing requests for recovery of intervention costs consistent with and appropriate in light of Minn. Stat. 237.075, subd. 19?

Are the MPUC's findings with regard to ALSO's request supported by the record?

Are the MPUC's findings with regard to MPIRG sufficiently detailed and supported by substantial evidence?

MONDAY, APRIL 7, 1986

85-179 and 85-180 REDISKE, VERNON H., ET AL (Attorney: Larkin, Hoffman, et al, and Jerome H. Kahnke) vs. MINNESOTA VALLEY BREEDERS' ASSOCIATION (Attorney: O'Brien, Ehrick, et al, and Charles F. Angel). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did the trial court err in rehearing and reconsidering the motions for summary judgment by both A. O. Smith Harvestore Prod-

SUPREME COURT CALENDAR

ucts, Inc., and AgriStor Leasing absent presentation to the trial court of any further facts supporting those motions, either by way of affidavit or otherwise?

Was A.O. Smith Harvestore Products, Inc., entitled to summary judgment on the issue of whether MVBA acted as an agent of A.O. Smith Harvestore Products, Inc.?

Was A.O. Smith Harvestore Products, Inc., entitled to summary judgment on the claim that it was itself negligent in a manner that contributed to the delay in construction and installation of the Slurrystore system?

Were the defendants entitled to summary judgment on plaintiffs' claim for punitive damages under Minn. Stat. 549.20? [All issues as stated in brief of Respondents, Rediskes]

Was AgriStor entitled to summary judgment on the claim that AgriStor was negligent in performing its credit analysis regarding the plaintiffs' ability to financially handle acquisition of a slurrystore system?

Was AgriStor entitled to summary judgment on the claim that AgriStor Leasing misrepresented the plaintiffs' financial position to the plaintiffs?

Was A.O. Smith Harvestore Products, Inc., entitled to summary judgment on the claim that A.O. Smith Harvestore Products, Inc., is jointly and severally liable for the damage incurred by the plaintiffs as a result of having acted in concert with, actively participated with, advised, or encouraged the other defendants?

Was AgriStor entitled to summary judgment on the claim that AgriStor Leasing is jointly and severally liable for the damage incurred by the plaintiffs as a result of having acted in concert with, actively participated with, advised, or encouraged the other defendants?

Was AgriStor Leasing entitled to summary judgment on the claim that MVBA acted as an agent of AgriStor Leasing?

84-1950 HENRY, EVAN J. (Attorney: Henry, Evan J.) vs. MINNESOTA PUBLIC UTILITIES COMMISSION (Attorney: Giles, Allen E., Special Assistant Attorney General). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Should the Commission have dismissed Northwestern Bell's petition as the ALJ recommended and Relator had motioned for?

Are the Commission's findings of fact and conclusions of law sustained by the evidence and the law?

Was the Commission, as constituted in this matter, properly comprised of the professional expertise as required of it by Minn. Stat. 216A.03?

Were Relators' constitutional rights to due process and equal protection in any way violated? [Issues as stated in brief of Relator]

TUESDAY, APRIL 8, 1986

85-481 HIAWATHA AVIATION OF ROCHESTER, INC. (Attorney: Willeke & Daniels and Donald C. Willeke) vs. MINNESOTA DEPARTMENT OF HEALTH (Attorney: Manka, Audrey Kaiser, Special Assistant Attorney General). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Was the decision to deny Relator's application for a life support transportation license supported by the evidence before the Commissioner of Health?

Was the Commissioner of Health arbitrary and capricious by assuming facts not in evidence or by reviewing the record as submitted to her for review instead of requesting a transcript of the actual testimony presented at the hearing?

Did Relator present evidence satisfying the statutory requirements of Minn. Stat. 144.802 which would justify issuance of a life support transportation license?

Is state licensure of scheduled air life transportation services preempted by the Federal Aviation Act?

THURSDAY, APRIL 10, 1986

74-45550 IN RE: PROPOSED AMENDMENTS TO CERTAIN RULES OF THE MINNESOTA SUPREME COURT 9:00 a.m. State Capitol, St. Paul. ORIGIN: Hearing to Consider Amending Rules.

Hearing to consider amending certain rules of the Minnesota Supreme Court regarding arbitration under the Minnesota No-Fault Automobile Insurance Act.

SUPREME COURT DECISIONS

Decisions Filed Friday, March 7, 1986

Compiled by Wayne O. Tschimperle, Clerk

C5-85-1129 John R. Sandberg, Relator v. Commissioner of Revenue. Tax Court.

Under Minn. R. Civ. P. 45.01 and the tax court rules, it was improper for the assistant attorney general to obtain subpoenas against third parties without giving notice to the taxpayer. The conducting of such *ex parte* discovery stands in opposition to the rules of civil procedure and raises serious constitutional problems.

The taxpayer's case, however, was not prejudiced by the assistant attorney general's actions.

The tax court applied the correct law in determining that the taxpayer was a domiciliary of Minnesota for tax purposes during the period in question. The tax court's findings were supported by sufficient evidence.

Affirmed. Yetka, J.

ORDERS

C9-85-1506 In re Hearing Regarding Chambers Arguments in the Sixth Judicial District. Supreme Court.

Public hearing set on March 17, 1986, at 10:00 a.m. in the district court courtroom, Carlton County Courthouse, Carlton, Minnesota. Amdahl, C.J.

C9-85-1506 In re Sixth Judicial District District Court Vacancy. Supreme Court.

Continuing Judicial Position in the Sixth District. Adopting Plan Providing for Termination of Judicial Officer Positions. Amdahl, C.J.

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Contact: Senate Public Information Office
Room 111 State Capitol, St. Paul, MN 55155
(612) 296-0504

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Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

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Room 175 State Office Building, St. Paul, MN 55155
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