

85, August 5

STATE REGISTER

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STATE OF MINNESOTA

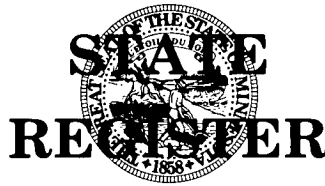
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VOLUME 10, NUMBER 6

August 5, 1985

Pages 301-372



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			
7	Monday July 29	Monday August 5	Monday August 12
8	Monday August 5	Monday August 12	Monday August 19
9	Monday August 12	Monday August 19	Monday August 26
10	Monday August 19	Monday August 26	Monday September 2

*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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CONTENTS

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 1-6, inclusive 304

PROPOSED RULES

Human Services Department

Proposed Emergency Rules Relating to Work
Readiness Program 306

Labor and Industry Department

Proposed Rules Governing Workers' Compensation
Permanent Partial Disability Schedules 313

ADOPTED RULES

Commerce Department

Adopted Rules Governing Filing Fees for Insurance
Policy Rates and Forms 353

Housing Finance Agency

Adopted Rules Governing the Temporary Housing
Program 353
Adopted Rules Relating to Innovative Housing Loans 354

Labor and Industry

Adopted Revisions to the Occupational Safety and
Health Standards 354

Board of Peace Officers Standards and Training

Adopted Rules Governing Part-time Officers and
Constables Selection, Training, and Testing
Requirements 354

OFFICIAL NOTICES

Administration Department

Board of Electricity
Notice of Board Meeting 354

Education State Board

Department of Education
Partnerships Division
Outside Opinion Sought Regarding Proposed Rules
Governing the Licensure of Community Education
Directors 355

Energy and Economic Development Department Energy and Economic Development Authority

Public Hearing on Proposed Project and Issuance of
Bonds Under Minnesota Statutes, Chapter 116M,
Exclusive—Merchandising Fixtures, Incorporated 355
Public Hearing on Proposed Project and Issuance of
Bonds Under Minnesota Statutes, Chapter 116M,
Exclusive—BH&B Properties 356

Finance Department

Maximum Interest Rate for Municipal Obligations,
August, 1985 357

Health Department

Emergency Medical Services
Emergency Medical Services Licensure
Application—Bemidji Aviation Services 357

Human Rights Department

Goals and Timetables for Construction Contractors 357

Metropolitan Council

Public Hearing on Amendments to Part I, Water
Resources Management Development Guide 358
Notice of Review Schedule: Amendment to Solid
Waste Management Development Guide/Policy
Plan 359

STATE CONTRACTS

Administration Department

Procurement Division
Commodities Contracts and Requisitions Currently
Open for Bidding 360

Economic Security Department

Contract Available to Write Related Documents for
Administrative Rules 361

Economic Security Department

Vocational Rehabilitation Division
Contracts Available for Medical, Psychiatric, and
Psychological Services; Psychometric Testing
Services; Mobile/Onsite Medical Examination
Services (Includes Request for Qualifications);
and Medical Teledictation Services 362

Energy and Economic Development Department

Agricultural Resource Loan Guaranty Board
Request for Proposals for Investment Banking
Services 364

Energy and Economic Development Department

Energy Finance Division
Request for Proposals for Consultants for District
Heating Projects 365

Metropolitan Council

Request for Proposals for Consultant Services to
Conduct Economic Feasibility Study Related to
Tall Broadcast Towers 365

Natural Resources Department

Request for Proposals for Health and Safety
Services 365

State Designer Selection Board

Request for Proposals for State Projects 366

SUPREME COURT

Decisions Filed Friday, July 26, 1985 368

ERRATA

Higher Education Coordinating Board

Correction of Proposed Emergency Rules, Relating
to Education; Financial Aid, Grants, Part-time
Students 369

NOTICE

How to Follow State Agency Rulemaking Action in the State Register

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.
• Withdrawal of proposed rules (option; not required).

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 July 31, 1983 are published in the Minnesota Rules 1983. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules 1983 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:

Table with 2 columns: Issue/Range and Cumulative Listing. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issues 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the Minnesota Rules 1983.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

DEPARTMENT OF COMMERCE

Table listing rule numbers and page numbers for the Department of Commerce, including items like 2605.0100-.0400 [9 SR 1018, 1607] (adopted) 353, 2740.4300 (proposed) 43, etc.

SENTENCING GUIDELINES COMMISSION

3000.0100-.0600 (proposed) 14

STATE BOARD OF EDUCATION

3500.1150 [9 SR 1680] (adopted) 16

ENERGY, PLANNING AND DEVELOPMENT

Energy Division

Table listing rule numbers and page numbers for the Energy Division, including items like 4200.2100-.4050; .4300 (proposed) 8, 4200.2100, s.3,6; .2200, s.3; .2500; .2700; .3000, s.3,4,9,10; .3000; .3400; .3500; .3600; .3700; .3800 (proposed repeal) 8, etc.

DEPARTMENT OF HEALTH

4615.0500 [9 SR 2365] (adopted) 276

HIGHER EDUCATION COORDINATING BOARD

4830.1000-.1500 (proposed supercession) 90
4830.1550-.1556 [Emer] (proposed) 90
4850.0010-.0018 [Emer] [9 SR 1783; 2400] (adopted) 66

MN HOUSING FINANCE AGENCY

4900.1200; .1210 [9 SR 2400] (adopted) 354
4900.1700-.1703 [9 SR 2472] (adopted) 353

DEPARTMENT OF LABOR AND INDUSTRY

5205.0100 [Standards] (proposed) 13
5205.-0100 [Standards] (adopted) 354
5220.1400 [9 SR 2172] (adopted) 17
5223.0010; .0020; .0030; .0040; .0060 (proposed) 313

MINNESOTA RULES AMENDMENTS AND ADDITIONS

DEPARTMENT OF NATURAL RESOURCES

6115.0010; .0020; .0030; .0060; .0080; .0090; .0110; .0130 (adopted)	236
6131.0010-.0030; .0100-.0340 [9 SR 1236, 1980] (adopted) . . .	277

BOARD OF PEACE OFFICER STANDARDS & TRAINING

6700.1100; .1101; .1200; .1201 [9 SR 2576] (adopted)	354
--	-----

POLLUTION CONTROL AGENCY

7001.0650; .0135; .0214 [9 SR 2833] (adopted)	70
7035.1100-.1115 (proposed)	97

Water Quality Division

7075.0100-.0432; .2000; .2200 [9 SR 1793] (adopted)	278
---	-----

DEPARTMENT OF PUBLIC SAFETY

7415.0500 (proposed)	183
--------------------------------	-----

PUBLIC SERVICE DEPARTMENT

7600.6800; .7200; .7210; .7500; .7700; .7750; .7900; 7650.0100 (proposed)	269
--	-----

REVENUE DEPARTMENT

Property Equalization Division

8100.0300 [9 SR 2374] (adopted)	18
8122.0300-.1600 (proposed)	185

SECRETARY OF STATE

8260.0100; .0200 [9 SR 2173] (adopted)	70
--	----

SMALL BUSINESS FINANCE AGENCY

8300.3091-.3097 (proposed)	138
8300.3091-.3097 [Emer] (withdrawn)	140
8300.5000-.5006 [Emer] (adopted)	226

WASTE MANAGEMENT BOARD

9200.6000-.6800 [Emer] (proposed)	220
9200.9501-.9504; .9506; .9508 (proposed)	106
9200.9501, s.4; .9504, s.1 (proposed repeal)	106

DEPARTMENT OF PUBLIC WELFARE (Now HUMAN SERVICES)

9500.1090-.1155 (adopted)	227
9500.1101-.1108 [Emer] (proposed)	92
9500.1210-.1221 [Emer] (proposed)	306
9510.1020-.1140 (proposed)	54
9525.0015-.0145 (second notice)	19
9525.0900-.1020 (proposed)	44
9525.1200-.1330 [9 SR 2094] (adopted)	68
9525.1800-.1930 (proposed)	141
9550.0010-.0092 (second notice)	155
9553.0010-.0080 (proposed)	155

WORKERS' COMPENSATION COURT OF APPEALS

9800.0100; .0200; .0400; .0500; .0700; .0800; .0900; .1000; .1100; .1400; .1500-.1800 (proposed)	109
9800.0500, s.2; .0600; .1300 (proposed repeal)	109

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.

Department of Human Services

Proposed Emergency Rules Relating to Work Readiness Program

Notice of Intent to Adopt Proposed Emergency Rules

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Laws of Minnesota 1985, Special Session, chapter 9, article 2, section 60, subdivision 14 and section 64, subdivision 5 (Minnesota Statutes, section 256D.051, subdivision 14 and 256D.111, subdivision 5). The agency, in adopting the rule, is following the procedures set forth in Minnesota Statutes, section 14.29 to 14.36.

All persons have 25 days, or until 4:30 p.m., August 30, 1985, to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

John Anderson
Department of Human Services
Rules Unit
6th Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: 612/297-1489

Minnesota Rules, parts 9500.1210 to 9500.1221 [Emergency] establish standards for the work readiness assistance program that the local welfare agency shall apply when determining a registrant's eligibility or a general assistance recipient's eligibility for work readiness services or payments. The standards include eligibility criteria, length of assistance, work readiness services, work readiness payments, registrant duties, informing requirements, and duties of the local agency.

The rules contain requirements for continued eligibility under the work readiness program and eligibility requirements for six months of general assistance. The rules also contain provisions on registrant status or actions that would result in disqualification from the work readiness program. The rules contain guidelines concerning notice of disqualification, appeal of disqualification, and voucher or vendor payments for registrants who have not secured a permanent residence.

A free copy of the proposed rule is available by contacting:

Mike Sirovy
Department of Human Services
Assistance Payments Division
2nd Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: 612/297-2011

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

Upon adoption of the emergency rule by the agency, the rule as adopted and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification

of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to John Anderson.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

The Legislature has allocated \$27,961,500 to operate the Work Readiness Program for the 1985-1987 Biennium. Although the rules required to implement Laws of Minnesota 1985, Special Session, chapter 9, article 2, sections 59 to 64 impose administrative duties on local welfare agencies, it is expected that the cost of implementing these rules will not exceed the amount allocated for this purpose under Laws of Minnesota 1985, Special Session, chapter 9, article 2, sections 59 to 64.

July 22, 1985

Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed, Emergency (all new material)

WORK READINESS PROGRAM

9500.1210 [Emergency] PURPOSE AND APPLICABILITY.

Subpart 1. Purpose. The purpose of parts 9500.1210 to 9500.1221 [Emergency] is to establish standards for the work readiness program to be provided to eligible registrants by local agencies, and to establish additional categories of eligibility under the general assistance program.

Subp. 2. Applicability. Parts 9500.1210 to 9500.1221 [Emergency] apply to applicants and registrants in the work readiness program, to applicants and recipients of general assistance, and to local agencies that are required to administer the work readiness and general assistance programs under Minnesota Statutes, sections 256D.051, 256D.09, subdivision 4, 256D.101, and 256D.111, subdivision 5. Parts 9500.1210 to 9500.1221 [Emergency] must be read together with parts 9500.0500 to 9500.0610, 9555.3400 to 9555.3409, and 9500.1100 to 9500.1107 [Emergency]. When parts 9500.1210 to 9500.1221 [Emergency] conflict with parts 9500.0500 to 9500.0610 or 9555.3400 to 9555.3409, parts 9500.1210 to 9500.1221 [Emergency] prevail.

9500.1211 [Emergency] DEFINITIONS.

Subpart 1. Applicant. "Applicant" means a person who has an application pending with a local agency for the work readiness program or the general assistance program.

Subp. 2. Borderline mental retardation. "Borderline mental retardation" means the condition of a person who is medically certified as having demonstrated deficits in adaptive behavior and intellectual functioning that is at least one but less than two standard deviations below the mean of a professionally recognized standardized test and the condition limits the person from obtaining, performing, or maintaining suitable employment.

Subp. 3. Commissioner. "Commissioner" means the commissioner of the Department of Human Services or a designee.

Subp. 4. Department. "Department" means the Department of Human Services.

Subp. 5. Distressed county. "Distressed county" means a county or a designated portion of a county with an average unemployment rate of ten percent or more as determined by the commissioner of the Department of Economic Security or the commissioner of the Department of Jobs and Training.

Subp. 6. Employment assistance programs. "Employment assistance programs" means the Minnesota employment and economic development (MEED) program and other programs offered by public or private agencies which provide services intended to develop, enhance, or promote a person's employability, job placement, and training.

Subp. 7. Good cause. "Good cause" means a reason for taking an action or failing to take an action which is reasonable and justified when viewed in the context of the surrounding circumstances.

Subp. 8. Local agency. "Local agency" means a county, or a multicounty agency, that is authorized under Minnesota Statutes as the agency responsible for the administration of the work readiness and general assistance programs.

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

Subp. 9. Medical certification. “Medical certification” means a statement signed by a licensed physician or licensed consulting psychologist about a person’s illness, injury, or incapacity.

Subp. 10. Mentally ill. “Mentally ill” means the condition of a person who has a medically certified psychological disorder resulting in behavior that severely limits the person from obtaining, performing, or maintaining suitable employment.

Subp. 11. Misconduct. “Misconduct” means conduct that would result in the disqualification of a claimant for unemployment insurance benefits under Minnesota Statutes, section 268.09.

Subp. 12. Qualified professional. “Qualified professional” means a social worker employed by the local agency, a social worker with a master’s degree in social work, a licensed consulting psychologist, a licensed physician or psychiatrist, or a public health nurse.

Subp. 13. Registrant. “Registrant” means a person who has applied for work readiness services and payments, who has been determined eligible for those services and payments by the local agency, and who has elected to begin receiving those services and payments.

Subp. 14. Suitable employment. “Suitable employment” means a job that:

- A. meets existing health and safety standards set by federal, state, or local regulations;
- B. is within the physical and mental ability of a person; and
- C. pays at least the minimum wage prescribed by state or federal law and provides more than 60 hours of work per month.

9500.1212 [Emergency] LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PLAN.

Each local agency shall provide a work readiness program. The program must provide work readiness services and payments to all applicants residing within the local agency’s jurisdiction who meet the eligibility conditions of part 9500.1213 [Emergency], and must provide work readiness services to recipients of general assistance who are eligible under part 9500.1104 [Emergency], item B. The local agency may continue to provide work readiness services to recipients of general assistance who are eligible for general assistance under part 9500.1220 [Emergency].

Each local agency shall develop a written plan identifying the purpose, components, requirements, procedures, and operation of its work readiness program and the client groups to be served by its program. A copy of the plan must be filed with the commissioner annually.

9500.1213 [Emergency] APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

Subpart 1. Assessment of general assistance eligibility. Prior to determining a work readiness applicant’s eligibility for work readiness services and payments, the local agency must determine the applicant’s need for emergency general assistance and the applicant’s eligibility for the general assistance program under part 9500.1102 [Emergency]. If the applicant is determined eligible for general assistance, the applicant shall be ineligible for work readiness services and payments except as provided in part 9500.1104 [Emergency], item B, and part 9500.1220 [Emergency]. If the applicant is determined ineligible for general assistance, the local agency shall notify the applicant of the determination and of his or her right to appeal the decision under Minnesota Statutes, section 256.045.

Subp. 2. Work readiness application. A completed application for general assistance shall be considered a completed application for the work readiness program effective on the date that the local agency determines the applicant ineligible for general assistance.

Subp. 3. Eligibility criteria. If the local agency determines that the applicant is ineligible for general assistance, it must determine the applicant’s eligibility or ineligibility for the work readiness program. An applicant is eligible for the work readiness program if the applicant meets the conditions in items A to D:

- A. The applicant is ineligible for general assistance under part 9500.1102 [Emergency] or 9500.1220 [Emergency], subpart 1.
- B. The applicant meets the eligibility requirements under part 9500.0530, items A to D. If the applicant is married and resides with his or her spouse, the applicant and his or her spouse shall be considered an assistance unit for purposes of assessing whether or not the conditions of part 9500.0530, subparts B and C are met.
- C. The applicant has not exhausted his or her eligibility period as provided by part 9500.1216 [Emergency].
- D. The applicant is not in a disqualification period under part 9500.1105 [Emergency], part 9500.1218 [Emergency], or part 9555.3417 [Emergency].

9500.1214 [Emergency] REQUIREMENT TO INFORM APPLICANTS.

Subpart 1. Duty to inform applicants of eligibility or ineligibility for the work readiness program. Upon determining an

applicant's eligibility or ineligibility for the work readiness program, the local agency must inform the applicant of its determination in writing on a form prescribed by the commissioner. The local agency must also inform an applicant who has been determined ineligible for the work readiness program of the determination and the right to appeal as provided in part 9555.1219 [Emergency].

Subp. 2. Duty to inform applicants of work readiness requirements. At the time the local agency informs an applicant that he or she is eligible for the work readiness program, the local agency must also provide written notice in plain and easily understood language informing the applicant of:

- A. the limited time during which the applicant may be eligible for work readiness services and payments;
- B. the applicant's right to choose the months in which he or she will receive work readiness services and payments, including the option to elect to receive work readiness services and payments immediately;
- C. a summary of the work readiness program including the job registration, work search, employment acceptance, and other work readiness requirements which must be complied with;
- D. the disqualification that will be imposed for failure to comply with those requirements; and
- E. the need to assess the registrant's eligibility for continuing work readiness services and payments under part 9500.1216 [Emergency], subpart 1, during the registrant's second month of work readiness services and payments.

9500.1215 [Emergency] WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. Requirement of concurrent services and payments. In order for a monthly work readiness payment or a month of work readiness services to count toward the two or six month limitation on eligibility for the work readiness program, as provided by part 9500.1216 [Emergency], the registrant must concurrently receive work readiness services and payments. Upon an eligible applicant's election to begin receiving work readiness services and payments, the local agency shall provide the services and payments to the registrant.

Subp. 2. Work readiness services. The following services must be provided to a work readiness registrant;

A. In consultation with the registrant, the local agency shall complete a written employability assessment. The assessment must include an examination of the registrant's education, training, and prior work experience, and must identify barriers to the registrant successfully seeking and securing suitable employment.

B. Based upon the assessment provided under item A and the local agency's knowledge of the level of competition for available jobs, the local agency shall develop a written employability development plan designed to prepare the registrant for suitable employment. The plan must:

- (1) include an estimation of the length of time it will take the registrant to obtain suitable employment;
- (2) require the registrant to accept any offer of suitable employment, including employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options;
- (3) provide for referral to available employment assistance programs;
- (4) require a registrant to spend at least eight but no more than 32 hours per week in job search or other work readiness activities;
- (5) specify the registrant's job search requirements, which must be reasonable and must be based upon the assessment performed under item A;
- (6) specify any other activities designed to prepare the registrant for permanent suitable employment which the registrant must comply with; and
- (7) include provisions for assessing the registrant's progress in securing suitable employment.

C. No work readiness program shall require a registrant to travel to a potential job, training, or other activity site unless the local agency provides funds to the registrant, in addition to the work readiness payment, to cover the cost of the transportation or unless transportation is otherwise available to the registrant without cost.

D. No person who is the sole adult in an assistance unit containing one or more children under the age of twelve shall be required to participate in any work readiness program activities during hours in which the child is at home unless the local agency

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PROPOSED RULES

provides funds to the person, in addition to the monthly program payment, to cover the cost of child care, or unless child care is otherwise available to the person without cost.

Subp. 3. Work readiness payments. A registrant who has met the eligibility conditions of part 9500.1213 [Emergency], subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility. The payment amount must be equal to the amount of assistance that would be paid to the registrant under parts 9555.3410 to 9555.3412 [Emergency] if the registrant was eligible for general assistance. If the registrant is married and lives with his or her spouse, the couple shall be considered an assistance unit comprised of two persons for purposes of determining the applicable standard of assistance, the amount of countable or seasonal income, and the monthly work readiness payment amount under parts 9555.3410 to 9555.3412 [Emergency]. If the registrant resides with his or her spouse and the spouse receives general assistance under part 9500.1102 [Emergency] or 9500.1220 [Emergency], subpart 1, the monthly work readiness payment to the registrant under this part must be equal to the amount the general assistance monthly payment made to the registrant's spouse under parts 9555.3410 to 9555.3412 [Emergency] would increase if the registrant were added to the spouse's general assistance grant.

The first work readiness payment must begin with the effective date of the completed application for the work readiness program, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services and payments, whichever is later. Each payment must cover 30 calendar days and must be made without proration or regard to the beginning or ending date of the month. After the first payment is made, subsequent work readiness payments must be made on the first day following the end of the 30-day period covered by a previous payment. A registrant shall continue to receive work readiness payments during the period of time that he or she meets the eligibility requirements of part 9500.1213 [Emergency]. Emergency general assistance is not available to a registrant.

9500.1216 [Emergency] ASSESSMENT DURING SECOND MONTH; NOTICE OF TERMINATION.

Subpart 1. Assessment. During the registrant's second month of work readiness services and payments under part 9500.1215 [Emergency], the local agency shall conduct an assessment of the registrant's progress in securing suitable employment and an assessment of the registrant's eligibility for an additional four months of work readiness services and payments. A registrant shall be eligible for four additional months of work readiness services and payments if the registrant meets one or more of the following conditions:

- A. The registrant lives in a distressed county.
- B. The registrant is borderline mentally retarded.
- C. The registrant exhibits perceptible symptoms of mental illness as certified by a qualified professional but is not eligible for general assistance under parts 9500.1100 to 9500.1107 [Emergency] because the mental illness interferes with the medical certification process.
- D. The registrant is unable to secure suitable employment because the local agency has determined that no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform.

If the local agency believes that the registrant may meet the conditions in item B or C, or if the registrant or a representative of the registrant asserts that he or she meets the conditions of item B or C, the local agency shall obtain medical certification of the registrant's condition. If the registrant's mental illness interferes with the medical certification process, the registrant's condition must be assessed by a qualified professional.

Subp. 2. Notice of determination. If the local agency determines through the assessment or the medical certification that the registrant meets one or more of the conditions in subpart 1, items A to D, the registrant shall be notified that he or she is eligible for work readiness services and payments for a combined total of six months in any consecutive 12-calendar month period. If the local agency determines, upon completion of the assessment under subpart 1, that the registrant does not meet one or more of the conditions in subpart 1, items A to D, the registrant shall be terminated from work readiness services and payments effective at the end of the registrant's second month of participation in the work readiness program. If the local agency determines that the registrant is ineligible for continued work readiness services and payments, the local agency shall notify the registrant of its determination and that the registrant is not eligible to receive work readiness services and payments for more than two months during any consecutive 24-calendar month period.

Subp. 3. Notice of termination. A registrant who is in the last month of his or her two or six months of work readiness services and payments shall be notified of the termination of services and payments and of his or her appeal rights in accordance with the procedures specified in part 9500.1219 [Emergency].

9500.1217 [Emergency] REGISTRANT DUTIES.

A registrant shall cooperate with all aspects of the local agency work readiness program as explained under part 9500.1214 [Emergency], and specified in the employability development plan provided under part 9500.1215 [Emergency], subpart 2, item B. A registrant who does not comply with the local agency work readiness requirements shall be disqualified from the receipt of work readiness services and payments under part 9500.1218 [Emergency].

9500.1218 [Emergency] FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1. Determination and notice of failure to comply. If a local agency determines that a registrant has failed to comply with the requirements of the work readiness program, the local agency shall notify the registrant of its determination. The notice must be written in plain and easily understood language, and must contain the information in items A to E.

A. The notice must state the specific work readiness requirement the registrant has failed to comply with and the facts that support the local agency's determination.

B. The notice must specify the particular actions that the registrant must take to achieve compliance.

C. The notice must specify a certain date by which the action must be taken. The registrant must be given a minimum of 15 calendar days to take the specified action following the date the notice is mailed or delivered to the registrant.

D. The notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date.

E. The notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency.

Subp. 2. Disqualification. A registrant who is notified of the local agency determination as provided in subpart 1 shall comply with the requirements of the work readiness program as specified in the notice prior to or on the specified date. If the local agency determines that the registrant has not complied with the requirements on or before the specified date, the local agency shall assess the registrant's eligibility for general assistance under part 9500.1102 [Emergency] prior to disqualification of the registrant for non-compliance. If the local agency determines that the registrant is eligible for general assistance, the registrant shall be terminated from work readiness services and payments and shall be eligible for general assistance. If the local agency determines that the registrant is ineligible for general assistance under part 9500.1102 [Emergency] and that the conditions in item A, B, C, or D exist, the registrant shall be disqualified from receiving work readiness services and payments.

A. The registrant has failed, without good cause, to comply with the work readiness requirements and has subsequently failed to take the required actions by the date specified in the notice provided under subpart 1.

B. The registrant has been terminated from employment for misconduct.

C. The registrant has quit work without good cause.

D. The registrant has refused, without good cause, to accept an offer of suitable employment.

Subp. 3. Notice of disqualification. The local agency shall notify the registrant of the disqualification from receiving work readiness services and payments under subpart 2 and of the registrant's appeal rights as provided in part 9500.1219 [Emergency].

Subp. 4. Period of disqualification. A registrant disqualified under subpart 2 shall be ineligible during the period of disqualification for any remaining or additional work readiness services or payments for which he or she would otherwise be eligible in accordance with the provisions in items A to F.

A. The period of disqualification shall be 60 days.

B. If the local agency determines that the registrant failed to comply with work readiness requirements under subpart 2, the disqualification period shall begin on the first day of the 30-day work readiness payment period following the date on which the determination was made. If the notice of disqualification is given or mailed so late in a payment period that ten-day prior notice required under part 9500.1219 [Emergency] cannot be given, the disqualification period shall begin on the first day of the second work readiness payment period following the date the determination was made. If the registrant appeals on or before the proposed disqualification date, the disqualification process must stop and work readiness payments and services must continue until a final decision is rendered or until the registrant's period of eligibility is exhausted, whichever is earlier. If the registrant loses the appeal, the disqualification period must begin on the first day of the next 30-day work readiness payment period.

C. If a person who is disqualified applies for the work readiness program during the period of disqualification, eligibility for work readiness services and payments must be denied.

D. If the local agency determines that a registrant who received a notice of failure to comply under subpart 1 has taken the

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PROPOSED RULES

required action on or before the proposed disqualification date, work readiness assistance must be continued without a period of disqualification.

E. Disqualification under subpart 2 must not affect a person's eligibility for general assistance medical care.

F. If a recipient is disqualified under subpart 2, the local agency may use vouchers and vendor payments, or both, to meet the financial needs of the remaining eligible members of the registrant's assistance unit. The assistance standard used must be based on the number of remaining eligible members in the registrant's assistance unit.

9500.1219 [Emergency] NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

Subpart 1. Actions requiring notice. The local agency shall notify an applicant or registrant of the following determinations before taking any adverse actions:

A. a determination of ineligibility for work readiness services or payments under part 9500.1213 [Emergency], subpart 3;

B. a determination of ineligibility for four additional months of work readiness services or payments under part 9500.1216 [Emergency], subpart 1;

C. a determination of disqualification from receiving work readiness services and payments under part 9500.1218 [Emergency], subpart 2; and

D. a determination that the registrant has exhausted eligibility to receive work readiness services and payments under part 9500.1216 [Emergency], subpart 3.

Subp. 2. Notice requirements. The notice required under subpart 1 must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the applicant or registrant no later than ten days before the suspension, termination, or reduction of the work readiness payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which work readiness services and payments can be continued pending an appeal.

Subp. 3. Appeal of adverse action. An applicant or registrant who is the subject of an adverse action under subpart 1 may appeal the local agency determination. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If a registrant appeals on or before the effective date of the adverse action, the registrant, if otherwise eligible, shall continue to receive work readiness services and payments while the appeal is pending. If the registrant's appeal is not upheld, the registrant shall pay back to the local agency the amount of work readiness payments received during the pendency of the appeal.

9500.1220 [Emergency] ELIGIBILITY FOR SIX MONTHS OF GENERAL ASSISTANCE.

Subpart 1. Eligibility conditions. An applicant who is not eligible for general assistance under part 9500.1102 [Emergency] but who meets the conditions of part 9500.0530, items A to D, and who has received six months of work readiness services and payments shall be eligible to receive general assistance for a maximum of six months during any consecutive 12-calendar month period if the conditions in item A or B are met:

A. the person is medically certified as having borderline mental retardation; or

B. the person is certified by a qualified professional as exhibiting perceptible symptoms of mental illness and the mental illness prevents medical certification of the person's condition.

Subp. 2. Requirements for continuing eligibility. A recipient of general assistance whose eligibility is based on subpart 1 must comply with the following requirements to remain eligible for general assistance:

A. A person certified as exhibiting perceptible symptoms of mental illness as provided by subpart 1, item B must cooperate with social services, treatment, or other plans developed by the local agency to address the illness. If the local agency determines that the person has not complied with the plan, the person shall be disqualified from receiving general assistance as prescribed in parts 9500.1105 to 9500.1107 [Emergency].

B. The local agency may assign a person who is eligible for general assistance under subpart 1 to the work readiness program for work readiness services. A person so assigned must cooperate with the work readiness program requirements established by the local agency. If the local agency determines that the person has failed to comply with work readiness requirements, the person shall be disqualified from receiving general assistance as provided in parts 9500.1105 to 9500.1107 [Emergency].

Subp. 3. Notice of termination. After issuing the monthly general assistance payment during the sixth and final month to a recipient who is eligible under subpart 1, the local agency shall provide the recipient with written notice of his or her termination from general assistance and of his or her appeal rights as specified in Minnesota Statutes, section 256D.10. The local agency shall also inform the recipient of the availability of its work readiness program and the time limitations imposed on eligibility for that program.

9500.1221 [Emergency] SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

The local agency may provide general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if the applicant, recipient, or registrant does not have a permanent address. The local agency may provide separate vouchers or vendor payments for food, shelter, and other needs and may divide the monthly assistance standard into daily or weekly payments, whether in cash or by voucher or vendor payment, until the applicant, recipient, or registrant has secured a permanent address. If the local agency elects to use these provisions, the local agency shall either provide for the person's needs through placement in a negotiated rate facility, or provide for all of the person's food, shelter, or other daily needs, regardless of the standard of assistance.

Department of Labor and Industry

Proposed Rules Governing Workers' Compensation Permanent Partial Disability Schedules

Notice of Intent to Adopt 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 rules without a public hearing. The Department has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1984).

Persons or groups interested in these rules shall have 30 days to submit comments on the proposed rules. Comments in support of or in opposition to the proposed rules are encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. The proposed rules 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 rules 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 rules 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 rules is contained in Minn. Stat. § 176.105, (1984). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, identifies the data and information relied upon to support the proposed rules and assesses the impact of the proposed rules on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

The proposed rules will have no qualitative or quantitative impact on non-exempt small businesses. The rules affect disability payments made by insurers and self-insurers, both of which are large businesses. They also affect the methods by which health care providers determine permanent partial disability.

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

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PROPOSED RULES

The text of the proposed rules follows this notice in the *State Register*. These proposed rules essentially make permanent the current permanent partial disability rules, 8 MCAR § 1.9001-1.9025, effective January 1 of 1984. The proposed rules contain minor clarifications of the temporary rules, and these clarifications are identified and explained in the Statement of Need and Reasonableness available from the Commissioner upon request.

One free copy of the proposed rules may be obtained by contacting Carla Mitrovich at the above address or by calling (612) 296-2342.

July 12, 1985

Steve Keefe
Commissioner, Department of
Labor and Industry

Rules as Proposed (all new material)

5223.0010 WORKERS' COMPENSATION PERMANENT PARTIAL DISABILITY SCHEDULES.

Subpart 1. Purpose of schedules. Minnesota Statutes, section 176.105, subdivision 4, requires the commissioner of labor and industry to adopt rules assigning specific percentages of disability of the whole body for specific permanent partial disabilities. This chapter assigns percentages of disability of the whole body for permanent partial disabilities.

Subp. 2. Interpretation of schedules. Only the categories in the schedules in this chapter may be used when rating the extent of a disability. Where a category represents the disabling condition, the disability determination shall not be based on the cumulation of lesser included categories. If more than one category may apply to a condition, the category most closely representing the condition shall be selected. Where more than one category is necessary to represent the disabling condition, categories shall be selected to avoid double compensation for any part of a condition. The percentages of disability to the whole body as set forth in two or more categories shall not be averaged, prorated, or otherwise deviated from, unless specifically provided in the schedule. Unless provided otherwise, where an impairment must be rated under more than one category, the ratings must be combined using the A + B (1-A) formula as provided in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c). With respect to the musculo-skeletal schedule, the percent of whole body disability for motor or sensory loss of a member shall not exceed the percent of whole body disability for amputation of that member.

Subp. 3. Disabilities not part of schedules. A category not found within this chapter shall not be used to determine permanent partial disability.

Subp. 4. Rules of construction. The technical terms in this chapter are defined in either part 5223.0020, or by the documents incorporated by reference in this chapter. Documents are incorporated by reference only to the extent necessary for definition or to the extent specifically referenced in a schedule. The documents incorporated by reference are not subject to frequent change, although new editions occasionally may be published. These documents are common medical references and are conveniently available to the public as noted in items A to K. These documents are as follows:

A. Guides to the Evaluation of Permanent Impairment, published by the American Medical Association, Committee on Rating of Mental and Physical Impairment, second edition 1984. This document is also known as the A.M.A. Guides. Available at the University of Minnesota, Biomedical Library.

B. Snellen Charts, published by American Medical Association Committee for Eye Injuries and designated Industrial Vision Test Charts. These charts are also known and referred to as A.M.A. charts. Available at the Minnesota State Law Library.

C. American Medical Association Rating Reading Card of 1932, published by the American Medical Association Committee for Eye Injuries. This document is also known as the A.M.A. Card. Available at the Minnesota State Law Library.

D. S3.1-1977 Criteria for Permissible Ambient Noise during Audiometric Testing and S3.6-1969 (R1973) Specification for Audiometers, published by the American National Standard Institutes, Inc. in 1973 and 1977, respectively. Available at the Minnesota State Law Library.

E. Metropolitan Life Insurance Company Height and Weight Tables, published by the Metropolitan Life Insurance Company, 1983. Available at the Minnesota State Law Library.

F. The Revised Kenny Self-Care Evaluation: A Numerical Measure of Independence in Activities of Daily Living, published by Sister Kenny Institute, 1973. Available at the Minnesota State Law Library.

G. Dorland's Illustrated Medical Dictionary, 26th edition, published by W.B. Saunders Company, 1981. This document is also known as Dorland's. Available at the University of Minnesota Biomedical Library.

H. D.S.M. III, Diagnostic and Statistical Manual of Mental Disorders, published by American Psychiatric Association, 1980. This document is also known as D.S.M. III. Available at the University of Minnesota Biomedical Library.

I. Fractures, Charles A. Rockwood and David Green, published by Lippencott, 1975. Available at the University of Minnesota Biomedical Library.

J. Textbook on Anatomy, William Henry Hollinshead, published by Harper & Row, 1985. Available at the University of Minnesota Biomedical library.

K. "The Estimation of Areas of Burns," in Surgery, Gynecology and Obstetrics, by Lund and Browder, pages 352-358, volume 79, published by Surgical Publishing Company of Chicago, 1944. This document is referred to as Lund and Browder. Available at the Minnesota State Law Library.

Subp. 5. Severability. If any provision of this chapter is held to conflict with a governing statute, applicable provisions of the Minnesota 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 for any other reason; the validity and enforceability of the remaining provisions of the rule shall in no manner be affected.

5223.0020 DEFINITIONS.

Subpart 1. Scope. For the purpose of this chapter the terms defined in this part have the meanings given them unless the context clearly indicates otherwise. Terms not defined in this part are defined in Dorland's or other documents incorporated by reference. If the definition in a document incorporated by reference conflicts with or differs from the definition in this chapter, the specific definitions in this chapter shall govern.

Subp. 2. Acromio-clavicular grade 1. "Acromio-clavicular grade 1" means an undisplaced acromio-clavicular joint.

Subp. 3. Acromio-clavicular grade 2. "Acromio-clavicular grade 2" means a 50 percent displacement of the clavicle in relationship to the acromion at the acromio-clavicular joint.

Subp. 4. Acromio-clavicular grade 3. "Acromio-clavicular grade 3" means a completely disrupted acromio-clavicular joint.

Subp. 5. Activities of daily living. "Activities of daily living" means the ability to perform self cares, to perform housework and related tasks, to ride in or operate a motor vehicle, and to perform vocational tasks not requiring physical labor.

Subp. 6. Ankylosis. "Ankylosis" means the stiffening or fixation of a joint.

Subp. 7. ANSI. "ANSI" means the American National Standards Institute.

Subp. 8. Banding. "Banding" means a thick, rope-like cord of hypertrophic scarring resulting from burns.

Subp. 9. Category. "Category" means a permanent partial disability as described in this chapter and the corresponding percent of disability to the whole body for that permanent partial disability.

Subp. 10. Chronic. "Chronic" means the repeated or continuous occurrence of a specific condition or symptom.

Subp. 11. Demonstrable degenerative changes. "Demonstrable degenerative changes" means radiographic findings demonstrating the presence of degeneration of intervertebral disc or facet joints. Examples of demonstrable degenerative changes are disc space narrowing, small osteophytes, and facet joint hypertrophic changes.

Subp. 12. Desirable level of weight. "Desirable level of weight" means preferred weights in the tables created by the Metropolitan Life Insurance Company.

Subp. 13. Disarticulation. "Disarticulation" means an amputation occurring through a joint.

Subp. 14. Distance vision. "Distance vision" means the ability to distinguish letters at a distance of 20 feet according to the Snellen and A.M.A. Charts.

Subp. 15. Family member. "Family member" means cohabitants and is not limited to those related by blood or marriage. In cases of institutionalization or similar nonhome environment, family member may include staff members who care for the individual on a regular basis.

Subp. 16. Fore-quarter. "Fore-quarter" means the amputation of the upper extremity involving the scapula, clavicle, and muscles that attach to the chest.

Subp. 17. Fusion. "Fusion" means the surgical uniting of one vertebral segment to an adjoining vertebral segment.

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PROPOSED RULES

Subp. 18. Gastrostomy. "Gastrostomy" means a surgical creation of a gastric fistula through the abdominal wall for the purpose of introducing food into the stomach.

Subp. 19. Glossopharyngeal. "Glossopharyngeal" means the ninth cranial nerve with sensory fibers to the tongue and pharynx. It affects taste and swallowing.

Subp. 20. Gross motor weakness. "Gross motor weakness" means total or partial loss as described in part 5223.0160.

Subp. 21. Hypertrophic scar. "Hypertrophic scar" means an elevated irregularly shaped mass of scar tissue.

Subp. 22. Hypoglossal. "Hypoglossal" means the motor nerve to the tongue. It is the 12th cranial nerve and carries impulses from the brain to the tongue, including movement of muscles and secretion of glands and motor movement.

Subp. 23. Kenny scale. "Kenny scale" means the Kenny self-care evaluation system in The Revised Kenny Self-Care Evaluation: A Numerical Measure of Independence of Activities of Daily Living.

Subp. 24. Laminectomy. "Laminectomy" means the removal of part or all of the lamina of one vertebral segment, usually with associated disc excision.

Subp. 25. Lethargy. "Lethargy" means, in relation to a nervous system injury to the brain, that an individual is drowsy, but can be aroused.

Subp. 26. Moderate referred shoulder and arm pain. "Moderate referred shoulder and arm pain" means pain of an intensity necessitating decreased activity in order to avoid the pain. This pain is demonstrated in a dermatomal distribution into the shoulder and upper extremity.

Subp. 27. Moderate partial dislocation. "Moderate partial dislocation" means a loss of normal vertebral alignment of up to 50 percent of the vertebral body on the adjacent vertebral body associated with vertebral fractures.

Subp. 28. Near vision. "Near vision" means clearness of vision at the distance of 14 inches.

Subp. 29. Nonpreferred extremity. "Nonpreferred extremity" means the arm or leg not used dominantly, as for example, the left hand of a right-handed writer.

Subp. 30. Objective clinical findings. "Objective clinical findings" as used in part 5223.0070 means examination results which are reproducible and consistent. Examples of objective clinical findings are involuntary muscle spasms, consistent postural abnormalities, and changes in deep tendon reflexes.

Subp. 31. Postural abnormality. "Postural abnormality" means a deviation from normal posture, as found on anterior/posterior or lateral X-rays, that involves the spine and pelvis or segments of the spine or pelvis, such as kyphosis, lordosis, or scoliosis.

Subp. 32. Preferred extremity. "Preferred extremity" means the dominant leg or arm, as for example, the right arm of a right-handed person.

Subp. 33. Presbycusis. "Presbycusis" means a decline in hearing acuity that occurs with the aging process.

Subp. 34. Pseudophakia. "Pseudophakia" means that the crystalline lens of the eye has been replaced with a surgically implanted lens.

Subp. 35. Self cares. "Self cares" means bed activities, transfers, locomotion, dressing, personal hygiene, bowel and bladder, and feeding as described in The Revised Kenny Self-Care Evaluation: A Numerical Measure of Independence in Activities of Daily Living, pages 10-24.

Subp. 36. Spinal stenosis. "Spinal stenosis" means the narrowing of the spinal canal.

Subp. 37. Spondylolisthesis. "Spondylolisthesis" means the forward movement of one vertebral body of one of the lower lumbar vertebrae on the vertebrae below it or upon the sacrum.

Subp. 38. Spondylolisthesis grade 1. "Spondylolisthesis grade 1" means forward movement from zero to 25 percent of the vertebral body.

Subp. 39. Spondylolisthesis grade 2. "Spondylolisthesis grade 2" means forward movement from 25 to 50 percent of the vertebral body.

Subp. 40. Spondylolisthesis grade 3. "Spondylolisthesis grade 3" means movement from 50 to 75 percent of the vertebral body.

Subp. 41. Spondylolisthesis grade 4. "Spondylolisthesis grade 4" means forward movement from 75 to 100 percent of the vertebral body.

Subp. 42. Stupor. "Stupor" means, in relation to a nervous system injury to the brain, that a strong stimulus or pain is needed to arouse consciousness or response.

Subp. 43. Tinnitus. "Tinnitus" means a subjective sense of noises in the head or ringing in the ear for which there is no observable external cause.

Subp. 44. Trigeminal. "Trigeminal" means the mixed nerve with sensory fibers to the face, cornea, anterior scalp, nasal and oral cavities, tongue and supertentorial dura matter. It also has motor fibers to the muscles of mastication. It is the fifth cranial nerve.

Subp. 45. Vertigo. "Vertigo" means a sensation of moving around in space or having objects move about the person. It is the result of a disturbance of the equilibratory apparatus.

Subp. 46. Vestibular. "Vestibular" means the main division of the auditory nerve. It is the eighth cranial nerve and deals with equilibrium.

Subp. 47. Wrinkling. "Wrinkling" means small ridges on the skin formed by shrinking or contraction as a result of burns.

Subp. 48. 14/14. "14/14" is a term used in the measurement of near vision. It is the clearness of vision at a distance of 14 inches. The numerator is the test distance in inches. The denominator is the distance at which the smallest letter on the A.M.A. card can be seen.

Subp. 49. 20/20 Snellen or A.M.A. Chart. "20/20 Snellen or A.M.A. Chart" refers to a chart imprinted with block letters or numbers in gradually decreasing sizes, identified according to distances at which they are ordinarily visible. It is used in testing visual acuity. The numerator is the test distance in feet. The denominator is the distance at which the smallest letter discriminated by a patient would subtend five minutes of arc.

5223.0030 EYE SCHEDULE.

Subpart 1. Complete loss of vision. For complete loss of vision in both eyes, disability of the whole body is 85 percent. For complete loss of vision in one eye, disability of the whole body is 24 percent. In determining the degree of vision impairment and of whole body disability, subparts 2 to 6 shall be used.

Subp. 2. Examination. Disability shall not be determined until all medically acceptable attempts to correct the defect have been made. Prior to the final examination on which disability is to be determined, at least six months shall elapse after all visible inflammation has disappeared. In cases of disturbance of extrinsic ocular muscles, optic nerve atrophy, injury of the retina, sympathetic ophthalmia, and traumatic cataract, at least 12 months shall elapse before the final examination is made. Testing shall be conducted with corrective lenses applied, unless indicated otherwise in this part.

Subp. 3. Maximum and minimum limits of primary coordinate factors of vision. The primary coordinate factors of vision are central visual acuity, visual field efficiency, and ocular motility.

A. The maximum limit for each coordinate function is established in subitems (1) to (3):

(1) The maximum limit of central visual acuity is the ability to recognize letters or characters which subtend an angle of five minutes, each unit part of which subtends a one-minute angle at the distance viewed. A 20/20 Snellen or A.M.A. chart is 100 percent (maximum) central visual acuity for distance vision. 14/14 A.M.A. card is 100 percent (maximum) central visual acuity for near vision.

(2) The maximum visual field is defined as 500 degrees. It is the sum of the degrees in the eight principal meridians from the point of fixation to the outermost limits of visual perception and defines the area in which a three millimeter white target is visible at 33 centimeters. One hundred percent visual field efficiency is that visual field which extends from the point of fixation outward 85 degrees, down 65 degrees, down and in 50 degrees, inward 60 degrees, in and up 55 degrees, upward 45 degrees, and up and out 55 degrees.

(3) Maximum ocular motility is present if there is absence of diplopia in all parts of the field of binocular fixation, and if normal binocular motor coordination is present.

B. The minimum limit for each coordinate function is established in subitems (1) to (3):

(1) The minimum limit of central visual acuity is:

(a) for distance vision, 20/800 Snellen or A.M.A. chart; and

(b) for near vision, 14/560 A.M.A. card.

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PROPOSED RULES

(2) The minimum limit for field vision is established as a concentric central contraction of the visual field to five degrees. Five degrees of contraction of the visual field reduces the visual efficiency of the eye to zero.

(3) The minimum limit for ocular motility is established by the presence of diplopia in all parts of the field of binocular fixation or by absence of binocular motor coordination. The minimum limit is 50 percent ocular motility efficiency.

Subp. 4. Measurement of coordinate factors of vision and computation of partial loss.

A. Central visual acuity shall be measured both for distance vision and for near vision, each eye being measured separately, both with and without correction. A Snellen or A.M.A. chart shall be used for distance vision and an A.M.A. card shall be used for near vision. Illumination shall be at least five footcandles.

(1) Table 1 shows the percentage of visual efficiency corresponding to the notations for distance vision and for near vision. For test readings between those listed on the chart, round up from the midpoint to the nearest reading, and round down from below the midpoint.

Where distance vision is less than 20/200 and the A.M.A. chart is used, readings are at ten feet. The test reading is translated to the corresponding distance reading in Table 1 by multiplying both the numerator and the denominator of the test reading by two.

TABLE 1
Central Visual Acuity

A.M.A. Chart or Snellen Reading for Distance	A.M.A. Card Reading for Near	Percentage of Central Visual Acuity Efficiency
20/20	14/14	100.00
20/25	14/17.5	95.7
20/25.7	.....	95.0
20/30	14/21	91.5
20/32.1	.....	90.0
20/35	14/24.5	87.5
20/38.4	.....	85.0
20/40	14/28	83.6
20/44.9	14/31.5	80.0
20/50	14/35	76.5
20/52.1	.....	75.0
20/60	14/42	69.9
20/60.2	.....	70.0
20/68.2	.....	65.0
20/70	14/49	64.0
20/77.5	.....	60.0
20/80	14/56	58.5
20/86.8	.....	55.0
20/90	14/63	53.4
20/97.5	.....	50.0
20/100	14/70	48.9
20/109.4	.....	45.0
20/120	14/84	40.9
.....	14/89	38.4
20/122.5	.....	40.0
20/137.3	.....	35.0
20/140	14/98	34.2
20/155	.....	30.0
20/160	14/112	28.6
20/175	.....	25.0
20/180	14/126	23.9
20/200	14/140	20.0
20/220	14/154	16.7

A.M.A. Chart or Snellen Reading for Distance	A.M.A. Card Reading for Near	Percentage of Central Visual Acuity Efficiency
20/240	14/168	14.0
....	14/178	12.3
20/260	14/182	11.7
20/280	14/196	9.7
20/300	14/210	8.2
20/320	14/224	6.8
20/340	14/238	5.7
20/360	14/252	4.8
20/380	14/266	4.0
20/400	14/280	3.3
20/450	14/315	2.1
20/500	14/350	1.4
20/600	14/420	0.6
20/700	14/490	0.3
20/800	14/560	0.1

(2) The percentage of central visual acuity efficiency of the eye for distance vision is that percentage in Table 1 which corresponds to the test reading for distance vision for that eye.

(3) The percentage of central visual acuity efficiency of the eye for near vision is that percentage in Table 1 which corresponds to the test reading for near vision for that eye.

(4) The percentage of central visual acuity efficiency of the eye in question is determined as follows:

- (a) Multiply by two the value determined for corrected near vision in subitem (3).
- (b) Add the product obtained in unit (a) to the value determined for corrected distance vision in subitem (2).
- (c) Divide the sum obtained in unit (b) by three.

The following is an example of this calculation. If the central visual acuity efficiency for distance is 70 percent, and that for near is 25 percent, the percentage of central visual acuity efficiency for the eye is:

$$\frac{70\% + (2 \times 25)}{3} = 40\% \text{ central visual acuity efficiency}$$

(5) For traumatic aphakia, the corrected central visual acuity efficiency of the eye is 50 percent of the central visual acuity efficiency determined in subitem (4). This subitem shall not apply if an adjustment for glasses or contact lenses pursuant to subpart 5, item B, subitem (2) or (3) results in a lower visual efficiency than would be given by application of this subitem.

(6) For traumatic pseudophakia, the corrected central visual acuity efficiency of the eye is 80 percent of the central visual acuity efficiency determined in subitem (4). This subitem shall not apply if an adjustment for glasses or contact lenses pursuant to subpart 5, item B, subitem (2) or (3) results in a lower visual efficiency than would be given by application of this subitem.

B. For each eye, the extent of the field of vision shall be determined by perimetric test methods. A three millimeter white disk which subtends a 0.5-degree angle under illumination of not less than seven footcandles shall be used. For aphakia, a six millimeter white disk shall be used. The result shall be plotted on the visual field chart as illustrated in the A.M.A. Guides, page 144.

(1) The amount of radial contraction in the eight principal meridians shall be determined. The sum of the degrees of field vision remaining on these meridians, divided by 500, is the visual field efficiency of one eye, expressed as a percentage. If the eye has a concentric central contraction of the field to a diameter of five degrees, the visual efficiency is zero.

(2) When the impairment of field is irregular and not fairly disclosed by the eight radii, the determination shall be based on a number of radii greater than eight and the divisor in subitem (1) shall be changed accordingly.

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PROPOSED RULES

(3) Where there is a loss of a quadrant or a half-field, the degrees of field vision remaining in each meridian are added to one-half the sum of the two boundary meridians.

C. Ocular motility shall be measured in all parts of the motor field with any useful correction applied.

(1) All directions of gaze shall be tested with use of a test light and without the addition of colored lenses or correcting prisms. The extent of diplopia is determined on the perimeter at 330 millimeters or on a tangent screen at a distance of one meter from the eye.

(2) Plot the test results on a motility chart as illustrated in the A.M.A. Guides, page 147.

(3) Determine the percentage loss of ocular motility from the motility chart. This percentage is assigned to the injured eye or, if both eyes are injured, to the eye with the greatest impairment of central visual acuity and field vision. The eye with the greatest impairment means the eye for which the product of central visual acuity efficiency and visual field efficiency is the least. For the purpose of calculation, a value of zero percent is deemed to be one percent. For the other eye, the percentage loss of ocular motility is zero.

(4) The percentage loss of ocular motility is subtracted from 100 percent to obtain the ocular motility efficiency. The minimum ocular motility efficiency of one eye is 50 percent.

Subp. 5. Visual efficiency. The visual efficiency of one eye is the product of the efficiency values of central visual acuity, of visual field, and of ocular motility. For the purpose of this calculation, these values shall be expressed as decimals and not as percentages; a value of zero percent is deemed to be one percent.

A. For example, if central visual acuity efficiency is 50 percent, visual field efficiency is 80 percent, and ocular motility efficiency is 100 percent, the visual efficiency of the eye is .50 times .80 times 1.00, equals 40 percent. If ocular motility efficiency is changed to 50 percent, the visual efficiency is .50 times .80 times .50, equals 20 percent.

B. Visual efficiency shall be adjusted as set in this item. Visual efficiency may not be less than zero percent. No adjustment for glasses or contacts shall be made in cases of aphakia or pseudophakia where the central visual efficiency was adjusted pursuant to subpart 4, item A, subitem (5) or (6).

(1) Visual efficiency shall be decreased by subtracting two percent for any of the following conditions which are present due to the injury: loss of color vision; loss of adaptation to light and dark; metamorphosis; entropion or ectropion uncorrected by surgery; lagophthalmos; epiphora; and muscle disturbances such as ocular ticks not included under diplopia.

(2) If glasses are required as a result of the injury, or if as a result of the injury the refractive error increases by at least one diopter of sphere or of cylinder or of both, subtract five percent from the visual efficiency. Where the glasses contain prisms, subtract six percent.

(3) If a noncosmetic contact lens is required in one or both eyes as a result of the injury, subtract seven percent from the visual efficiency.

Subp. 6. Procedure for determining whole body disability due to vision loss. For each eye, subtract the percentage of visual efficiency determined in subpart 5 from 100 percent. The difference is the percentage impairment of each eye. The better eye has the lower percentage impairment. The poorer eye has the greater percentage impairment.

A. Multiply the percentage impairment of the better eye by three.

B. Add the percentage impairment of the poorer eye to the product obtained in item A.

C. Divide the sum obtained in item B by four.

D. The quotient obtained in item C is the percentage impairment of the visual system. Fractions shall be rounded to the nearest whole number percentage as provided in subpart 4, item A, subitem (1).

E. The percentage impairment of the visual system is translated to the percentage disability of the whole body by Table 2.

Table 2

Impairment of Visual System, %	Disability of Whole Man, %	Eye Schedule	Impairment of Visual System, %	Disability of Whole Man, %
0	0		45	42
1	1		46	43
2	2		47	44
3	3		48	45
4	4		49	46

PROPOSED RULES

Impairment of Visual System, %	Disability of Whole Man, %	Impairment of Visual System, %	Disability of Whole Man, %
5	5	50	47
6	6	51	48
7	7	52	49
8	8	53	50
9	8	54	51
10	9	55	52
11	10	56	53
12	11	57	54
13	12	58	55
14	13	59	56
15	14	60	57
16	15	61	58
17	16	62	59
18	17	63	59
19	18	64	60
20	19	65	61
21	20	66	62
22	21	67	63
23	22	68	64
24	23	69	65
25	24	70	66
26	25	71	67
27	25	72	68
28	26	73	69
29	27	74	70
30	28	75	71
31	29	76	72
32	30	77	73
33	31	78	74
34	32	79	75
35	33	80	76
36	34	81	76
37	35	82	77
38	36	83	78
39	37	84	79
40	38	85	80
41	39	86	81
42	40	87	82
43	41	88	83
44	42	89	84
		90-100	85

5223.0040 EAR SCHEDULE.

Subpart 1. General. For hearing loss, the maximum disability of the whole body is 35 percent. The procedures in subparts 2 to 7 shall be used to determine the extent of binaural hearing loss and of whole body disability.

Subp. 2. Medical diagnosis. Otological evaluation shall be the method for determining the degree of permanent partial hearing loss. The medical diagnosis shall include the following:

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PROPOSED RULES

A. A complete history of occupational, military, and recreational noise exposure. This medical history shall include documentation of any previous hearing loss, if that information is available.

B. A complete physical examination of the ear.

C. An audiological evaluation which shall include pure tone air conduction and bone conduction testing.

Subp. 3. Standards for audiometric calibration and test environment. To ensure accurate measurement of hearing loss, the following standards shall be observed in conducting the tests required in subpart 2:

A. The audiometer used to measure hearing loss shall be calibrated to meet the specifications of ANSI S3.6-1969 (R1973), Specifications for Audiometers. The following are also required:

(1) biological or electroacoustical calibration checks of the audiometer shall be performed monthly;

(2) electroacoustical calibration shall be performed annually to certify the audiometer to the ANSI standard in this item; and

(3) the calibration records shall be preserved and shall be provided upon request.

B. Audiometric test rooms or booths shall meet the specifications of ANSI S3.1-1977, Criteria for Permissible Ambient Noise during Audiometric Testing.

Subp. 4. Waiting period for final evaluation of hearing loss. A waiting period of at least three months shall elapse between the date of the occurrence of the noise injury and the final evaluation of the permanent partial hearing loss.

Subp. 5. Procedure for determining disability of whole body due to hearing loss. The binaural hearing loss is determined as follows:

A. The calculation for the percent of binaural hearing loss consists of the following steps:

(1) For each ear, test the hearing threshold levels at the four frequencies of 500, 1,000, 2,000, and 3,000 Hertz.

(2) For each ear, determine the average four-frequency hearing level. The average four-frequency hearing level is one-fourth of the sum of the threshold levels at each of the four tested frequencies. The average four-frequency hearing level is expressed in decibels.

(3) For each ear, subtract 25 decibels from the average four-frequency hearing level for that ear. The remainder, expressed in decibels, is the adjusted average four-frequency hearing level.

(4) For each ear, multiply the adjusted average four-frequency hearing level by 1.5 percent. The product is the monaural hearing loss, expressed as a percentage. A product less than zero percent is deemed to be zero. A product greater than 100 percent is deemed to be 100 percent.

(5) Considering both ears, compare the monaural hearing losses as determined in subitem (4). The ear with the smaller monaural hearing loss is the better ear. The ear with the larger monaural hearing loss is the poorer ear.

(6) Multiply the monaural hearing loss of the better ear by five, add this product to the monaural hearing loss of the poorer ear, and divide the sum by six. The quotient is the binaural hearing loss, expressed as a percentage. The formula is:

$$\frac{(\text{monaural hearing loss of better ear}) + (\text{monaural hearing loss of poorer ear})}{6} = \text{percent binaural hearing loss}$$

B. The calculation of the percent of binaural hearing loss is illustrated by the following examples.

Example 1

	500 Hertz	1,000 Hertz	2,000 Hertz	3,000 Hertz
Right ear	15	25	45	55
Left ear	30	45	60	85

a. Calculation of the average four-frequency hearing level:

$$\begin{aligned} \text{Right ear} &= \frac{15 + 25 + 45 + 55}{4} = \frac{140}{4} = 35 \text{ decibels} \\ \text{Left ear} &= \frac{30 + 45 + 60 + 85}{4} = \frac{220}{4} = 55 \text{ decibels} \end{aligned}$$

b. Calculation of adjusted average four-frequency hearing level:

Right ear = 35 decibels - 25 decibels = 10 decibels;
 Left ear = 55 decibels - 25 decibels = 30 decibels;

c. Calculation of monaural hearing loss:

Right ear = 10 x 1.5% = 15%
 Left ear = 30 x 1.5% = 45%

d. Calculation of binaural hearing loss:

$$\frac{(15\% \times 5) + 45\%}{6} = 20 \text{ percent binaural hearing loss}$$

Example 2

	500 Hertz	1,000 Hertz	2,000 Hertz	3,000 Hertz
Right ear	20	25	30	35
Left ear	30	45	60	85

a. Calculation of average four-frequency hearing level.

$$\text{Right ear} = \frac{20 + 25 + 30 + 35}{4} = 25 \text{ decibels}$$

$$\text{Left ear} = \frac{30 + 45 + 60 + 85}{4} = 55 \text{ decibels}$$

b. Calculation of adjusted average four-frequency hearing level.

Right ear = 25 decibels - 25 decibels = 0 decibels
 Left ear = 55 decibels - 25 decibels = 30 decibels

c. Calculation of monaural hearing loss:

Right ear = 0 x 1.5 percent = 0
 Left ear = 30 x 1.5 percent = 45 percent

d. Calculation of binaural hearing loss:

$$\frac{(0\% \times 5) + 45\%}{6} = 7.5 \text{ percent binaural hearing loss}$$

C. The binaural hearing loss is translated to a percentage of disability of the whole body by the ear schedule set forth below:

EAR SCHEDULE

Binaural Hearing Loss, Percent	Disability of Whole Body Percent
0 - 1.7	0
1.8 - 4.2	1
4.3 - 7.4	2
7.5 - 9.9	3
10.0 - 13.1	4
13.2 - 15.9	5
16.0 - 18.8	6
18.9 - 21.4	7
21.5 - 24.5	8

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PROPOSED RULES

Binaural Hearing Loss, Percent	Disability of Whole Body Percent
24.6 - 27.1	9
27.2 - 30.0	10
30.1 - 32.8	11
32.9 - 35.9	12
36.0 - 38.5	13
38.6 - 41.7	14
41.8 - 44.2	15
44.3 - 47.4	16
47.5 - 49.9	17
50.0 - 53.1	18
53.2 - 55.7	19
55.8 - 58.8	20
58.9 - 61.4	21
61.5 - 64.5	22
64.6 - 67.1	23
67.2 - 70.0	24
70.1 - 72.8	25
72.9 - 75.9	26
76.0 - 78.5	27
78.6 - 81.7	28
81.8 - 84.2	29
84.3 - 87.4	30
87.5 - 89.9	31
90.0 - 93.1	32
93.2 - 95.7	33
95.8 - 98.8	34
98.9 - 100.0	35

Subp. 6. Presbycusis. The calculation of the binaural hearing loss shall not include an additional adjustment for presbycusis.

Subp. 7. Tinnitus. No additional percentage of permanent partial disability for hearing loss shall be allowed for tinnitus.

5223.0050 SKULL DEFECTS.

Subpart 1. Skull depressions. For skull defects the percent of disability of the whole body is provided by the following schedule:

	Unfilled defect Percent	Filled defect Percent
0 - 1-1/2 square inches	0	0
1-1/2 - 2-1/2 square inches	5	0
2-1/2 - 4 square inches	10	2
4 - 6-1/2 square inches	15	3
6-1/2 or more square inches	20	5

Subp. 2. Skull fractures. Skull fractures are:

- A. Basilar skull fracture with persistent spinal fluid leak, 20 percent.
- B. Basilar skull fracture without cerebrospinal fluid leak, 0 percent.

5223.0060 CENTRAL NERVOUS SYSTEM.

Subpart 1. General. For permanent partial disability of the central nervous system the percentage of disability of the whole body is as provided in subparts 2 to 9.

Subp. 2. Trigeminal nerve. Permanent partial disability of the trigeminal nerve is a disability of the whole body as follows:

- A. partial unilateral sensory loss, 3 percent;
- B. complete unilateral sensory loss, 5 percent;
- C. partial bilateral sensory loss, 10 percent;

- D. complete bilateral sensory loss, 25 percent;
- E. intractable trigeminal neuralgia, 20 percent;
- F. atypical facial pain, 5 percent;
- G. partial unilateral motor loss, 2 percent;
- H. complete unilateral motor loss, 5 percent;
- I. partial bilateral motor loss, 10 percent; or
- J. complete bilateral motor loss, 30 percent.

Subp. 3. Facial nerve. Permanent partial disability of the facial nerve is a disability of the whole body as follows:

- A. total loss of taste, 3 percent;
- B. partial unilateral motor loss, 25 to 75 percent of function lost, 3 percent;
- C. unilateral motor loss, more than 75 percent of function lost, 10 percent;
- D. partial bilateral motor loss, 25 to 75 percent of function lost, 10 percent; or
- E. bilateral motor loss, more than 75 percent of function lost, 20 percent.

Subp. 4. Vestibular loss with vertigo or disequilibrium. Vestibular loss with vertigo or disequilibrium is a disability of the whole body as follows:

- A. a score of 24 to 28 on the Kenny scale, and restricted in activities involving personal or public safety, such as operating a motor vehicle or riding a bicycle, 10 percent;
- B. a score of 16 to 28 on the Kenny scale, and ambulation impaired due to equilibrium disturbance, 30 percent;
- C. a score of 10 to 16 on the Kenny scale, 40 percent; or
- D. a score of 0 to 10 on the Kenny scale, 70 percent.

Subp. 5. Glossopharyngeal, vagus and spinal accessory nerves. Permanent partial disability to glossopharyngeal, vagus and spinal accessory nerves is a disability of the whole body as follows:

- A. Swallowing impairment caused by disability to any one or more of these nerves:
 - (1) diet restricted to semi-solids, 10 percent;
 - (2) diet restricted to liquids, 25 percent; or
 - (3) diet by tube feeding or gastrostomy, 50 percent.
- B. Mechanical disturbances of articulation due to disability to any one or more of these nerves:
 - (1) 95 percent or more of words are understood by those who are not family members and others outside the immediate family, but speech is distorted, 5 percent;
 - (2) 95 percent or more of words are understood by family members, but speech is distorted and not easily understood by those who are not family members, 10 percent;
 - (3) 75 percent or more of words are understood by family members, but speech is distorted, 15 percent;
 - (4) more than 50 percent of words are understood by family members, 20 percent;
 - (5) less than 50 percent of words are understood by family members, 25 percent; or
 - (6) 10 percent or less of words are understood by family members, 30 percent.

Subp. 6. Hypoglossal nerve. Permanent partial disability of hypoglossal nerve is a disability of the whole body as follows:

- A. Bilateral paralysis; swallowing impairment:
 - (1) diet restricted to semi-solids, 10 percent;
 - (2) diet restricted to liquids, 25 percent; and

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PROPOSED RULES

(3) diet by tube feeding or gastrostomy, 50 percent.

B. Mechanical disturbances of articulation:

- (1) 95 percent or more of words are understood by family members and others outside the immediate family, but speech is distorted, 5 percent;
- (2) 95 percent or more of words are understood by family members, but speech is distorted and not easily understood by nonfamily members, 10 percent;
- (3) 75 percent or more of words are understood by family members, but speech is distorted, 15 percent;
- (4) more than 50 percent of words are understood by family members, 20 percent;
- (5) less than 50 percent of words are understood by family members, 25 percent; or
- (6) 10 percent or less of words are understood by family members, 30 percent.

Subp. 7. Spinal cord. To rate under this subpart, determine the disability to the lower extremities, upper extremities, respiration, urinary bladder, anorectal, and sexual functions as follows. The percentage of whole body disability under this subpart is determined by combining the disabilities under items A to F in the manner described in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c).

A. A permanent partial disability in the use of lower extremities is a disability of the whole body as follows:

- (1) can rise to a standing position and can walk, but has difficulty walking onto elevations, grades, steps, and distances, 15 percent;
- (2) can stand but can walk only on a level surface, 30 percent;
- (3) can stand but cannot walk, 45 percent; and
- (4) can neither stand nor walk, 65 percent.

B. Permanent partial disability in the use of upper extremities is a disability of the whole body as follows:

	Whole Body Disability, Percentages		
	Preferred extremity	Nonpreferred extremity	Both
score of 24 to 28 on Kenny scale, but some difficulty with digital dexterity	10	5	15
score of 16 to 28 on Kenny scale, but no digital dexterity	20	10	30
score of 10 to 16 on Kenny scale	40	40	50
score of 0 to 10 on Kenny scale	70	70	85

C. Permanent partial disability of the respiratory function is a disability of the whole body as follows:

- (1) difficulty only where extra exertion is required, such as running, climbing stairs, heavy lifting, or carrying loads, 10 percent;
- (2) restricted to limited walking, confined to one's own home, 35 percent;
- (3) restricted to bed, 75 percent; and
- (4) has no spontaneous respiration, 95 percent.

D. Permanent partial disability of the bladder is a disability of the whole body as set forth below. Evaluative procedures to be followed are in part 5223.0220, subpart 2.

- (1) impaired voluntary control evidenced by urgency or hesitancy, but continent without collecting devices, 10 percent;
- (2) impaired voluntary control, incontinent requiring external collecting devices, 20 percent; or
- (3) impaired voluntary control, incontinent requiring internal collecting or continence devices, 30 percent.

E. The permanent partial disability of the anorectal function is a disability of the whole body as follows:

- (1) impaired voluntary control with urgency, 10 percent;
- (2) impaired voluntary control without reflex regulation, 20 percent; or
- (3) impaired voluntary control, incontinent without diversion, 30 percent.

F. Permanent partial disability of sexual function is a disability of the whole body as follows:

- (1) Male: rate under part 5223.0220, subpart 6.
- (2) Female: rate under part 5223.0220, subpart 9.

Subp. 8. Brain injury. Supporting objective evidence of structural injury, neurological deficit, or psychomotor findings is required to substantiate the permanent partial disability. Permanent partial disability of the brain is a disability of the whole body as follows:

A. Communications disturbances, expressive:

- (1) mild disturbance of expressive language ability not significantly impairing ability to be understood, such as mild word-finding difficulties, mild degree of paraphasias, or mild dysarthria, 10 percent;
- (2) severe impairment of expressive language ability, but still capable of functional communication with the use of additional methods such as gestures, facial expression, writing, word board, or alphabet board, 35 percent; or
- (3) unable to produce any functional expressive language, 70 percent.

B. Communication disturbances, receptive:

- (1) mild impairment of comprehension of aural speech, but comprehension functional with the addition of visual cues such as gestures, facial expressions, or written material, 40 percent;
- (2) some ability to comprehend language is present, but significant impairment even with use of visual cues such as gestures, facial expressions, and written material, 60 percent; or
- (3) no evidence of functional comprehension of language, 90 percent.

C. Complex integrated cerebral function disturbances must be determined by medical observation and organic dysfunctions supported by psychometric testing. Functional overlay or primary psychiatric disturbances shall not be rated under this part. The permanent partial disabilities are as follows:

- (1) mild impairment of higher level cognitive function or memory, but able to live independently and function in the community as evidenced by independence in activities such as shopping and taking a bus, 20 percent;
- (2) same as subitem (1), and also requires supporting devices and direction to carry out limited vocational tasks, 30 percent;
- (3) moderate impairment of memory, judgment, or other higher level cognitive abilities, can live alone with some supervision such as for money management, some limitation in ability to function independently outside the home in activities such as shopping and traveling, 50 percent;
- (4) moderately severe impairment of memory, judgment, or other higher cognitive abilities, unable to live alone and some supervision required at all times, but able to perform self cares independently, 70 percent; or
- (5) severe impairment of memory, judgment, or other higher cognitive abilities such that constant supervision and assistance in self cares are required, 95 percent.

D. Emotional disturbances and personality changes must be substantiated by medical observation and by organic dysfunction supported by psychometric testing. Permanent partial disability is a disability of the whole body as follows:

- (1) only present under stressful situation such as losing one's job, getting a divorce, or a death in the family, 10 percent;
- (2) present at all times but not significantly impairing ability to relate to others, to live with others, or to perform self cares, 30 percent;
- (3) present at all times in moderate to severe degree, minimal ability to live with others, some supervision required, 65 percent; or

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PROPOSED RULES

(4) severe degree of emotional disturbance which, because of danger to self and others, requires continuous supervision, 95 percent.

E. Psychotic disorders, as described in D.S.M. III, not caused by organic dysfunction and substantiated by medical observation:

(1) only present under stressful situation, such as losing one's job, getting divorced, a death in the family, 10 percent;

(2) present at all times but not significantly impairing ability to relate to others, live with others, or perform self cares, 30 percent;

(3) present at all times in moderate to severe degree significantly affecting ability to live with others, and requiring some supervision, 65 percent; or

(4) severe degree of emotional disturbance which, because of danger to self or others, requires continuous supervision, 95 percent.

F. Consciousness disturbances; permanent partial disability of the whole body is as follows:

(1) mild or intermittent decreased level of consciousness manifested by periodic mild confusion or lethargy, a score of 16 to 28 on the Kenny scale, 40 percent;

(2) moderate intermittent or continuous decreased level of consciousness manifested by a moderate level of confusion or lethargy, and a score of 10 to 16 on the Kenny scale, 70 percent;

(3) severe decreased level of consciousness manifested as stupor with inability to function independently, and a score of 0 to 10 on the Kenny scale, 95 percent; or

(4) comatose or persistent vegetative state, 99 percent.

G. Motor dysfunction, movement disorder, paralysis, spasticity, sensory loss, or neglect. Where these impairments are due to brain or brain stem injury, rate as provided in subpart 7, items A and B.

H. Other impairments; impairments of respiration, urinary bladder function, anorectal function, or sexual function due to brain or brain stem injury are rated as provided in subpart 7, items C to F.

I. Epilepsy; permanent partial disability due to epilepsy is a disability of the whole body as follows:

(1) well controlled, on medication for one year or more, able to enter work force but with restrictions preventing operation of motor vehicles or dangerous machinery and climbing above six feet in height, 10 percent;

(2) seizures occurring at least once a year, but not severely limiting ability to live independently, 20 percent;

(3) seizures occurring at least six times per year, some supervision required, 40 percent;

(4) seizures poorly controlled with at least 15 seizures per year, supervision required, protective care required with activities restricted, 75 percent; or

(5) frequency of seizures requires continuous supervision and protective care, activities restricted, unable to perform self cares, 95 percent.

J. Headaches; permanent partial disability due to vascular headaches with nausea or vomiting is a five percent disability of the whole body.

K. Total loss of taste, 3 percent.

L. Traumatic head injury, complete and total loss of smell, supported by objective examination, 3 percent.

5223.0070 MUSCULO-SKELETAL SCHEDULE; BACK.

Subpart 1. Lumbar spine. The spine rating is inclusive of leg symptoms except for gross motor weakness, bladder or bowel dysfunction, or sexual dysfunction. Permanent partial disability of the lumbar spine is a disability of the whole body as follows:

A. Healed sprain, strain, or contusion:

(1) Subjective symptoms of pain not substantiated by objective clinical findings or demonstrable degenerative changes, 0 percent.

(2) Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings but without associated demonstrable degenerative changes, 3.5 percent.

(3) Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings and is associated with demonstrable degenerative changes.

- (a) single vertebral level, 7 percent; or
- (b) multiple vertebral levels, 10.5 percent.

(4) pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings.

- (a) spondylolisthesis grade I, no surgery, 7 percent;
- (b) spondylolisthesis grade II, no surgery, 14 percent; or
- (c) spondylolisthesis grade III or IV, without fusion, 24.5 percent.

B. Herniated intervertebral disc, single vertebral level:

(1) Condition not surgically treated:

(a) X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; excellent results, with resolution of objective neurologic findings, 9 percent.

(b) back and specific radicular pain present with objective neurologic findings; and X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; and no surgery is performed for treatment, 14 percent;

(2) condition treated by surgery:

(a) surgery or chemonucleolysis with excellent results such as mild low back pain, no leg pain, and no neurologic deficit, 9 percent;

(b) surgery or chemonucleolysis with average results such as mild increase in symptoms with bending or lifting, and mild to moderate restriction of activities related to back and leg pain, 11 percent;

(c) surgery or chemonucleolysis with poor surgical results such as persistent or increased symptoms with bending or lifting, and major restriction of activities because of back and leg pain, 13 percent; or

(d) multiple operations on low back with poor surgical results such as persisting or increased symptoms of back and leg pain, 15 percent;

(3) recurrent herniated intervertebral disc, occurring to same vertebral level previously treated with surgery or chemonucleolysis, add five percent to subitem (2);

(4) herniated intervertebral disc at a new vertebral level other than the previously treated herniated intervertebral disc, calculate rating the same as subitems (1) and (2); or

(5) second herniated disc at adjacent level treated concurrently, add five percent to subitem (1) or (2).

C. Spinal stenosis, central or lateral, proven by computerized axial tomography or myelogram:

(1) mild symptoms such as occasional back pain with athletic activities or repetitive bending or lifting, leg pain with radicular symptoms, one vertebral level and no surgery, 14 percent; or

(2) severe spinal stenosis with bilateral leg pain requiring decompressive laminectomy, single vertebral level, with or without surgery (if multiple vertebral levels, add five percent per vertebral level), 18 percent.

D. Spinal fusion surgery for single vertebral level with or without laminectomy, 17.5 percent. Add five percent for each additional vertebral level.

E. Fractures:

(1) vertebral compression with a decrease of ten percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement of posterior elements, no nerve root involvement, 4 percent;

(2) vertebral compression with a decrease of 25 percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 10.5 percent;

(3) vertebral compression fracture, with a decrease of more than 25 percent in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 15 percent;

(4) vertebral fracture with involvement of posterior elements with X-ray evidence of moderate partial dislocation:

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PROPOSED RULES

- (a) no nerve root involvement, healed, 10.5 percent;
- (b) with persistent radicular pain, 12 percent;
- (c) with surgical fusion, healed, no permanent motor or sensory changes, 14 percent;
- (5) severe dislocation:
 - (a) normal reduction with surgical fusion, 12 percent;
 - (b) poor reduction with fusion, persistent radicular pain, 17.5 percent;

Subp. 2. Cervical spine. The spine rating is inclusive of arm symptoms except for gross motor weakness; sensory loss; and bladder, bowel, or sexual dysfunction. Bladder, bowel, or sexual dysfunction must be rated as provided in part 5223.0060, subpart 7. Permanent partial disability of the cervical spine is a disability of the whole body as follows:

A. Healed sprain, strain, or contusion:

- (1) Subjective symptoms of pain not substantiated by objective clinical findings or demonstrable degenerative changes, 0 percent.
- (2) Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings but without associated demonstrable degenerative changes, 3.5 percent.
- (3) Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings and is associated with demonstrable degenerative changes.
 - (a) Single vertebral level, 7 percent; or
 - (b) Multiple vertebral levels, 10.5 percent.

B. Herniated intervertebral disc, single vertebral level:

- (1) Condition not surgically treated:
 - (a) X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; excellent results, with resolution of objective neurologic findings, 9 percent.
 - (b) Neck and specific radicular pain present with objective neurologic findings; and X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; and no surgery is performed for treatment, 14 percent.
- (2) Condition treated by surgery:
 - (a) Surgery with excellent results such as mild neck pain, no arm pain, and no neurologic deficit, 9 percent.
 - (b) Surgery with average results such as mild increase in symptoms with neck motion or lifting, and mild to moderate restriction of activities related to neck and arm pain, 11 percent.
 - (c) Surgery with poor surgical results such as persistent or increased symptoms with neck motion or lifting, and major restriction of activities because of neck and arm pain, 13 percent.
 - (d) Multiple operations on neck with poor surgical results such as persisting or increased symptoms of neck and arm pain, 15 percent.
- (3) Recurrent herniated intervertebral disc, occurring to same vertebral level previously treated with surgery, add five percent to subitem (2).
- (4) Herniated intervertebral disc at a new vertebral level other than the previously treated herniated intervertebral disc, calculate rating the same as subitems (1) and (2).
- (5) Second herniated disc at adjacent level treated concurrently, add five percent to subitem (1) or (2).

C. Spinal stenosis, proven by computerized axial tomography or myelogram.

- (1) With myelopathy verified by objective neurologic findings, no loss of function, 14 percent.
- (2) Loss of function: the rate provided in part 5223.0060, subpart 7.

D. Fusion of a single vertebral level with or without a laminectomy, 11.5 percent. Add five percent for each additional vertebral level.

E. Fracture:

- (1) vertebral compression with a decrease of ten percent or less in vertebral height, one or more vertebral segments, no

fragmentation, no involvement of posterior elements, no nerve root involvement, loss of motion neck and all planes, approximately 75 percent normal range of motion neck with pain, 6 percent;

(2) vertebral compression with a decrease of 25 percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, loss of motion in the neck in all planes, approximately 50 percent normal range of motion in neck with pain, 14 percent;

(3) vertebral compression with a decrease of more than 25 percent of vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, loss of motion in the neck in all planes, approximately 50 percent normal range of motion in neck with pain, 19 percent;

(4) vertebral fracture with involvement of posterior elements with X-ray evidence of moderate partial dislocation:

(a) no nerve root involvement, healed, 10.5 percent;

(b) with persistent pain, 12 percent;

(c) with surgical fusion, healed, no permanent motor or sensory changes, 14 percent;

(5) severe dislocation:

(a) normal reduction with surgical fusion, 12 percent;

(b) poor reduction with fusion, persistent radicular pain, 17.5 percent.

Subp. 3. Thoracic spine. The spine rating is inclusive of all symptoms including radicular gross motor weakness and sensory loss, but excluding spinal cord injury. Permanent partial disability of the thoracic spine is a disability of the whole body as follows:

A. Healed sprain, strain, or contusion:

(1) Subjective symptoms of pain not substantiated by objective clinical findings or demonstrable degenerative changes, 0 percent.

(2) Pain associated with chronic muscle spasm. The chronic muscle spasm is substantiated by objective clinical findings and is associated with demonstrable degenerative changes, single or multiple level, 3.5 percent.

B. Herniated intervertebral disc, symptomatic:

(1) Condition not surgically treated:

(a) X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; excellent results, with resolution of objective neurologic findings, 3 percent.

(b) Specific radicular pain present with objective neurologic findings, and X-ray or computerized axial tomography or myelogram specifically positive for herniated disc, and no surgery is performed for treatment, 5 percent.

(2) Condition treated by surgery:

(a) surgery with excellent results such as mild thoracic pain, no radicular pain, and no neurological deficit, 5 percent;

(b) surgery with poor surgical results such as persistence of increased symptoms with lifting, and major restriction of activities, 10 percent.

C. Fractures:

(1) Vertebral compression with a decrease of ten percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement of posterior elements, no nerve root involvement, 4 percent.

(2) Vertebral compression with a decrease of 25 percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 10.5 percent.

(3) Vertebral compression fracture, with a decrease of more than 25 percent in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 15 percent.

(4) Vertebral fracture with involvement of posterior elements with x-ray evidence of moderate partial dislocation:

(a) no nerve root involvement, healed, 10.5 percent;

(b) with persistent pain, with mild motor and sensory manifestations, 17.5 percent;

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PROPOSED RULES

- (c) with surgical fusion, healed, no permanent motor or sensory changes, 14 percent.
- (5) Severe dislocation, normal reduction with surgical fusion:
 - (a) No residual motor or sensory changes, 12 percent;
 - (b) Poor reduction with fusion, persistent radicular pain, motor involvement, 17.5 percent.

5223.0080 MUSCULO-SKELETAL SCHEDULE; AMPUTATIONS OF UPPER EXTREMITY.

Permanent partial disability due to amputation of upper extremities is a disability of the whole body as follows:

- A. forequarter amputation, 70 percent;
- B. disarticulation at shoulder joint, 60 percent;
- C. amputation of arm above deltoid insertion, 60 percent;
- D. amputation of arm between deltoid insertion and elbow joint, 57 percent;
- E. disarticulation at elbow joint, 57 percent;
- F. amputation of forearm below elbow joint proximal to insertion of biceps tendon, 57 percent;
- G. amputation of forearm below elbow joint distal to insertion of biceps tendon, 54 percent;
- H. disarticulation at wrist joint, 54 percent;
- I. midcarpal or midmetacarpal amputation of hand, 54 percent;
- J. amputation of all fingers except thumb at metacarpophalangeal joints, 32.5 percent;
- K. amputation of thumb:
 - (1) at metacarpophalangeal joint or with resection of metacarpal bone, 21.5 percent;
 - (2) at interphalangeal joint or through proximal phalynx, 16 percent;
 - (3) from interphalangeal joint to midportion distal phalynx, 13 percent;
 - (4) from mid-distal phalynx, distal, 6 percent;
- L. amputation of index finger:
 - (1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 13.5 percent;
 - (2) at proximal interphalangeal joint or through middle phalynx, 11 percent;
 - (3) at distal interphalangeal joint to middistal phalynx, 5 percent;
 - (4) from middistal phalynx, distal, 2.5 percent;
- M. amputation of middle finger:
 - (1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 11 percent;
 - (2) at proximal interphalangeal joint or through middle phalynx, 9 percent;
 - (3) at distal interphalangeal joint to middistal phalynx, 5 percent;
 - (4) from middistal phalynx, distal, 2.5 percent;
- N. amputation of ring finger:
 - (1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 5.5 percent;
 - (2) at proximal interphalangeal joint or through middle phalynx, 4 percent;
 - (3) at distal interphalangeal joint to middistal phalynx, 3 percent;
 - (4) from middistal phalynx, distal, 1.5 percent;
- O. amputation of little finger:
 - (1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 3 percent;
 - (2) at proximal interphalangeal joint or through middle phalynx, 2 percent;
 - (3) at distal interphalangeal joint to middistal phalanx, 1 percent;
 - (4) from middistal phalynx, distal, 0.5 percent.

5223.0090 MUSCULO-SKELETAL SCHEDULE; SENSORY LOSS, UPPER EXTREMITIES.

Subpart. 1. General. For sensory loss to the upper extremities resulting from nerve injury, the disability of the whole body is set forth in subparts 2 to 4. For the portion of the body described in subpart 2, there must be a total loss of the sensory function. Carpal tunnel syndrome is rated under part 5223.0130, subpart 3, items E and F.

Subp. 2. Total sensory loss. Sensory loss, complete:

- A. median function at wrist, 22.5 percent;
- B. ulnar function at wrist, 11 percent;
- C. radial function at wrist, 5.5 percent;
- D. medial antebrachial cutaneous, 3 percent;
- E. medial brachial cutaneous, 3 percent;
- F. loss of thumb, whole, 11 percent;
 - (1) radial digital nerve, 4 percent;
 - (2) ulnar digital nerve, 6.5 percent;
- G. index finger, whole, 5.5 percent;
 - (1) radial digital nerve, whole, 3.5 percent;
 - (2) ulnar digital nerve, 2 percent;
- H. long finger, whole, 5.5 percent;
 - (1) radial digital nerve, 3.5 percent;
 - (2) ulnar digital nerve, 2 percent;
- I. ring finger, whole, 3 percent;
 - (1) radial digital nerve, 2 percent;
 - (2) ulnar digital nerve, 1 percent;
- J. little finger, whole, 3 percent;
 - (1) radial digital nerve, 1 percent;
 - (2) ulnar digital nerve, 2 percent;
- K. sensory loss distal to proximal interphalangeal joint, 50 percent of the value of entire digital nerve as set forth in subpart 2, either radial or ulnar as applicable;
- L. sensory loss distal to one-half distal phalanx, 25 percent of entire digital nerve as set forth in subpart 2.

Subp. 3. Quality of sensory loss in hand. The levels of sensory loss and the corresponding disabilities of the whole body are measured as follows:

- A. minimal, 2-point discrimination at 6 millimeters or less, 0 percent;
- B. moderate, 2-point discrimination greater than 6 millimeters, 1/2 of value in subpart 2;
- C. severe, 2-point discrimination at greater than 10 millimeters, 3/4 of value in subpart 2;
- D. total, 2-point discrimination at greater than 15 millimeters, same value as in subpart 2.

Subp. 4. Causalgia. When objective medical evidence shows persistent causalgia despite treatment, there is loss of sensory and motor function, loss of joint function, and inability to use the extremity in any useful manner. The permanent partial disability to the member, rating from the most proximal joint involved, and the percentage disability of the whole body is 50 percent of that in part 5223.0080, subpart 1.

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5223.0100 MUSCULO-SKELETAL SCHEDULE; MOTOR LOSS OR MOTOR AND SENSORY LOSS, UPPER EXTREMITIES.

Subpart 1. Total or complete loss. Total or complete loss means that motor function is less than anti-gravity and there is complete loss of sensation. For loss to the lower extremities resulting from nerve injury, and where there is total loss of function for those particular portions of the body, the disability of the whole body is:

- A. Motor loss, complete:
 - (1) median nerve above mid forearm, 30 percent;
 - (2) median nerve below mid forearm, 19 percent;
 - (3) radial nerve, 19 percent;
 - (4) ulnar nerve above mid forearm, 19 percent;
 - (5) ulnar nerve below mid forearm, 13.5 percent.
- B. Complete motor and sensory loss:
 - (1) median nerve above mid forearm, 40.5 percent;
 - (2) median nerve below mid forearm, 35 percent;
 - (3) radial nerve, 27 percent;
 - (4) ulnar nerve above mid forearm, 21.5 percent;
 - (5) ulnar nerve below mid forearm, 16 percent.
- C. Complete loss of motor function:
 - (1) brachial plexus complete, 60 percent:
 - (a) upper trunk C5-6, 47 percent;
 - (b) mid trunk C7, 23 percent;
 - (c) lower trunk C8-T1, 46 percent;
 - (2) anterior thoracic, 3 percent;
 - (3) axillary nerve, 23 percent;
 - (4) dorsal scapular, 3 percent;
 - (5) long thoracic, 9 percent;
 - (6) musculo cutaneous, 17.5 percent;
 - (7) subscapular, 3 percent;
 - (8) suprascapular, 11.5 percent;
 - (9) thoraco dorsal, 6 percent.
- D. Complete loss of function, motor and sensory:
 - (1) C-5 root, 11 percent;
 - (2) C-6 root, 12 percent;
 - (3) C-7 root, 11 percent;
 - (4) C-8 root, 13 percent.

Subp. 2. Partial loss. Partial loss means that motor function is less than normal but greater than anti-gravity, and there is incomplete sensory loss. Partial loss is rated at 25 percent of the percentages assigned at subpart 1.

5223.0110 MUSCULO-SKELETAL SCHEDULE; SHOULDER.

Subpart 1. General. For permanent partial disability to the shoulder, disability of the whole body is as in subparts 2 and 3.

Subp. 2. Range of motion.

- A. Total ankylosis in optimum position, abduction 60 degrees, flexion ten degrees, rotation, neutral position, 30 percent;
- B. total ankylosis in mal-position, grade upward to 50 percent;
- C. mild limitation of motion: no abduction beyond 90 degrees, rotation no more than 40 degrees with full flexion and extension, 3 percent;

D. moderate limitation of motion: no abduction beyond 60 degrees, rotation no more than 20 degrees, with flexion and extension limited to 30 degrees, 12 percent;

E. severe limitation of motion: no abduction beyond 25 degrees, rotation no more than ten degrees, flexion and extension limited to 20 degrees, 30 percent;

Subp. 3. Procedures or conditions.

A. Acromio-clavicular separation of the following severity:

- (1) grade 1, 0 percent;
- (2) grade 2, 3 percent;
- (3) grade 3, 6 percent.

B. anterior or posterior shoulder dislocation, no surgery, single episode, 3 percent.

C. recurrent dislocation, at least three times in six months, 10 percent.

D. repair recurrent shoulder dislocation:

- (1) no loss of motion, 6 percent;
- (2) if mild limitation of motion, 9 percent;
- (3) if moderate or severe limitation of motion, rate as in subpart 2, items D and E.

E. resection distal end of clavicle, 3 percent.

F. humeral shaft fracture, normal range of motion both joints, 0 percent.

G. humeral shaft fracture, open reduction, mild restriction of shoulder and elbow motion, 6 percent. For moderate or severe limitation of motion, rate as in subpart 2, items D and E.

H. surgical neck fracture, healed, mild loss of motion, 0 percent; if loss of motion, rate as in subpart 2.

I. greater tuberosity fracture, normal range of motion, 0 percent. If loss of motion, rate as in subpart 2.

5223.0120 MUSCULO-SKELETAL SCHEDULE; ELBOW.

Subpart 1. General. Permanent partial disability of the elbow is disability of the whole body as in subparts 2 and 3.

Subp. 2. Range of motion. Flexion and extension of forearm is 85 percent of the arm. Rotation of the forearm is 15 percent of the arm.

A. Total ankylosis in optimum position approximating midway between 90 degrees flexion and 180 degrees extension, a 45-degree angle, 30 percent.

B. Total ankylosis in mal-position, 40 percent.

C. Limitation of motion:

- (1) mild, motion limited from ten degrees flexion to 100 degrees of further flexion, 6 percent;
- (2) moderate, motion limited from 20 degrees flexion to 75 degrees of further flexion, 12 percent;
- (3) severe, motion limited from 45 degrees flexion to 90 degrees of further flexion, 21 percent;

D. Flail elbow, pseudarthrosis above joint line, wide motion but very unstable, 39 percent.

E. Resection head of radius, 9 percent.

Subp. 3. Procedures or conditions.

A. Radial or ulnar shaft fracture, full motion, 0 percent;

B. radial or ulnar fracture, open reduction, mild limitation of motion as defined in subpart 2, item C, 9 percent;

C. olecranon fracture, no loss of motion, 0 percent;

D. olecranon fracture, open reduction internal fixation, mild limitation of motion as defined in subpart 2, item C, 6 percent;

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- E. epicondylar fracture, no loss of motion, 0 percent;
- F. epicondylar fracture, mild loss of motion as defined in subpart 2, item C, 6 percent;
- G. release medial or lateral epicondyle, 2 percent;
- H. ulnar nerve transposition, 2 percent.

5223.0130 MUSCULO-SKELETAL SCHEDULE; WRIST.

Subpart 1. General. Permanent partial disability of wrist is disability of the whole body as set in subparts 2 and 3.

Subp. 2. Range of motion.

- A. Excision distal end of ulna, flexion and extension credited with 75 percent of hand, and rotation 25 percent of hand, 5 percent;
- B. total ankylosis in optimum position, 19 percent;
- C. total ankylosis in mal-position of extreme flexion or extension, 25 percent;
- D. limitation of motion:
 - (1) mild, rotation normal, loss of 15 degrees palmar flexion and loss of 20 degrees dorsiflexion, 5 percent;
 - (2) moderate, rotation limited to 60 degrees in pronation-supination, loss of 25 degrees palmar flexion, loss of 30 degrees dorsiflexion, 10 percent; or
 - (3) severe, rotation limited to 30 degrees in pronation-supination, palmer flexion less than 25 degrees, dorsi-flexion less than 30 degrees, 15 percent.

Subp. 3. Procedure or conditions.

- A. Colles/Smith, extraarticular:
 - (1) no loss of motion, 0 percent;
 - (2) mild loss of motion as defined in subpart 2, item D, subitem (1), 3 percent.
- B. Colles/Smith/Barton, intraarticular.
 - (1) no loss of motion, 0 percent;
 - (2) mild loss of motion as defined in subpart 2, item D, subitem (1), 6 percent;
 - (3) moderate loss of motion as defined in subpart 2, item D, subitem (2), 10 percent.
- C. Carpal bone fracture, no loss of motion, 3 percent.
- D. Carpal dislocation, mild loss of motion as defined in subpart 2, item D, subitem (1), 6 percent.
- E. Carpal tunnel release, 0.5 percent.
- F. Carpal tunnel release with moderate paresthesias, 3 percent.
- G. DeQuervain's release, 0 percent.
- H. Ganglion excision, 0 percent.
- I. Scaphoid graft, 3 percent.

5223.0140 MUSCULO-SKELETAL SCHEDULE; FINGERS.

Subpart 1. General. Permanent partial disability of fingers is a disability of the whole body as set in subpart 2.

Subp. 2. Ankylosis of joints.

- A. Thumb.
 - (1) Total ankylosis interphalangeal joint:
 - (a) optimum position, 0 to 15 degrees, 8 percent;
 - (b) mal-position, flexion greater than 15 degrees, 14 percent.
 - (2) Total ankylosis metacarpophalangeal joint:
 - (a) optimum position, up to 25 degree flexion, 10.5 percent;
 - (b) mal-position, flexion greater than 25 degrees, 14 percent.
 - (3) Total ankylosis both interphalangeal and metacarpophalangeal joints:

- (a) optimum position, 16 percent;
- (b) mal-position, 18 percent.
- (4) Total ankylosis carpometacarpal joint alone:
 - (a) optimum position, 4 percent;
 - (b) mal-position, 8 percent.
- (5) Total ankylosis interphalangeal, metacarpophalangeal, and carpometacarpophalangeal joints:
 - (a) optimum position, 19 percent;
 - (b) mal-position, 21 percent.
- (6) Limitation of motion, thumb:
 - (a) mild, total closing motion tip of digit, can flex to touch palm, and extend to 15 degrees flexion, strength of grip normal, 3 percent;
 - (b) moderate, total closing motion, tip of digit, lacks 1/2 inch of touching palm and can extend to 30 degrees flexion, 6 percent;
 - (c) severe, total closing motion tip of digit lacks one inch of touching palm and can extend to 45 degrees flexion, 9 percent.
- B. Digits other than thumb.
 - (1) to rate any digit excluding the thumb, find the appropriate descriptive category in item A, then multiply the rating by the following factor for the involved digit:
 - (a) index finger, multiply by 0.6;
 - (b) middle finger, multiply by 0.5;
 - (c) ring finger, multiply by 0.25;
 - (d) little finger, multiply by 0.125.
 - (2) Total ankylosis of distal interphalangeal joint, multiply rating in unit (a) or (b) by multiplier for involved digit in subitem (1).
 - (a) optimum position, 5.5 percent;
 - (b) mal-position, flexed 35 degrees or more, 8 percent.
- C. soft tissue loss, isolated soft tissue loss of the end of digit greater than one centimeter, 20 percent of the disability to the whole body for amputation of that digit as set forth at part 5223.0080.

5223.0150 MUSCULO-SKELETAL SCHEDULE; AMPUTATIONS OF LOWER EXTREMITIES.

For permanent partial disability due to amputation of lower extremities the disability of the whole body is:

- A. hemipelvectomy, 50 percent;
- B. disarticulation at hip joint, 40 percent;
- C. amputation above knee joint with short thigh stump, 3 inch or less below tuberosity of ischium, 40 percent;
- D. amputation above knee joint with functional stump, 36 percent;
- E. disarticulation at knee joint, 36 percent;
- F. amputation below knee joint with short stump, 3 inch or less below intercondular notch, 36 percent;
- G. amputation below knee joint with functional stump, 28 percent;
- H. amputation at ankle, Syme type, 28 percent;
- I. partial amputation of foot, Chopart's type, 21 percent;

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- J. mid-metatarsal amputation, 14 percent;
- K. amputation of all toes at metatarsophalangeal joints, 8 percent;
- L. amputation of great toe:
 - (1) with resection of metatarsal bone, 8 percent;
 - (2) at metatarsophalangeal joint, 5 percent;
 - (3) at interphalangeal joint, 4 percent;
- M. amputation of lesser toe, 2nd-5th:
 - (1) with resection of metatarsal bone, 2 percent;
 - (2) at metatarsophalangeal joint, 1 percent;
 - (3) at proximal interphalangeal joint, 0 percent;
 - (4) at distal interphalangeal joint, 0 percent.

5223.0160 MUSCULO-SKELETAL SCHEDULE; NERVE INJURY OR MOTOR AND SENSORY LOSS, LOWER EXTREMITIES.

Subpart 1. Total loss. Total loss means that motor function is less than anti-gravity and there is complete loss of sensation. For loss to the lower extremities resulting from nerve injury, and where there is total loss of function for those particular portions of the body, the disability of the whole body is:

- A. femoral, anterior crural, 13 percent;
- B. femoral, anterior crural, below iliacus nerve, 11 percent;
- C. genitofemoral, genito crural, 2 percent;
- D. inferior gluteal, 9 percent;
- E. lateral femoral cutaneous, 3 percent;
- F. posterior cutaneous of thigh, 2 percent;
- G. superior gluteal, 7 percent;
- H. sciatic, above hamstring innervation, 31 percent;
- I. common peroneal, lateral, or external popliteal, 13 percent;
- J. deep peroneal, above midshin, 9 percent;
- K. deep peroneal, below midshin, anterior tibial, 2 percent;
- L. superficial peroneal, 5 percent;
- M. tibial nerve, medial, or internal popliteal:
 - (1) above knee, 15 percent;
 - (2) posterior tibial, midcalf and knee, 11 percent;
 - (3) below midcalf, 9 percent;
 - (4) lateral plantar branch, 3 percent; or
 - (5) medial plantar branch, 3 percent;
- N. sural, external saphenous, 1 percent;
- O. L-4 nerve root, 11 percent;
- P. L-5 nerve root, 13 percent;
- Q. S-1 nerve root, 15 percent; or
- R. Lumbosacral plexus, 40 percent.

Subp. 2. Partial loss. Partial loss means that motor function is less than normal but greater than anti-gravity, and there is incomplete sensory loss. Partial loss is rated at 25 percent of the percentages assigned at subpart 1.

5223.0170 MUSCULO-SKELETAL SCHEDULE; JOINTS.

Subpart 1. General. For permanent partial disability of joints, disability of the whole body is set forth in subparts 2 to 9.

Subp. 2. Surgical or traumatic shortening of lower extremity.

- A. 1/4 inch to 3/4 inch, 3 percent;
- B. 3/4 to 1-1/4 inches, 4.5 percent;
- C. 1-1/4 to 1-3/4 inches, 6 percent; or
- D. 1-3/4 inches and above, 9 percent.

Subp. 3. Hip.

A. range of motion.

(1) limitation of motion:

(a) mild, anterior posterior movement from 0 degree to 120 degree flexion, rotation and lateral motion, abduction, adduction free to 50 percent of normal, 6 percent;

(b) moderate, anterior posterior motion from 15 degrees flexion deformity to 110 degrees further flexion, rotation, lateral motion, abduction, and adduction free to 25 percent normal, 12 percent;

(c) severe, anterior posterior motion from 30 degrees flexion deformity to 90 degrees further flexion, 22 percent.

B. Procedures or conditions:

(1) nonunion proximal femur fracture without reconstruction, 33 percent;

(2) arthroplasty, able to stand at work and walk, motion 25 percent to 50 percent of normal, 18 percent;

(3) total hip arthroplasty, normal result, 13 percent;

(4) femoral endoprosthesis:

(a) minimal pain, near normal range of motion, able to walk unsupported, 15 percent;

(b) mild to moderate pain with weight bearing, motion 50 percent of normal, 20 percent;

(5) hip pinning for fracture.

(a) minimal pain, near normal range of motion, able to walk unsupported, 5 percent;

(b) mild to moderate pain, motion 50 percent of normal, 10 percent.

Subp. 4. Femur. Femur:

A. shaft fracture, closed, healed, 0 percent;

B. femoral shaft fracture, open reduction, loss of less than 20 degrees of movement of any one plane of either the hip or the knee, no malalignment, 2 percent.

Subp. 5. Knee. Knee:

A. Range of motion.

(1) ankylosis and limited motion, total ankylosis optimum position, 15 degrees flexion, 22 percent;

(2) limitation of motion:

(a) mild, 0 degrees to at least 110 degrees flexion, 2 percent;

(b) moderate, 5 degrees to at least 80 degrees flexion, 7 percent;

(c) severe, 5 degrees to at least 60 degrees flexion, 15 percent;

(d) extremely severe, limited from 15 degrees flexion deformity with further flexion to 90 degree, 18 percent.

B. Procedures or conditions:

(1) surgical removal of medial or lateral semilunar cartilage, more than 50 percent of cartilage removed, no complications, 3 percent;

(2) partial meniscectomy, up to 50 percent of the meniscus removed, 2 percent;

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- (3) surgical removal both cartilages, 9 percent;
- (4) ruptured cruciate ligament, repaired or unrepaired:
 - (a) mild laxity, 3 percent;
 - (b) moderate laxity, 7 percent;
 - (c) severe laxity, 10 percent;
- (5) excision of patella, 9 percent;
- (6) plateau fracture, depressed bone elevated, semilunar excised, 9 percent;
- (7) plateau fracture, undisplaced, 2 percent;
- (8) supracondylar or intercondylar fracture, displaced, 7 percent;
- (9) supracondylar or intercondylar fracture, undisplaced, 2 percent;
- (10) patella fracture, open reduction or partial patellectomy, displaced, 5 percent;
- (11) patella fracture, open reduction or partial patellectomy, undisplaced, 2 percent;
- (12) patellar shaving, 1 percent;
- (13) arthroscopy, 0 percent;
- (14) repair collateral ligament, mild laxity, 2 percent;
- (15) repair collateral ligament, moderate laxity, 4 percent;
- (16) repair patellar dislocation, 5 percent;
- (17) total knee arthroplasty, flexion to 90 degrees, extension to 0 degrees, 13 percent;
- (18) total knee unicondylar, 7 percent;
- (19) lateral retinacular release, 1 percent;
- (20) proximal tibial osteotomy, flexion to 90 degrees, extension to 0 degrees, 5 percent.

Subp. 6. Tibia. Tibia:

- A. tibial shaft fracture, undisplaced, healed, normal motion and alignment, 0 percent;
- B. tibial shaft fracture, open reduction, loss of less than 20 degrees of movement in any one plane in either the knee or the ankle with full knee extension, no malalignment, 5 percent.

Subp. 7. Ankle and foot.

- A. Range of motion:
 - (1) total ankylosis ankle and foot, pantalar arthrodesis:
 - (a) in 10 degrees plantar flexion, 15 percent;
 - (b) mal-position 30 degrees plantar flexion, 20 percent;
 - (2) ankylosis of foot, subtalar or triple arthrodesis tarsal bones, ankle, normal motion, 7.5 percent;
 - (a) decreased motion, subtalar joint, 3.5 percent;
 - (b) ankylosis in mal-position, 8 percent;
 - (3) ankylosis of tibia and talus, subtalar joints free, optimum position 15 degrees plantar flexion, 12 percent;
 - (4) limitation of motion in the ankle:
 - (a) mild, motion limited from position of 90 degrees right angle to 20 degrees plantar flexion, 3 percent;
 - (b) moderate, motion limited from position of 10 degrees flexion to 20 degrees plantar flexion, 6 percent;
 - (c) severe, motion limited from position of 20 degrees plantar flexion to 30 degrees plantar flexion, 12 percent.
- B. Procedures or conditions:
 - (1) achilles tendon rupture with treatment surgically or nonsurgically, able to stand on toes, 2 percent;
 - (2) achilles tendon rupture with treatment surgically or nonsurgically, unable to sustain body weight on toes, 4 percent;
 - (3) open reduction ankle:

- (a) normal range of motion:
 - i. medial malleolus only, 2 percent;
 - ii. lateral malleolus only, 2 percent;
- (b) normal to mild restriction on range of motion:
 - i. medial and lateral malleolus, 4 percent;
 - ii. trimalleolar, 4 percent;
- (c) for moderate to severe restriction of range of motion in the ankle, rate as in item A, subitem (4);
- (4) ankle, lateral ligament reconstruction, mild laxity, normal range of motion, 2 percent;
- (5) ankle, lateral ligament reconstruction, moderate laxity, at least ten degrees greater widening on the Talar tilt stress test X-ray compared to the uninjured side, 3 percent.

Subp. 8. Foot.**A. Range of motion:**

- (1) ankylosis of tarsal metatarsal or mild tarsal joints:
 - (a) normal position, 2.5 percent;
 - (b) mal-position, 5 percent;
- (2) limited motion in the foot:
 - (a) mild, limited motion with mild pain with weight bearing, no change in activities, 2.5 percent;
 - (b) moderate, limitation of motion with pain with weight bearing, no reduction in athletic or vigorous activities, 5 percent;
 - (c) severe, limitation of motion with pain with weight bearing, sedentary activities not affected, 10 percent;

B. Procedures or conditions:

- (1) calcaneal fracture, extra articular, pain with weight bearing, 6 percent;
- (2) calcaneal fracture, intra articular:
 - (a) mild limitation of motion as in item A, subitem (2), unit (a), 6 percent;
 - (b) moderate limitation of motion as in item A, subitem (2), unit (b), 12 percent;
 - (c) severe limitation of motion as in item A, subitem (2), unit (c), 18 percent;
- (3) avascular necrosis talus:
 - (a) mild limitation of motion as in item A, subitem (2), unit (a), 6 percent;
 - (b) moderate limitation of motion as in item A, subitem (2), unit (b), 12 percent;
 - (c) severe limitation of motion as in item A, subitem (2), unit (c) 18 percent;
- (4) tarsal fractures, healed, mild pain, 3 percent;
- (5) metatarsal fractures, healed, 0 percent;
- (6) phalangeal fractures, healed, 0 percent.

Subp. 9. Toes.

- A. Complete ankylosis of metatarsophalangeal joint, any toe, 3 percent;
- B. complete ankylosis any toe, interphalangeal joint, optimum position semi-flexion, 1 percent.

5223.0180 RESPIRATORY SYSTEM.

Subpart 1. Evaluation procedures. The procedures used in evaluating permanent partial disability of the respiratory system shall include the following:

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- A. complete history and physical examination with special reference to cardiopulmonary symptoms and signs;
- B. chest roentgenography (posteroanterior in full inspiration, posteroanterior in full expiration timed, three seconds, lateral);
- C. hematocrit or hemoglobin determination;
- D. electrocardiogram;
- E. performance of the following tests of ventilation:
 - (1) one second forced expiratory volume (FEV1), expressed as a percentage of the normal values set forth in the A.M.A. Guides, pages 69 and 71;
 - (2) forced vital capacity (FVC), expressed as a percentage of the normal values set forth in the A.M.A. Guides, pages 70 and 72.
- F. diffusing capacity studies must be performed when complaints of dyspnea continue unabated in spite of forced spirometric measurement results above the cut-off limits.

Subp. 2. Measurement of respiratory loss of function. Table 1 shall be used to calculate the percentage of disability of the whole body due to permanent partial disability of the respiratory system.

TABLE 1

Symptoms	Forced Spirometry Measurements 1/2 (FEV1 + FVC) (Test three times)	Diffusing Capacity*	Percent Disability of Whole Body
When dyspnea occurs, is consistent with the circumstances of activity.	Not less than 85 percent of normal	Not Applicable	0
Dyspnea does not occur at rest and seldom occurs during the performance of the usual activities of daily living.	70 to 85 percent of normal	Not Applicable	15
Dyspnea does not occur at rest but does occur during the usual activities of daily living.	50 to 70 percent of normal	Usually Not Applicable	30
Dyspnea occurs during activities such as climbing one flight of stairs or walking one block on the level.	25 to 50 percent of normal	40 percent or less of normal	60
Confined to bed and oxygen dependent.	Less than 25 percent of normal	20 percent or less of normal	85

* The diffusing capacity studies must be performed when complaints of dyspnea continue unabated in spite of forced spirometric measurement results above the cut-off limits set forth in Table 1.

Subp. 3. Asthma. Asthma which is not medically controllable and which requires at least six hospitalizations in 12 months, 25 percent.

5223.0190 ORGANIC HEART DISEASE.

Subpart 1. General. For permanent partial disability due to organic heart disease, the disability of the whole body is set forth in subpart 2.

Subp. 2. Heart ratings. The following ratings may be applied only after a compilation of a patient's complete history and a physical examination. Testing must include chest X-ray and electrocardiogram. The testing may include echocardiography, exercise testing, and radionuclide studies.

The following table sets forth symptoms of organic heart disease. The percentage of disability of the whole body is determined by the symptoms present.

Organic Heart Disease Schedule

Percentage Disability of Whole Body	10 percent	30 percent	60 percent	85 percent
Organic Heart Disease	Present	Present	Present	Present
Symptoms	Not present	Not present at rest	Not present at rest	Present at rest
Level of activity causing symptoms	No symptoms from usual activities of daily living, including such activities as stair- or hill- climbing, and walking	No symptoms from usual activities of daily living	Symptoms from a one or more block walk or from climbing stairs. Symptoms also from activities of daily living	Worsening of symptoms with any activity
Level of unusual activity causing symptoms	No symptoms from walking quickly, recreation, hill- or stair-climbing, arm-work, and similar activities	Symptoms from hill- or stair-climbing, walking quickly, arm-work, or recreation.	Symptoms from emotional stress, walking quickly, and similar activities	May be present at rest or may awaken patient
Signs of heart failure	No	No	Relieved by therapy	Not usually relieved by therapy
Signs of symptoms of angina	No	With prolonged or severe exertion	With mild exertion	Rest or nocturnal symptoms
Objective tests of functional status	Ischemic S-T segment changes of at least 1 mm at or before stage 3 of a Bruce protocol exercise test, or diagnostic ischemic changes at a level of 7 METS or less in a nuclear isotope exercise study	Ischemic S-T segment changes of at least 1 mm at or before stage 2 of a Bruce protocol exercise test, or diagnostic ischemic changes at a level of 4 METS or less in a nuclear isotope exercise study	Ischemic S-T segment changes of at least 1 mm at or before stage 1 of a Bruce protocol exercise test, or diagnostic ischemic changes at a level of 2 METS or less in a nuclear isotope exercise study	Diagnostic ischemic S-T segment changes of at least 1 mm on resting electrocardiogram

5223.0200 VASCULAR DISEASE AFFECTING EXTREMITIES.

The following schedule shall be used to determine the percentage of disability of the whole body for permanent partial disability due to vascular disease. Permanent partial disability from vascular disease affecting the extremities must be rated according to the following classifications. The system shall be used only after a complete history and physical examination. The full evaluation shall include imaging examination (X-ray with and without contrast, computer axial tomography scanning, sonography, radionuclide studies) volume studies, or flow studies.

A. Vascular disease schedule, lower extremities.

	Percentage of Disability of Whole Body				
	0 percent	10 percent	30 percent	60 percent	90 percent
Intermittent claudication distance	No	Approx. one city block	Approx. 1/4 city block	Less than 1/4 city block	Constant pain
Pain at rest	No	No	No	Sometimes	Constant

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PROPOSED RULES

	0 percent	10 percent	30 percent	60 percent	90 percent
Physical signs of diagnosis	None No ulceration	Healed, painless stump, or healed ulcer	Healed stump but persistent signs of activity, or persistent superficial ulcer	Amputation above wrist or ankle with continued sign of disease, of widespread deep ulcer	Amputation above wrist or ankle in more than one limb, or wide, deep ulceration of more than one limb
Edema	Rare and transient	Persistent, Incompletely controlled	Very severe and only partially controlled	Marked and uncontrollable	Marked and uncontrollable

B. Peripheral vascular disease, upper extremities.

(1) Class 1. The following findings are present: Decreased pulse or pulses; minimal loss of subcutaneous tissue of fingertips; calcification of arteries as detected by radiographic examination or Raynaud's phenomenon that occurs with exposure to temperature lower than zero degrees centigrade (32 degrees Fahrenheit) but is readily controlled by medication; 0 percent.

(2) Class 2. Objective signs of vascular damage as evidenced by findings such as that of a healed, painless stump of an amputated digit showing evidence of persistent vascular disease, or of a healed ulcer; and Raynaud's phenomenon occurs on exposures lower than four degrees centigrade (39 degrees Fahrenheit) but is controlled by medication, 10 percent.

(3) Class 3. Objective signs of vascular damage as evidenced by healed amputation of two or more digits of one extremity, with evidence of persisting vascular disease or superficial ulceration; and Raynaud's phenomenon occurs on exposure to temperatures lower than ten degrees centigrade (50 degrees Fahrenheit) and it is only partially controlled by medication; 30 percent.

(4) Class 4. Objective evidence of vascular damage as evidenced by signs such as amputation of two or more digits of two extremities with evidence of persistent vascular disease, or persistent widespread or deep ulceration involving one extremity; and Raynaud's phenomenon occurs on exposure to temperatures lower than 15 degrees centigrade (59 degrees Fahrenheit) and is only partially controlled by medication; 54 percent.

5223.0210 GASTROINTESTINAL TRACT.

Subpart 1. General. The following schedule is for the evaluation of permanent partial disability of the gastrointestinal tract. The evaluation must include a thorough history and physical examination. Additional studies, such as radiographic, metabolic, absorptive, endoscopic, and biopsy may be necessary to determine the functioning of these organs. Disability shall not be determined until after completion of all medically accepted diagnostic and therapeutic efforts. The percentages indicated in this schedule are the disability of the whole body for the corresponding class.

For evaluative purposes, the digestive tract has been divided into (1) the esophagus, stomach, duodenum, small intestine, and pancreas, (2) the colon and rectum, (3) the anus, and (4) the liver and biliary tract.

Subp. 2. Upper digestive tract (esophagus, stomach, duodenum, small intestine, and pancreas).

A. Class 1, 2 percent.

(1) Symptoms or signs of upper digestive tract disease are present and there is anatomic loss or alteration; continuous treatment is not required; and weight can be maintained at the desirable level; or

(2) There are no complications after surgical procedures.

B. Class 2, 15 percent. Symptoms and signs of organic upper digestive tract disease are present or there is anatomic loss or alteration; dietary restriction and drugs are required for control of symptoms, signs, or nutritional deficiency; and loss of weight below the desirable weight does not exceed 10 percent.

C. Class 3, 35 percent.

(1) symptoms and signs of organic upper digestive tract disease are present or there is anatomic loss or alteration; and dietary restrictions and drugs do not completely control symptoms, signs, or nutritional state; or

(2) there is 10 to 20 percent loss of weight below the desirable weight and the weight loss is ascribable to a disorder of the upper digestive tract.

D. Class 4, 65 percent.

(1) symptoms and signs of organic upper digestive tract disease are present or there is anatomic loss or alteration; and symptoms are not controlled by treatment; or

(2) there is greater than a 20 percent loss of weight below the desirable weight and the weight loss is ascribable to a disorder of the upper digestive tract.

Subp. 3. Colon and rectum.**A. Class 1, 2 percent:**

- (1) signs and symptoms of colonic or rectal disease are infrequent;
- (2) limitation of activities, special diet, or medication is not required; no systemic manifestations are present and weight and nutritional state can be maintained at a desirable level; or
- (3) there are no complications after surgical procedures.

B. Class 2, 15 percent. There is objective evidence of colonic or rectal disease and anatomic loss or alteration. There are mild gastrointestinal symptoms with intermittent disturbance of bowel function, accompanied by periodic or continual pain. Minimal restriction of diet or mild symptomatic therapy may be necessary. No impairment of nutrition results.

C. Class 3, 30 percent. There is objective evidence of colonic or rectal disease and anatomic loss or alteration; there are moderate to severe exacerbations with disturbance of bowel habit, accompanied by periodic or continual pain; restriction of activity, special diet and drugs are required during attacks; and there are constitutional manifestations such as fever, anemia, or weight loss.

D. Class 4, 50 percent. There is objective evidence of colonic and rectal disease or anatomic loss or alteration; there are persistent disturbances of bowel function present at rest with severe persistent pain; complete limitation of activity, continued restriction of diet, and medication do not entirely control the symptoms; there are constitutional manifestations such as fever, weight loss, or anemia present; and there is no prolonged remission.

Subp. 4. Anus.

A. Class 1, 2 percent. Signs of organic anal disease are present or there is anatomic loss or alteration; or there is mild incontinence involving gas or liquid stool; or anal symptoms are mild, intermittent, and controlled by treatment.

B. Class 2, 12 percent. Signs of organic anal disease are present or there is anatomic loss or alteration; and moderate but partial fecal incontinence is present requiring continual treatment; or continual anal symptoms are present and incompletely controlled by treatment.

C. Class 3, 22 percent.

(1) signs of organic anal diseases are present and there is anatomic loss or alteration; and complete fecal incontinence is present; or

(2) signs of organic anal disease are present and severe anal symptoms are unresponsive or not amenable to therapy.

Subp. 5. Liver and biliary tract.**A. Class 1, 5 percent.**

(1) There is objective evidence of persistent liver disease even though no symptoms of liver disease are present; and no history of ascites, jaundice, or bleeding esophageal varices within five years; nutrition and strength are normal; and biochemical studies indicate minimal disturbance of the liver function; or

(2) Primary disorders of bilirubin metabolism are present.

B. Class 2, 20 percent. There is objective evidence of chronic liver disease even though no symptoms of liver disease are present; and no history of ascites, jaundice, or bleeding esophageal varices within five years; nutrition and strength are normal; and biochemical studies indicate more severe liver damage than Class 1.

C. Class 3, 40 percent. There is objective evidence of progressive chronic liver disease, or history of jaundice, ascites, or bleeding esophageal or gastric varices within the past year; nutrition and strength may be affected; and there is intermittent ammonia and meat intoxication.

D. Class 4, 75 percent. There is objective evidence of progressive chronic liver disease, or persistent ascites or persistent jaundice or bleeding esophageal or gastric varices, with central nervous system manifestations or hepatic insufficiency; and nutrition state is below normal.

Subp. 6. Biliary tract.

A. Class 1, 5 percent. There is an occasional episode of biliary tract dysfunction.

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- B. Class 2, 20 percent. There is recurrent biliary tract impairment irrespective of treatment.
- C. Class 3, 40 percent. There is irreparable obstruction of the bile tract with recurrent cholangitis.
- D. Class 4, 75 percent. There is persistent jaundice and progressive liver disease due to obstruction of the common bile duct.

5223.0220 REPRODUCTIVE AND URINARY TRACT SCHEDULE.

Subpart 1. General. This part sets forth the percentage of disability of the whole body for permanent partial disability of the reproductive and urinary systems. The percentages indicated in this schedule are the disability of the whole body for the corresponding class.

Subp. 2. Evaluative procedures. For evaluative purposes the reproductive and urinary systems are divided into the: (1) upper urinary tract, (2) bladder, (3) urethra, (4) male reproductive organs, and (5) female reproductive organs.

Procedures for evaluating permanent partial disability of the genitourinary and reproductive systems shall include:

A. a complete history and physical examination with special reference to genitourinary/reproductive symptoms and signs, including psychological evaluation when indicated by the symptoms;

B. laboratory tests to identify the presence or absence of associated disease. The tests may include multi-channel chemistry profile, complete blood count, complete urinalysis, including microscopic examination of centrifuged sediment, chest X-ray, both posterior/anterior and left lateral views, electrocardiogram, performance of a measurement of total renal functions—endogenous creatinine clearance corrected for total body surface area. Other tests may include:

(1) kidney function tests, such as arterial blood gases and determinations of other chemistries that would reflect the metabolic effects of decreased kidney function;

(2) special examinations such as cystoscopy, voiding cystograms, cystometrograms;

(3) a description of the anatomy of the reproduction or urinary system;

(4) urodynamics, specifically cystometry combined with electromyography of the external urethral sphincter to evaluate for presumed upper or lower motor neuron neurogenic bladder; and

(5) nocturnal penile tumescence monitoring with paper or computer printout that displays frequency, duration, and, whenever possible, rigidity of erections.

Subp. 3. Upper urinary tract.

A. Solitary kidney, 10 percent. This category shall apply only when a solitary kidney is the only upper urinary tract permanent partial disability. When a solitary kidney occurs in combination with any one of the following four classes, the disability rating for that class shall be increased by 10 percent.

B. Class 1, 5 percent. Diminution of kidney function as evidenced by a creatinine clearance of 50 to 70 percent of age and sex adjusted normal values, other underlying causes absent.

C. Class 2, 22 percent. Diminution of the upper urinary tract function as evidenced by a creatinine clearance of 40 to 50 percent of age and sex adjusted normal values, no other underlying disease.

D. Class 3, 47 percent. Diminution of upper urinary tract function, as evidenced by creatinine clearance of 25 to 40 percent of age and sex adjusted normal values.

E. Class 4, 77 percent. Diminution of upper urinary tract function as evidenced by creatinine clearance below 25 percent of age and sex adjusted normal values.

Subp. 4. Bladder.

A. Class 1, 5 percent. Symptoms and signs of bladder disorder requiring intermittent treatment, but without evidence of intervening malfunction between periods of treatments or symptomatology.

B. Class 2, 15 percent. Symptoms and signs of bladder disorder requiring continuous treatment, or there is bladder reflex activity but loss of voluntary control.

C. Class 3, 20 percent. Poor reflex activity evidenced by intermittent dribbling, and no voluntary control.

D. Class 4, 30 percent. Continuous dribbling.

Subp. 5. Urethra.

A. Class 1, 2 percent. Symptoms and signs of urethral disorder are present which require intermittent therapy for control.

B. Class 2, 15 percent. Symptoms and signs of urethral disorder that cannot be effectively controlled by treatment.

Subp. 6. Penis.

A. Class 1, 10 percent. Impaired sexual function but vaginal penetration is possible, with supporting objective evidence of abnormal penile tumescence studies to substantiate impaired tumescence or rigidity.

B. Class 2, 20 percent. Impaired sexual function and vaginal penetration is not possible, with supporting objective evidence of insufficient penile tumescence or rigidity.

C. Psychogenic impotence, 0 percent.

Subp. 7. Testes, epididymides, and spermatic cords.

A. Class 1, 5 percent.

(1) symptoms and signs of testicular, epididymal, or spermatic cord disease are present and there is anatomic alteration;
and

(2) continuous treatment is not required; and

(3) there are no abnormalities of seminal or hormonal functions; or

(4) solitary teste is present.

B. Class 2, 10 percent.

(1) symptoms and signs of testicular, epididymal or spermatic cord disease are present and there is anatomic alteration;
and

(2) frequent or continuous treatment is required; and

(3) there are detectable seminal or hormonal abnormalities.

C. Class 3, 20 percent. Trauma or disease produces bilateral anatomical loss or there is no detectable seminal or hormonal function of testes, epididymides, or spermatic cords.

D. Inguinal hernia, direct or indirect, unilateral or bilateral, recurrent after two or more herniorrhaphies, 5 percent.

Subp. 8. Prostate and seminal vesicles.

A. Class 1, 5 percent.

(1) there are symptoms and signs of prostatic or seminal vesicular dysfunction or disease;

(2) anatomic alteration is present; and

(3) continuous treatment is not required.

B. Class 2, 10 percent.

(1) frequent severe symptoms and signs of prostatic or seminal vesicular dysfunction or disease are present; and

(2) anatomic alteration is present; and

(3) continuous treatment is required.

C. Class 3, 20 percent. There has been ablation of the prostate or seminal vesicles.

Subp. 9. Vulva and vagina.

A. Class 1, 10 percent. Impaired sexual function but penile containment is possible.

B. Class 2, 20 percent. Impaired sexual function and penile containment is not possible.

Subp. 10. Cervix and uterus.

A. Class 1, 5 percent.

(1) symptoms and signs of disease or deformity of the cervix or uterus are present which do not require continuous treatment; or

(2) cervical stenosis, if present, requires no treatment; or

(3) there is anatomic loss of the cervix or uterus in the postmenopausal years.

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B. Class 2, 10 percent.

- (1) symptoms and signs of disease or deformity of the cervix or uterus are present which require continuous treatment; or
- (2) cervical stenosis, if present, requires periodic treatment.

C. Class 3, 20 percent.

- (1) symptoms and signs of disease or deformity of the cervix or uterus are present which are not controlled by treatment;
- or
- (2) cervical stenosis is complete; or
 - (3) anatomic or complete functional loss of the cervix or uterus occurs in premenopausal years.

Subp. 11. Fallopian tubes and ovaries.

A. Class 1, 5 percent.

- (1) symptoms and signs of disease or deformity of the fallopian tubes or ovaries are present which do not require continuous treatment; or
- (2) only one fallopian tube or ovary is functioning in the premenopausal years.

B. Class 2, 10 percent. Symptoms and signs of disease or deformity of the fallopian tubes or ovaries are present which require continuous treatment, but tubal patency persists and ovulation is possible.

C. Class 3, 20 percent.

- (1) symptoms and signs of disease or deformity of the fallopian tubes or ovaries are present and there is total loss of tubal patency or total failure to produce ova in the premenopausal years; or
- (2) bilateral loss of the fallopian tubes or ovaries occurs in the premenopausal years.

5223.0230 SKIN DISORDERS.

Permanent partial disability resulting from skin disorders are a disability of the whole body as set forth in this part. This schedule is based upon the effect of the disorder on the ability to function and perform activities of daily living and the degree of treatment required for the disorder. The schedule is not based upon the location or the percentage of the body affected by a specific skin disorder. Impairment due to burns shall be rated under part 5223.0240 and not under this schedule.

A. Class 1, 2 percent. Signs or symptoms of skin disorder are present and supported by objective skin findings. With treatment there is no or minimal limitation in the performance of the activities of daily living, although certain physical or chemical agents might temporarily increase the extent of limitation.

B. Class 2, 10 percent. Signs and symptoms of skin disorder are present and intermittent treatment is required. There is limitation in the performance of some of the activities of daily living.

C. Class 3, 20 percent. Signs and symptoms of skin disorder are present. Continuous treatment is required. There is limitation in the performance of many of the activities of daily living.

D. Class 4, 45 percent. Signs and symptoms of skin disorder are present. Continuous treatment is required which may include periodic confinement at home or other domicile. There is limitation in the performance of many of the activities of daily living.

E. Class 5, 70 percent. Signs and symptoms of skin disorder are present. Continuous treatment is required which necessitates confinement at home or other domicile. There is severe limitation in the performance of nearly all of the activities of daily living.

5223.0240 BURNS.

Subpart 1. General. The whole body disability due to burns is not equal to the percent of body surface area which is burned. The percentage of body surface area affected must be determined according to Lund and Browder. The ratings determined under subparts 1 to 4 must be combined as set forth at Minnesota Statutes, section 176.105, subdivision 4, paragraph (c), provided that the maximum disability to the whole body under this schedule must not exceed 70 percent. Loss of motion or body parts except the face must be rated under the musculoskeletal schedules and must not be considered as included in a rating under this part unless specifically provided otherwise.

Subp. 2. Burns other than electrical conduction. A rating under this part is the rating assigned by items A to F combined as provided in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c):

A. Any burn that heals within one month and leaves no hypertrophic scar, 0 percent.

B. Cold intolerance of the hands, face, or head as evidenced by the wearing of heavy gloves or additional scarves at 35 degrees Fahrenheit; a scar of at least ten square centimeters must be present for an affected member to be rated under this item:

- (1) dominant hand, 4 percent;
- (2) nondominant hand, 3 percent;
- (3) both hands, 6 percent;
- (4) face, 3 percent; or
- (5) face and both hands, 10 percent.

C. Heat intolerance is evidenced by fatigue, malaise, nausea, and an oral temperature of at least 100 degrees Fahrenheit upon exposure to an environmental temperature of 90 degrees Fahrenheit at 60 percent relative humidity, 5 percent.

D. Sensitivity to sun exposure as evidenced by the need to cover the skin or use sun screen to prevent sunburn; a scar of at least ten square centimeters must be present for an affected member to be rated under this item:

- (1) dominant hand, 4 percent;
- (2) nondominant hand, 3 percent;
- (3) both hands, 6 percent;
- (4) face, 3 percent; or
- (5) face and both hands, 10 percent.

E. Sensitivity to dust, chemical, or petroleum exposure; altered sweating; or apocrine gland dysfunction. For one or any combination of these conditions, the whole body disability is:

- (1) If the sensitivity affects less than 5 percent of the body surface area, 0 percent.
- (2) If the sensitivity affects 5 to 20 percent of the body surface area, 2 percent.
- (3) If the sensitivity affects 20 percent or more of the body surface area, 3 percent.

F. Sensory loss due to burns:

- (1) Loss of sensation on palmar surface of hands shall be rated as provided by part 5223.0090, subpart 3.
- (2) Sensory loss in less than 5 percent of the body surface area, 0 percent.
- (3) Sensory loss in 5 to 20 percent of the body surface area, 2 percent.
- (4) Sensory loss in more than 20 percent of the body surface area, 5 percent.

Subp. 3. Electrical conduction injuries.

- A. Associated sensory loss and concomitant thermal injuries must be rated as provided in subpart 1.
- B. Peripheral nerve deficits must be rated as provided in the musculoskeletal schedule.

The ratings under items A and B must be combined in the manner set forth at Minnesota Statutes, section 176.105, subdivision 4, paragraph (c).

Subp. 4. Cosmetic disfigurement. This part applies to disfigurement on the face, the head, the neck, or the hands due to burns. Where there is surgery, this rating is done after correction by plastic surgery. The final rating under this schedule shall not be done until hypertrophic scarring is matured or more than 24 months after the injury. The ratings under the items of this part must be combined in the manner set forth at Minnesota Statutes, section 176.105, subdivision 4, paragraph (c).

A. The face is the anterior head from the forehead, to and including the chin.

- (1) Loss of facial features:
 - (a) Deformity of nasal tip or deformity, thinning, or eversion of ala nasi, 5 percent.
 - (b) Loss of more than 50 percent of nasal cartilage or of both ala nasi, 25 percent.
- (2) Eyes:

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PROPOSED RULES

- (a) Loss of one eyebrow, 2.5 percent.
- (b) Loss of two eyebrows, 5 percent.
- (c) Ectropian unaccompanied by visual impairment:
 - i. Lower lid pulled from eye when mouth is opened and neck extended, 5 percent.
 - ii. Lower lid pulled away with no movement of face or neck, 10 percent.
 - iii. Cornea unprotected when sleeping, 15 percent.
- (d) Epiphora unaccompanied by visual impairment, 10 percent.
- (3) Mouth. A rating under this subitem is the arithmetic sum of units (a) to (d).
 - (a) Noncongenital microstomia or distortion affecting eating and dental hygiene, 10 percent.
 - (b) Eversion of the upper lip, 7.5 percent.
 - (c) Eversion of the lower lip, 7.5 percent.
 - (d) Distortion of vermillion border, 10 percent.
- (4) Ear. Loss of 75 percent or more of one external ear, 5 percent.
- (5) Hypertrophic scarring of face in areas other than those covered in subitems (1) to (4):
 - (a) Affecting only forehead above the eyebrows, 10 percent.
 - (b) Affecting the lower face from eyebrows to chin, 25 percent.
 - (c) Affecting both the forehead above the eyebrows and the lower face from the eyebrows to chin, 35 percent.
- (6) Wrinkling of face in areas other than those covered in subitems (1) to (5), one-third of percentages in subitem (5).

B. Head, Alopecia:

- (1) Anterior hairline:
 - (a) Loss of less than 20 percent of hair on anterior hairline, 0 percent.
 - (b) Loss of 20 to 50 percent of hair on anterior hairline, 2 percent.
 - (c) Loss of more than 50 percent of hair on anterior hairline, 3 percent.
- (2) Elsewhere on head and not affecting anterior hairline:
 - (a) Loss of 0 to 15 percent of hair, 0 percent.
 - (b) Loss of 15 to 30 percent of hair, 1 percent.
 - (c) Loss of 20 to 50 percent of hair, 2 percent.
 - (d) Loss of more than 50 percent of hair, 3 percent.

The ratings under subitems (1) and (2) must be combined as set forth in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c).

C. The anterior neck extends from the ear lobule anteriorly to the ear lobule and downward to mid clavicle. Disfigurement on the posterior neck from the ear lobule posteriorly to the ear lobule shall not be rated under this rule. Ratings under subitems (1) and (2) shall be combined as set forth in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c).

- (1) Hypertrophic scarring or banding:
 - (a) Affecting less than 10 percent of the anterior neck, 0 percent.
 - (b) Affecting 10 to 30 percent of the anterior neck, 10 percent.
 - (c) Affecting 30 to 50 percent of the anterior neck, 12 percent.
 - (d) Affecting more than 50 percent of the anterior neck, 15 percent.
- (2) The chin shelf is the area from the chin backwards to the neck.
 - (a) Chin shelf extends less than 2 inches, 3 percent.
 - (b) Chin shelf extends less than 1 inch, 10 percent.

D. The hand extends from the carpus outward. Loss of body parts and loss of motion are rated in the musculoskeletal schedule.

- (1) Hypertrophic scarring affecting less than 30 percent of dorsum of one hand, 0 percent.
- (2) Hypertrophic scarring affecting 30 to 50 percent of dorsum of one hand, 3 percent.
- (3) Hypertrophic scarring affecting 50 percent or more of dorsum of one hand, 7 percent.

5223.0250 PREEXISTING IMPAIRMENTS.

Where a disability is subject to apportionment under Minnesota Statutes, section 176.101, subdivision 4a, the rating for the disabled condition under a category of the schedules of this chapter must be reduced as provided in this part. As used in this part, the term disabled condition includes the preexisting disability.

A. This part applies where the preexisting disability has not been rated and neither item B nor C is applicable.

(1) The preexisting disability must be rated under a category of the schedules of this chapter.

(2) The whole body disability rating assigned to the disabled condition of the member by the schedules of this chapter must be reduced by the rating assigned to the preexisting disability of the member in subitem (1).

(3) For example, the medical report establishes a preexisting impairment of amputation of the index finger at the metacarpophalangeal joint. This injury is a 13.5 percent preexisting disability to the body as a whole under part 5223.0080, subpart 1, item L, subitem (1). The disabled condition is amputation of all fingers except the thumb at the metacarpophalangeal joint, a 32.5 percent disability under part 5223.0080, subpart 1, item J, 32.5 percent less 13.5 percent gives the disability (adjusted for the preexisting impairment) of 19 percent. Payment is made for the 19 percent disability at the rate appropriate for a 32.5 percent disability. Thus, if economic recovery benefits are paid, 19 percent is multiplied by 680 weeks; for impairment benefits, 19 percent is multiplied by \$85,000.

B. This item applies where the preexisting disability of a member has been rated in another proceeding or state and the rating represents a percentage of disability to the whole body. The rating of the disabled condition under a category of these schedules shall be reduced by the rating assigned to the preexisting disability of the member.

C. This item applies where the injury producing the preexisting disability occurred prior to January 1, 1984, and the preexisting disability has been rated under Minnesota Statutes, section 176.101, subdivision 3; or where Minnesota Statutes, chapter 176 is inapplicable and the rating represents a percentage of disability of a member.

(1) From Table 1, determine the maximum whole body disability assignable to the preexisting disability. Use Table 2 where disability to an internal organ is rated as a percentage of disability to the particular organ rather than a percentage of disability to internal organs. Where the preexisting disability is not listed in Table 1 or Table 2, the maximum whole body disability is the maximum disability assigned to the affected member by the schedules of this chapter.

TABLE 1

Member	Maximum Whole Body Disability (Percent)
Thumb	16
Index finger	11
Middle finger	9
Ring finger	4
Little finger	2
Great toe	5
Lesser toe	1
Hand	54
Hand and wrist	54
Arm	60
Foot	21
Foot and ankle	28
Leg	40

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PROPOSED RULES

Member	Maximum Whole Body Disability (Percent)
Eye	24
Eyes (both)	85
Hearing loss, (one ear)	6
Hearing loss (both ears)	35
Back	71
Voice	70
Burns and skin impairments, including disfigurement	70
Internal organs, excluding brain	85
Brain	100
Head	20

TABLE 2

Member	Maximum Whole Body Disability (Percent)
Stomach	65
Pancreas	65
Colon	50
Spleen	0
Bladder	30
Sexual organs or function	20
Circulatory system	90
Heart	85
Lungs	85
Liver	75
Solitary kidney	10
Kidney, excluding solitary kidney	77

(2) Multiply the prior rating of the member's preexisting disability by the maximum whole body disability determined in subitem (1). Where a disputed rating has been closed out to a stipulated rating but payments were made on a different rating, the rating for purposes of this part is the closed-out rating.

(3) Subtract the percentage amount determined in subitem (2) from the whole body disability rating assigned to the disabled condition of the member by the schedules of this chapter. The remainder is the amount due for the disabled condition after apportionment for the preexisting disability.

(4) For example, a pre-1984 back injury was rated at 25 percent of the back. The whole body disability attributable to this injury is 25 percent by 71 percent equals 17.75 percent. After 1984, a second back injury is rated at 24.5 percent under this chapter (24.5 percent minus 17.75 percent equals 6.75 percent). Six and three-fourths (6.75) percent is the amount assigned to the disabled condition after apportionment.

D. Where both Minnesota Statutes, sections 176.101, subdivision 4a, and 176.105, subdivision 4, paragraph (c) apply, apportionment must be determined as follows:

(1) For each member, determine the percentage of whole body disability under items A to C, as appropriate.

(2) Combine the percentages obtained in subitem (1) in the manner set forth in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c). Prior to the next application of the formula, the result of an application of the formula must be stated as a decimal, not as a percentage, that is rounded up or down to four decimal places.

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.

Department of Commerce

Adopted Rules Governing Filing Fees for Insurance Policy Rates and Forms

The rules proposed and published at *State Register*, Volume 9, Number 20, pages 1018-1020, November 12, 1984 (9 S.R. 1018) and Volume 9, Number 29, pages 1607-1609, January 14, 1985 (9 S.R. 1607) are adopted with the following modifications:

Rules as Adopted

2605.0100 SCOPE OF AUTHORITY.

Parts 2605.0100 to ~~2605.0400~~ 2605.0500 apply to all licensed insurers and rate service, data service, or other organizations that make insurance policy form or rate filings required by statute. They are adopted pursuant to authority granted under Minnesota Statutes, sections 45.023 and 60A.14, subdivision 1, paragraph (c), clause (14).

2605.0400 PROVISIONS APPLICABLE TO ALL POLICY FORM AND RATE FILINGS.

The provisions in items A to ~~E~~ G apply to all insurance policy form and rate filings required by statute.

~~H. In unusual situations not specifically covered by parts 2605.0100 to 2605.0400, the application or nonapplication of a filing fee will be determined by the commissioner of commerce.~~

2605.0500 EXAMPLES OF FEES PAYABLE.

The following is a list of specific filing fees applicable to certain filings:

- ~~I.~~ A. A filing consisting of a policy form, an application, and four endorsements are subject to a filing fee of \$10.
- ~~J.~~ B. Rates and rules submitted together with the filing described in item A are subject to an additional \$10 filing fee, for a total of \$20.
- ~~K.~~ C. A group of three companies submitting identical filings are subject to a \$10 filing fee for each company for a total of \$30.
- ~~L.~~ D. A filing for nonadoption or only changing the effective date of a prior rate service organization filing are subject to a \$10 filing fee. If the same filing also includes three endorsements replacing those filed on their behalf by the rate service organization, the filing fee remains the same.

Housing Finance Agency

Adopted Rules Governing the Temporary Housing Program

The rules proposed and published at *State Register*, Volume 9, Number 46, pages 2472-2474, May 13, 1985 (9 S.R. 2472) are adopted as proposed.

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ADOPTED RULES

Housing Finance Agency

Adopted Rules Relating to Innovative Housing Loans

The rules proposed and published at *State Register*, Volume 9, Number 44, pages 2400-2402, April 29, 1985 (9 S.R. 2400) are adopted as proposed.

Department of Labor and Industry Occupational Safety and Health Division

Adopted Revisions to the Occupational Safety and Health Standards

Pursuant to Minn. Stat. § 182.655 (1984) notice was duly published at *State Register*, Volume 10, Number 1, dated July 1, 1985 [10 S.R. 13] specifying the modification of certain Occupational Safety and Health Standards; specifically, the amendment to the effective dates for the Occupational Exposure to Ethylene Oxide Standard (29 CFR 1910.1047) and the extension of the administrative stay for the Occupational Exposure to Cotton Dust (29 CFR 1910.1043).

No objections, comments or written requests for public hearing have been received. Therefore, these Occupational Safety and Health Standards are adopted and are identical in every respect to their proposed form.

Steve Keefe
Commissioner of Labor & Industry

Board of Peace Officers Standards and Training

Adopted Rules Governing Part-time Officers and Constables Selection, Training, and Testing Requirements

The rules proposed and published at *State Register*, Volume 9, Number 48, pages 2576-2579, May 27, 1985 (9 S.R. 2576) are adopted as proposed.

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 Administration Board of Electricity

Notice of Board Meeting

The State Board of Electricity is currently meeting on the second Tuesday of each month in the State Board offices at 1821 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 297-2111.

**State Board of Education
Department of Education
Partnerships Division****Outside Opinion Sought Regarding Proposed Rules Governing the Licensure of
Community Education Directors**

Notice is hereby given that the State Board of Education is seeking information or opinions outside the agency in preparing rules governing the licensure and training of community education directors. The promulgation of these rules is authorized by Minnesota Statute Section 125.05.

The State Board of Education requests information and comments concerning the subject matter of these rules. Interested persons may submit statements of information or comment orally or in writing. These statements should be addressed to:

Robert Gramstad
Minnesota Department of Education
998 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 612-296-8311 and in person at the above address.

All statements and comments shall be accepted until September 16, 1985. Any written material received by the State Board of Education shall become part of the record in the event that the rules are adopted.

August 5, 1985

**Department of Energy and Economic Development
Energy and Economic Development Authority****Public Hearing on Proposed Project and Issuance of Bonds Under Minnesota Statutes,
Chapter 116M, Exclusive—Merchandising Fixtures, Incorporated**

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority") or its designated representative, shall meet on August 28, 1985, at 3:00 p.m., at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under Minnesota Statutes, section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of Merchandising Fixtures, Inc. (the "Company"), a Minnesota corporation. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the acquisition and construction of land and a new building of approximately 80,000 square feet for use in connection with the Company's business operations in the design and manufacture of store fixtures, mill work and display cases, to be located in the City of Coon Rapids, Anoka County, Minnesota (street address: the southeast quadrant of the intersection of Northdale Boulevard and Xeon Street in the City of Coon Rapids, Anoka County, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company. The estimated maximum amount of the proposed bond issue is an amount equal to \$1,560,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices

OFFICIAL NOTICES

of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

July 24, 1985

By Order of the Members of the
Minnesota Energy and Economic
Development Authority,
Mark B. Dayton,
Commissioner, Department of Energy
and Economic Development, and
Chairman, Minnesota Energy and
Economic Development Authority

Department of Energy and Economic Development Energy and Economic Development Authority

Public Hearing on Proposed Project and Issuance of Bonds Under Minnesota Statutes, Chapter 116M, Exclusive—BH&B Properties

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority") or its designated representative, shall meet on August 28, 1985, at 3:00 p.m. at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under Minnesota Statutes, Chapter 116M, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of BH&B Properties (the "Company"), a Minnesota partnership. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the construction of an approximately 13,500 square foot addition to existing plant on land now owned by the Company and the provision of additional food processing equipment therefor all to be leased to North Star Foods, Inc. for use in connection with its business operations in the processing and distribution of turkey and beef products, to be located in the City of St. Charles, Winona County, Minnesota (street address: 1279 Charles Avenue, St. Charles, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company (together with North Star Foods, Inc. as operator and manager). The estimated maximum amount of the proposed bond issue is an amount equal to \$1,000,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

July 24, 1985

By Order of the Members of the
Minnesota Energy and Economic
Development Authority,
Mark B. Dayton,
Commissioner, Department of Energy
and Economic Development, and
Chairman, Minnesota Energy and
Economic Development Authority

Department of Finance

Maximum Interest Rate for Municipal Obligations, August, 1985

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of August will be ten (10) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to eleven (11) percent per annum.

For further information, contact:

Peter Sausen, Assistant Commissioner
Cash and Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Department of Health Emergency Medical Services

Emergency Medical Services Licensure Application—Bemidji Aviation Services

As of August 5, 1985 a complete application for a license to operate a scheduled basic life support transportation service by fixed wing aircraft was applied for by Bemidji Aviation Services, inc., Bemidji Municipal Airport, PO Box 624, Bemidji, Minnesota 56601.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health publish the notice at the applicant's expense in the *State Register*.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Agassiz Health Systems Agency, 31 South Third St., Grand Forks, No. Dakota 58202, Mary Ellen Preston, Director. The comments must reach the Health Systems Agency before September 5, 1985.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to the applicant.

Department of Human Rights

Goals and Timetables for Construction Contractors

363.073 CERTIFICATES OF COMPLIANCE FOR PUBLIC CONTRACTS. Subdivision 1. **Scope of application.** No department or agency of the state shall accept any bid or proposal for a contract or execute any contract for goods or services in excess of \$50,000 with any business having more than 20 full time employees in Minnesota at any time during the previous 12 months, unless the firm or business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a firm or business has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years.

Rules for Certificates of Compliance

The Commissioner, from time to time, shall issue goals and timetables for minority and female utilization which must be based on appropriate workforce, demographic, or other relevant data and which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals must be applicable to each construction trade in an area covered by the contractor's entire workforce which is working in the area covered by the goals and timetables. Goals must be published as notices in the *State Register*, and must be inserted by contracting state agencies and applicants, as applicable, in the notice required by part 5000.3530.

OFFICIAL NOTICES

Timetables:

Upon publication until further notice.

The goal for female participation in each trade in each county is 6.9%.

<u>Counties</u>	<u>Goals by county for minority participation in each trade</u>
St. Louis	1.0%
Carlton, Cook, Itasca, Koochiching, Lake and Polk	1.2%
Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Washington and Wright	2.9%
Benton, Sherburne and Stearns	0.5%
Aitkin, Big Stone, Blue Earth, Brown, Cass, Chippewa, Crow Wing, Douglas, Faribault, Goodhue, Grant, Isanti, Kanabec, Kandiyohi, Lac Qui Parle, Le Sueur, McLeod, Martin, Meeker, Mille Lacs, Morrison, Nicollet, Otter Tail, Pine, Pope, Renville, Rice, Sibley, Stevens, Swift, Todd, Traverse, Wadena, Waseca, Watonwan and Yellow Medicine.	2.2%
Olmsted	1.4%
Dodge, Fillmore, Freeborn, Mower, Steele and Wabasha	0.9%
Houston and Winona	0.6%
Cottonwood, Jackson, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood, and Rock	0.8%
Becker, Clay and Wilkin	0.7%
Beltrami, Clearwater, Hubbard, Kittson, Lake of the Woods, Mahnommen, Marshall, Norman, Pennington, Red Lake and Roseau	2.0%

Metropolitan Council

Public Hearing on Amendments to Part 1, Water Resources Management Development Guide

The Metropolitan Council will hold a public hearing on Thursday, Aug. 29, at 7 p.m. in the Chanhassen City Hall, 690 Coulter Dr., Chanhassen, to receive public comments on proposed revisions to its regional sewer plan contained in the water resources management chapter of its *Metropolitan Development Guide*.

The proposed amendments provide for 1) the reallocation of sewage flow for several western Lake Minnetonka area communities and 2) the provision of additional sewer service in service area No. 4, including eastern Carver County and southwestern Hennepin County. Two alternative ways of providing sewer service are proposed and one will be selected after the public hearing.

All interested persons are encouraged to review these amendments and to attend the hearing to offer comments. Persons wishing to speak at the hearing should register in advance by contacting Lucy Thompson at 291-6521 by Wednesday, Aug. 28. Written comments may be sent to the Metropolitan Council, 300 Metro Square Bldg., St. Paul, Minn. 55101, Attention: Marcel Jouseau. The Council will accept written comments until Friday, Sept. 13. Copies of the amendments are available free of charge from the Council's Communication Department at 291-6464. Copies are also available for public inspection at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul, Minnesota 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis, Minnesota 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth St.
St. Paul, Minnesota 55102

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, Minnesota 55434

Carver County Library—Chaska Branch
314 Walnut St.
Chaska, Minnesota 55318

Dakota County Library—Burnsville Branch
1101 W. County Rd. 42
Burnsville, Minnesota 55337

Hennepin County Library—Southdale Branch
7001 York Av. S.
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch
2180 North Hamline Av.
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch
235 S. Lewis St.
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch
7520-80th St. S.
Cottage Grove, Minnesota 55106

Sandra S. Gardebring
Chair

Metropolitan Council

Notice of Review Schedule: Amendment to Solid Waste Management Development Guide Policy Plan

The Minnesota Waste Management Act requires the Metropolitan Council to revise its Metropolitan Development Guide/Policy Plan on Solid Waste Management to address certificate of need standards. Metropolitan Council review of this document is in progress. Amendments currently being proposed deal with the inclusion of procedures and standards for issuing certificates of need for new land disposal capacity for mixed municipal solid waste.

The following is a tentative schedule for review of the amendments.

- | | |
|--------------------|--|
| August 20, 1985 | Metropolitan Solid Waste Management Advisory Committee approves draft amendments and recommends public hearing date. |
| August 28, 1985 | Metropolitan Council Environmental Resources Committee approves draft amendments and recommends public hearing date. |
| September 12, 1985 | Metropolitan Council approves draft amendments and sets public hearing date. |
| October 17, 1985 | Public hearing. |
| October 31, 1985 | Hearing record closes. |
| November 12, 1985 | Solid Waste Management Advisory Committee reviews hearing report and recommends adoption of final amendments. |
| November 20, 1985 | Environmental Resources Committee reviews hearing report and recommends adoption of final amendments. |
| December 5, 1985 | Metropolitan Council adopts final amendments. |

This schedule is tentative and subject to change. A subsequent notice of public hearing will be published. If you have questions regarding the schedule or amendments, call Carl Michaud of the Council's Parks and Environmental Planning staff at 291-6579.

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.

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
43-000-06007	Reshape Mine & build Parking Lot—Keewatin Inland Project	Iron Range Resources & Rehabilitation Board	Calumet	Contact buyer
06-000-05420	Upgrade Barrister System	Attorney General	St. Paul	Contact buyer
26-175-06176	Collating System	Southwest State University	Marshall	Contact buyer
04-133-29229	Purchase Computer System	Agriculture	Minneapolis	Contact buyer
12-700-86682	Telephone System	Health Administration—	Minneapolis	Contact buyer
02-410-46558	Maintenance of Computer Equipment	Information Management Bureau	St. Paul	Contact buyer
78-620-25413	Mail Boxes	MN Correctional Facility	Stillwater	Contact buyer
07-300-35857	Cars	Public Safety	St. Paul	Contact buyer
26-073-17759	Liquid Scintillation System	St. Cloud State University	St. Cloud	Contact buyer
07-500-35866	Body Composition Analyzer	Public Safety	New Brighton	Contact buyer
Contract	Blood Alcohol Kits	Public Safety—Criminal Apprehension	St. Paul	\$54,000-55,000
Various	Beauty & Barber Supplies	Vocational Rehabilitation & MN Correctional Facility	St. Cloud	Contact buyer
79-050-16641	Supply & Install Wood Pole Building	Transportation	St. Paul	Contact buyer
Contract	Flags: U.S. and State of Minnesota	Various State Agencies	Various	Contact buyer
26-072-09493	Video Prompter Equipment	Moorhead State University	Moorhead	Contact buyer
Contract	Service Awards	Various	Various	\$75,000-80,000
07-700-34607	Steel for License Plates (Size 12 1/8")	Public Safety	St. Cloud	Contact buyer
Rebid 29-000-40023	Telephone Answering Machine	Natural Resources	Various	Contact buyer
78-630-04447	Heat Sealer	MN Correctional Facility	Oak Park Heights	Contact buyer
Rebid Contract	Tractor Lamps & Lenses	Various	Various	\$3,000-4,000
26-071-15582-1564	TODAY Magazine	Mankato State University	Mankato	Contact buyer
29-000-40570-1582	DANGER! Thin Ice	Natural Resources	St. Paul	Contact buyer
79-000-49243-1684	1985 Great River Road State Map	Transportation	St. Paul	Contact buyer
26-071-15532-1483	Viewbook, 3-Fold ICP, Scholarship Poster	Mankato State University	Mankato	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
07-300-35855	Lease of Automobiles	Public Safety— Criminal Apprehension	St. Paul	Contact buyer
Sch. 93A Rebid 50-000-01001	L.P. Gas Telephone System	Various State Arts Board	Various St. Paul	Contact buyer Contact buyer
29-005-08011	Telephone System	Natural Resources	Rochester	Contact buyer
27-139-46147	Printer & Terminal	Austin Community College	Austin	Contact buyer
55-000-92293	Optical Supplies	Human Services for the Blind	St. Paul	Contact buyer
32-500-12423	Purchase of Photocopy Machine	Pollution Control Agency	Roseville	Contact buyer
79-000-48380, etc. Rebid 27-152- 46304	Quick Couplers Periodical Subscription Service	Transportation Anoka Ramsey Community College	Various Coon Rapids	Contact buyer Contact buyer
60-000-04427	Maintenance of Computer Equipment	Higher Education Coordinating Board	St. Paul	Contact buyer
29-000-40422-1324	Big Game Possession Tag	Natural Resources	St. Paul	Contact buyer
60-000-04464-1329	SELF loan Brochure	Higher Education Coordinating Board	St. Paul	Contact buyer
26-073-18002-1349	OUTLOOK Tabloid	St. Cloud State University	St. Cloud	Contact buyer
55-000-92311-1383	Notice of Action & Grant Calculation	Human Services	St. Paul	Contact buyer
27-148-46641	Typewriters	Rochester Community College	Rochester	Contact buyer
27-000-46495	Carpeting & Install	Lakewood Community College	White Bear Lake	Contact buyer
26-074-10007	Station Line Cards	Winona State University	Winona	Contact buyer
43-000-06074	Rental of Equipment with Operator	Iron Range Resources & Rehabilitation Board	Eveleth	Contact buyer
67-320-11105	Refinishing (Electropainting) of Office Furniture	Revenue	St. Paul	Contact buyer
29-002-10942	Used Air Compressor	Natural Resources	Soudan	Contact buyer
55-105-06954	Environmental Controls Service Contract	St. Peter State Hospital	St. Peter	Contact buyer
78-620-25388	Mailing Machine & Scale	MN Correctional Facility	Stillwater	Contact buyer
02-509-46272	Purchase of Photocopy Machine	Administration— Printing and Mailing	St. Paul	Contact buyer
53-000-01569-1468	Student Edition: Manual	Fiscal Operations	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Economic Security

Contract Available to Write Related Documents for Administrative Rules

The Department of Economic Security is seeking proposals from a person or persons to write related documents for administrative rules to implement programs for the new Department of Jobs and Training.

STATE CONTRACTS

The Department expects the contract to last no more than six months. Approximately \$20,000 is available for this effort. More than one contract may be awarded.

Interested persons must be able to:

- Demonstrate experience in rule writing;
- Knowledge of Human Services and Employment and Training programs; and
- Knowledge of Laws of Minnesota, Special Session Chapter 14, Article 9

Persons who are interested in this contract should submit a letter of application with resume detailing the requested knowledge and experience by August 16, 1985 to:

Mary Ellen Hennen
Minnesota Department of Economic Security
Management Services
390 No. Robert St.
St. Paul, MN 55101

Department of Economic Security Division of Vocational Rehabilitation

Contracts Available for Medical, Psychiatric, and Psychological Services; Psychometric Testing Services; Mobile/Onsite Medical Examination Services (Includes Request for Qualifications); and Medical Teledictation Services

The Minnesota Department of Economic Security, Division of Vocational Rehabilitation is publishing notice that the contracts listed below are available and will be awarded for federal fiscal year 1986 (October 1, 1985 to September 30, 1986):

A. Notice of Proposed Contracts for Medical, Psychiatric, and Psychological Services

1. The Division of Vocational Rehabilitation is seeking an individual to function as the Chief Medical Consultant to provide services under contract as follows:

- a. Provide technical supervision and assistance, and review the work of field office medical consultants;
- b. Analyze the medical service program of the division and make recommendations for program modifications;
- c. Participate in the planning, development, and conduct of in-service training, for both medical consultants and DVR counseling supervisory staff, in the medical aspects of Vocational Rehabilitation;
- d. Assist the agency in the development of forms, procedures and other operational materials that relate to the medical program;
- e. Review individual case material in order to provide advice on diagnosis, prognosis, medical implications and functional limitations resulting from disability;
- f. Represent the agency at meetings of state and local medical societies;
- g. To review and comment on individual medical plans that exceed certain specific cost limitations;
- h. Assist in the recruitment and selection of field office medical consultants.

The medical consultant will be responsible to the Assistant Commissioner for Vocational Rehabilitation with primary administrative direction coming from the Director of Client Services. The individual will be paid at a rate of \$55 per hour. The contract will require an average of 2 to 5 hours per month. Inquiries should be directed to:

James R. House
Director of Client Services
Division of Vocational Rehabilitation
5th Floor
390 North Robert Street
St. Paul, Minnesota 55101

2. The Client Services Section is seeking to employ individuals under contract who will meet with local staff of the section in order to provide them with advice, consultation, and training on medical and psychiatric or psychological aspects affecting the

rehabilitation process for specific clients and for the agency, in general. This section will be seeking at least one medical and one psychiatric or psychological contractor in each of the following locations: Bemidji, Brainerd, Duluth, Fergus Falls, Mankato, Minneapolis, Rochester, St. Cloud, St. Paul, Virginia, Willmar, Worthington, Moose Lake and Anoka. All individuals will be paid at a rate of \$40 to \$60 per hour. Most contract work will require an average of 2 to 4 hours per week. Inquiries should be directed to:

James R. House
Director of Client Services
Division of Vocational Rehabilitation
5th Floor
390 North Robert Street
St. Paul, Minnesota 55101

3. The Social Security Disability Determination Services Section is seeking to employ individuals under contract who will advise and consult with disability examiner staff and others regarding the medical and psychological aspects of impairments including the nature and severity of disease processes, appropriate medical development and case documentation for individual claims, proper application of SSA medical policy and assessment of the claimant's residual level of functioning. The contractor will also be required to certify the claimant's determination of disability as required by the Social Security Administration. The section will be seeking twenty to twenty-four Minnesota licensed medical doctors and five Minnesota licensed consulting psychologists. All services will be utilized in St. Paul. Range of pay is \$32 to \$46 per hour. Contracts will vary from 8 to 20 hours per week and will be for 1 year (10/1/85 through 9/30/86) or 1 year with an option to renew for a 2nd year. Total cost is not expected to exceed \$850,000. Inquiries should be directed to:

Irene Suddard
Assistant Director, Medical Services
Disability Determination Services Section
Division of Vocational Rehabilitation
Suite 200—Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101

B. Notice of Proposed Contract for Psychometric Testing Services

The Client Services Section is seeking a contractor who would provide psychometric testing to about 4,500 disabled clients. The testing would be provided by the contractor in approximately 50 testing locations throughout the State of Minnesota. The contractor would be required to administer any of seven psychometric tests and provide test scores, together with an interpretation of the tests results, within two weeks of the testing date. The cost of the program is approximately \$155,000. Inquiries should be directed to:

James R. House
Director of Client Services
Division of Vocational Rehabilitation
5th Floor
390 North Robert Street
St. Paul, Minnesota 55101

C. Notice for Request for Qualifications and Request for Proposal for Mobile/Onsite Medical Examination Services

The Social Security Disability Determination Services Section is seeking the services of contractors to provide qualified physicians in certain specialties (e.g., orthopedics, neurology, psychiatry) to travel to various Minnesota cities (e.g. St. Cloud, Bemidji, Duluth, Mankato) to perform consultative examinations and requested lab or x-ray studies and to provide written results of these examinations. The division's fee schedule will be used as a guide to determine compensation and fees may not exceed the division's fee maximums. Several contracts will be written. Expenditure for these contracts is not expected to exceed \$180,000. Reimbursement for mileage according to state regulations is provided. The contract period is 10/1/85 through 9/30/86. Inquiries and request for a copy of the RFQ and RFP should be directed to:

Irene Suddard, Assistant Director, Medical Services
Disability Determination Services Section
Division of Vocational Rehabilitation
Department of Economic Security
Suite #200—Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4419

All proposals must be received by 4:30 p.m. 8/23/85.

STATE CONTRACTS

D. Notice for Request for Proposals for Medical Teledictation Service

The Social Security Disability Determination Services Section is seeking the services of a contractor to receive by telephone, transcribe, and deliver medical reports dictated by consulting and treating physicians. Three telephone lines and (3) sets of telerecording equipment are to be used exclusively by this section. Dictation recording equipment are to be provided by the contractor. Compensation is based on a 12-14 (elite type) word line. The contract will run 10/1/85 through 9/30/86 with an additional 1 year option to renew and is not expected to exceed 1,023,000 lines for the period 10/1/85 through 9/30/86 and approximately the same for the period 10/1/86 through 9/30/87. Cost for each year is not expected to exceed \$145,000. Inquiries and request for a copy of the RFP should be directed to:

Irene Suddard, Assistant Director, Medical Services
Disability Determination Services Section
Division of Vocational Rehabilitation
Department of Economic Security
Suite #200—Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4419

All proposals must be received by 4:30 p.m. 8/23/85.

Department of Energy and Economic Development Agricultural Resource Loan Guaranty Board

Request for Proposals for Investment Banking Services

The Minnesota Agricultural Resource Loan Guaranty Board requests proposals from qualified investment bankers or other interested financial institutions who wish to work with the board in the development and implementation of innovative financing programs for agricultural resources.

The Minnesota Agricultural Resource Loan Guaranty Board was created by the 1984 Minnesota State Legislature. It is authorized by Minnesota State Statute to further the development of the state's agricultural resources and improve the market for its agricultural products by providing attractive financing programs and other financial incentives for businesses wishing to begin or expand operations within the State of Minnesota. A copy of the authorizing legislation is available upon request.

Applicants who submit proposals that are adopted by the board will have the opportunity to enter into contracts with businesses served by the board for the financing of agricultural business start-ups and expansions. These applicants will benefit through the payment of customary fees and commissions on such contracts. Applicants must be willing to work closely with the board in the development of financial packages for individual businesses.

Proposals should draw upon the firm's own experience in designing and implementing similar financial programs in Minnesota or other states as well as embody the firm's most innovative thinking about new financing approaches. Proposals should identify the particular program or programs and where they are in use today. They should state the length of the program's operation, who actually implemented the program, and the results in terms of the amount of financing and number of businesses served.

Proposals also should address different financing methods under which the program can operate. Such methods might include: 1. segregated reserve accounts on individual projects; 2. a common bond reserve fund; 3. loan guarantees to financial institutions and/or institutional investors; 4. suggestions for increasing the amount of monies in the program fund through foundations or other grant sources; and 5. any other ideas an applicant may have for program operation. Proposals will be reviewed by the board. The board may adopt more than one proposal for different projects with the intention of working with one or more such firms to implement the specific proposal. A two-page executive summary is required for each proposal submitted.

Applicants must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Applications can be obtained by written request from the Minnesota Department of Human Rights, Fifth Floor, Bremer Building, St. Paul, MN. 55101. All contract bids must include a statement indicating that the bidder has applied for the certificate.

Proposals should be addressed to: Mr. Frank Altman, Assistant Commissioner, Minnesota Department of Energy and Economic Development, 900 American Center, 150 East Kellogg Boulevard, St. Paul, Minnesota, 55101. The board reserves the right to reject any and all proposals and not to proceed with the program. All proposals must be received by 4:00 p.m. August 9, 1985. No late proposals will be accepted.

Department of Energy and Economic Development Energy Finance Division

Request for Proposals for Consultants for District Hearing Projects

The Department of Energy and Economic Development (DEED), Energy Finance Division, is seeking consultants or a firm with experience in the legal, financial and engineering fields to provide consulting work to district hearing projects in Minnesota on a retainer basis. The consultant selected must have experience or extensive knowledge in the district heating field.

Types of services which consultants may be expected to perform include but are not limited to the following: reviewing and providing advice on contracts or service agreements used by the district hearing utility assistance in analyzing the financial feasibility of projects, attending and/or facilitating contract negotiations meetings, reviewing district hearing loan applications, making recommendations to DEED on specific policy questions, and on-site assistance in communities as needed. These services, which will be provided under contract, are outlined in detail in the Request for Proposals, which may be obtained from:

Mary Lesch-Gormley
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-2324

The retainer contract will not exceed \$40,000 and will remain in effect until June 30, 1986. Consultants currently under contract with the DEED Phase II grant recipients or loan applicants will not be eligible. The deadline for submission of proposals will be 4:30 p.m. Friday, August 30, 1985.

Metropolitan Council

Request for Proposals for Consultant Services to Conduct Economic Feasibility Study Related to Tall Broadcast Towers

Notice is hereby given that the Metropolitan Council of the Twin Cities Area is soliciting proposals for entering into a contract for the preparation of a needs analysis and economic feasibility study of constructing a self-supporting tall tower in the Twin Cities Metropolitan Area of similar size (approx. 2,000 feet tall), shape and materials as the CN (Canadian National) Tower in Toronto, Canada. The study will require knowledge and expertise in the areas of planning, economic/market feasibility analysis, fiscal analysis, and telecommunications.

A maximum compensation for consultant services has not been established, but the estimated total compensation (services plus expenses) is expected to be around \$50,000. The contract period is expected to be five months or less, beginning in late September 1985.

The Council will not discriminate in the selection of consultants on the basis of race, color, creed, religion, national origin, sex, affectional or sexual preference, age, political affiliation, marital status, or status with regard to public assistance or disability. The Council does encourage minority business enterprises and firms having effective, implemented affirmative action programs to submit proposals.

Deadline for receipt of proposals is September 3, 1985 at 4 p.m. A copy of the Request for Proposal may be obtained from: Irene Massman, Planning Assistance Department, Metropolitan Council, 300 Metro Square Building, Saint Paul, Minnesota 55101. Tel. 612/291-6415.

Department of Natural Resources

Request for Proposals for Health and Safety Services

The Minnesota Department of Natural Resources is seeking proposals from individuals or organizations to assist the Department's Safety and Health Officer in developing, writing and implementing the following:

- 1) Develop and write contents for the DNR Safety and Health Manual.
- 2) Develop and write a supervisor/employee communication program consisting of a poster or bulletin with a suggested supporting supervisors guide for reviewing with employees.

STATE CONTRACTS

3) Develop a computer software program of DNR Safety and Health statistics.

Prospective responders who have any questions regarding this request for proposal may call, write or submit proposal to:

John Ostrowski
Health and Safety Officer
Dept. of Natural Resources
1200 Warner Road
St. Paul, MN 55016
(612) 296-9244

Proposals will be accepted until 4:30 p.m. August 26, 1985.

Estimated amount of the contract is not to exceed \$15,000.

State Designer Selection Board

Request for Proposals for State Projects

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select designer a project at the State Capitol. Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., August 20, 1985, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administrative Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e., corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
 - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
- c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

**7) PROJECT—12-85
Renovation, Cleaning, Tuckpointing and
Repair of Dome and Lantern
State Capitol Building
St. Paul, Minnesota**

Project Description:

a) **General:** The project is a combination of three related appropriations all dealing with the repair and renovation of the Capitol. The first, renovate Capitol Building, is an interior project which concentrates on the rehabilitation and restoration of the Senate Chamber, Retiring room and some Senate office space. The second, repair Capitol dome and lantern, is an interior/exterior project to correct structural deterioration; and the third, clean and tuckpoint Capitol; is an exterior project consistent with a maintenance and preservation program.

Total Estimated Project Cost:

Renovate Capitol Building	- \$1,318,000.00
Repair Capitol Dome and Lantern	- 462,000.00
Clean and Tuckpoint Capitol	- <u>250,000.00</u>
	\$2,030,000.00

b) Project Details:

1. Renovate Capitol Building: This stage of the renovation project is concerned primarily with the Senate Chamber and its retiring room. According to a spectograph analysis of the original colors it is the intent to refinish the wall and ceiling surfaces to their original appearance. The sound system will be improved and the lighting will be upgraded. Also, the murals will be cleaned and restored and new carpeting and chairs will be provided according to historical research. Also, some office space will be prepared for Senate Council, research and caucus research.

2. Repair Capitol Dome and Lantern: This portion of the project is concerned with repair of deteriorated areas in the dome and lantern. In addition to obvious surface damage an extensive investigation is in progress to uncover whatever structural damage has occurred within the three dome system and the necessary repair of any inner structural areas will also be undertaken accordingly.

3. Clean and Tuckpoint Capitol: The exterior of the building will be washed down to reduce chemical deterioration of the stone. The stone joints will be tuckpointed as necessary to keep the surface weather tight. The exterior was last cleaned in 1975 and industry recommendations are for periodic cleaning every 3 to 5 years depending upon local conditions.

c) Work to be performed by the Designer:

1. The work includes a combination of historical research, interior design, structural analysis, electrical design and masonry cleaning and repair. It will be the charge of the architect to coordinate preservation work with current technology. The project may be separated into various prime areas and the designer must perform services consistent with remodeling tasks including accurate research and investigation; schematics and construction documents; administration of bidding, construction contracts, supplemental agreements, etc.; and construction observation and inspections. It will be a requirement that the designer have good experience and knowledge of historical preservation as it relates to remodeling and restoration.

STATE CONTRACTS

d) Architects Fee for the Work:

1. According to department policy the fee established for this size and type of project is 8% of the construction cost which then translates to a figure of approximately \$150,000.00.

Questions concerning this project may be referred to Jerry Robinson at 296-4648.

John D. Nagel, Chairman
State Designer Selection Board

SUPREME COURT

Decisions Filed Friday, July 26, 1985

Compiled by Wayne O. Tschimperle, Clerk

C3-85-349 Victor Woelfel, Relator, v. Plastics, Inc. and Travelers Insurance Co., and Minnesota Department of Public Welfare. Workers' Compensation Court of Appeals.

When an employer-insurer filed a notice of intention to discontinue payment of compensation, but did not comply with all requirements of Minn. Stat. § 176.241, subd. 1(1980), relating to the notice, their liability to pay compensation did not continue as a matter of law either indefinitely or to the time of the hearing on the employee's objection to discontinuance. The liability of the employer-insurer continued so long as the employee was temporarily totally or temporarily partially disabled if his work injury caused or was a substantial contributing factor in his continuing disability.

Affirmed. Amdahl, C.J.

C6-85-507 State of Minnesota v. George Thomas, etc., Appellant. Court of Appeals.

Court of Appeals has authority, under Minn. R. Crim. P. 28.02, subd. 4(3), to grant a criminal defendant an extension of time to file an appeal from a judgment of conviction that raises only a sentencing issue.

Petition granted, order reversed and case remanded for further proceedings. Amdahl, C.J.

C1-84-274 Patricia Meyer v. Illinois Farmers Insurance Group and Harvey Meyer, Petitioners, Appellants. Court of Appeals.

Underinsured coverage is not imposed by Minn. Stat. § 65B.49, subd. 6(e) (1978), for injuries suffered in a one-vehicle accident under the same policy insuring the same vehicle from which liability benefits are payable.

Reversed. Peterson, J.

Dissenting, Yetka, J., and Scott, J.

C3-83-1948 David A. Beukhof, Petitioner, Appellant, v. State Farm Automobile Insurance Company. Court of Appeals.

A pedestrian-motorcycle accident does not fall within the scope of statutorily mandated underinsured motorist coverage. For purposes of implied-in-law underinsured coverage, an automobile must be involved in the accident.

The court of appeals was correct in refusing to impose the policy provisions when implying coverage by law to a pedestrian-motorcycle accident.

Affirmed. Scott, J.

Took no part, Coyne, J.

CX-83-585 Wayne Gilbert, et al., v. Billman Construction, Inc.; St. Louis County Health Department, et al., Appellants. St. Louis County.

The "public duty" doctrine has no application under the facts and circumstances of this case. The trial court properly submitted the issue of the county's liability to the jury.

The evidence in this case reasonably tends to support the jury's finding of negligence and apportionment of fault both as to the county and as to Billman.

The trial court did not err in admitting certain evidence at trial and in giving certain instructions to the jury on the measure of damages appropriate in this case.

Affirmed. Wahl, J.

C3-84-1250 In the Matter of the Application for the Discipline of Thomas C. Dillon, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Per Curiam.

ERRATA

Higher Education Coordinating Board

Correction of Proposed Emergency Rules Relating to Education; Financial Aid, Grants, Part-time Students

An error occurred in the July 15, 1985 issue of the *State Register*, Volume 10, Number 3, pages 90-92 (10 S.R. 90). The error occurred on page 91 in the final paragraph of the Notice of Proposed Adoption of Emergency Rule, and gave the wrong date. The corrected date and line should read:

“The emergency rule will take effect five working days after approval by the Attorney General and may be effective until June 30, 1986.”

This change affects the following rules:

4830.1000-.1500 (proposed supercession); and

4830.1550-.1556 [Emer] (proposed).

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

- _____ Annual subscription \$130.00
- _____ Trial subscription (13 weeks) \$40.00
- _____ Single copies \$3.25 each

Minnesota Guidebook to State Agency Services 1984-85. A 623-page guide to services provided by Minnesota agencies.

- _____ Single copy: \$12.50 + \$.75 tax = \$13.25* each

Minnesota Statutes 1984. 10-volume set.

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