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STATE OF MINNESOTA

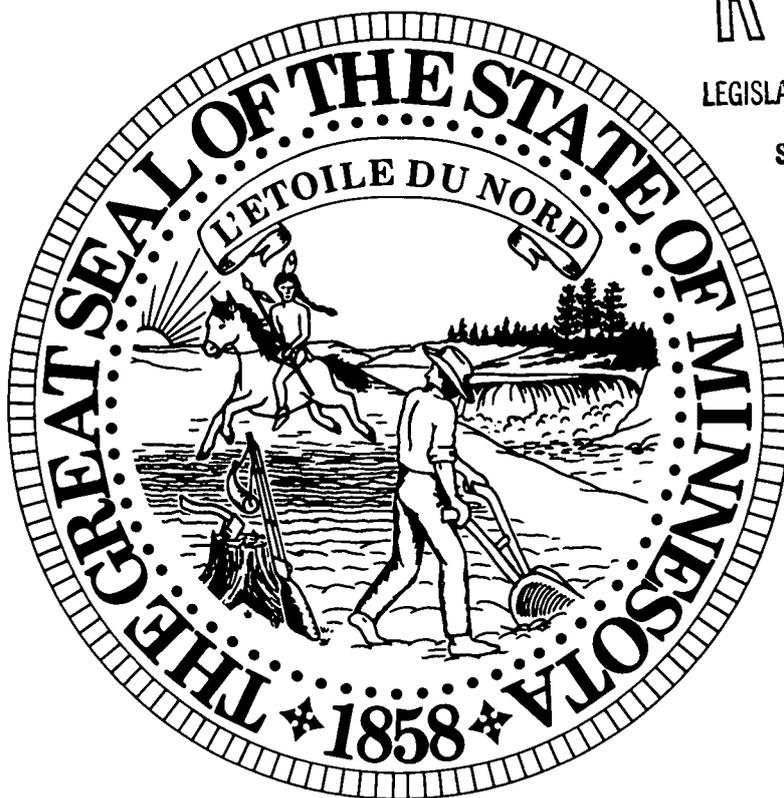
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STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

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, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
35	Monday 16 February	Monday 23 February	Monday 2 March
36	Monday 23 February	Monday 2 March	Monday 9 March
37	Monday 2 March	Monday 9 March	Monday 16 March
38	Monday 9 March	Monday 16 March	Monday 23 March

*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 *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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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:

- 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 requested by an agency.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

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

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

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

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

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issues 27-38, inclusive	

MINNESOTA RULES

Amendments and Additions

NOTE: This listing includes all proposed and adopted rules printed in this issue except emergency rules and errata for this issue. Please see those sections for the appropriate rule numbers.

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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 Labor and Industry

Adopted Permanent Rules Relating to Workers' Compensation; Division Rules of Practice

The rules proposed and published at *State Register*, Volume 10, Number 38, pages 1881-1905 (10 S.R. 1881) and Volume 10, Number 49, pages 2388-2399 (10 S.R. 2388) are adopted with the following modifications. The entire rule containing all amendments is reprinted below.

Rules as Adopted

5220.2510 SCOPE AND PURPOSE.

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

5220.2520 DEFINITIONS.

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

Subp. 2. Commissioner. "Commissioner" means the commissioner of the Department of Labor and Industry.

Subp. 2 3. Days. "Days" refers to calendar days unless otherwise indicated.

Subp. 4. Department. "Department" means the Department of Labor and Industry.

Subp. 5. Division. "Division" means the Workers' Compensation Division of the Department of Labor and Industry.

Subp. 3 6. Health care provider. "Health care provider" has the meaning given it in Minnesota Statutes, section 176.011, subdivision 24.

Subp. 4 7. Insurer. "Insurer" includes self-insured employers.

Subp. 8. Office. "Office" means the Office of Administrative Hearings.

Subp. 5 9. Permanent total disability. "Permanent total disability" means that after completion of medical and vocational assessment and any applicable rehabilitation, and after consideration of the employee's age, physical restrictions, transferable skills, and economic factors in the employee's employment community, the employee has not found and cannot be reasonably expected to find suitable gainful employment.

Subp. 6 10. Section. "Section" refers to the Rehabilitation and Medical Services Section of the Workers' Compensation Division of the Department of Labor and Industry.

5220.2530 FIRST REPORT OF INJURY.

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

A. ~~the name, address, telephone number, date of birth, and social security number of~~ information identifying the employee, employer, insurer, and any adjusting company;

B. ~~the name, address, and telephone number of the insurer and any adjusting company~~ claim numbers or codes;

C. ~~the name, address, and telephone number of the employer if different than item B~~ information regarding all wages paid to the employee from any source;

D. the date of the claimed injury or disease information regarding employment status and the job held at the time of injury;

E. information regarding the circumstances of the injury, including the date, place, time, persons or objects involved, the date notice was received by the employer or insurer's claim number, and the name of the person who received notice;

F. the employee's wage information and the amount and type of any other compensation being paid to the employee a description of the claimed injury and how and where it occurred;

G. the employee's job title and employment status information regarding lost time from work;

H. the name of any other current employer of the employee and the employee's wage rate with the other employer information identifying the treating physician;

I. a description of the claimed injury, including the nature of the injury, the type of accident, the object involved in the accident, and the part of the body affected; information identifying the employee's next of kin if the injury or disease has resulted in the death of the employee; and

J. where the injury occurred;

~~K. the date notice was received by the employer and the name of the supervisor who received notice;~~

~~L. whether the employee lost time from work due to the injury and the amount of time lost;~~

~~M. the name and address of the employee's treating physician;~~

~~N. the name and address of the employee's next of kin if the injury or disease has resulted in the death of the employee;~~
and

~~O. the signature of verification by the employer or the employer's authorized representative and the date of submission to the insurer.~~

Failure to file the report in a timely manner may result in the assessment against the employer of the penalty set out in part 5220.2820 and against the insurer of the penalty set out in part 5220.2770.

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

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

A. notice to or knowledge by the employer of an injury compensable under the act;

B. notice to or knowledge by the employer of a new period of lost time due to a previous work-related injury unless an extension is requested under Minnesota Statutes, section 176.221, subdivision 1; or

C. an order by the division, compensation judge, or workers' compensation court of appeals requiring payment of benefits which is not appealed.

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

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

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

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

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

ADOPTED RULES

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

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

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

5220.2550 PAYMENT OF PERMANENT PARTIAL DISABILITY, INCLUDING IMPAIRMENT COMPENSATION AND ECONOMIC RECOVERY COMPENSATION.

Subpart 1. **Time of payment.** Permanent partial disability must be paid at the time specified in Minnesota Statutes, sections 176.021 and 176.101. When permanent partial disability compensation is being paid periodically following the payment of temporary total benefits or following or concurrent with the payment of temporary partial benefits, the payments must be continued without interruption at the same intervals that the temporary benefits were paid. When the employee reaches maximum medical improvement, the insurer must request an initial assessment of any permanent partial disability from the employee's physician.

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

- (1) make a lump sum payment or begin periodic payments to the employee; or
- (2) inform the employee in writing of the disability rating and the time when the permanent partial disability payment will be payable under the statute.

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

- (1) make a minimum lump sum payment or begin periodic payments based on no less than the lowest available medically documented rating; and
- (2) notify the employee in writing that an adverse medical examination has been scheduled and the date, time, and place of the examination. The disability rating must be determined and any remaining permanent partial disability payments made or periodic payment begun, within 120 days of the insurer's receipt of the initial medical report containing a permanency rating; or

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

Subp. 2. Notice to division.

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

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

- (1) the name, address, and social security number of information identifying the employee, employer, insurer, and any adjusting company;
- (2) the name and address of the insurer and any adjusting company claim numbers or codes;
- (3) the name date of the employer injury;
- (4) the date an explanation of the claimed injury amount, type, and time of payment of permanent partial disability benefits, including the legal authority for the rating;
- (5) the employer or insurer's claim number monitoring period information;

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

(7) the number of weeks in the monitoring period under Minnesota Statutes, section 176.101, subdivision 3; information regarding possible future permanent partial disability payments;

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

(9) a statement of whether the payment is a preliminary or final payment copies of medical reports containing disability ratings;

(10) a summary of previous permanent partial disability payments; verification by the insurer, including the name and telephone number of the person making the decision to pay benefits; and

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

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

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

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

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

5220.2560 ATTACHMENT AND GARNISHMENT OF BENEFITS.

Workers' compensation benefits are not subject to attachment or garnishment, although they may be withheld under Minnesota Statutes, sections 518.54, subdivision 6 and 518.611, and paid for child support or spousal maintenance. If the other requirements of those statutes are met, the insurer shall file with the division a statement of the amount being withheld from the employee's benefits and paid to the county or obligee, a copy of the order for withholding of income, and verification of payments made.

5220.2570 DENIALS OF LIABILITY.

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

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

A. the name, address, and social security number of information identifying the employee, employer, insurer, and any adjusting company;

B. the name and address date of the insurer and any adjusting company claimed injury;

C. the name of the employer claim numbers or codes;

D. the date signature, name, and telephone number of the claimed injury person who made the determination;

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

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

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

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~~H.~~ the address and telephone number of the division for the employee to contact for further information;

~~I.~~ instructions to the employee on the availability of rehabilitation benefits; and

~~J.~~ instructions to the employee regarding, including the availability of rehabilitation benefits, the statute of limitations for filing a workers' compensation claim, and the address and telephone numbers of division offices the employee may contact for information.

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

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

A. the name, address, and social security number of information identifying the employee, employer, insurer, and any adjusting company;

B. the name and address date of the insurer and any adjusting company claimed injury;

C. the name of the employer claim numbers or codes;

D. the date signature, name, and telephone number of the claimed injury; person who made the decision; and

E. the employer or insurer's claim number;

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

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

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

A. the name, address, and social security number of information identifying the employee, employer, insurer, and any adjusting company;

B. the name and address date of the insurer and any adjusting company claimed injury;

C. the name of the employer claim numbers or codes;

D. the date signature, name, and telephone number of the claimed injury; person who made the decision; and

E. the employer or insurer's claim number;

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

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

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

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

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

B. A denial of liability under subpart 3 must be filed in accordance with part 5220.2630, subpart 4.

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

Subp. 8. **Rejection of denials.** If a denial of liability does not provide specific reasons for the denial, the division may reject it within seven days of receipt and inform the denying party, in writing, of the right to submit a new denial. A copy of the rejection

letter must be sent to the employee. An appropriately corrected denial that is filed within seven days of service of the division's rejection memo is considered filed as of the date of original filing.

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

5220.2580 CLAIM FOR REFUND FROM EMPLOYEE OR DEPENDENT.

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

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

- A. amount of alleged overpayment;
- B. what the original payment was made for;
- C. the date on which the payment was made;
- D. the mistake of fact or law which forms the basis for the claimed overpayment; and
- E. a statement informing the employee that, if the employee has any questions regarding the legal obligations to repay any claims for overpayment alleged to have not been received in good faith, the employee should contact either a private attorney or the division.

5220.2590 MEDICAL REPORTS.

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

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

- A. ~~a caption containing the patient's social security number, date of claimed injury, and name and address of~~ information identifying the patient and employer, if known;
- B. ~~the name of the patient state file number;~~
- C. ~~the address dates of the patient treatment or examination;~~
- D. ~~the history, including the date of first examination by the reporting physician injury or disease as given by patient;~~
- E. ~~the date of last examination findings, including test results;~~
- F. ~~the history and date of injury or disease as given by patient a preliminary diagnosis and code number;~~
- G. ~~the findings: results of exam, lab work, X-rays~~ information regarding the relationship of the injury or disease to the employment activities and the ability of the employee to work, specifying any work restrictions and dates of disability;
- H. ~~a preliminary diagnosis and International Classification of Diseases-9 code number~~ information regarding the need for rehabilitation services;
- I. ~~whether the injury or disease was caused, aggravated, or accelerated by the patient's employment activity~~ predictions regarding possible permanent disability;
- J. ~~whether this injury or disease prevented the patient from working, and if so, whether the patient is totally unable to work or able to work with restrictions~~ information regarding any related preexisting condition;
- K. ~~if the patient is disabled, the dates of the disability and any work restrictions~~ the need for further medical care;
- L. ~~whether an early rehabilitation assessment is recommended~~ information on hospitalizations and surgery, if any;

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M. ~~whether permanent disability is likely, if so, what percentage disability to the whole body is likely~~ information identifying any physician to whom the patient was referred;

N. ~~whether the patient had a preexisting condition which affected the current disability, if so, describe~~ any additional remarks or information;

O. ~~whether any further medical care is necessary;~~ certification of the report; and

P. ~~whether the patient was hospitalized and the name and address of the hospital;~~

~~Q. the date of admission to the hospital, if any;~~

~~R. whether surgery has been performed;~~

~~S. the name and address of any physician to whom the patient was referred;~~

~~T. any additional remarks or information;~~

~~U. certification of the report; and~~

~~V. the physician's signature including a typed name, license number, address, and telephone number of the physician and~~ identification information.

If a physician's first report is not submitted within ten days of a written request, the division may assess a penalty under Minnesota Statutes, section 176.231, subdivision 10 and part 5220.2830, subpart 1. Failure to release existing medical data may also result in assessment of a penalty under part 5220.2810.

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

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

B. ~~the name of the patient~~ state file number;

C. ~~the address of the patient;~~

~~D. the date maximum medical improvement (date after which no further significant recovery from or lasting improvement to a personal injury can reasonably be anticipated) was reached;~~

~~E. D. the diagnostic conclusion and International Classification of Diseases-9 code number;~~

~~F. E. information regarding the permanent partial disability rating as a percent of impairment to the body as a whole from the Minnesota workers' compensation permanent partial disability schedule and the section number and the name of the whole body schedule from which the rating was taken;~~

G. ~~F. whether the patient will medically be able to resume former employment;~~

~~H. G. whether the patient had a~~ information regarding any preexisting condition which affected the current disability; if so, describe conditions;

~~I. H. whether information regarding surgery has been performed and if so, an explanation;~~

~~J. I. whether information regarding further medical treatment is advised;~~

~~K. J. any additional remarks or information;~~

~~L. K. the certification of the report; and~~

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

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

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

5220.2610 ADMINISTRATIVE CONFERENCES.

Subpart 1. **Scope.** This part governs administrative conferences conducted under Minnesota Statutes, sections 176.102, 176.103,

176.242, 176.2421, and 176.243, and applies to all medical, rehabilitation, discontinuance, and return to work conferences conducted by the division.

Subp. 2. **Notice.** The division must promptly notify the parties of the date, time, and place of the conference. The qualified rehabilitation consultant, if one is assigned, must be notified of a rehabilitation conference. The special compensation fund must be notified of all administrative conferences where the fund is reimbursing benefits to an insurer or self-insurer under Minnesota Statutes, section 176.131 or 176.132, or a claim has been made under the above referenced statutes against the fund for benefits by any of the parties, or the fund is paying benefits under Minnesota Statutes, section 176.191. The notice must explain the purpose of the conference. Telephone notice is sufficient for a discontinuance or return to work conference if timely service of notice by mail cannot be made.

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

Subp. 4. **Presiding official.** Conferences must be conducted by an impartial designee of the commissioner. The presiding official shall explain the purpose of the conference and the format to be followed. The presiding official may ask questions of the participants. Questioning of one party by other parties may be allowed at the discretion of the presiding official. The presiding official may halt questioning that is argumentative, harassing, intimidating, confusing, or designed to trick a participant.

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

5220.2620 MEDICAL CONFERENCES.

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

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

- A. the reasonableness of a fee for health care services;
- B. the reasonableness and necessity of medications, health supplies, articles, and equipment;
- C. the failure to pay a bill for health care services, treatment, equipment or supplies, or other health care under Minnesota Statutes, section 176.135, subdivision 1;
- D. the reasonableness and necessity of treatment;
- E. the need for a second opinion prior to surgery;
- F. a request for change of physician;
- G. the employee's cooperation with medical treatment;
- H. the inability to secure a health care provider report;
- I. the reasonableness and necessity of nursing services;
- J. the appropriateness of a medical service;
- K. the relationship of the health care to the work injury;
- L. whether treatment for a medical condition is required as a result of a work-related injury;
- M. the assessment of penalties for untimely response to medical billings; and

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N. other problems related to medical treatment and supplies.

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

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

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

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

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

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

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

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

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

A compensation judge may approve a stipulation for settlement of medical issues under part 1415.2000. If the medical issues are not resolved by agreement at the hearing, the matter must be immediately referred to the division to set for an administrative conference. An administrative conference in accordance with this part will be scheduled if conciliation is not attempted or is unsuccessful. If evidence was presented at the hearing related to medical issues under part 1415.2900, subpart 3, item F, which a party wishes considered at the conference, that party shall identify the portion of the hearing record to be considered. At the conference, the parties must submit the information they wish to be considered.

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

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

A. unavailability of the insurer's representative because of engagement in another court or otherwise, unless all representatives practicing in the workers' compensation field are committed elsewhere, or unless all parties, including the employee personally, agree to a continuance and the continuance is requested at least ten business days before the conference; and

B. unavailability of the employee's representative because of engagement in another court or otherwise, unless the representative's associates practicing in the workers' compensation field are all committed elsewhere, or unless all parties, including the employee personally, agree to a continuance and the continuance is requested at least ten business days before the conference.

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

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

Subp. 11. **Appeal.** An appeal of the decision shall be as provided in part 5217.0030 (joint rules for the rehabilitation review panel and the medical services review board) or to a compensation judge if the issue is medical causation. The issues appealed will be the subject of a new hearing by the Rehabilitation Review Panel, Medical Services Review Board, or Compensation Judge.

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

5220.2630 DISCONTINUANCE OF COMPENSATION.

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

Subp. 2. Petition.

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

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

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

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

Subp. 3. Notice of discontinuance.

A. The employer or insurer may discontinue the benefit indicated by the filing of a notice of discontinuance with the division and service of the notice on the other parties at the time that the payment or return-to-work occurs when the discontinuance results from:

- (1) a return to work;
- (2) a lump sum payment of full permanent partial disability compensation;
- (3) a final periodic payment of impairment compensation or economic recovery compensation;
- (4) a final payment under an award, order, or stipulation; or
- (5) for injuries occurring before August 1, 1975, where the employee is not permanently totally disabled, a final payment

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of temporary total disability or for injuries occurring before May 28, 1977, a final payment of temporary partial disability based on a statutory maximum number of weekly payments.

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

(1) the name, address, and social security number of information identifying the employee, employer, insurer, and any adjusting company;

(2) the name and address date of the insurer and any adjusting company injury or disease;

(3) the name of the employer claim numbers or codes;

(4) the date of the claimed injury or disease type of benefits being reduced or discontinued;

(5) the employer or insurer's claim number effective date of the discontinuance;

(6) the type of benefits being reduced or discontinued reason for the discontinuance, stated in language easily readable and understandable to a person of average intelligence and education and in sufficient detail to inform the employee of the factual basis for the discontinuance;

(7) the effective date of the discontinuance information regarding previous benefits paid and previous awards of benefits;

(8) the reason for the discontinuance, stated in language easily readable and understandable to a person of average intelligence and education and in sufficient detail to inform the employee of the factual basis for the discontinuance information regarding attorney fees;

(9) if the notice indicates a final payment, the document which awarded or indicated the amount of compensation to be paid must be specified information regarding permanent partial disability ratings received;

(10) the benefits previously paid, indicating date the type of compensation and the applicable compensation rate or rates notice was served on the employee;

(11) attorney fees withheld and paid verification and information identifying the person making the decision to discontinue benefits;

(12) total instructions to the employee including who to contact for information regarding the discontinuance and how to request a formal hearing before a compensation paid judge;

(13) whether permanent partial disability ratings have been received; copies of relevant medical reports; and

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

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

(16) instructions to the employee including who to contact for information regarding the discontinuance and how to request a formal hearing before a compensation judge;

(17) copies of relevant medical reports in the insurer's possession bearing on the employee's current medical condition;
and

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

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

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

Subp. 4. Notice of intention to discontinue benefits.

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

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

- (1) the name, address, and social security number of information identifying the employee, employer, insurer, and any adjusting company;
- (2) the name and address date of the insurer and any adjusting company injury or disease;
- (3) the name of the employer claim numbers or codes;
- (4) the date type of the claimed injury or disease benefits being discontinued;
- (5) the employer reason or insurer's claim number reasons for the proposed discontinuance, stated in language which may easily be read and understood by a person of average intelligence and education, and in sufficient detail to inform the employee of the factual basis for the discontinuance;
- (6) the type effective date of benefits being discontinued the discontinuance;
- (7) the reason or reasons for the proposed discontinuance, stated in language which may easily be read and understood by a person of average intelligence and education, and in sufficient detail to inform the employee of the factual basis for the discontinuance information regarding benefits previously paid;
- (8) the effective date of the discontinuance information regarding attorney fees;
- (9) the benefits previously paid, indicating the type of compensation and the applicable compensation rate or rates information regarding permanent partial disability ratings;
- (10) attorney fees withheld and paid the date the notice was served on the employee;
- (11) total compensation paid verification and information identifying the person making the proposal to discontinue benefits;
- (12) whether permanent partial disability ratings have been received instructions to the employee;
- (13) the date the notice was served on the employee; copies of relevant medical reports; and
- (14) the name, telephone number, and signature of the person making the decision to discontinue benefits;
- (15) instructions to the employee detailing when and how to request an administrative conference, how to file an objection to discontinuance, who to contact for information about the discontinuance, how the employee's action or inaction will affect the continuation of benefits;
- (16) copies of medical reports bearing on the employee's current medical condition which support the discontinuance;
and
- (17) copies of any other relevant documents. Supporting documents must be attached to all copies of the discontinuance notice served.

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

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

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

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

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

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5220.2640 DISCONTINUANCE CONFERENCES.

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

Subp. 2. **Request.** The employee may request that the division schedule an administrative conference to discuss a proposed discontinuance of benefits. The employee's request for a conference must be received by personally delivered, mailed, or telephoned to the department no later than ten calendar days from the date a notice of intention to discontinue benefits was received by the division. The request is presumed mailed on the date indicated by the United States postmark. A request which does not include a legible United States postmark is presumed timely requested if received by the division no later than 13 days from the date a notice of intention to discontinue benefits was received by the division. Allowance will be made, if appropriate, for nonreceipt or delay under Minnesota Statutes, section 176.285.

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

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

Subp. 3. Continuation of benefits.

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

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

C. If an employee's request for a continuance under subpart 5 is granted and the employee is awarded ongoing benefits, benefits must be paid during the period of continuance through the date of the conference and continuing. If the employee's request for a continuance is granted and the employee is not awarded benefits, benefits need not be paid during the period of continuance. If the employer or insurer requested the continuance, benefits must be paid during the period of continuance. If the employee and insurer's joint request for a continuance is granted, benefits must be paid during the period of continuance unless the employee agrees in writing to waive the interim payment and await a decision regarding payment under subpart 7 following the administrative conference.

Subp. 4. **Scheduling.** Subject to subpart 5, a discontinuance conference must be set within the time limits set by this subpart. Following a notice of intention to discontinue benefits, the division shall schedule an administrative conference no later than ten calendar days after the division's receipt of a timely request for a conference. If no notice of intention to discontinue benefits was filed as required by part 5220.2630 and the employee requests a conference, the division shall schedule a conference no later than ten calendar days after the division's receipt of the employee's request if the conference request is received within 40 days from the date the employee's last benefit payment was received. If no notice of intention to discontinue benefits has been filed where an employer or insurer requests a conference, the division shall schedule an administrative conference to be held no later than 30 days after receipt of the request.

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

A. Good cause does not include:

(1) a party's lack of actual notice of the conference date and time when that party requested the conference and the notice was properly served on the party, or unless all parties, including the employee personally, agree to a continuance and the continuance is requested at least ten business days before the conference;

(2) unavailability of the insurer's representative because of engagement in another court or otherwise, unless all representatives practicing in the workers' compensation field are committed elsewhere, or unless all parties, including the employee personally, agree to a continuance and the continuance is requested at least ten business days before the conference; and

(3) unavailability of the employee's representative because of engagement in another court or otherwise, unless the representative's associates practicing in the workers' compensation field are all committed elsewhere, or unless all parties, including the employee personally, agree to a continuance and the continuance is requested at least ten business days before the conference.

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

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

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

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

Subp. 9. **Penalties.** Penalties may be imposed for an improper discontinuance of compensation under Minnesota Statutes, section 176.242, subdivision 10, and part 5220.2720 and for unreasonable or inexcusable delay or other grounds under Minnesota Statutes, section 176.225, subdivisions 1 and 5, and ~~part~~ parts 5220.2760 and 5220.2790.

5220.2650 RETURN TO WORK CONFERENCES.

Subpart 1. **Purpose.** The purpose of an administrative conference under Minnesota Statutes, section 176.2421 or 176.243, is to resolve disputed issues regarding payment of compensation following an employee's return to work. The conference is an informal procedure to encourage discussion, clarify issues, and reach agreement or obtain resolution by a decision of the division. If all affected parties consent, rehabilitation or medical issues may also be discussed, clarified, and a decision issued under Minnesota Statutes, sections 176.102 and 176.103.

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

Subp. 3. **Notice regarding employment and wages.** Upon completion of a 14-day employment and wage confirmation but no later than ten days following the 14-day check under Minnesota Statutes, section 176.243, if the employee is not working or is earning a lower wage than at the time of injury, the insurer must file a notice regarding employment and wages. The notice must be accompanied by the form prescribed by the commissioner to request an administrative conference to object to the action taken, containing the items listed in subpart 4. The notice must be fully completed and on the form prescribed by the commissioner, containing substantially the following:

A. ~~the name, address, and social security number of~~ information identifying the employee, employer, insurer, and any adjusting company;

B. ~~the name~~ date of the employer injury or disease;

C. ~~the date of injury~~ claim numbers or disease codes;

D. ~~the insurer's claim number~~ date on which the employee was contacted;

E. information regarding employment status on the contact date on which the employee was contacted;

F. ~~whether or not the employee was employed~~ information regarding the weekly wage on that the contact date and at the time of the injury;

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G. the weekly wage on the contact date and whether the wage is less than, the same as, or greater than the wage at the time of the injury action to be taken by the insurer regarding payment of compensation;

H. the action to be taken by the insurer regarding payment of compensation date the notice was served on the employee;

I. the date the notice was served on the employee verification and information identifying the person making the decision of the action to be taken;

J. the name, signature, and telephone number of the person making the decision of the action to be taken; instructions regarding the insurer's payment obligations; and

K. the name of the insurance company and any adjusting company;

~~L. notice that the insurer may not be obligated to pay until a decision is made by the division that benefits must be paid; and~~

~~M. notice that the employee may file an objection to discontinuance if a formal hearing is desired instructions to the employee.~~

Subp. 4. **Request.** The employee may request an administrative conference to discuss the action taken by the insurer upon the employee's return to work. The employee must request a conference no later than ten calendar days from the date the insurer's notice to the commissioner regarding employment status and wages was received by the division. Alternatively, the employee may request a conference no later than ten calendar days from the day the employee ceased working if the employee ceased working within the first 14 working days following the employee's return to work due to medical reasons associated with the injury. However, if a notice of discontinuance was not filed when the employee returned to work, the employee may request an administrative conference under Minnesota Statutes, section 176.2421 within 40 days after the employee returned to work. Allowance will be made, if appropriate, for nonreceipt or delay under Minnesota Statutes, section 176.285. The employee's request for a conference must be personally delivered, mailed, or telephoned to the division within the ten-, 40-, or 64-day period described in this subpart. The request is presumed mailed on the date indicated by the United States postmark. A request which does not include a legible United States postmark is presumed timely requested if received by the division no later than three days following the ten-, 40-, or 64-day request period. The request must include the employee's name, address, and social security number; the date of injury or disease; the employer's name and address, and the insurer's claim number, if known. If a notice regarding employment and wages was required under subpart 3, but has not been filed, the employee may request a return to work conference within 64 days of the employee's return to work ~~after the notice was due~~ but if the notice is later filed no later than ten days after the notice is served and filed by the insurer.

Subp. 5. **Payment of benefits pending conference.** If the insurer has properly discontinued compensation under a notice of discontinuance before the employee ceases working, the insurer is not obligated to pay benefits pending a decision of the commissioner. If the insurer has voluntarily commenced payment upon the employee's cessation of work, compensation must continue to be paid until a proper notice of intention to discontinue benefits or notice of discontinuance of benefits under part 5220.2630 is filed, or until a decision of the commissioner is made subsequent to an administrative conference, whichever occurs first.

Subp. 6. **Scheduling.** If the request for conference is made under Minnesota Statutes, section 176.243, the division must schedule an administrative conference to be held no later than 14 calendar days after receipt of a timely request for a conference. If the request for conference is made under Minnesota Statutes, section 176.2421, the division must schedule an administrative conference no later than ten calendar days after receipt of a timely request for a conference.

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

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

5220.2660 REHABILITATION CONFERENCES.

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

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

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

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

obtain a new hearing before the Rehabilitation Review Panel and instructions regarding how to initiate the appeal.

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

5220.2670 MEDIATION.

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

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

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

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

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

5220.2680 SECOND INJURY LAW.

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

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

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

Subp. 4. **Acceptance or rejection, hearing.** Should the division deem the application unacceptable prior to the subsequent injury, the applicant may, within 60 days following the receipt of notice of rejection, petition the division in writing for a hearing upon the application. A copy of the petition must be served by the applicant upon the fund administrator, custodian of the special compensation fund, and upon the attorney general. Upon receipt of the petition, the division must set the matter for hearing, which must be conducted as provided by Minnesota Statutes, section 176.411, with right of appeal.

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

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

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~~employer~~ ~~insurer~~ must file the original and one copy of notice of intention to claim reimbursement and claim for reimbursement with the division.

5220.2690 THIRD-PARTY RECOVERY.

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

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

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

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

5220.2710 ASSESSMENT OF PENALTIES.

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

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

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

5220.2720 IMPROPER DISCONTINUANCES; PENALTY.

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

- A. benefits were discontinued without the notice required under Minnesota Statutes, section 176.241 and part 5220.2630;
- B. the discontinuance occurred despite an administrative determination denying a request to discontinue under Minnesota Statutes, section 176.242 and part 5220.2640;
- C. the discontinuance occurred without notice despite a final decision of a compensation judge, the workers' compensation court of appeals, or the supreme court requiring payment of ongoing benefits;
- D. an administrative conference was requested and the request was not withdrawn, the discontinuance occurred before the administrative conference was held, except where the employee requests a continued conference date and ongoing benefits are not awarded; or

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

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

A. (1) If an ~~employer~~ ~~or~~ insurer has not had a penalty assessed in the two-year period before the assessment for violation of a particular item in subpart 1, the division will send a warning notice to the ~~employer~~ ~~or~~ insurer that the division has determined the discontinuance is improper. The warning notice will direct the ~~employer~~ ~~or~~ insurer to pay the improperly-discontinued benefits and serve and file any required notice of discontinuance within ten days of service of notice or a penalty will be assessed.

(2) If the improperly-discontinued benefits are not paid and any proper discontinuance filed within the ten days allowed, the division will send notice that a \$100 penalty is imposed.

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

(4) In addition to the penalties assessed under ~~items B~~ subitems (2) and C (3), if these actions are not taken within 30 days after service of the warning notice, a penalty of an additional \$200 will be imposed.

B. If an ~~employer or~~ insurer has had a penalty assessed in the two-year period before the assessment for violation of an item in subpart 1 and again violates the same item:

(1) The division will send notice that a \$100 penalty is imposed.

(2) If the improperly-discontinued benefits are not paid and any required notice of discontinuance served and filed within ten days after service of the first penalty assessment on that file, a penalty of an additional \$200 will be imposed.

(3) If these actions are still not taken within 20 days after service of the first penalty assessment, a penalty of an additional \$200 will be imposed.

C. If that ~~employer or~~ insurer has been issued five or more penalties for violations under part 5220.2720 in a six-month period, a separate penalty of \$500 for each additional violation within that six-month period will be assessed.

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

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

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

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

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

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

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

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

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

A. (1) If an insurer has not had a penalty assessed in the two-year period before the assessment for a violation under subpart 1, a warning letter will be sent by the division to the employer or insurer giving notice that the action or inaction by the insurer was improper. Suggested remedial steps will be listed and a time limit for action of ten days from the date of service of the notice. Warning of possible penalty assessments must be included in the letter;

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

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

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

(5) Continuing violation may result in a penalty of an additional \$500.

B. (1) If an insurer has had a penalty assessed in the two-year period before the assessment for violation under subpart 1, the division will send notice that a penalty of \$100 is assessed. Warning of possible further penalty if action to correct is not taken within ten days of the \$100 assessment will be given;

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(2) If, after ten days from the date of service of the assessment under subitem (1), the improper action or inaction has not been corrected, a penalty of an additional \$200 will be assessed;

(3) If, after 20 days from the date of service of the assessment under subitem (1), the improper action or inaction has not been corrected, a fine of an additional \$200 will be assessed;

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

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

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

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

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

Subpart 1. **Basis.** Under Minnesota Statutes, section 176.221, subdivision 6a, a penalty may be assessed where payment of medical charges is not made in a timely manner as provided in part 5221.0600.

Subp. 2. **Amount.** Under Minnesota Statutes, section 176.221, subdivision 3, a penalty of up to 100 percent of the amount owing shall be assessed unless the commissioner determines, pursuant to subpart 3, that either no penalty or a lesser amount should be assessed. Upon receipt of information that payment of a medical charge has not been made in a timely manner, the commissioner shall notify the payer of the complaint and provide warning that a penalty may be assessed. If notice is given on an M-4 or M-10 form, the commissioner need not provide additional notice or warning.

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

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

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

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

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

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

Subp. 2. **Amount.** Under Minnesota Statutes, section 176.221, subdivisions 3 and 6a, a penalty of up to 100 percent of the amount owing may be assessed. Where payment is less than ten days late, a penalty of 25 percent may be assessed. Where payment is at least ten but less than 20 days late, a penalty of 50 percent may be assessed. Where payment is at least 20 but less than 30 days late, a penalty of 75 percent may be assessed. Payment 30 or more days late may result in the 100 percent penalty assessment.

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

5220.2760 ADDITIONAL AWARD AS PENALTY.

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

- A. underpaying, delaying payment of, or refusing to pay within 14 days of the filing of an order by the division or a compensation judge the Workers' Compensation Court of Appeals or the Minnesota Supreme Court unless the order is appealed within the time limits for an appeal;
- B. delay of payment, underpayment, or refusal to pay permanent partial disability benefits as provided in part 5220.2550; and
- C. any other violation under Minnesota Statutes, section 176.225, subdivision 1, for which no other penalty is provided under the act.

This part does not affect the employee's independent right to seek penalties by filing a claim petition under Minnesota Statutes, section 176.271.

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

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

5220.2770 FAILURE TO PAY OR DENY; PENALTY.

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

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

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

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

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

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

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

(4) amount:

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

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

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

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

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

(1) the length of the delay;

(2) the amount of the claim;

(3) efforts made to comply;

(4) the past record of payment by this insurer; and

(5) the complexity of the issues involved.

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

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

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

Subpart 1. **Basis.** Where payment of compensation is not made within 14 days following an order as required by Minnesota Statutes, section 176.221, subdivisions 6a and 8, the division may assess the penalties provided in Minnesota Statutes, section 176.221, subdivisions 3 and 3a. Where rehabilitation services are not provided as required by Minnesota Statutes, sections 176.102,

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ADOPTED RULES

176.221, subdivision 6a, and part 5220.0300, the division may assess the penalty provided in Minnesota Statutes, section 176.221, subdivision 3a.

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

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

5220.2790 INEXCUSABLE DELAY IN MAKING PAYMENT, INCREASE IN PAYMENT.

Subpart 1. Basis.

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

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

Subp. 2. **Amount.** The amount of the increase in payment under Minnesota Statutes, section 176.225, subdivision 5, for a delay under subpart 1, item A, is calculated as ten percent of the amount in part 5220.2770, subpart 2, item B, subitem (4), unit (a).

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

Subp. 3. **Payable to.** The amount of any penalty assessed under this part is payable to the employee.

Subp. 4. Assessment.

A. The procedure for assessment of a penalty under subpart 1, item A, must be made as provided in part 5220.2770 except that only ten percent of that amount shall be assessed as a penalty under this part.

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

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

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

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

- (1) the due date specified in part 5220.2540 or 5220.2550 is determined;
- (2) if payment of the sum due is not made within ten days of the due date, a penalty of ten percent of the sum due at the time of the assessment or ten percent of the sum paid in an untimely manner is assessed.

5220.2810 FAILURE TO RELEASE MEDICAL DATA; PENALTY.

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

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

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

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

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

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

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

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

Subp. 3. Amount.

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

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

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

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

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

5220.2820 FAILURE TO MAKE TIMELY REPORT OF INJURY; PENALTY.

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

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

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

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

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

Subp. 4. Payable to. The penalty is payable to the special compensation fund.

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

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

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

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

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

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

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

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5220.2840 FAILURE TO MAKE PAYMENT TO SPECIAL FUND; PENALTY.

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

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

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

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

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

5220.2860 FAILURE TO INSURE; PENALTY.

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

5220.2870 PENALTY OBJECTION AND HEARING.

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

5220.2880 EXAMINATION OF WORKERS' COMPENSATION FILES.

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

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

5220.2890 SERVICE.

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

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

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

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

5220.2910 EXHIBITS.

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

Subp. 2. Return without consent or notice. Upon the expiration of 120 days after a decision of the commissioner, if no further proceeding is commenced, exhibits or other documentary evidence may be returned to their source of origin without the consent of the parties or notice to them. A copy of the letter of transmittal of the exhibit or other documentary evidence must remain in the file as part of the record of the case.

Subp. 3. Request for return. Upon the request of the party which produced or introduced the exhibit or evidence at the conference,

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

5220.2920 ATTORNEY FEES.

Subpart 1. **Applicable principles.** Attorney fees shall be awarded in accordance with Minnesota Statutes, section 176.081 and the following principles after resolution of a disputed benefit or service issue, whether the matter is settled or a decision is issued.

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

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

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

D. Attorney fees shall not be awarded piecemeal where to do so would result in a double recovery. Where more than one type of benefit is ~~in dispute at any particular time~~ resolved simultaneously, all benefits ~~currently in dispute~~ resolved shall be considered in determining fees.

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

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

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

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

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

- (1) information identifying the caption of the case employee, employer, insurer, and any adjusting company;
- (2) ~~the employee's social security number claim numbers or codes;~~
- (3) the date of injury or disease;
- (4) a list of benefits obtained which were genuinely in dispute and which would not have been recovered without the attorney's involvement, and the total dollar amount of benefits obtained;
- (5) ~~the amount of information concerning~~ any retainer received from the employee;
- (6) ~~the amount the employee advanced for expenses~~ information concerning expense advancement;
- (7) ~~the amount the employer and insurer are currently~~ information regarding the withholding ~~as of~~ attorney fees, if known;
- (8) the specific dollar amount claimed for attorney fees;
- (9) ~~a statement that the attorney is licensed~~ information regarding the attorney's license to practice law in the state;
- (10) a statement of ~~whether or not an application is being made~~ the statutory basis or other legal authority for attorney fees ~~under Minnesota Statutes, sections 176.081, subdivisions 7 and 8, and 176.191;~~

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(11) a notice that the employee or insurer has ten calendar days regarding how to object to the attorney requested fees requested; and

(12) the full address and phone number of information identifying the employee's attorney.

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

B. If a party claims fees in excess of the amount listed in Minnesota Statutes, section 176.081, subdivision 1, clause (a) or an objection to the statement under item A is filed, or it is requested that fees be assessed against the employer or insurer for refusal to pay rehabilitation or medical benefits or provide services or the requested fees were incurred in connection with an administrative conference under Minnesota Statutes, section 176.242, 176.2421, 176.243, or 176.244, the party shall fully complete and file a petition for disputed or excess attorney fees on a form prescribed by the commissioner, including:

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

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

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

5220.2930 DEPENDENT'S BENEFITS.

Subpart 1. Allocation of compensation by judge.

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

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

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

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

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

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

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

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

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

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

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

B. Deaths after June 30, 1981.

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

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

5220.2940 PEACE OFFICER DEATH BENEFITS.

Subpart 1. **Application for benefits.** The application for payment from the peace officers benefit fund of Minnesota Statutes, section ~~352E.02~~ 176B.02 shall be submitted to the commissioner on a form prescribed by the commissioner. The form shall require at least the following:

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

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

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

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

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

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

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

Subp. 8. **Certification.** After investigation the commissioner may certify pursuant to Minnesota Statutes, section ~~352E-04~~ 176B.04. If a denied claim is appealed, after a final order that the benefit is due, the commissioner shall so certify.

5220.2950 SEVERABILITY.

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

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

ANNOUNCEMENTS

ENVIRONMENTAL QUALITY BOARD (EQB) Environmental Assessment Worksheets (EAW) due March 25, 1987: CSAH 10 Maple Grove and Plymouth, Hennepin County DOT; Rosewood Corporate Center, City of Roseville; Huntington, City of Apple Valley; Ashby Wastewater Treatment Facility (WWTF), MPCA; Canby—

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WWTF, MPCA; Broadway Relief Sewer, MPCA; a scoping EAW for the Normandy Block Project, City of Minneapolis with a meeting scheduled for Thurs. 19 March at 4 p.m., 210A Minneapolis City Hall. A Draft Environmental Impact Statement (EIS) for the LaSalle Development Project is requested by the City of Minneapolis, with a scoping meeting scheduled for March 18 at 4 p.m. in 241 Minneapolis City Hall. The MPCA proposes to issue 5-year Certifications of Exemption for PCB to Menasha Corporation, 8085 220th Street and Lakeville. Applications may be viewed at the MPCA and there is a comment period of 30 days. No EISs are required for CR 43-CR 28, Dakota County Highway Dept.; Greenwald, Meire Grove, Elrosa WWTF, MPCA; and Silver Lake WWTF, MPCA.

DEPARTMENT OF NATURAL RESOURCES (DNR) The DNR is asking the cooperation of 6,000 small game hunters and trappers who will be receiving questionnaires regarding their success last year. The surveys provide an estimate of the harvest and hunting pressure, information necessary in planning future hunting and trapping seasons, and essential for scientific wildlife management. Those surveyed are selected at random from among all license buyers. Roger Holmes, DNR Wildlife Section chief, asks those who receive the survey to fill it out to the best of their knowledge and return it promptly, even if they didn't actually hunt or trap. For information, call 296-3344.

DEPARTMENT OF TRANSPORTATION (MnDOT) A survey shows that 59% of all Minnesotans age 16 and over rode a bicycle in 1985, twice the national average. Of 1.5 million households in Minnesota 73% own one or more bicycles. Ten percent of Minnesotans age 16 and over used a bicycle for transportation to and from the workplace in 1985. The survey, conducted for MnDOT by the Minnesota Center for Survey Research at the University of Minnesota, showed that only 6% of all bikes are licensed, although there is a statewide bicycle license system. The survey has a 95% confidence rating. Minnesota has about 25,000 miles of roadway, with over one third of all roads and streets in the state suitable for biking. These bikeways are mapped out in a series of *Explore Minnesota Bikeways* maps, available for \$1.50 plus 6% tax from the Minnesota Documents Division, 117 University Avenue, St. Paul, 55155 (612) 297-3000. Phone orders are accepted with MasterCard/VISA. All mail orders must include \$1.50 for postage and handling.

OFFICIAL NOTICES

Pursuant to the provisions of Minnesota Statutes § 14.10, 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 Commerce

Notice of Activation of Minnesota Joint Underwriting Association to Insure Specified Classes of Business and Public Hearing

Notice is hereby given that, pursuant to Minnesota Statutes, section 62I.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain insurance from private insurers:

Escrow Agents
Foam Insulation Contractor
Religiously-Affiliated Nursing Homes
County Park Districts
Special Event Coverage for Community Celebrations

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415 on April 28, 1987 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard. The hearing shall be governed by Minnesota Statute Sections 14.57-14.69 and by Minnesota Rules Parts 1400.5100-1400.8400, (1985). Questions regarding procedure may be directed to Administrative Law Judge, Peter Erickson, 310 4th Avenue South, 4th

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.

OFFICIAL NOTICES

Floor Summit Bank Building, Minneapolis, Minnesota 55415, telephone (612) 341-7606. The authority for this proceeding is found in Chapter 62I of Minnesota Statutes, specifically sections 62I.21 and 62I.22. (A copy of those sections follows this notice.)

Prior to the hearing a pre-hearing conference will be held at 1:30 p.m. on April 14, 1987, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415.

Minnesota Statutes, Chapter 62I, which governs the Minnesota Joint Underwriting Association provides for temporary activation for 180 days by the Commissioner of Commerce. To extend the Minnesota Joint Underwriting Association's authority beyond the 180 day period a hearing must be held. Those classes of business for which the Minnesota Joint Underwriting Association was temporarily activated, by this notice and by previously published notices, must prove, at that hearing, that they meet the statutory requirements for coverage by the Minnesota Joint Underwriting Association.

Among those requirements are:

- (1) That members of those classes are unable to obtain insurance through ordinary means;
- (2) That the insurance being sought is required by statute ordinance, or otherwise required by law, and is necessary to earn a livelihood or conduct a business; and
- (3) That the classes of business serve a public purpose.

The classes of business specified in this notice and previously published notices must be shown to meet the statutory requirements or the Minnesota Joint Underwriting Association's authority to provide coverage to them will end after 180 days from the date the notice of activation was published in the *State Register*.

The Department strongly suggests that any person affected by this hearing or otherwise interested in the proceedings familiarize themselves with the requirements of Chapter 62I and the contested case procedures prior to the hearing, that they take such other steps as are appropriate to protect their interests and that any questions they may have as to how to proceed or how to participate at the hearing be directed to the Administrative Law Judge prior to the hearing.

All interested or affected persons will have an opportunity to participate at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in the manner set forth in the Rules pertaining to contested cases (Minnesota Rules Parts 1400.5100-1400.8400).

Minnesota Statutes chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statute Section 10A.01, subdivision 11 as an individual:

- (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
- (b) Who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone (612) 296-5615.

Dated: 20 February 1987

Michael A. Hatch
Commissioner of Commerce

62I.21 ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall by notice in the *State Register* activate the market assistance plan and the joint underwriting association. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 62I.22. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

62I.22 HEARING.

Subdivision 1. **ADMINISTRATIVE LAW JUDGE.** The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an

administrative law judge to hear the matter, and notify the commissioner of the hearing date and administrative law judge assigned to the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

Subd. 2. **NOTICE.** The commissioner of commerce shall publish notice of the hearing in the *State Register* at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required.

Subd. 3. **CONTESTED CASE; REPORT.** The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

Subd. 4. **DECISION.** The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

Subd. 5. **WAIVER OR MODIFICATION.** If all parties to the proceeding agree, any of the requirements of this section may be waived or modified.

Department of Finance

Maximum Interest Rate for Municipal Obligations in March

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 March would be eight (8) 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 nine (9) percent per annum.

Dated: 24 February 1987

Peter Sausen, Assistant Commissioner
Cash and Debt Management
Department of Finance

Departments of Human Services and Health

Notice of Intent to Solicit Outside Opinion Concerning Merit System Rules

Notice is hereby given that the Minnesota Department of Human Services and the Minnesota Department of Health are considering proposed amendments to the following rules:

Minnesota Rules parts 9575.0670 and 4670.2520 relating to the length of emergency appointments;

Parts 9575.0740 and 4670.2630 relating to extensions of probationary periods;

Parts 9575.0820 and 4670.2720 relating to promotion by non-competitive examinations;

Parts 9575.0970 and 4670.2970 relating to retirement; and

Part 9575.1500 relating to the addition of new classifications to the compensation plan and the adjustment of the salary range of Administrative Secretary based upon a recent job evaluation rating.

The agency's authority to amend the proposed rules is contained in Minnesota Statutes, sections 256.012 and 144.071.

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

Ralph W. Corey
Minnesota Merit System
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3996.

All statements of information and comment will be received until further notice. Any written material received by the Department shall become part of the hearing record.

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, April 2, 1987, at 5:30PM in Hearing Room 10, Ground Floor, State Office Building, 435 Park St., St. Paul, MN. The public hearing is to consider proposed modifications to the sentencing guidelines regarding effective date of modifications to the sentencing guidelines.

Additional copies of the proposed modifications are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at 51 State Office Building, St. Paul, MN 55155, or by calling (612) 296-0144.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting Commission staff at the above address/telephone number.

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On Thursday, April 9, 1987, the Commission will meet at 6:30PM in the Rice Room of the Holiday Inn-Capitol, 161 St. Anthony, St. Paul, MN to formally adopt or reject the proposed modifications. If adopted, the proposed modifications will become effective immediately.

Proposed Modification to Section F. Modifications:

Modifications to the Minnesota Sentencing Guidelines and Commentary will be applied to offenders whose date of offense is on or after the specified effective date. Modifications that reduce the presumptive sentence, or modifications to the Commentary, will be applied to offenders sentenced on or after the specified effective date.

Department of Transportation

Petition of the City of St. Anthony for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Anthony has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project of St. Anthony Parkway (MSAS 106) from a point south of the Burlington Northern Railroad Track to Ridgeway Drive.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a 32' wide street with no parking instead of the required width of 36' with no parking.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the City of Columbia Heights for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of Columbia Heights has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on 37th Avenue N.E. (MSAS 101) from Central Avenue N.E. to Stinson Boulevard N.E.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9919 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a street width of 44' with no parking instead of the required width of 46' with no parking.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the City of Duluth for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of Duluth has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a resurfacing project of Woodland Avenue (MSAS 157) from Fourth Street to 450' Southerly of Arrowhead Road.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9919 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a street width of 44' instead of the required width of 46'.

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

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

Dated: 23 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the City of Northfield for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the City Council of the City of Northfield has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on Forest Avenue/Third Street (MSAS 118) in the vicinity of its intersection with Odd Fellows Lane.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a design speed of 20 MPH instead of the required 30 MPH.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the City of South St. Paul for a Variance from State Aid Standards for Design Criteria

Notice is hereby given that the City Council of the City of South St. Paul has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a 1986 construction project on 3rd Street No. (MSAS 105) from 15th Avenue to 17th Avenue.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit approval of the construction of a retaining wall immediately behind the curb instead of maintaining a two foot clearance from face of curb to fixed object as required.

OFFICIAL NOTICES

The City Council of the City of South St. Paul has also requested a variance from design criteria for a construction project on 5th Avenue (MSAS 109) from Dale Street to FAI 494 and from FAI 494 to 6th Street. The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9919 so as to permit a 44' wide street with parking on both sides instead of the required width of 66' with parking on both sides.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the County of Anoka for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of the County of Anoka has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project of Old Central Avenue (CSAH 35) from its intersection with T.H. 65 and West Morre Lake Drive to Rice Creek Road.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a divided roadway with 18' wide traffic lanes and no parking instead of the required 36' wide undivided roadway with no parking.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the County of Faribault for a Variance from State Aid Administrative Procedures

Notice is hereby given that the County Board of the County of Faribault has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from administrative requirements in the use of County Municipal State Aid monies as payment for construction costs on S.A.P. 22-606-10.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.1500 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit reimbursement of \$16,702.96 from Faribault County's 1987 Municipal State Aid Construction Account as final payment for monies advanced by Faribault County to finance S.A.P. 22-606-10.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Department of Transportation

Petition of the County of Koochiching for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of the County of Koochiching has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a resurfacing project on County State-Aid Highway No. 94 from T.H. 11 to 1.6 Miles East.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a design speed of 30 MPH instead of the required 40 MPH.

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

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

Dated: 24 February 1987

Leonard W. Levine
Commissioner of Transportation

Metropolitan Waste Control Commission

Public Notice for Prequalifications for MWCC Projects

Notice is hereby given that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering design services for the following:

1. Metro WWTP Personnel Protection and Alarm System, MWCC Project Number 83-55
2. Metering Station Improvements, MWCC Project Number 85-59
3. Metro WWTP Effluent Pump Station Improvements, MWCC Project Number 87-52

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees and the demonstratable experience of the firm.

The prequalification should include information on the firm's programs for compliance with equal employment opportunities, affirmative action and utilization of minority firms. The prequalifications will be used by the Commission as a mechanism for selecting firms to provide engineering services.

Firms not currently on the Commission's prequalification list should submit a letter stating their interest in the projects or services and one copy of its prequalifications. Firms presently on the Commission's prequalification list need only to submit a letter stating their interest in the projects or services and the necessary information, if any, to update their prior prequalifications, to the Metropolitan Waste Control Commission, 350 Metro Square Building, St. Paul, Minnesota 55101. Inquiries regarding the solicitation should be directed to Mr. Ray Payne, Assistant Director of Engineering, (612) 222-8423.

By Order of the
Metropolitan Waste Control Commission
Mr. Louis J. Breimhurst
Chief Administrator

STATE CONTRACTS AND ADVERTISED BIDS

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Procurement Division

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers, whose initials are next to each commodity.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Carpeting & install (JPK)	Mar. 4, 1987	Transportation	Bemidji	79-200-02844
Bulk gasohol (EFS) Addendum #2	Mar. 4, 1987	Various	Various	Schedule 92-BG
Burlap sample bags (CB)	Mar. 4, 1987	Transportation	Various	Various Various
Steel chain & accessories (DRT)	Mar. 4, 1987	Transportation Districts	Various	Price-Contract
Oscilloscopes (DK)	Mar. 4, 1987	State University	St. Cloud	26-073-19470
Maintenance on planetarium pro- jector (DK)	Mar. 4, 1987	State University	St. Cloud	26-073-19469
Lounge area furniture (JPK)	Mar. 4, 1987	Community College	Minneapolis	27-151-47488, 47489
Ready mix concrete (BV)	Mar. 4, 1987	Transportation	Detroit Lakes	79-400 RM
Ampex monitors (PA)	Mar. 4, 1987	State University	St. Cloud	26-073-19439
Repair work on boilers	Mar. 4, 1987	Administration	St. Paul	02-307-52700
Enhanced emulsion kit (MJB)	Mar. 4, 1987	State University	Winona	26-074-11260
Forklift (DM)	Mar. 4, 1987	Correctional Facility	Oak Park Heights	78-630-07118
Sony Equipment (PA)	Mar. 4, 1987	State University	St. Cloud	26-073-19489
Computer disk storage devices (DO)	Mar. 5, 1987	Administration	St. Paul	Price-Contract
Apple computer (DO)	Mar. 5, 1987	State University System		Price-Contract
Microfilmer (DRT)	Mar. 5, 1987	Public Safety	St. Paul	07-700-39634
Color video proj. system (PA/jb)	Mar. 5, 1987	State University	St. Cloud	26-073-19408
Zenith computers (PA)	Mar. 5, 1987	State University	St. Paul	26-137-03885
Data general upgrade (PA)	Mar. 5, 1987	State University	St. Paul	26-176-02630
Sperry Equip. (PA)	Mar. 5, 1987			26-073-19475
Studio/EFP camera (PA)	Mar. 5, 1987	State University	St. Cloud	26-073-19452
System enhancement (PA)	Mar. 5, 1987	Natural Resources	St. Paul	29-000-45553
Computer equip. (PA)	Mar. 5, 1987	Community College	Minneapolis	27-153-10064
Library shelving (JPK)	Mar. 6, 1987	Community College	Minneapolis	27-151-47487
Compaq (PA)	Mar. 6, 1987	Natural Resources	St. Paul	29-000-45464
Compaq computer (PA)	Mar. 6, 1987	State University	St. Cloud	26-073-19481
Mobile traffic radar (EFS)	Mar. 6, 1987	Public Safety	St. Paul	07-500-39646
Photographic equip. (PA)	Mar. 9, 1987	Community College	Minneapolis	27-153-20050
Format camera (PA/jb)	Mar. 9, 1987	Public Safety	St. Paul	07-300-43034
Computer system (PA)	Mar. 9, 1987	Natural Resources	St. Paul	29-000-45497
Telephone system (PA)	Mar. 9, 1987	Correctional Facility	Red Wing	02-430-52222
Microcomputers (PA)	Mar. 9, 1987	Community College	Brainerd	27-140-70037
Misc. computer items (PA)	Mar. 9, 1987	Natural Resources	St. Paul	29-000-45588
Replacement of pump (DM)	Mar. 10, 1987	Oak Terrace Nursing Home	Minnetonka	55-520-03833

STATE CONTRACTS & ADVERTISED BIDS

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Prime computer equipment upgrade (PA)	Mar. 10, 1987	State Planning Agency	St. Paul	30-000-16233
Computer equipment (PA)	Mar. 10, 1987	Natural Resources	Nicollet	29-004-08475
Water softening salt—rebid (PAM)	Mar. 10, 1987	Various	Various	Price-Contract
Installation of digital control panels (DM)	Mar. 10, 1987	Administration: Plant Mgmt.	St. Paul	02-307-51314
Kitchen equipment (CB)	Mar. 10, 1987	Correctional Facility	Red Wing	78-760-02200 etc.
Electric tow tractor (DM)	Mar. 10, 1987	Correctional Facility	Oak Park Heights	78-630-07140

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
1987 Summer Bulletin	Mar. 4, 1987	State University	Winona	5012-26074-11259
College Catalog	Mar. 6, 1987	Community College	Minneapolis	5259-27151-47491
Motorcycle helmet outdoors boards (ALC)	Mar. 9, 1987	Public Safety		See Bid 5291- 07100-42465
Motorcycle helmet busback posters (ALC)	Mar. 9, 1987	Public Safety		See Bid 5293- 07100-42461
Summer scholarship brochure (ALC)	Mar. 10, 1987	Higher Education Coordinating Board	St. Paul	5187-60000-05092
Summer scholarship poster (ALC)	Mar. 10, 1987	Higher Education Coordinating Board	St. Paul	5186-60000-05093

Governor's Planning Council on Developmental Disabilities

Request for Proposals for Case Management of Persons Who Are Developmentally Disabled

The Governor's Council announces that it is seeking proposals from eligible public or private nonprofit organizations to undertake projects related to case management of persons who are developmentally disabled. Approximately \$300,000 will be available for projects. The successful contractors must be able to provide at least 25 percent of the total cost of the project. Eligible applicants include nonprofit organizations, units of government, joint powers organization, institution of higher education, and school districts. Over 1,300 copies of the guidelines have been mailed to potential contractors. Applications are due before 4:30 p.m. on Friday, April 24, 1987. For additional information contact:

Ronald E. Kaliszewski
Developmental Disabilities Program
201 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
Phone (612) 297-3207
TDD (612) 296-9962

STATE CONTRACTS & ADVERTISED BIDS

Department of Energy and Economic Development

Division of Science and Technology—Office of Software Technology Development

Request for Proposals to Provide Promotional Services to the Office of Software Technology Development

Notice is hereby given that the Office of Software Technology Development (OSTD), Minnesota Department of Energy and Economic Development, requires the services of a qualified firm to provide promotional services with respect to the following:

1. Newsletter: The awarded firm will research, write, edit and coordinate production for two (April and June, 1987) issues of ACCESS. ACCESS is the bi-monthly, 4-6 page, self-mailer publication which provides substantive business information pertinent to the Minnesota software industry as well as updates on the activities of the OSTD and the Minnesota Software Association. The content for ACCESS includes a lead story (an in-depth article covering either news, a feature topic or a "how-to" story), two or three secondary news stories, legal/marketing/financial briefs (column featuring stories from experts in the field), and news "bits" (small news items of interest to readers).

2. News Releases: Develop periodic news releases and informational pieces for the OSTD which promote the Technology Product Investment Program, information networks and other services of the office.

These activities will be conducted in the most effective and efficient manner possible. Therefore, due to the specific industry focus of the OSTD, it is recommended that RFP applicants be familiar with leading edge technology systems, specifically in the area of software, and have a strong background in public relations and promotional services.

The estimated fee range for this project is \$3,000 to \$5,000. Firms desiring consideration should request a copy of the Request for Proposals Statement of Work. Inquiries should be directed to:

Dr. Rosemary T. Fruehling, Director
Office of Software Technology Development
Minnesota Department of Energy and
Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

The deadline for submission of proposals will be the close of the working day (4:30 p.m.) on March 23, 1987.

Dated: 2 March 1987

Department of Human Services Chemical Dependency Program Division

Requests for Proposals (RFP) for Domiciliary Care Services for Chronic Chemically Dependent Women

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals for the provision of domiciliary care services for chronic chemically dependent women. A total of \$35,000 is available for one or more grantees. The funded service would begin on or about July 1, 1987 and continue for a maximum of 12 months.

Proposals in response to this RFP must be submitted on the CDPD application form. All requests for application forms or copies of the complete RFP can be obtained by contacting Dorrie Hennagir, CDPD Grants Manager, at (612) 296-4617. Eight copies of each proposal must be in the CDPD office, Space Center Building, 444 Lafayette Road, St. Paul, MN 55155, no later than 4:20 PM on May 4, 1987. Proposals that are mailed in must have a legible post-mark date of no later than May 1, 1987.

All requests for information regarding this RFP should be addressed to Wayne Raske at (612) 296-2174.

Department of Human Services Assistance Payments Division

Request for Proposals to Provide Computer Systems Development Consultation to the Statewide Automated Eligibility Project

The Assistance Payments Division is seeking the services of an experienced computer consultant to assist the Project Manager in the planning, development, and implementation of an automated eligibility system which meets federal certification standards for Aid to Families with Dependent Children, Food Stamps, and other income transfer programs.

The Department of Human Services has undertaken a three year, \$15 million project to automate in all Minnesota Counties the above income transfer programs. The computer systems consultant awarded this contract shall be accountable solely to the Project Manager without professional or financial ties to other potential project contractors and suppliers. Consultant duties will include, but are not limited to: estimating project technical costs and constructing cost benefit models, advising the Project Manager on hardware and software alternatives, tracking technical projects and recommending corrective actions when problems arise which threaten schedules.

The successful candidate for this position must have high level, responsible experience in the design and implementation of large scale data base systems, be abreast of the latest developments in this field, and possess a credible professional reputation. The candidate must demonstrate working knowledge of project management methodology, data base administration, strategic planning, and logical data base system design.

Contractor selection will be based on the quality and relevance of the resume, professional references, narrative proposal, and panel interview. The Department of Human Services reserves the right to reject all proposals. The final contract is subject to approval by the Federal Government.

The Department of Human Services will provide upon request the complete Request for Proposal, instructions for submitting proposals, and a description of the automation project. Interested persons should contact:

Nancy Hendrickson
Administrative Assistant
Department of Human Services
Assistance Payments Division
444 Lafayette Rd.
St. Paul, MN 55101
(612) 296-3561

Proposals will be accepted until 4:30 pm, March 20, 1987.

NON-STATE PUBLIC CONTRACTS

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Waste Control Commission

Advertisement for Bids for Medical Insurance

Sealed proposals will be received in the office of the Metropolitan Waste Control Commission, 7th and Robert Streets, Suite 350, Metro Square Building, Saint Paul, Minnesota 55101, until 2:00 P.M., Friday, March 20, 1987, all in accordance with the specifications and bid forms available at the Commission's office in St. Paul, Minnesota. Contact Jody Lashinski, Personnel/Benefits Specialist for bid documents.

By Order of the Metropolitan Waste Control Commission
Louis J. Breimhurst, Chief Administrator

STATE GRANTS

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

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

Department of Education Division of Development and Partnerships

Availability of Federal Funds for Adult Basic Education

The Minnesota Department of Education announces the availability of funds for the 1987-1988 school year to subsidize Adult Basic Education under Public Law 91-230, as amended.

Public Law 91-230's purpose is to continue providing and expand the availability of appropriate learning opportunities for adults with educational needs below the level equivalent to high school completion that will:

1. Enable all educationally disadvantaged adults to acquire the basic literacy, coping and learning-to-learn skills necessary to function fully and effectively in their own environments and in society at large,
2. Enable educationally disadvantaged adults who so desire to continue their education to at least the level of secondary school completion, and
3. Enable educationally disadvantaged adults to secure and benefit from continuing training and education that will further enhance their employability, productiveness, and responsible citizenship.

Applications for program design approval and funding to carry out the purposes of this act may be submitted by local educational agencies and by public or private agencies, organizations, and institutions, with priority given to applications representing consortia of all available resources and services.

Application procedures and forms may be obtained after March 20, 1987, by writing to: Brian Kanen, Coordinator, Adult Basic and Continuing Education, Minnesota Department of Education, 997 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

To be considered for approval, all completed applications must be delivered to the Department of Education's Community and Adult Education Section on or before June 1, 1987.

Department of Public Service Energy Division

Notice of Availability of Community Energy Council Grant Funds

Pursuant to Minnesota Rules 4160.5100-4160.5900 the Department of Public Service announces that it is accepting applications for community energy council grants from cities and counties, individually, collectively, or through the exercise of joint powers agreements. The maximum amount of a grant to an individual applicant is \$30,000 for the first year and \$15,000 for the second year. The maximum amount of a grant to a joint application for the first year is \$30,000 for the first applicant and \$24,000 for each additional applicant to a maximum of \$80,000. The maximum amount of a grant to a joint application for the second year is \$15,000 for the first applicant and \$12,000 for each additional applicant up to a maximum of \$48,000. All grants require at least a ten percent local match.

The total amount of funds available is \$2,962,062, from the following sources:

- Exxon oil overcharge funds of \$2,777,662
- Exxon oil overcharge interest of \$184,400

Pursuant to Minnesota Rules part 4160.5300, subpart 4, a portion of the total is reserved to fund applications submitted by cities of the first class. This portion equals the percent of the state population constituted by cities of the first class. Therefore:

- \$255,922 is reserved for the City of Minneapolis
- \$189,276 is reserved for the City of St. Paul
- \$ 60,130 is reserved for the City of Duluth

The balance of \$2,456,734 is available to fund applications submitted by all other eligible communities. Funds are available from these sources to support a variety of local energy programs in different energy use sectors.

SUPREME COURT DECISIONS

Applications must be received no later than 4:30 p.m. on Wednesday, June 17, 1987, at the address given below.

Application forms, program rules and other information can be obtained by contacting:

Mark Schoenbaum
Department of Public Service
900 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 297-3602

Supreme Court Lawyer Trust Account Board

Notice of Grant Cycle July 1, 1987 to June 30, 1988

The Minnesota Supreme Court has established a program to use the interest on lawyer trust accounts (IOLTA) to improve the delivery of legal services to the poor, to promote development of law-related education for the public, and to develop programs to enhance the administration of justice.

The Lawyer Trust Account Board has made grants in the amount of over \$4,000,000 to legal services organizations, to programs to enhance the administration of justice and to programs providing legal education for the public in its four prior grant cycles.

The Board is soliciting proposals to distribute funds to projects in any of the three program areas. The Board will support not only traditional approaches, but will encourage projects that show innovative approaches to recognized needs throughout the state. For application information, contact the Executive Director, 318 Capitol, St. Paul, MN 55155. The deadline for submitting applications is April 15, 1987.

Dated: 13 February 1987

SUPREME COURT DECISIONS

Decisions Filed Friday, 20 February 1987

Compiled by Wayne O. Tschimperle, Clerk

C9-86-835 Glen Dahlbeck, Relator v. New London Concrete and Iowa National Mutual Insurance Company, State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

Minn. Stat. § 176.061 (1974) does not provide the Special Compensation Fund a right to reimbursement for benefits paid under the Workers' Compensation Act from proceeds recovered in third party damages actions.

Reversed. Yetka, J.

C9-86-527 Andrew Louis Robinson v. Minnesota Valley Improvement Company and Aetna Casualty and Surety Company, Relators, and Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

The finding of the Workers' Compensation Court of Appeals that the 1983 stipulation in this case is to be classified as one for permanent total disability is reversed.

A notice of intention to discontinue pursuant to Minn. Stat. § 176.241 was the proper way to terminate or modify benefits being paid pursuant to the "open award" under the 1983 stipulation in this case, but employer/insurer waived its statutory defense at the time it entered into the stipulation.

The compensation judge's award of attorney fees and disbursements in this case was proper.

Reversed and remanded for reinstatement of the decision of the compensation judge. Kelley, J.

C8-86-1605 Farmers & Merchants State Bank of Pierz, et al., Appellants v. Bert Bosshart, et al. Morrison County.

An insurance agent who participates in the placement of casualty insurance with a surplus lines insurer in violation of the Surplus Lines Insurance Act (Minn. Stat. §§ 60A.195-.209 (1986)) is not exempted from personal liability under Minn. Stat. § 60A.17, subd. 12 (1986).

Reversed and remanded to the trial court. Kelley, J.

Catching criminals is only one part of law enforcement. Here's the rest of it.

Police Report Writing Style Manual 1986—A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. \$12.50.

Background Investigation Manual 1986—A guide to conducting effective thorough background investigations of peace officer candidates. Included are various criteria for use in the selection process: experience, education, and past behavior. Sample forms. Code No. 14-15. \$10.00.

Motor Vehicle Traffic Laws 1986—Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. \$12.50.

Criminal Code & Selected Statutes 1986—Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. \$12.00.

Blue Binder—3 ring, 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. \$4.25.



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