

## CHAPTER 176

### WORKERS' COMPENSATION

176.011	Definitions.	176.111	Dependents, allowances.
176.041	Excluded employments; application, exceptions, election of coverage.	176.136	Medical fee review.
176.091	Minor employees.	176.521	Settlement of claims.
176.092	Guardian; conservator.	176.5401	Transfer of state claims unit to department of employee relations.

#### 176.011 DEFINITIONS.

*[For text of subs 1 to 9a, see M.S.1992]*

Subd. 10. **Employer.** "Employer" means any person who employs another to perform a service for hire; and includes corporation, partnership, limited liability company, association, group of persons, state, county, town, city, school district, or governmental subdivision.

*[For text of subs 11 to 27, see M.S.1992]*

**History:** 1993 c 137 s 5

#### 176.041 EXCLUDED EMPLOYMENTS; APPLICATION, EXCEPTIONS, ELECTION OF COVERAGE.

*[For text of subd 1, see M.S.1992]*

Subd. 1a. **Election of coverage.** The persons, partnerships, limited liability companies, and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

- (a) An owner or owners of a business or farm may elect coverage for themselves.
- (b) A partnership owning a business or farm may elect coverage for any partner.
- (c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, limited liability company, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor.

A person, partnership, limited liability company, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indi-

cated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, limited liability companies, or corporations to provide coverage for their employees, if any, as required under this chapter.

*[For text of subs 2 to 6, see M.S.1992]*

**History:** 1993 c 137 s 6

#### **176.091 MINOR EMPLOYEES.**

Except as provided in section 176.092, a minor employee has the same power to enter into a contract, make election of remedy, make any settlement, and receive compensation as an adult employee.

**History:** 1993 c 194 s 3

#### **176.092 GUARDIAN; CONSERVATOR.**

**Subdivision 1. When required.** An injured employee or a dependent under section 176.111 who is a minor or an incapacitated person as that term is defined in section 525.54, subdivision 2 or 3, shall have a guardian or conservator to represent the interests of the employee or dependent in obtaining compensation according to the provisions of this chapter. This section applies if the employee receives or is eligible for permanent total disability benefits, supplementary benefits, or permanent partial disability benefits or a dependent receives or is eligible for dependency benefits, or if the employee or dependent receives or is offered a lump sum that exceeds five times the statewide average weekly wage.

**Subd. 2. Appointment.** If an injured employee or dependent under section 176.111 does not have a guardian or conservator and the attorney representing the employee or dependent knows or has reason to believe the employee or dependent is a minor or an incapacitated person, the attorney shall, within 30 days, seek a probate court order appointing a guardian or conservator. If the employer, insurer, or special compensation fund in a matter involving a claim against the fund knows or has reason to believe the employee or dependent is a minor or is incapacitated, the employer, insurer, or special compensation fund shall notify the attorney representing the employee or dependent. If the employee or dependent has no attorney or the attorney fails to seek appointment of a guardian or conservator within 30 days of being notified under this subdivision, the employer or insurer shall seek the appointment in probate court and the special compensation fund shall notify the commissioner or a compensation judge for referral of the matter under subdivision 3. In the case of a minor who is not represented by an attorney, the commissioner shall refer the matter under subdivision 3.

**Subd. 3. Referral.** When, in a proceeding before them, it appears to the commissioner, compensation judge, or, in cases upon appeal, the workers' compensation court of appeals, that an injured employee or a dependent is a minor or an incapacitated person without a guardian or conservator, the commissioner, compensation judge, or court of appeals shall refer the matter to probate court. The commissioner has no duty to monitor files at the department but must review a file for referral upon receiving a complaint that an injured employee or dependent is a minor or an incapacitated person without a guardian or conservator.

**Subd. 4. Guardian, conservator; powers, duties.** A guardian or conservator of an injured employee or dependent shall have the powers and duties granted by the probate court including, but not limited to:

- (1) representing the interests of the employee or dependent in obtaining compensation according to the provisions of this chapter;
- (2) receiving monetary compensation benefits, including the amount of any award, settlement, or judgment; and

(3) acting as a fiduciary in distributing, managing, and investing monetary workers' compensation benefits.

**History:** 1993 c 194 s 4

### 176.111 DEPENDENTS, ALLOWANCES.

*[For text of subds 1 to 4, see M.S.1992]*

**Subd. 5. Payments, to whom made.** In death cases compensation payable to dependents is computed on the following basis and shall be paid to the persons entitled thereto or to a guardian or conservator as required under section 176.092.

*[For text of subds 6 to 21, see M.S.1992]*

**History:** 1993 c 194 s 5

### 176.136 MEDICAL FEE REVIEW.

*[For text of subds 1 and 1a, see M.S.1992]*

**Subd. 1b. Limitation of liability.** (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a small hospital shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive. A "small hospital," for purposes of this paragraph, is a hospital which has 100 or fewer licensed beds.

(b) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or 1c or paragraph (a) shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

(c) The limitation of liability for charges provided by paragraph (b) does not apply to a nursing home that participates in the medical assistance program and whose rates are established by the commissioner of human services.

*[For text of subds 1c to 3, see M.S.1992]*

**History:** 1993 c 194 s 6

### 176.521 SETTLEMENT OF CLAIMS.

**Subdivision 1. Validity.** An agreement between an employee or an employee's dependent and the employer or insurer to settle any claim, which is not upon appeal before the court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties and intervenors in the matter, and, where one or more of the parties is not represented by an attorney, the commissioner or a compensation judge has approved the settlement and made an award thereon. If the matter is upon appeal before the court of appeals or district court, the court of appeals or district court is the approving body. An agreement to settle any claim is not valid if a guardian or conservator is required under section 176.092 and an employee or dependent has no guardian or conservator.

**Subd. 2. Approval.** Settlements shall be approved only if the terms conform with this chapter.

The commissioner, a compensation judge, the court of appeals, and the district court shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or the employee's dependent and the employer or insurer are

represented by an attorney shall be conclusively presumed to be reasonable, fair, and in conformity with this chapter except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the commissioner, a compensation judge, or court of appeals.

The conclusive presumption in this subdivision is not available in cases involving an employee or dependent with a guardian or conservator.

The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

*[For text of subds 2a and 3, see M.S.1992]*

**History:** 1993 c 194 s 7,8

#### **176.5401 TRANSFER OF STATE CLAIMS UNIT TO DEPARTMENT OF EMPLOYEE RELATIONS.**

The responsibilities of the commissioner of labor and industry relating to the administration and payment of workers' compensation benefits to state employees under this chapter and the administration of the peace officers benefits fund under chapter 176B, and the staff assigned to administer these responsibilities, are hereby transferred to the department of employee relations under section 15.039. The complement positions to be transferred shall be determined by the commissioner of administration in consultation with the commissioners of employee relations and labor and industry.

**History:** 1987 c 332 s 99