

CHAPTER 1410
OFFICE OF ADMINISTRATIVE HEARINGS
WORKERS' COMPENSATION HEARINGS

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1410.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 1410.0100 to 1410.6900, the following terms have meanings given them.

Subp. 2. **Calendar judge.** "Calendar judge" means a workers' compensation judge from the Office of Administrative Hearings.

Subp. 3. **Chief hearing examiner.** "Chief hearing examiner" means the chief hearing examiner of the Office of Administrative Hearings.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Labor and Industry.

Subp. 5. **Compensation judge.** "Compensation judge" means a workers' compensation judge from the Office of Administrative Hearings.

Subp. 6. **Division.** "Division" means the Workers' Compensation Division of the Department of Labor and Industry.

Subp. 7. **Office.** "Office" means the Office of Administrative Hearings.

Subp. 8. **Petition.** "Petition" means a claim filed by or on behalf of an injured or deceased employee, employer, or insurer which initiates a contested workers' compensation case requiring assignment for hearing.

Subp. 9. **Petitioner.** "Petitioner" means the injured employee, an heir or dependent of a deceased employee or a party filing on their behalf, or an employer or insurer.

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Subp. 10. **Regular hearing.** A "regular hearing" is a hearing set for the purpose of receiving evidence and is conducted by a compensation judge.

Subp. 11. **Settlement conference.** A "settlement conference" is a proceeding conducted by a compensation judge. It is for the primary purpose of providing assistance to the parties in resolving disputes and securing a settlement of all issues and for the secondary purpose of assisting the parties in narrowing the issues and of expediting preparation and trial of the matter.

Subp. 12. **Settlement judge.** "Settlement judge" means a workers' compensation judge from the Department of Labor and Industry.

Statutory Authority: *MS s 14.51*

1410.0200 SCOPE AND PURPOSE.

The procedures contained in parts 1410.0100 to 1410.6900 shall govern all hearings required to be conducted pursuant to the provisions of the Minnesota workers' compensation laws, Minnesota Statutes, chapter 176 and the Minnesota Administrative Procedure Act, Minnesota Statutes, sections 14.02 to 14.56, as those provisions might apply.

Statutory Authority: *MS s 14.51*

1410.0300 ASSIGNMENT OR TRANSFER OF CASES.

The chief hearing examiner has full responsibility for the assignment of cases for trial to the compensation judges. The chief hearing examiner may transfer to another compensation judge the proceedings on any case in the event of the death, extended absence, or disqualification of the compensation judge to whom it has been assigned, and may otherwise reassign such cases if necessary to expedite the proceedings if no oral testimony has been received in the cases.

Statutory Authority: *MS s 14.51*

1410.0400 AUTHORITY OF COMPENSATION JUDGES.

In any case which has been regularly assigned to him or her for trial, a compensation judge shall have full power, jurisdiction, and authority to hear and determine all issues of fact and law presented to him or her and to issue such interlocutory and final orders, findings, decisions, and awards as may be necessary to the full adjudication of the case.

Statutory Authority: *MS s 14.51*

1410.0500 JOINDER OF PARTIES.

Subpart 1. **Request.** Upon a motion of any party or upon his or her own motion, a compensation judge may order the joinder of additional parties necessary for the full adjudication of the case. A party not present or represented at the time of joinder shall forthwith be served by the party requesting joinder with copies of the order of joinder and all pleadings in the case.

Subp. 2. **Service.** Any party requesting joinder of additional parties shall serve a copy of the request on all existing parties, and the party to be joined, and file the original with proof of service with the compensation judge no later than ten days prior to the pretrial or settlement conference, or within 15 days after receipt of a pretrial order, unless the judge allows a shorter time when the moving party has shown that the party is a necessary party, that the moving party was unable, through due diligence, to previously ascertain the name of or necessity of joining the party, and that the joinder is necessary to a full and final determination of the rights or liabilities of all persons. When this request is served on the party to be joined, it shall be accompanied by copies of all pleadings and the notice of the date, time, and place set for a settlement conference or pretrial conference.

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Subp. 3. **Affidavit.** When a party requests joinder less than ten days prior to the pretrial or settlement conference date or more than 15 days after receipt of a pretrial order, the request shall include an affidavit of the requesting party stating the facts necessary to show cause why the lesser time should be allowed.

Subp. 4. **Delay.** In cases where the compensation judge has denied the joinder because of the requesting party's failure to meet the time requirements, the case shall not be stricken, continued, or otherwise delayed for the purposes of joinder, unless the attorney for the petitioner consents to it.

Subp. 5. **Contents of motion.** All motions for joinder shall contain at least the following:

- A. the party to be joined and its insurer, if any;
- B. the date and nature of the claimed personal injury or impairment;
- C. the detailed circumstances, in affidavit form, showing that the party to be joined is a necessary party;
- D. the supporting medical opinions relied upon, if applicable; and
- E. if the party to be joined is the special compensation fund, the detailed circumstances, in affidavit form, showing the specific basis claimed for joinder, including the date of registration of prior impairment or injury where applicable.

Subp. 6. **Objection.** A party contesting joinder under this part may do so by objection filed with the compensation judge within ten days of service, requesting a hearing thereon; otherwise, an ex parte order may be issued granting or denying this joinder.

Statutory Authority: *MS s 14.51*

1410.0600 CONSOLIDATION OF CLAIMS.

Claims by several employees arising out of the same accident may be consolidated in one proceeding only by consent of all parties or by order on appropriate motion.

Statutory Authority: *MS s 14.51*

1410.0700 COMMENCEMENT OF PROCEEDINGS.

Original proceedings for the adjudication of compensation rights and liabilities are commenced by the service of a petition as provided by Minnesota Statutes, section 176.305.

Statutory Authority: *MS s 14.51*

1410.0800 HEADING OF PETITION.

Unless otherwise provided by law, all requests for action by a compensation judge after the filing of a petition shall contain the caption, the employee's social security number, and appropriate identification number of the case, and shall indicate the type of action requested.

Statutory Authority: *MS s 14.51*

1410.0900 RESPONSIBILITIES OF ATTORNEYS.

All attorneys representing employees, employers, or any other parties to a workers' compensation proceeding shall inquire of their clients, within five days of receipt of a notice of a pretrial order or pretrial conference, as to whether any third party, other than the workers' compensation insurer, has paid wage loss benefits or treatment expense to the employee or in the employee's behalf.

Failure of a petitioner's attorney to comply in a timely manner with parts 1410.0900 and 1410.1000 shall be taken into consideration as an additional significant factor in determining the attorney's fee under Minnesota Statutes, section 176.081.

Failure of an attorney representing an employer and insurer to comply in a timely manner with parts 1410.0900 and 1410.1000 shall be taken into

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consideration for purposes of determining whether a penalty shall be assessed against the employer and insurer under Minnesota Statutes, section 176.225 for unreasonable or vexatious delay.

Statutory Authority: *MS s 14.51*

1410.1000 NOTICE TO THIRD PARTIES.

If inquiry discloses that any third party, such as an insurer or a welfare department, has made any such payments, the attorney discovering that fact shall then have the duty to place the third party on written notice of its right to petition for intervention and reimbursement. The written notice shall have attached to it a copy of parts 1410.2000 to 1410.2600 and also a copy of all pleadings in the case and a copy of all notices and all orders of the division and of the office served in the case to date, and shall specifically advise:

A. that the petitioner has commenced a proceeding to recover workers' compensation benefits, and that under Minnesota Statutes, section 176.361 and parts 1410.2000 to 1410.2600 the third party has the right to petition for intervention and reimbursement of payments made for treatment and wage loss;

B. the name and address of all parties to the proceeding and the names and addresses of their attorneys;

C. the name of the third party's insured, the nature of the payments made, and any identifying claim and policy number; and

D. that any failure of the third party to comply with any provisions of parts 1410.2000 to 1410.2600 shall result in a denial of the claim for reimbursement unless the compensation judge determines that the error or omission is merely technical.

Statutory Authority: *MS s 14.51*

1410.1100 SETTLEMENT CONFERENCE.

Subpart 1. Settlement alternatives not precluded. Nothing contained in these rules shall preclude any party from requesting that a settlement conference be scheduled at any time prior to a hearing by a compensation judge, nor shall they prohibit the chief hearing examiner or compensation judge from setting a settlement conference on his or her own motion once the matter has been received from the commissioner.

Subp. 2. Attendance. At any settlement conference conducted before a calendar or compensation judge, all parties shall attend and shall, if they are a representative of a party, be authorized to reach a full settlement on all or any issues in the case.

Subp. 3. Matters agreed upon. If, following a settlement conference, a settlement has not been reached but the parties have reached agreement on any facts, legal or medical issues, or levels of benefits, the calendar or compensation judge presiding over the settlement conference shall, if he or she approves of those matters agreed upon, issue an order confirming and approving those matters agreed upon. The order shall be binding on any compensation judge who may subsequently be assigned to hear the case. Issues once agreed upon and approved may be reopened by the compensation judge only upon motion of any party on the basis of newly discovered evidence which was not reasonably discoverable at the earlier time.

Statutory Authority: *MS s 14.51*

1410.1200 NOTICE OF INTENTION TO DISCONTINUE PAYMENTS.

Subpart 1. Hearing. When an objection to a notice of intention to discontinue compensation payments has been filed or where it appears to the commissioner that the right to compensation may not have terminated and the

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matter has been referred to the chief hearing examiner, it shall be set for hearing on a priority basis not less than 30 nor more than 75 days from the date of the receipt of the matter from the commissioner.

Subp. 2. **Objection as claim petition.** Any objection filed more than 120 days after service of a notice to discontinue shall be treated as a claim petition for purposes of scheduling a hearing and shall not be heard on a priority basis.

Subp. 3. **Petitions for discontinuance.** When an employer or insurer petitions the commissioner for an order allowing discontinuance of benefits but has chosen not to discontinue payments until after a final determination and the matter has been referred to the chief hearing examiner, the petitioner shall be entitled to a hearing on the same priority basis as set forth in subpart 1.

Statutory Authority: *MS s 14.51*

1410.1300 SERVICE.

Subpart 1. **Service by state.** The chief hearing examiner and calendar or compensation judges shall serve all notices, findings, orders, decisions, or awards upon the parties or their attorneys or agents of record by first class mail at their addresses of record or by personal service.

Subp. 2. **Service by parties.** A party may accomplish service of any document either by first class mail or by personal service. Service of any document required to be served by or on a party may be served by or on the party's attorney or authorized agent. Upon filing of the document served, it shall be accompanied by an affidavit or proof of service which shall be in the form acceptable to the district courts.

Subp. 3. **Service by mail.** Service of all documents and pleadings may be made by first class United States mail upon all parties to a proceeding whether residents of the same city, town, or otherwise. Computation of time in such instances shall be in accordance with the provisions of Minnesota Statutes, section 645.15.

Statutory Authority: *MS s.14.51*

1410.1400 CONFERENCES AND HEARINGS DISTINGUISHED.

For the purposes of parts 1410.0100 to 1410.6900, a hearing may be called a settlement conference, a pretrial conference, or a regular hearing. Nothing contained herein is intended to change the statutory requirement that hearings, as defined by statute, be conducted by compensation judges from the Office of Administrative Hearings.

Statutory Authority: *MS s 14.51*

1410.1500 PRETRIAL CONFERENCE.

A pretrial conference may be required whether or not a settlement conference has been held and may be conducted by telephone. The purposes of a pretrial conference are to ascertain if there are genuine disputes requiring resolution by a calendar or compensation judge, to provide assistance to the parties in resolving disputes, to narrow the issues, and to expedite preparation and trial if a regular hearing is necessary. A pretrial conference is conducted by a calendar or compensation judge. It shall be conducted by telephone if the location set for the pretrial conference would require any party to travel more than 50 miles to attend. Written notice of this hearing shall be given at least 20 days prior to the date of the hearing.

Statutory Authority: *MS s 14.51*

1410.1600 NOTICE OF HEARING.

Notice of the time and place for hearing shall be provided to all parties to a case as required by part 1410.1300, subpart 1, except that oral or written notification of the date, time, and place for a regular hearing which is given to the parties by a calendar or compensation judge at the time of a settlement or pretrial conference shall be sufficient notice. Each attorney receiving notice of the hearing date at a settlement or pretrial conference shall be responsible for notifying each party the attorney represents of the hearing date. When a written notice is required, it shall be given at least 30 days prior to the date of hearing, except when notice is waived by all parties, when a different time is expressly agreed to by all parties, or when the notice is governed by contrary law or rule.

Statutory Authority: *MS s 14.51*

1410.1700 CONTINUANCES.

Subpart 1. Continuances not favored. Requests for continuances are inconsistent with the requirement that workers' compensation proceedings be expeditious and are, therefore, not favored and will be granted only upon a clear showing of good cause. The parties are expected to submit for decision all matters in controversy at a single hearing and to produce at the hearing all necessary evidence, including witnesses, documents, medical reports, payroll statements, and all other matters considered essential in the proof of a party's claim or defense.

Subp. 2. Request. When a continuance is to be requested prior to the hearing date, the party requesting the continuance shall have first contacted all other parties to determine whether mutual agreement to the continuance can be reached and, if the continuance be granted, the availability of all parties for hearing at future specific dates. When all parties are in agreement with the request for continuance and have agreed to a date for a future hearing, which date has been approved by the compensation or calendar judge before whom the matter is pending, and when the continuance request is made no less than ten working days prior to the hearing date, the continuance shall be granted.

Subp. 3. Motion. If all parties have not agreed to a continuance, requests for continuances shall be made to the compensation or calendar judge before whom the matter is pending. When made more than ten working days prior to the hearing date, the request shall be in writing in the form of a motion for continuance and shall be served on all parties. If less than ten working days remain prior to the hearing date, notice of the motion may be made orally. A hearing on the motion shall be conducted only if ordered by the compensation or calendar judge to whom the motion is made.

Subp. 4. Absence of good cause. Good cause shall not include:

A. when an insurer retains more than one counsel on its own payroll who practices in the field of workers' compensation law, unavailability of the counsel assigned to the case because of engagement in another court or otherwise unless all such counsel are committed elsewhere;

B. when a law firm consists of more than one member who practices in the field of workers' compensation law, unavailability of the counsel assigned to the case because of engagement in another court or otherwise unless all such counsel are committed elsewhere;

C. unavailability of an individual law practitioner because of engagement in another court, if he has failed to notify the judge in charge of the trial court calendar of that court that he has been assigned to a date and time certain in a workers' compensation case; or

D. unavailability of a medical or other witness if the witness' deposition could have been taken between the time of receipt of the notice of the

hearing date and the date of the hearing.

Statutory Authority: *MS s 14.51*

1410.2000 MOTION TO INTERVENE.

Any person desiring to intervene in a workers' compensation case as a party shall submit a timely motion to intervene to the compensation judge to whom the case has been assigned or to a calendar judge if the case has not yet been assigned. The motion shall be served on all parties either personally or by first class mail. A motion to intervene shall be served and filed within 30 days after a person has received notice that a claim petition has been filed as provided in parts 1410.0900 and 1410.1000. In any other situation, timeliness will be determined by the calendar or compensation judge in each case based on circumstances at the time of filing. The motion shall show how the moving party's legal rights, duties, or privileges may be determined or affected by the case, shall set forth the grounds and purposes for which intervention is sought, and shall indicate the moving party's statutory right to intervene if one should exist. The motion shall be accompanied by the following, if applicable:

A. an itemization of disability payments showing the period during which the payments were or are being made, the weekly or monthly rate of the payments, and the amount of reimbursement claimed;

B. a summary of the medical or treatment payments, broken down by medical or treatment creditor, showing the total bill submitted, the period of treatment covered by that bill, the amount of payment on that bill, and to whom the payment was made;

C. copies of all medical or treatment bills on which some payment was made;

D. copies of the worksheets or other information setting forth how the payments on medical or treatment bills were calculated;

E. a copy of the relevant policy or contract provisions upon which the claim for reimbursement is based;

F. a proposed order allowing intervention with sufficient copies to serve on all parties;

G. a proof of service; and

H. at the option of the intervenor, a proposed stipulation which states that all of the payments for which reimbursement is claimed are related to the injury or condition in dispute in the case and that, if the petitioner is successful in proving the compensability of the claim, it is agreed that the sum be reimbursed to the intervenor.

Statutory Authority: *MS s 14.51*

1410.2100 STIPULATION.

When the person serving the motion for intervention has included a proposed stipulation, all parties shall either execute and return the signed stipulation to the intervenor or serve upon the intervenor and all other parties specific and detailed objections to any payments made by the intervenor which are not conceded to be correct and related to the injury or condition the petitioner has asserted is compensable. If a party has not returned the signed stipulation or filed objections within 30 days of service of the motion, the intervenor's right to reimbursement for the amount sought shall be deemed to be established provided that the petitioner's claim is determined to be compensable.

Statutory Authority: *MS s 14.51*

1410.2200 ATTENDANCE BY INTERVENOR.

Unless a stipulation has been signed and filed or the intervenor's right to reimbursement has otherwise been established, the intervenor shall attend all settlement or pretrial conferences and shall attend the regular hearing if ordered to do so by the compensation judge.

Statutory Authority: *MS s 14.51*

1410.2300 BINDING ORDER ON INTERVENTION.

If an objection to intervention remains following settlement or pretrial conferences, the calendar judge shall enter an order ruling on the intervention which order shall be binding on the compensation judge to whom the case is assigned for a regular hearing.

Statutory Authority: *MS s 14.51*

1410.2400 PRESENTATION OF EVIDENCE BY INTERVENOR.

Unless a stipulation has been signed and filed or the intervenor's right to reimbursement has otherwise been established, at the regular hearing on the claim petition where intervention has been granted, the intervenor shall present evidence in support of his or her claim unless otherwise ordered by the compensation judge.

Statutory Authority: *MS s 14.51*

1410.2500 EFFECTS OF NONCOMPLIANCE.

Failure to comply with any provision of parts 1410.2000 to 1410.2400 shall result in a denial of the claim for reimbursement unless the compensation judge determines that the error or mistake is merely technical.

Statutory Authority: *MS s 14.51*

1410.2600 FAILURE OF ATTORNEY TO RESPOND.

Failure by the petitioner's attorney to submit a timely response which also complies otherwise with parts 1410.2000 to 1410.2400 shall be a significant additional factor to be taken into consideration under Minnesota Statutes, section 176.081 in determining the amount of the attorney's fees. Failure by an attorney representing an employer or insurer to submit a timely response which also complies otherwise with the requirements of parts 1410.2000 to 1410.2400 shall be taken into consideration for purposes of determining whether a penalty shall be assessed against the employer or insurer under Minnesota Statutes, section 176.225 for unreasonable or vexatious delay.

Statutory Authority: *MS s 14.51*

1410.3000 CONSOLIDATION OF CASES.

Subpart 1. Authorization. Consolidation of two or more related cases may be ordered for the purpose of receiving evidence. Consolidation may be ordered upon motion by any party to the calendar or compensation judge or upon the calendar or compensation judge's own motion if the calendar or compensation judge determines that separate cases present substantially the same issues of fact and law; that a holding in one case would affect the rights of the parties in the other case; and that the consolidation would not substantially prejudice the rights of any party.

Subp. 2. Stipulation. Notwithstanding the requirements of subpart 1, the parties may stipulate and agree to such consolidation.

Subp. 3. Receipt of evidence. Under consolidation, all documentary evidence previously received in an individual case shall be reintroduced in the consolidated proceedings under a master file if the compensation judge assigned to try the case designates one file as a master file. When so adduced, the evidence shall be deemed part of the record of each of the several consolidated

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cases. Evidence received subsequent to the order of consolidation shall be similarly received with like force and effect.

Subp. 4. **Notice of order.** Following the granting of an order for consolidation, the calendar or compensation judge shall forthwith serve on all parties and the commissioner a copy of the order for consolidation. The order shall contain, among other things, a description of the cases for consolidation, the reasons for consolidation, and notification of a consolidated pretrial conference if one has been requested.

Subp. 5. **Motion for severance.** Any party may object to consolidation by filing with the appropriate judge, and serving upon all parties at least seven days prior to the regular hearing in the case, a motion for severance from consolidation, setting forth the reasons for the motion.

Subp. 6. **Determination of motion.** If the judge finds that consolidation would prejudice the rights of the party moving for severance, the judge shall order such severance or other relief as he or she deems necessary.

Subp. 7. **Service of pleadings and decisions.** Separate pleadings shall be filed and separate findings, orders, decisions, and awards will be made and filed in each case consolidated for hearing.

Statutory Authority: *MS s 14.51*

1410.3100 DISQUALIFICATION OF COMPENSATION JUDGE.

A compensation judge shall withdraw from participation in a case at any time if the judge deems himself or herself disqualified, prejudiced, or biased for any reason. Proceedings to disqualify a compensation judge shall be initiated by the service on all parties and the filing of a motion for disqualification supported by affidavit stating in detail facts establishing grounds for disqualification of the compensation judge to whom a case or proceeding has been assigned. The motion for disqualification shall be filed with the chief hearing examiner not more than ten days after the moving party has received notice of the assignment of the judge to the hearing or has knowledge of the grounds for disqualification, whichever occurs last. The motion shall be determined by the chief hearing examiner or his designee. The fact that a compensation judge has previously determined a similar case contrary to the interests of the moving party in the pending case shall not be grounds for disqualification.

Unless required because of the unavailability of a compensation judge to hear the case, no continuance shall be granted by reason of a disqualification under this part. If a continuance is necessary, another regular hearing will be scheduled as early as possible.

Consolidated cases are to be considered as one case within the meaning of this part. This part is not applicable to settlement or pretrial conferences.

Statutory Authority: *MS s 14.51*

1410.3200 MANDATORY CONFERENCES.

All cases shall be subject to a settlement conference or a pretrial conference at which all parties shall attend or be represented, unless a calendar or compensation judge orders otherwise. A compensation judge shall order that a pretrial or settlement conference be conducted if any party requests that one be conducted. If parties are represented by attorneys, the attorneys shall bring with them their appointment calendars. If a party is not represented by an attorney, the party shall appear personally and shall be prepared to arrange agreeable dates for the regular hearing. Parties or their attorneys attending a settlement or pretrial conference must have authority to settle their respective claims.

Statutory Authority: *MS s 14.51*

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1410.3300 SETTLEMENT DISCUSSIONS.

Prior to any settlement or pretrial conference, the parties shall discuss the possibility of settlement if they deem that a reasonable basis for settlement exists. Parties or attorneys appearing at settlement or pretrial conferences shall be prepared to participate in settlement discussions.

Statutory Authority: *MS s 14.51*

1410.3400 CONFERENCE PREPARATION AND PROCEDURES.

At the settlement or pretrial conference:

- A. All parties shall be prepared to state the issues.
- B. All parties shall state the names, and addresses if known, of all witnesses they intend to call.
- C. All parties shall give notice of any amendments to pleadings that may still be necessary.
- D. All parties shall file copies of all medical reports not already on file. Reports of medical examinations completed after any settlement or pretrial conference shall be filed as soon as available prior to the regular hearing.
- E. Each party shall state what exhibits, including photographs, motion picture films, video tapes, and documentary evidence, are intended to be used at the hearing, and copies of these exhibits shall be made available to opposing counsel no later than ten days prior to the date of the regular hearing; provided, however, that if any party requests showing of motion picture films or video tapes prior to the regular hearing, it shall pay the expense for the showing and may tax this expense in the same manner as other disbursements.
- F. If the petitioner plans to introduce hospital records into evidence, the petitioner or his attorney shall bring to the settlement or pretrial conference written authorizations for opposing counsel to examine those records if the authorizations have not previously been provided.
- G. If the petitioner is claiming medical or other treatment expenses, the petitioner or the attorney shall state those expenses at the time of the settlement or pretrial conference, and shall furnish opposing counsel with copies of itemized bills for such expenses at least ten days prior to the settlement or pretrial conference.
- H. If the petitioner is claiming temporary total disability, the petitioner or attorney shall state at the settlement or pretrial conference the dates of time lost from work.
- I. If the petitioner is claiming temporary partial disability, the petitioner or attorney shall state the dates of the claim, the approximate amount of the claim, and the names and addresses of the employers for whom the employee worked during the period of the claim; authorizations to permit opposing counsel to confirm wages earned in those employments shall have been furnished at least ten days prior to the scheduled settlement or pretrial conference; and an itemized breakdown of the claim for temporary partial disability shall be submitted to the compensation judge and opposing counsel at least ten days prior to the time of the regular hearing.
- J. The parties or their attorneys shall state whether payment for disability benefits, on medical or treatment expenses, or on funeral expenses has been made by any party other than the workers' compensation carrier. If payment has been made, the name and address of the party making payment shall be furnished to the calendar or compensation judge, together with any identifying policy or claim numbers.
- K. If a dispute exists on the wage rate at the time of the injury, the attorney for the employer and insurer shall furnish to opposing counsel at least ten days prior to the settlement or pretrial conference copies of the relevant wage records of the petitioner.

L. The attorney for the petitioner shall furnish to the calendar or compensation judge a copy of his retainer agreement with the petitioner and shall state the amount of retainer fee paid. He shall be prepared at the time of hearing or settlement to show the reasonableness of any attorney's fees or costs, in accordance with Minnesota Statutes, section 176.081.

Statutory Authority: *MS s 14.51*

1410.3500 PRETRIAL STATEMENT.

At the time a case is first set for a settlement or pretrial conference or prior to setting the date for a regular hearing, if the information is not already on file, the calendar or compensation judge may order the parties to complete, serve on each other, and file a pretrial statement which shall contain any of the items in part 1410.3400 which the judge deems appropriate. In making a determination on the requirement of the preparation of pretrial statements, the judge shall take into consideration the number of parties involved in the case, the nature and extent of the medical issues, and the nature, extent, and type of disability claimed. When a pretrial statement has been ordered, the petitioner shall serve and file a statement within 20 days of the date of the order. The responding parties shall serve and file their statement within 30 days of the date of the order. Thereafter, a petitioner may serve and file an amended pretrial statement based solely on information presented in the responding parties' statements and not on new issues, which amended statement shall be filed within 40 days of the date of the order.

Statutory Authority: *MS s 14.51*

1410.3600 EVIDENCE NOT DISCLOSED AT CONFERENCE.

Evidence, or other matters listed in part 1410.3400 which have not been disclosed at the settlement or pretrial conference or in a pretrial statement, shall not be allowed to be presented at the regular hearing unless it can be shown to the compensation judge that the evidence or other matters offered were discovered subsequent to the filing of a pretrial statement or pretrial conference, whichever occurs last, were not discoverable through the exercise of due diligence prior to that time, and that the other parties have been advised of the evidence or other matters prior to the trial and have had an opportunity for review.

Statutory Authority: *MS s 14.51*

1410.3700 TEMPORARY ORDERS.

Subpart 1. **Petition and content.** Any insurer or self-insurer voluntarily agreeing to pay benefits pursuant to Minnesota Statutes, section 176.191, subdivision 1, while the case is pending before the office, shall file a formal petition for temporary order. The petition shall contain the following:

- A. name of the employer and its insurer (or self-insured) consenting to payment of compensation benefits and medical expenses;
- B. the dispute involved, including the name and address of other employer and its workers' compensation insurer, if known, that may be liable for workers' compensation benefits and the date of the alleged injury while working for the employer; and
- C. the beginning date of the employee's present disability, and the compensation rate that the insurer or self-insurer will voluntarily pay.

Subp. 2. **Filing.** The original petition for temporary order, with proof of service on all necessary parties, shall be filed with the office.

Subp. 3. **Form of order.** The petition for temporary order shall be accompanied by a prepared formal order that should be substantially in the following form:

The undersigned having examined the foregoing petition for temporary order and the compensation files and records herein, and it appearing that a temporary

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order for payment of compensation benefits should be issued, pending a final determination, as provided by Minnesota Statutes, section 176.191, subdivision 1:

NOW, THEREFORE, IT IS HEREBY ORDERED, that (name of insurer or self-insured) having consented to payment of compensation benefits pursuant to Minnesota Statutes, section 176.191 shall pay to (name), petitioner, compensation at the weekly rate of \$(amount), during the period of petitioner's disability, beginning (date), and shall also pay reasonable medical expenses related to petitioner's said disability.

IT IS FURTHER ORDERED, that following a final determination of liability and if it has been determined that some other employer or insurer is liable for all or part of the compensation paid pursuant to this temporary order, then the division, the compensation judge, or Court of Appeals shall order the parties held liable to reimburse (name of paying party) for all or part of the compensation paid pursuant to this temporary order, for which the other parties are held liable, including interest at the rate of five percent per annum.

Dated at _____, Minnesota
this ___ day of _____

(COMPENSATION JUDGE)

By _____

Subp. 4. **Copies.** The original and sufficient copies of the order to make service upon all necessary parties, and any attorneys representing them, shall be filed.

Statutory Authority: *MS s 14.51*

1410.3800 PAYMENT OF BENEFITS BY SPECIAL COMPENSATION FUND.

Subpart 1. **Petition.** A petitioner seeking payment of benefits by the special compensation fund pursuant to Minnesota Statutes, section 176.191, subdivision 2, when the case is pending before the office, shall file a formal petition for temporary order. The petition shall contain the following:

A. a statement that written demand for payment pursuant to Minnesota Statutes, section 176.191, subdivision 1, has been made against all employers and insurers party to the claim and that the payment demanded has been refused;

B. the names and addresses of all employers and insurers or self-insurers who are parties to the claim;

C. a statement as to the dispute involved and the dates of all alleged injuries while working for each employer;

D. the beginning date of the petitioner's present disability, the compensation rate applicable for each injury date, the proposed compensation rate to be paid by the special compensation fund, and an itemization of all medical expenses requested to be paid pursuant to the temporary order; and

E. copies of all medical reports supporting the claimed period of disability and the causal relationship of that disability to the petitioner's employment.

Subp. 2. **Filing.** The original of the petition for temporary order, with proof of service on all necessary parties, shall be filed with the office.

Subp. 3. **Form of order.** The petition for temporary order shall be accompanied by a prepared formal order that should be substantially in the following form:

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The undersigned having examined the foregoing petition for temporary order and the compensation files and records herein, and it appearing that a temporary order for payment of compensation benefits should be issued pending a final determination, as provided by Minnesota Statutes, section 176.191, subdivision 2;

NOW, THEREFORE, IT IS HEREBY ORDERED that the state treasurer, as custodian of the special compensation fund, shall, pursuant to Minnesota Statutes, section 176.191, subdivision 2, pay to (name), petitioner, compensation at the weekly rate of \$(amount), during the period of petitioner's disability, beginning (date), and shall also pay reasonable medical expenses related to the petitioner's said disability.

IT IS FURTHER ORDERED, that following a final determination of liability and if it has been determined that one or more employers or insurers are liable for all or part of the compensation paid pursuant to this temporary order, then the division, the compensation judge, or Court of Appeals shall order the parties held liable to reimburse the state treasurer, as custodian of the special compensation fund, for all or part of the compensation paid pursuant to this temporary order, for which the other parties are held liable, including interest at the rate of 12 percent per annum.

Dated at _____, Minnesota
this ___ day of _____

(COMPENSATION JUDGE)

By _____

Subp. 4. **Copies.** The original and sufficient copies of the order to make service upon all necessary parties, and any attorneys representing them, shall be filed.

Statutory Authority: *MS s 14.51*

1410.3900 NECESSARY PARTIES.

For the purpose of parts 1410.3200 to 1410.4200, the following shall be deemed necessary parties:

- A. the petitioner;
- B. all insurers or self-insured named in the petition for temporary order;
- C. any employer who is uninsured or whose insurer for the date of the alleged injury in that employment is unknown; and
- D. the state treasurer, as custodian of the special compensation fund, if the petition is made pursuant to Minnesota Statutes, section 176.191, subdivision 2.

1410.4000 VERIFIED ANSWER.

Within ten days after being served with a copy of the petition for temporary order and order hereunder, employers or their insurers, other than paying party, or the state treasurer, as custodian of the special compensation fund, may file a verified answer to the petition in accordance with the provisions of Minnesota Statutes, section 176.321.

Statutory Authority: *MS s 14.51*

1410.4100 NONAPPROVAL OF TEMPORARY ORDERS.

Temporary orders, as a general rule, shall not be approved if made contingent upon the waiver by the petitioner of his rights to claim an additional award pursuant to Minnesota Statutes, section 176.225, or to have fees for his attorney assessed against the employer and insurer in addition to compensation pursuant to Minnesota Statutes, section 176.191 or 176.081, subdivision 8.

Statutory Authority: *MS s 14.51*

1410.4200 EFFECT OF FILING.

The filing of a petition for temporary order shall not cause the matter to be placed on the trial calendar, unless accompanied by a petition for contribution or reimbursement.

Statutory Authority: *MS s 14.51*

1410.4400 DEMAND FOR DISCOVERY.

Subpart 1. **Disclosure.** Each party shall, within 30 days of a demand by another party, disclose or furnish the following: the names and addresses of all witnesses that a party intends to call at the regular hearing, and any relevant written or recorded statements made by witnesses on behalf of a party.

Subp. 2. **Subsequent disclosure.** All witnesses unknown at the time of the disclosure shall be disclosed as soon as they become known if a prior demand has been made.

Subp. 3. **Statements by witnesses.** The demanding party shall be permitted to inspect and reproduce any such statements which reproduction shall be at the expense of the party requesting reproduction.

Subp. 4. **Failure to disclose.** Any party unreasonably failing upon demand to make the disclosure required by subpart 1, upon proper motion made to the compensation judge at the time of trial, may be foreclosed from presenting any evidence at the hearing through witnesses not disclosed or through witnesses whose statements are not disclosed.

Subp. 5. **Medical privilege.** Medical privilege shall be deemed waived as to the injuries or conditions alleged in the petition by the filing of the petition alleging injury or occupational disease. Medical authorizations shall be furnished, upon demand, to adverse parties. Likewise, any and all medical reports shall be provided, upon demand, to all adverse parties. Upon demand, the petitioner shall disclose the names and addresses of all persons who have treated the petitioner in the past for injuries or conditions identical or similar to those alleged in the petition, the dates of the treatment, and shall provide medical authorization for each.

Statutory Authority: *MS s 14.51*

1410.4500 DEPOSITIONS.

Pursuant to the provisions of Minnesota Statutes, section 176.411, subdivision 2, depositions may be taken in the manner which the law provides for depositions in civil actions in the district courts for the state, except where a compensation judge orders otherwise. When a party has objected to the taking of a deposition, the party requesting the deposition shall bring a motion before the compensation or calendar judge, before whom the case is pending at the time of the motion, who shall determine whether the deposition should go forward. The motion shall state, with specificity, the facts or other reasons supporting the need for the deposition. The compensation or calendar judge shall order the deposition to proceed if the judge finds that the request for the taking of the deposition has been shown to be needed for the proper presentation of a party's case, is not for purposes of delay, that unusual or extraordinary circumstances exist which compel extensive discovery, or that the issues or amounts in controversy are significant enough to warrant extensive discovery.

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Depositions for the purpose of preserving testimony or for presenting testimony due to the unavailability of the witness shall be allowed. Unless, for good cause shown, the party taking the deposition has obtained the permission of the calendar judge, or compensation judge if the case has been assigned for hearing, to take the deposition subsequent to the hearing, it shall be taken sufficiently in advance of the hearing so that the deposition is filed prior to or at the commencement of the regular hearing.

The original copy of any deposition taken for purposes of presenting testimony in the case shall be filed with the office if the matter has been referred to the chief hearing examiner for assignment. The original copy of any deposition taken solely for purposes of discovery shall be sealed and filed as in the case of evidentiary depositions but shall not be reviewed or utilized in any fashion by the compensation judge unless the deposition shall be formally entered as evidence in the case.

Statutory Authority: *MS s 14.51*

1410.4600 MOTIONS FOR ADDITIONAL DISCOVERY.

Upon the motion of any party, the compensation or calendar judge having jurisdiction at the time of the motion may order discovery of any other relevant material or information, recognizing all privileges recognized at law. The judge may order any means of discovery available pursuant to the Rules of Civil Procedure for the District Court of the state of Minnesota provided that the request for such discovery can be shown to be needed for the proper presentation of a party's case, is not for purposes of delay, and that the issues or amounts in controversy are significant enough to warrant extensive discovery.

Statutory Authority: *MS s 14.51*

1410.4700 NONCOMPLIANCE PENALTIES.

Upon the failure of a party to reasonably comply with parts 1410.0100 to 1410.6900 relating to discovery or with an order of a compensation or calendar judge made pursuant to parts 1410.4400 to 1410.4800, upon a motion properly made at the time of the hearing, the compensation judge assigned to the regular hearing may make a further order as follows:

A. an order that the subject matter of the order for discovery or any other relevant facts shall be taken as established for the purposes of the case in accordance with the claim of the party requesting the order; or

B. an order refusing to allow the party failing to comply to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence.

Statutory Authority: *MS s 14.51*

1410.4800 PROPRIETARY INFORMATION.

When a party is asked to reveal material which that party considers to be proprietary information or trade secrets, he or she shall bring the matter to the attention of the appropriate judge, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

Statutory Authority: *MS s 14.51*

1410.4900 PETITION FOR CONTRIBUTION OR REIMBURSEMENT.

Subpart 1. **Contents.** Petitions for contribution or reimbursement in cases pending before the office shall set forth in detail the allegations showing the basis of the claim for contribution or reimbursement against the additional employer or insurer named therein, or of the claim for reimbursement against the state treasurer, custodian of the special compensation fund. The petition shall be supported by medical evidence, and shall be signed and verified.

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Subp. 2. **Filing.** A petition for contribution or reimbursement under this part shall be filed no later than ten days prior to a pretrial conference or within 20 days of receipt of a pretrial order if a pretrial conference is not automatically set, and copies of all pleadings, including any notice of pretrial conference shall be served upon the additional employers or insurers by the party bringing the petition.

Subp. 3. **Answer.** Within 20 days after being served with a copy of a petition for contribution or reimbursement under this part, employers or their insurers, other than the petitioning party, may file a verified answer to the petition in accordance with the provisions of Minnesota Statutes, section 176.321 and, if not already set for a pretrial conference, the matter may be set for a pretrial conference in accordance with these rules.

Subp. 4. **Notice to petitioner.** The petitioner shall be notified of all of the proceedings and should be represented by an attorney of his or her choice. A copy of all motions or answers shall be duly served upon the petitioner, the petitioner's attorney, or both in accordance with Minnesota Statutes, section 176.321.

Statutory Authority: *MS s 14.51*

1410.5000 SUBPOENAS.

Subpoenas may be obtained without charge from the office. The name and address and telephone number of the party or attorney requesting service of the subpoena shall be included on the subpoena before service is made. When service is made, service and witness fees shall be tendered in accordance with Minnesota Statutes, section 357.22.

Upon motion promptly made, and in any event at or before the time specified in the subpoena for compliance with it, the calendar judge or compensation judge, if the case has been assigned for regular hearing, may quash or modify the subpoena if the judge finds that it is unreasonable or oppressive.

Statutory Authority: *MS s 14.51*

1410.5100 NOTICE OF HEARING.

A place, date, and time certain will be assigned to each case. Notice of the regular hearing will be given as soon as the assigned date is known, but shall be given at least 30 days in advance of the hearing. The notice will include the place of hearing and the amount of time allowed for the hearing and the name of the compensation judge assigned, if known. Cases will be set for one location only, which shall be that most convenient for the petitioner, and adequate time will be allowed so that the case may be completely heard in one setting. In the event that an additional hearing date is required, it shall be set by agreement of all parties and the compensation judge. If the parties cannot agree, the compensation judge shall set the hearing as provided herein.

Statutory Authority: *MS s 14.51*

1410.5200 AVAILABILITY OF MEDICAL WITNESSES.

As soon as the parties are apprised of the date scheduled for hearing, they shall immediately notify all medical witnesses in writing and arrange for their presence or for the taking of their deposition pursuant to part 1410.4500.

Statutory Authority: *MS s 14.51*

1410.5300 MEDICAL REPORTS.

The production of medical evidence in the form of written reports, by stipulation of the parties, is encouraged. These reports should include:

- A. the date of the examination;
- B. the history of the injury;

- C. the patient's complaints;
- D. the source of all facts set forth in the history and complaints;
- E. findings on examination;
- F. opinion as to the extent of disability and work limitations, if any;
- G. the cause of the disability and, if applicable, whether the work injury was a substantial contributing factor toward the disability;
- H. the medical treatment indicated;
- I. if permanent partial disability is an issue, an opinion as to whether or not permanent disability has resulted from the injury and whether or not the condition has stabilized; if stabilized, a description of the disability with a complete evaluation; and
- J. the reason or reasons for the opinion or opinions.

Statutory Authority: *MS s 14.51*

1410.5400 RIGHTS OF PARTIES.

All parties shall have the right to present evidence, to cross-examine witnesses, and to present rebuttal testimony.

Statutory Authority: *MS s 14.51*

1410.5500 WITNESSES.

Any party may be a witness or may present witnesses on his behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation. At the request of a party or upon his own motion for good cause, the compensation judge may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

Statutory Authority: *MS s 14.51*

1410.5600 RULES OF EVIDENCE.

Subpart 1. Limitations. Pursuant to Minnesota Statutes, section 176.411, subdivision 1, the compensation judge is bound neither by the common law or statutory rules of evidence nor by technical or formal rules of pleading or procedure.

Subp. 2. Evidence must be offered to be considered. All evidence to be considered in the case, including all records and documents in the possession of any party, or a true and correct photocopy thereof, shall be offered and made a part of the record in the case. Any independent investigation by the compensation judge pursuant to the provisions of Minnesota Statutes, section 176.391, subdivision 1, shall be part of the record provided all parties are aware of the investigation and have had an opportunity to participate in it. No other factual information or evidence shall be considered in the determination of the case.

Subp. 3. Documentary evidence. Documentary evidence in the form of copies of excerpts may be received or incorporated by reference upon agreement of the parties or if ordered by the compensation judge.

Subp. 4. Notice of facts. The compensation judge may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to contest the facts so noticed.

Subp. 5. Examination of adverse party. A party may call an adverse party or his managing agent or employees or an officer, director, managing agent, or an employee of the state or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate them by leading questions and contradict and impeach them on material matters in all respects as if they had been called by the adverse party. The adverse party may be examined by his counsel upon the subject matter of his or her examination in chief under the rules applicable to

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direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

Statutory Authority: *MS s 14.51*

1410.5700 HEARING RECORD.

Subpart 1. Maintaining. The compensation judge shall maintain the official record, other than the stenographic notes of a hearing reporter if one was used, in each case until the issuance of the judge's final order.

Subp. 2. Contents. The record in a compensation case shall contain:

A. all pleadings, motions, and orders, including the judgment roll and the entire record from any previous hearing which is relevant to the issues under consideration;

B. evidence received or considered unless, through agreement of the parties or by order of the compensation judge, custody of an exhibit is given to one of the parties;

C. those parts of the official file on the matter at the division which the compensation judge incorporates;

D. offers of proof, objections, and rulings thereon;

E. the compensation judge's order;

F. all memoranda or data submitted by any party in connection with the case;

G. a transcript of the hearing, if one was prepared; and

H. the audiomagnetic recording tapes, if that device was used to record the hearing.

Subp. 3. Charges for transcripts. The chief hearing examiner shall direct that the verbatim record of a hearing shall be transcribed if requested by any person. If a transcription is made, except as provided in subpart 4, the chief hearing examiner shall require the requesting person and other persons who request copies of the transcript to pay a reasonable charge for them if transcribed by the office. If transcribed by someone other than the office, the person requesting the transcription or a copy shall be liable to the person preparing the transcript for the charge. Charges for transcripts prepared by the office shall be set by the chief hearing examiner, with the approval of the Department of Finance, and all moneys received for transcripts prepared by the office shall be payable to the state treasurer, Office of Administrative Hearings' account.

Subp. 4. Petition for transcript. Pursuant to the provisions of Minnesota Statutes, section 176.421, subdivision 4, clause (3), a party may petition the chief hearing examiner for an order directing that a transcript be prepared, for purposes of appeal to the Court of Appeals, at no cost to the appellant. A petition filed under this provision shall include the following:

A. caption of the case;

B. case identification numbers;

C. name, address, and telephone number of the attorney representing the appellant; and

D. a sworn affidavit from the appellant, which shall include:

(1) appellant's monthly personal income from all sources including income from trusts, bonds, and savings certificates;

(2) a list, at market value, of all stocks, bonds, savings certificates, or other certificates of indebtedness held by the appellant and the appellant's spouse if residing in the same household;

(3) if residing in the same household, the monthly personal income from all sources for appellant's spouse;

(4) a statement of the monthly expenses for the appellant's household;

(5) if the appellant owns any rental property; a statement showing the appellant's equity in the property and the monthly income and expense for the property;

(6) if the appellant owns outright or is purchasing the property in which he or she resides, a statement showing the market value of the property, the appellant's equity in the property, and the present monthly payments, if any.

Statutory Authority: *MS s 14.51*

1410.5800 CONTINUANCES DURING THE HEARING.

If it appears in the interests of justice that further testimony should be received, the compensation judge, with the consent of all parties, may continue the hearing to a future date, and oral notice on the record shall be sufficient if given at the time of the original hearing. Otherwise, the notice of the date for the continued hearing shall be in writing and served on all parties.

Statutory Authority: *MS s 14.51*

1410.5900 HEARING PROCEDURE.

Subpart 1. Compensation judge conduct. The compensation judge shall not communicate, directly or indirectly, in connection with any issue of fact or law with any party concerning any pending case, except upon notice and opportunity for all parties to participate. After the time the first witness is sworn, unless all parties agree, all of the proceedings shall be on the record, including any and all motions, objections, offers of proof, rulings of the judge, arguments of the parties other than final arguments, or other comments of the parties, their representative, or the judge. A compensation judge shall not order a court reporter to refrain from recording anything said during the course of a hearing absent the consent of all parties present nor shall a compensation judge turn off an audiomagnetic recording device being used to record the proceedings, other than for reasonable breaks, absent the consent of all parties present.

Subp. 2. Conduct. Unless the compensation judge determines that the substantial rights of the parties will be ascertained better in some other manner, the hearing shall be conducted substantially in the following manner:

A. After opening the hearing, the compensation judge shall, unless all parties are represented by counsel, state the procedural rules for the hearing.

B. Any stipulations, settlement agreements, or consent orders entered into by any of the parties prior to the hearing shall be entered into the record.

C. If the compensation judge requests opening statements, the party with the burden of proof shall proceed first. All other parties shall make such statements in a sequence determined by the compensation judge.

D. After any opening statements, the party with the burden of proof shall begin the presentation of evidence. That party shall be followed by the other parties in a sequence determined by the compensation judge.

E. Cross-examination of witnesses shall be conducted in a sequence determined by the compensation judge.

F. When all parties and witnesses have been heard, if the compensation judge believes that legal issues remain unresolved, opportunity may be afforded to present final argument, in a sequence determined by the compensation judge. Final argument may, in the discretion of the compensation judge, be in the form of written memoranda or oral argument, or both. Oral final argument shall not be recorded, unless requested by a party or upon the order of the compensation judge. Written memoranda shall, when allowed, be submitted simultaneously or sequentially and within such time periods as the compensation judge shall prescribe. Final arguments shall be limited to legal issues only.

G. After final argument, if any, the hearing shall be closed or continued if ordered by the compensation judge. If continued, it shall be either continued

to a certain time and day, which shall be announced at the time of the hearing and made a part of the record, or continued to a date to be determined later, which must be upon not less than 15 days written notice to the parties.

H. The record of the case shall be closed upon receipt of the final written memorandum, transcript, if any, or late-filed exhibits which the parties and the compensation judge have agreed should be received into the record, whichever occurs last.

Statutory Authority: *MS s 14.51*

1410.6000 DISRUPTION OF HEARING.

Subpart 1. **Cameras.** No television, newsreel, motion picture, still, or other camera, and no mechanical recording devices, other than those provided by the office of administrative hearings, shall be operated in the hearing room during the course of the hearing unless permission is obtained from the compensation judge and then subject to such conditions as the compensation judge may impose to avoid disruption of the hearing.

Subp. 2. **Other conduct.** Pursuant to and in accordance with the provisions of Minnesota Statutes, section 624.72, no person shall interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. In the event of interference or disruption or threat thereof, the compensation judge shall read this rule to those persons causing the interference or disruption and thereafter proceed as the judge deems appropriate.

Statutory Authority: *MS s 14.51*

1410.6100 COMPENSATION JUDGE'S DECISION.

Subpart 1. **The record.** No factual information or evidence which is not a part of the record shall be considered by the compensation judge in the determination of the case.

Subp. 2. **Administrative notice.** The compensation judge may take administrative notice of general, technical, or scientific facts within the judge's specialized knowledge in conformance with the requirements of Minnesota Statutes, section 15.0419, subdivision 4 provided that notice of the taking of such administrative notice is given and opportunity has been provided to all parties to rebut the facts sought to be noticed.

Subp. 3. **Preparation and service.** Following the close of the record, the compensation judge shall prepare his or her decision and, upon completion, it shall be served on all parties.

Subp. 4. **Content.** The compensation judge's decision shall contain the following in the sequence as listed:

A. the date and location of the hearing and the compensation judge's name;

B. appearances by parties, if pro se, or their attorneys, giving the full name and mailing address, including zip code, of each;

C. the date on which the record of the hearing closed;

D. a notice of the right of parties to appeal and how the appeal can be perfected; and

E. findings of fact, conclusions, and a determination on each issue raised. In cases involving a multiplicity of issues, the compensation judge may organize the decision by major subissues if the judge determines that organizing the decision in that manner will aid the reader in understanding the contents of it.

Subp. 5. **Readability.** Compensation judge decisions shall be clear and concise and shall be written in a prose style which can be read and understood by persons of average intelligence. English rather than Latin terms shall be used unless it is necessary to utilize the Latin terminology.

Subp. 6. **Proposed decision filed by party.** Any party may file a proposed decision with the compensation judge before the record is closed. Any proposed decision submitted shall conform to the provisions of these rules, shall be served on all other parties, and shall be in a form which would allow the compensation judge to sign and issue the decision if it is acceptable. It shall also include a brief memorandum setting forth the issues and explaining the decision on each issue.

Statutory Authority: *MS s 14.51*

1410.6200 REHEARING.

When a compensation judge has issued his or her findings, conclusions, and decision, the judge's jurisdiction over the case shall end, except for taxation of disbursements or awarding of attorney's fees, unless the matter is referred to the compensation judge by the Court of Appeals and the chief hearing examiner for supplemental findings, taking of additional testimony, rehearing, or other action; provided that compensation judges may correct clerical or mathematical errors in decisions at any time prior to appeal.

Statutory Authority: *MS s 14.51*

1410.6300 SETTLEMENTS.

Subpart 1. **Stipulations.** Stipulations for settlement are allowed pursuant to Minnesota Statutes, sections 176.081, subdivision 7a and 176.521 and shall conform to those sections and to the requirements of this part.

Subp. 2. **Filing.** All stipulations for settlement shall be filed within 30 days of the date the settlement was negotiated.

Subp. 3. **Approval.** Stipulations for settlement reached and agreed upon subsequent to the referral of the case to the chief hearing examiner shall be filed with and, except in cases where all parties are represented by attorneys or for those filed pursuant to Minnesota Statutes, section 176.081, subdivision 7a, subject to approval by the compensation judge assigned to hear the case or a calendar judge if the matter has not yet been assigned.

Where a settlement has been agreed upon pursuant to Minnesota Statutes, section 176.081, subdivision 7a, when the offer and acceptance is filed, it shall include findings of fact, conclusions, and an award on all issues, including attorney's fees and costs. It shall be filed with the chief hearing examiner who shall immediately send the settlement and the file to the commissioner for entry of the agreed upon award. Where approval is not required pursuant to Minnesota Statutes, section 176.521, the award required by subpart 7 shall be immediately signed by the compensation judge, served on all parties, and filed with the commissioner.

Subp. 4. **Contents.** Stipulations for settlement shall contain the following information:

- A. a brief statement of all of the admitted material facts;
- B. a detailed statement of the matters in dispute, setting forth the contentions of the parties, supported by all medical reports or other documents in the possession of each party pertaining to each issue;
- C. the weekly wage and compensation rate of the petitioner;
- D. an itemization of the sums, if any, previously paid by the employer and insurer;
- E. a statement that all medical or treatment expenses have been paid by the employer and insurer, or an itemization of the expenses which have not been paid by the employer and insurer, indicating which payments, if any, have been made by the employee; the stipulation shall specifically state whether any third party has paid any of the expenses and, if payments have been made, shall include the name and address of the third party together with any identifying claim or policy number;

F. the number of weeks and rate of compensation and, in cases of permanent partial disability, the percentage loss or loss of use upon which the compromise agreement is based;

G. where applicable, the amount payable by the employer and insurer to the Workers' Compensation Division for the benefit of the special compensation fund;

H. where applicable, a statement that the employee has been fully advised of the provisions of Minnesota Statutes, sections 176.132 and 176.645, and the effect of the settlement upon any future claims for supplementary benefits or adjustment of benefits; and

I. where applicable, a statement that the petitioner is claiming or waiving his or her right to make application for an award of attorney's fees against the employer or insurer pursuant to Minnesota Statutes, section 176.081, subdivision 7 or 8, 176.135, or 176.191.

Subp. 5. Attorney fees detailed. Stipulations for settlement of cases in which the petitioner has engaged the services of an attorney shall be accompanied by a statement of the amount of attorney's fees requested and an itemization of the costs incurred, specifying who will be responsible for payment of each cost, and shall provide sufficient information to show the reasonableness of the requested fees and costs in accordance with Minnesota Statutes, section 176.081. If no fees are requested, the stipulation shall so state.

Subp. 6. Medical reports. Stipulations for settlement shall be accompanied by copies of all medical reports in the possession of the parties which have not previously been filed.

Subp. 7. Award. The parties involved in the settlement shall submit an award on stipulation prepared for signature by the applicable judge and sufficient copies thereof for all parties to be served if the settlement is approved.

Subp. 8. Copy to client. The attorney representing the petitioner shall furnish a copy of the stipulation for settlement to his or her client at the time the client signs the stipulation.

Subp. 9. Signatures. Stipulations for settlement shall be signed by all parties as required by Minnesota Statutes, section 176.521.

Subp. 10. Payment. The employer and insurer shall make payments pursuant to an award on stipulation within 14 days from the date the award on stipulation is filed with the commissioner.

Statutory Authority: *MS s 14.51*

1410.6400 ATTORNEY FEES.

Subpart 1. Notice of representation. Whenever an employer or insurer receives notice that an attorney is representing a petitioner, 25 percent of the compensation, not including medical expense, shall be withheld pending an order determining the reasonable value of any claim for legal services or disbursements pursuant to Minnesota Statutes, section 176.081. Written notice that the compensation is being withheld shall immediately be mailed to the petitioner, the attorney, and the division at its Saint Paul office.

Subp. 2. Filing of certain documents as application. In applicable cases, the filing of a claim petition or an objection to discontinuance of compensation shall constitute an application for the award of attorney fees against the employer and insurer pursuant to Minnesota Statutes, section 176.081, subdivision 7.

Subp. 3. Application. Application for determination and approval of any claim for legal services or disbursements may be filed by the employer or insurer, the petitioner, or the attorney. Unless ordered otherwise by a compensation judge, an application for attorney fees shall be by written petition. Any application shall disclose the amount of compensation withheld, the total fees or disbursements previously paid to said attorney or his associates, and, if filed by the attorney for the petitioner, the amount of any retainer fee paid.

Applications filed by attorneys shall contain sufficient information to show the reasonableness of the requested fees in accordance with Minnesota Statutes, section 176.081, subdivision 5.

A separate application is not necessary if filed as part of a stipulation for settlement.

Subp. 4. Filing. Applications under this part shall be filed with the compensation judge assigned to hear the case or a calendar judge if no assignment has been made.

Subp. 5. Settlements. In cases where an offer of settlement has been made, in writing, pursuant to the provisions of Minnesota Statutes, section 176.081, subdivision 7a, and the offer has not been accepted, upon receipt of the compensation judge's decision, the following procedure shall be followed:

A. The party seeking to impose the sanctions imposed by Minnesota Statutes, section 176.081, subdivision 7a, shall file proof of the offer with the chief hearing examiner within ten calendar days of the date of the compensation judge's decision. The filing shall include an order prepared for signature by the chief hearing examiner which would amend the compensation judge's decision.

B. When filing the material requested above, copies shall be served on all other parties at the same time.

C. Any party objecting to the entry of the order shall, within five calendar days of receipt of the proposed order, serve and file an objection, which may be in the form of a letter, stating in detail the reasons why the order should not be signed. A response to the objection, if any, must be filed within five calendar days of the objection.

D. If no objection is received, the chief hearing examiner shall sign, serve, and file the order within ten calendar days of its filing. If objection has been received, it shall be determined by the chief hearing examiner within ten calendar days after the filing of the objection. Parties shall not have the right to a hearing on the objection. The chief hearing examiner's determination shall be in writing and is appealable to the Workers' Compensation Court of Appeals.

Statutory Authority: *MS s 14.51*

1410.6500 TAXATION OF COSTS AND DISBURSEMENTS.

Subpart 1. Informal request. Prior to submitting a formal request for payment or reimbursement of costs and disbursements, an informal request should be made by the taxing party. If agreement cannot be reached on all items, the taxing party may then proceed as delineated herein, including in the formal request an indication of those costs agreed upon.

Subp. 2. Service of formal request. Service of the request for taxation of costs and disbursements shall be made upon the other parties, or their attorneys, by the taxing party.

Subp. 3. Service of objection. An opposing party has five working days from the date of service upon him in which to serve and file a formal objection to taxation or allowance, with admission or proof of service upon the other parties.

Subp. 4. Hearing. If requested, a time for hearing before the compensation judge who heard the case shall be fixed. A notice thereof shall be given to the parties by the compensation judge.

Statutory Authority: *MS s 14.51*

1410.6600 SECOND INJURY LAW.

If a dispute arises following the notice of intention to claim reimbursement under Minnesota Statutes, section 176.131, subdivision 6, and the commissioner refers the matter to the chief hearing examiner it shall be assigned to a compensation judge for hearing which hearing shall be conducted as provided by Minnesota Statutes, section 176.411, with right of appeal.

Statutory Authority: *MS s 14.51*

1410.6700 OTHER HEARINGS.

Pursuant to the provisions of Minnesota Statutes, section 15.052, subdivision 3, all hearings not discussed herein but required to be conducted by a compensation judge of the office of administrative hearings shall be conducted in substantial compliance with these rules provided, however, that in any dispute wherein an immediate hearing is necessary in order to carry out the purpose and intent of the Minnesota workers' compensation law, the notice of hearing shall be given not less than five working days prior to the hearing date. The chief hearing examiner shall provide expedited assignment of compensation judges to these hearings and shall assign compensation judges to the hearings in a manner which will allow the compensation judge's decision to be issued immediately upon conclusion of the hearing or as soon thereafter as may be reasonable and practical.

Statutory Authority: *MS s 14.51*

1410.6800 PERMANENT PARTIAL DISABILITY PANEL.

Subpart 1. Notification to administrator. Upon receipt of a file from the commissioner, if the chief hearing examiner, or a calendar or compensation judge if the case has been assigned to them, determines from a review of the file that permanent partial disability is a significant issue to be determined in the case, the chief hearing examiner shall immediately notify the administrator of the workers' compensation court of appeals if the petitioner resides in a county selected by the court of appeals pursuant to the provisions of Minnesota Statutes, section 176.152, subdivision 7.

Subp. 2. Questions to panel. When the administrator of the Workers' Compensation Court of Appeals notifies the chief hearing examiner of the names and addresses of the members of the permanent partial disability panel, the compensation judge, or the chief hearing examiner in cases in which a compensation judge has not yet been assigned, shall submit written questions to the panel. A copy of the questions shall be served on all parties at the same time.

Subp. 3. Hearing. When the chief hearing examiner or compensation judge receives the report of the panel, the case shall be set for a regular hearing as soon as practicable.

Subp. 4. Disputes relating to payment of panel members. Disputes relating to the payment of the fees of panel members arising pursuant to the provisions of Minnesota Statutes, section 176.152, subdivision 6, shall be brought to the attention of the compensation judge assigned to hear the case no later than 20 days prior to the date of the hearing. The parties disputing the fee shall notify the compensation judge, in writing, of the intent to dispute the fee, stating therein the specific facts relied upon in disputing the fee. A copy of this notification shall be served on all other parties and the members of the panel at the same time as it is filed with the compensation judge. At the hearing, the dispute shall be determined as other issues in the case.

Statutory Authority: *MS s 14.51*

1410.6900 REMOVAL AND RETURN OF EXHIBITS.

Subpart 1. **Requests for removal.** All requests for permission to remove any exhibit or document from the official file must be made to the compensation judge to whom the file has been assigned or to the supervisor of the docket section of the office.

Subp. 2. **Return without consent or notice.** Upon the expiration of the time in which to appeal, all exhibits or other documentary evidence may be returned to their source of origin without the consent of the parties or notice thereto. A copy of the letter of transmittal of the exhibits or documents shall remain in the file as part of the record of the case.

Subp. 3. **Request for return.** Upon expiration of the time in which to appeal, exhibits or other documentary evidence shall be returned to their source upon the request of the party producing the exhibit or evidence at the hearing or the party which introduced the evidence into the record. A request for return of exhibits or documents shall be made in writing to the compensation judge, shall contain the title and appropriate identification number of the case in which they were entered into evidence, and shall identify the exhibits or documents requested. A telephone number of the person making the request shall be included with the request.

Statutory Authority: *MS s 14.51*