

CHAPTER 2770
DEPARTMENT OF COMMERCE
AUTOMOBILE INSURANCE

NOTE: Pursuant to Laws of Minnesota 1983, chapter 289, section 114, this chapter of Minnesota Rules is to be administered by the commissioner of commerce.

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AUTOMOBILE FINANCE ACCOUNTS

2770.0200 CERTIFICATES OF INSURANCE AND CONTENTS.

Insurance companies writing insurance in connection with automobile finance accounts shall instruct their agents that each purchaser of automobiles or accessories insured under finance accounts shall be furnished with certificates of insurance, which certificates shall show the name of the insured, a proper description of the car or accessories, the coverage afforded by the insurance, and the premium charged. The statement of premium should be divided as to type of coverage.

Statutory Authority: *MS s 62B.12*

SURCHARGE PLANS AND DISCLOSURE

2770.1100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 2770.1100 to 2770.1800 and 2770.1900, the terms defined in this part have the meanings given them.

Subp. 2. **Auto plan.** "Auto plan" means the Minnesota Automobile Insurance Plan.

Subp. 3. **Chargeable accident.** "Chargeable accident" is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (b).

Subp. 4. **Chargeable traffic violation.** "Chargeable traffic violation" is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (c).

Subp. 5. **Major chargeable traffic violation.** "Major chargeable traffic violation" means only those chargeable traffic violations listed in items A to E:

A. driving while in an intoxicated condition or under the influence of drugs, and also includes a driver's license record entry of "implied consent";

B. failure to stop and report when involved in an accident;

C. a felony involving the use of a motor vehicle;

D. driving a motor vehicle in a reckless manner which results in an injury to a person; and

E. driving a motor vehicle during the period of time the driver's license is suspended or revoked.

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Subp. 6. **Statement.** "Statement" means the surcharge disclosure statement as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (f).

Subp. 7. **Surcharge.** "Surcharge" is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (e).

Subp. 8. **Surcharge plan.** "Surcharge plan" is as defined in Minnesota Statutes, section 65B.133, subdivision 1, clause (g).

Statutory Authority: *MS s 65B.133*

2770.1200 AUTHORITY.

Parts 2770.1100 to 2770.1800 apply to all companies writing policies of private passenger automobile insurance. They are adopted pursuant to the authority of Minnesota Statutes, section 65B.133, subdivision 7.

Statutory Authority: *MS s 65B.133*

2770.1300 PURPOSE.

Parts 2770.1100 to 2770.1800 are designed to assure that surcharge disclosure statements contain minimum basic information which allows insureds to make sound decisions when comparison shopping for automobile insurance.

Statutory Authority: *MS s 65B.133*

2770.1400 READABILITY.

All statements must meet the following standards of readability and legibility:

A. Statements must be written in simple, commonly used language so as to be easily readable and understandable by a person of average intelligence, experience, and education.

B. Statements must be arranged in a logical and clear order.

C. Statements must be printed in typeface at least as large as ten point modern type, one point leaded.

Statutory Authority: *MS s 65B.133*

2770.1500 HIGHLIGHTED PROVISIONS.

All surcharge plans containing one or more of the following provisions, must have the provisions highlighted in bold print or contrasting color print on the surcharge disclosure statement:

A. surcharges that are based on estimated damage instead of the payment made by the insurer after physical damage deductibles are applied;

B. surcharges that are applied to a vehicle other than the one involved in an accident;

C. surcharges that apply to chargeable traffic violations other than major chargeable traffic violations;

D. surcharge plans that involve both the loss of a discount and the application of a surcharge for the same chargeable accident or chargeable traffic violation; and

E. surcharges that are not the same for all classes (for example, youthful operator classes surcharged more than adult operator classes).

Statutory Authority: *MS s 65B.133*

2770.1600 REVIEW.

Statements must be submitted to the commissioner as an informational filing at least 30 days prior to use. Although not subject to affirmative approval by the commissioner, the statements must comply with Minnesota Statutes, section 65B.133 and parts 2770.1100 to 2770.1800.

Statutory Authority: *MS s 65B.133*

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2770.1700 AUTO PLAN PROCEDURES.

The auto plan shall submit a statement to the commissioner which is subject to prior approval. The participating members of the auto plan are responsible for providing a copy of the statement to auto plan insureds, and to their agents for use when an auto plan application is written.

Statutory Authority: *MS s 65B.133*

2770.1800 EXAMPLES OF SURCHARGE PLAN.

Each company must display on the statement two examples of how their surcharge plan works. One example must show a one-vehicle insured with a \$200 premium. The second example must show a two-vehicle insured, with a \$200 premium on one vehicle and a \$300 premium on the second vehicle. The required format of these examples is contained in part 2770.1900.

If the amount of the surcharge varies between territories, use the highest rated territory and furnish that information on the example.

If the premium includes expenses which are not surcharged, follow this procedure: If there is an \$80 bodily injury, property damage premium, expenses of \$7, and a 20 percent surcharge, the premium for one chargeable accident would be \$94.60. ($\$80 - \$7 = \73; $\$73 \times .20 = \14.60 ; $\$14.60 + \$80 = \$94.60$.) This procedure must be explained on the example.

Statutory Authority: *MS s 65B.133*

2770.1900 SURCHARGE PLAN FORMATS.

The formats contained in this part must be used, but additional information may be included.

A. One vehicle insured.

| Coverage | Premium with no accidents | Premium including surcharge for one chargeable accident | Premium including surcharge for two chargeable accidents |
|--------------------------------------|------------------------------|---|--|
| Bodily injury, property damage | \$ 80 _____ | \$ _____ | \$ _____ |
| Uninsured motorist | 5 _____ | _____ | _____ |
| Personal injury protection | 40 _____ | _____ | _____ |
| Comprehensive | 25 _____ | _____ | _____ |
| Collision | 50 _____ | _____ | _____ |
| Total Premium | \$200 | \$ | \$ |

B. Two vehicles insured. Accidents chargeable to the principal operator of vehicle number one, while operating vehicle number one.

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(1) Vehicle number one.

| Coverage | Premium with no accidents | Premium including surcharge for one chargeable accident | Premium including surcharge for two chargeable accidents |
|--------------------------------------|------------------------------|---|--|
| Bodily injury, property damage | \$ 80 | \$ | \$ |
| Uninsured motorist | 5 | | |
| Personal injury protection | 40 | | |
| Comprehensive | 25 | | |
| Collision | 50 | | |
| Total Premium | \$200 | \$ | \$ |

(2) Vehicle number two.

| Coverage | Premium with no accidents | Premium including surcharge for one chargeable accident | Premium including surcharge for two chargeable accidents |
|--------------------------------------|------------------------------|---|--|
| Bodily injury, property damage | \$120 | \$ | \$ |
| Uninsured motorist | 5 | | |
| Personal injury protection | 60 | | |
| Comprehensive | 40 | | |
| Collision | 75 | | |
| Total Premium | \$300 | \$ | \$ |

Statutory Authority: MS s 65B.133

AUTO ACCIDENT REPARATIONS ARBITRATION

2770.3100 AUTHORITY.

The rules set forth in parts 2770.3100 to 2770.5200 are promulgated under the authority of Minnesota Statutes, section 65B.53, subdivision 4.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3200 PURPOSE AND SCOPE.

These rules are designed to promote efficient settlement of claims involving economic loss between reparation obligors. As a condition precedent to arbitration, however, local representatives of the involved reparation obligors must make a sincere effort to settle controversies by direct negotiation.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3300 APPLICATION.

These rules shall be considered applicable to controversies arising out of accidents, insured events, or losses involving a commercial vehicle under the jurisdiction of the Minnesota No-Fault Automobile Insurance Act, Minnesota Statutes, section 65B.53 giving subrogation or direct action recovery rights to reparation obligors for payments or benefits paid to insureds or third parties under such statute.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3400 CONSTRUCTION.

These rules shall not be construed to create any causes of action or liabilities not existing in law or equity.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3500 LIMITATION ON JURISDICTION.

These rules are applicable to controversies involving reparation obligors as that term is defined in Minnesota Statutes, section 65B.43, subdivision 9. The interest of other parties may not be arbitrated under these rules. The fact that such parties may be insureds of reparation obligors does not alter this prohibition.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3600 LIMITATIONS ON CLAIMS.

The monetary limits and extent of a reparation obligor's claim shall be governed by Minnesota Statutes, section 65B.53, subdivision 1.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3700 PRIMARY JURISDICTION.

Where a claim under these rules is also under the compulsory jurisdiction of other industry agreements sponsored by the committee on insurance arbitration, the jurisdiction of these rules is primary.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3800 AUTHORITY TO DETERMINE.

Any determination as to whether a reparation obligor is legally entitled to recovery from another reparation obligor shall be made by an arbitration panel appointed under the authority of these rules.

Statutory Authority: *MS s 65B.53 subd 4*

2770.3900 OUT-OF-STATE RECOVERY EXCLUSION.

Compulsory arbitration under these rules does not apply to a controversy arising from an out-of-state accident where the party receiving benefits has a right to proceed at law for full recovery of his tort loss.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4000 AUTHORITY OF COMMITTEE ON INSURANCE ARBITRATION.

Under these rules, the committee on insurance arbitration is authorized to select places where arbitration facilities are to be available, and to make appropriate rules to apportion equitably among reparation obligors the operating expenses of the arbitration program set out under these rules.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4100 ARBITRATION COMMITTEES.

Arbitration committees shall be appointed by the committee on insurance arbitration from full-time salaried representatives of reparation obligors and shall function in the following manner:

A. Members of arbitration committees shall be selected on the basis of their experience and qualifications and they shall serve without compensation.

B. No arbitrator shall serve on a panel hearing case in which his company is directly or indirectly interested.

C. The decision of the majority or an arbitration panel is final and binding upon the parties to the controversy without the right of rehearing.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4200 APPLICANT AND RESPONDENT.

In arbitration proceedings and practice, the reparation obligor that initiates the proceeding by filing a request for arbitration shall be known as the "applicant"; and the reparation obligor or reparation obligors against which such controverted claim or issue was asserted shall be known as "respondent."

Statutory Authority: *MS s 65B.53 subd 4*

2770.4300 EFFECT ON STATUTES OF LIMITATION.

Submission of a case to arbitration under these rules shall have the same force and effect as to reparation obligors with regard to the applicable statute of limitations as if litigation has been instituted. Further, if a matter within the compulsory provisions of these rules is inadvertently placed in litigation, the discontinuance of such litigation for the purpose of arbitration will be considered as a submission to arbitration with regard to the applicable statute of limitations as of the date such litigation was instituted.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4400 OTHER INDUSTRY ARBITRATION PROGRAMS.

Where reparation obligors are also signatory to other industry arbitration programs sponsored by the committee on insurance arbitration and the claim is within the compulsory jurisdiction of these other agreements, the signatory companies waive their rights to proceed separately under the other programs.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4500 PENDING CLAIMS FROM SAME INSURED EVENT.

Subpart 1. **Deferment.** Reparation obligors may, by mutual agreement, include all claims arising out of the same accident or insured event for disposition by an arbitration panel under these rules, provided, however, that hearing of a matter pending before an arbitration panel under these rules will be

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deferred because of pending claims or suits arising out of the same accident, occurrence, or insured event unless the involved companies waive such deferment in writing.

Subp. 2. **Responsibilities of parties.** Deferment of a hearing under subpart 1 does not relieve a respondent reparation obligor from the obligation to file its written answer asserting therein any affirmative defense to the jurisdiction of the panel to proceed with a hearing once the subject case has been removed from a deferred status. If the jurisdiction issue is raised by the written answer, the committee will forthwith pass upon the merits of the jurisdictional question even though the hearing on the issues of liability and damages will be deferred because of pending companion claims or suits not subject to arbitration. However, for the rule to apply, an arbitration committee must receive the applicant's filing 120 days prior to the running of the statute of limitations and receive the respondent's answer within 60 days thereof. If the respondent's answer is not received within the stated period, any affirmative defense running to the jurisdiction of the committee to proceed with a hearing is waived.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4600 COMPANION CLAIMS.

Where there are companion claims arising out of the same accident arbitrated together pursuant to part 2770.4500, subpart 1, only one filing is necessary to determine the issue of liability as to the drivers of the respective vehicles. A panel's decision on this issue is *res judicata* on the liability issue in all companion matters involving the same companies within the jurisdiction of these rules, except as to special defenses arising in the companion claim or suit.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4700 ORGANIZATION.

Reparation obligors of commercial vehicles shall, on request, furnish the committee on insurance arbitration a list of names, titles, and local addresses of all employees who are qualified to act as arbitrators.

The chairman of the arbitration committee shall designate one disinterested member of said committee to serve as a panel of arbitration in each case. However, three members will constitute a panel if requested by a controverting party in a specific case.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4800 COMMERCIAL VEHICLES AND OUT-OF-STATE ACCIDENTS.

Compulsory arbitration under these rules applies to controversies arising out of accidents, insured events, or occurrences within this state involving commercial vehicles. Controversies arising from accidents, insured events, or occurrences involving commercial vehicles outside this state can be submitted with the consent of the controverting reparation obligors.

Statutory Authority: *MS s 65B.53 subd 4*

2770.4900 FILING ASSESSMENTS.

Filing assessments:

A. The committee on insurance arbitration by resolution will prescribe the filing assessment for the use of local arbitration facilities.

B. The obligation for the prescribed filing assessment is incurred upon filing, but payment by the applicant reparation obligor to the committee on insurance arbitration is deferred until the case is closed, either through hearing, settlement, or withdrawal prior to hearing. The prescribed filing assessment shall also be paid in the same manner by a respondent reparation obligor that files a counterclaim. There is no exception to a reparation obligor's obligation to pay the filing assessment.

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C. The secretary of the committee on insurance arbitration is the custodian of the assessment charges collected by him and shall make expenditures therefrom to defray such arbitration expenses as may be authorized by the committee on insurance arbitration.

D. The secretary of the committee on insurance arbitration will submit reports on assessments collected and disbursed during such period as may be considered desirable by the committee on insurance arbitration.

Statutory Authority: *MS s 65B.53 subd 4*

2770.5000 ARBITRATION PROCEDURE.

Subpart 1. Commencement. An arbitration proceeding is commenced by the local representative of a reparation obligor filing an arbitration notice (three copies) with the secretary of the local arbitration committee. At the same time, three copies of the arbitration notice are to be submitted by the applicant directly to the local representative of the other involved reparation obligor. If there is more than one respondent reparation obligor in a case, the applicant shall so indicate on the original and all copies of the arbitration notice and send three copies thereof to each respondent reparation obligor.

Subp. 2. Nature of notice. Notice by applicants shall set forth the following information:

A. names of applicant and respondent reparation obligor together with names and addresses of local representatives having supervision over the case in controversy;

B. name and address of respondent reparation obligor's insured;

C. claim file numbers of applicant and respondent, if known;

D. date and place of alleged accident, loss, or other insured event;

E. amount of reparation obligor's claim payment and amount of any other expenses for which indemnity is requested;

F. certification that settlement efforts have been unsuccessful;

G. brief statement of allegation solely as to the issue in controversy; and

H. signature of applicant's representative and date signed.

Subp. 3. Answers. Answers filed by respondent shall set forth the following information:

A. supplement, if and as necessary, the information furnished by applicant as to respondent reparation obligor's name, local representative, address, name of insured, file number, or kind of policy coverage;

B. whether there is an objection to arbitration; if so, the grounds on which the objection is based should be fully stated;

C. brief statement of allegation as to the issue in controversy; and

D. signature of respondent's representative and date signed.

Subp. 4. Filing periods. The respondent has 30 days after the applicant's filing in which to file a written answer. If a respondent fails to submit its answer within 30 days after an applicant reparation obligor files with a committee, it is presumed that the applicant's claim has been denied and the case is ready for hearing on the issues. Failure to file an answer will not operate to delay the arbitration hearing. However, if affirmative defenses are available to the respondent, and are not asserted by answer prior to notice of hearing, the applicant, on request, will be entitled to an adjournment to investigate such affirmative defenses.

Subp. 5. Counterclaims. The procedure set out in subparts 1 to 4 is also applicable to counterclaims for damages that may be submitted for arbitration pursuant to part 2770.4400 or 2770.4500. The arbitration notice should clearly

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indicate that it is submitted as a counterclaim and the original arbitration case to which it pertains shall be plainly identified.

Statutory Authority: *MS s 65B.53 subd 4*

2770.5100 HEARINGS.

Hearings:

A. When the secretary has received the essential facts and contentions from the controverting reparation obligors, the issue in the case shall be scheduled for a hearing by the arbitration panel at the earliest practicable date.

B. Hearing date shall be determined by the chairman of the arbitration panel, and one or more cases may be considered at any scheduled hearing.

C. Representatives of controverting parties shall be notified by the secretary of the time and place of a scheduled hearing at least two weeks in advance of the hearing date. Notice of hearing shall be sent by certified mail, return receipt requested, to any respondent which has not filed a written answer.

D. Adjournments may be granted for cause by the chairman of the arbitration committee or his designee.

E. Evidence which controverting parties desire to submit in support of their allegations shall be made available for examination by the arbitrators at the hearing. Such evidence may also be examined by the opposing parties at the hearing. If one of the controverting parties fails to produce evidence at a scheduled arbitration hearing, after due notice thereof, the arbitrators may at their discretion consider the information in the arbitration notice of such party and render a decision accordingly.

F. Procedure at arbitration panel hearings shall be informal. Controverting parties are expected to present the facts of their respective cases in a brief, frank, and direct manner.

G. The controverting parties shall submit for consideration to the arbitrators, briefs of the law involved when requested by the arbitration panel hearing the case.

H. Controverting parties may present witnesses at an arbitration hearing, if considered necessary, after notice to the other interested party or parties sufficiently in advance of the hearing date to permit such other party or parties also to present witnesses if desired.

I. Controverting parties may, if they so desire, be represented at arbitration hearings by members of their staff or by anyone employed or retained by them.

J. Documentary evidence submitted by controverting parties shall be left with the arbitrators for their scrutiny and consideration while reaching a decision.

K. If representatives of controverting parties attend an arbitration hearing, they must withdraw after presentation of their cases and may not be present while the arbitrators are considering their decision.

Statutory Authority: *MS s 65B.53 subd 4*

2770.5200 DECISIONS.

Decisions:

A. Arbitration panels may, upon their own initiative, render a decision in favor of a respondent company without production of evidence by such respondent, if the panel unanimously agrees following presentation of the applicant's evidence that such applicant has not made out a prima facie case.

B. A decision of an arbitration panel on issues of fact or law is final and binding. However, a local committee's chairman is not precluded from correcting a clerical, typographical, or jurisdictional error on the part of a local committee's staff, provided it is called to the local committee's attention in

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writing by one of the arbitrating reparation obligors within 30 days after publication of the decision; or if recognized by the local committee without notice from the arbitrating reparation obligors within 30 days after publication of the decision; provided further, that the correction be made in either event within 60 days after publication of the decision.

C. The law of the locality in which the accident, insured event, or loss occurred will control the decision on questions of liability. A finding as to the amount of damages in issue shall be based upon the facts presented to the arbitrators.

D. The amount paid shall not be at issue unless pleaded specifically.

E. Decisions of the arbitrators shall be promptly rendered after consideration of the case, and the evidence submitted by the controverting parties shall be returned promptly.

F. The arbitrators shall prepare a written decision in each case, copies of which shall be distributed by the secretary as follows: one copy will be retained by the arbitration panel secretary; one copy shall be furnished to each party involved in the arbitration; and the original shall be furnished to the committee on insurance arbitration.

G. The decisions of the arbitration panel shall include the following minimum information:

(1) date and place of hearing;

(2) names of panel members;

(3) names of applicant and respondent carriers and names of their respective insureds;

(4) names of respective controverting party representatives, if any, attending the hearing;

(5) brief description of the claim or controversy and amount involved therein;

(6) names of controverting insurance carrier in whose favor an award is rendered and the amount thereof;

(7) brief statement of the basis for the finding, such as lack of proof, contributory negligence, or other controlling principles of law; and

(8) signature of the arbitrator who prepared the decision.

H. Decisions of an arbitration panel shall be complied with as soon as practicable. Any unwarranted delay on the part of the parties concerned should be reported to the committee on insurance arbitration by the prevailing party.

Statutory Authority: *MS s 65B.53 subd 4*