

**CHAPTER 5220**  
**DEPARTMENT OF LABOR AND INDUSTRY**  
**REHABILITATION AND COMPENSATION**

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**5220.2570 DENIALS OF LIABILITY.**

*[For text of subpart 1, see M.R.]*

Subp 2 **Denial of liability form.** A denial of primary liability under Minnesota Statutes, section 176 221, subdivision 1, except a letter denial under subpart 4 or 5, must be fully completed and on a form prescribed by the commissioner, containing substantially the following

*[For text of items A to C, see M.R.]*

D the name and telephone number of the person who made the determination,

*[For text of items E to G, see M.R.]*

Subp 3 **Notice of intention to discontinue benefits.** A denial of primary liability filed more than 60 days after notice to or knowledge by the employer of a work-related injury which is required to be reported to the commissioner under Minnesota Statutes, section 176 231, subdivision 1, and for which benefits are being paid must be made by a notice of intention to discontinue benefits under part 5220 2630 and must clearly indicate that its purpose is to deny liability for the entire claim.

*[For text of subps 4 to 6, see M.R.]*

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

A Where appropriate, a denial under subpart 2 must be filed within 14 days of notice to or knowledge by the employer of an injury which is required to be reported to the commissioner under Minnesota Statutes, section 176 231, subdivision 1. Where appropriate, a denial under subpart 2 must be filed within 30 days after notice or knowledge where an extension has been requested in the event of a new period of temporary total or if payment has commenced. When payment of compensation has commenced, a denial more than 60 days after notice or knowledge must be filed under subpart 3

*[For text of items B and C, see M.R.]*

D A denial under subpart 5 must be filed within the time frame required by statute for the type of benefit being denied.

*[For text of subp 9, see M.R.]*

**Subp 10 Penalty; frivolous denial.**

A A frivolous denial under Minnesota Statutes, section 176 225, subdivision 1, clause (a) or (e), includes one which

*[For text of subitems (1) and (2), see M.R.]*

*[For text of item B, see M.R.]*

Subp. 11 **Penalty; nonspecific denial.** A nonspecific denial as defined in subpart 2, item E, 4, item E, or 5, item E, may result in the assessment of a penalty in the amount of \$500 under Minnesota Statutes, section 176 84, subdivision 2. A penalty for a nonspecific denial may be assessed without regard to the substantive validity of the denial of benefits. A penalty

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under this subpart may be assessed in addition to the penalties described in subparts 9 and 10 and is payable to the special compensation fund

**Statutory Authority:** *MS s 175 17, 175 171, 176 129, 176 138, 176 221, 176 225, 176 231, 176 238, 176 83; 176 84*

**History:** 23 SR 1484

### 5220.2630 DISCONTINUANCE OF COMPENSATION.

*[For text of subps 1 and 2, see M R ]*

#### Subp 3 Notice of benefit payment.

A The employer or insurer may make a lump sum or final payment of the benefit indicated by the filing of a notice of benefit payment with the division and service of the notice on the other parties at the time that the payment occurs when the payment represents

*[For text of subitem (1), see M R ]*

(2) a final periodic payment of permanent partial disability compensation, impairment compensation, or economic recovery compensation,

*[For text of subitems (3) to (5), see M R ]*

*[For text of item B, see M R ]*

*[For text of subps 4 and 6, see M R ]*

**Statutory Authority:** *MS s 175 17, 175 171, 176 129, 176 138, 176 221, 176 225, 176 231, 176 238, 176.83, 176 84*

**History:** 23 SR 1484

### 5220.2720 IMPROPER DISCONTINUANCES; PENALTY.

*[For text of subpart 1, see M R.]*

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

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

(2) If the improperly discontinued benefits are not paid and any proper discontinuance filed within the following time periods after the warning notice is served, the division will send notice that a penalty is imposed as follows

- (a) 11 to 20 days late, \$200,
- (b) 21 to 30 days late, \$600,
- (c) 31 to 60 days late, \$800; and
- (d) over 60 days late, \$1,000

B If an insurer has had a penalty assessed in the one-year period before the assessment for violation of an item in subpart 1 and again violates the same item, the following penalties apply if the improperly discontinued benefit is not paid and a discontinuance notice is not filed when required

- (1) one to ten days late, \$400,
- (2) 11 to 20 days late, \$600,
- (3) 21 to 30 days late, \$800, and
- (4) over 30 days late, \$1,000

C Alternatively, a penalty may be assessed under Minnesota Statutes, section 176.221, subdivision 3, payable to the assigned risk safety account, of up to 100 percent of the amount of compensation to which the employee is entitled

D In addition to a penalty payable to the special compensation fund or the assigned risk safety account under this part, a penalty may be assessed under part 5220 2760

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Subp 3 **Payable to.** Penalties under this part are payable to the special compensation fund or the assigned risk safety account

**Statutory Authority:** *MS s 175.17, 175.171, 176 129, 176 138, 176 221; 176 225; 176.231, 176 238, 176 83, 176 84*

**History:** 23 SR 1484

## 5220.2740 FAILURE TO PAY OR DENY MEDICAL CHARGES; PENALTY.

*[For text of subpart 1, see M R ]*

Subp 2 **Amount.** Under Minnesota Statutes, section 176 221, subdivision 3a, a penalty of up to \$2,000 shall be assessed as follows:

- A one to 15 days late, \$500,
- B 16 to 30 days late, \$1,000,
- C 31 to 60 days late, \$1,500, and
- D over 60 days late, \$2,000

*[For text of subps 4 and 5, see M R ]*

**Statutory Authority:** *MS s 175 17, 175 171, 176 129, 176 138; 176 221; 176.225, 176 231, 176 238, 176.83, 176 84*

**History:** 23 SR 1484

## 5220.2750 FAILURE TO MAKE TIMELY PAYMENT OF PERMANENT PARTIAL DISABILITY, ECONOMIC RECOVERY COMPENSATION, OR IMPAIRMENT COMPENSATION; PENALTY.

Subpart 1 **Basis.** A penalty may be assessed where payment of permanent partial disability compensation, economic recovery compensation, or impairment compensation is not made in a timely manner as provided in Minnesota Statutes, section 176 101, and part 5220 2550

*[For text of subps 2 and 3, see M R ]*

**Statutory Authority:** *MS s 175 17, 175 171, 176 129, 176 138, 176 221; 176 225, 176 231, 176 238; 176 83; 176 84*

**History:** 23 SR 1484

## 5220.2760 ADDITIONAL AWARD AS PENALTY.

Subpart 1 **Basis.** Penalties under Minnesota Statutes, section 176 225, subdivision 1, in an amount up to 30 percent of the total amount of the compensation award shall be assessed by the division on the grounds listed in that section, including:

*[For text of items A and B, see M R ]*

C other violations under Minnesota Statutes, section 176 225, subdivision 1, paragraph (a), (b), (c), (d), (e), or (f)

This part does not affect the employee's independent right to seek penalties by filing a claim petition under Minnesota Statutes, section 176 271

Subp. 2 **Amount.** A penalty assessed under this part will be for at least six percent of the compensation owing and shall be assessed as follows

- A one to five days late, six percent;
- B six to 15 days late, 12 percent,
- C 16 to 30 days late, 18 percent,
- D 31 to 60 days late, 24 percent, and
- E over 60 days late, 30 percent

*[For text of subp 3, see M.R ]*

**Statutory Authority:** *MS s 175 17, 175 171, 176 129, 176 138, 176.221; 176 225; 176 231; 176.238, 176 83, 176 84*

**History:** 23 SR 1484

## 5220.2770 FAILURE TO PAY OR DENY; PENALTY.

*[For text of subpart 1, see M.R.]*

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

*[For text of items A to C, see MR ]*

D. Where no compensation has been paid but the insurer has failed to file a denial of liability within the statutory 14- or 30-day limit on a claim required to be reported to the division, a penalty of up to \$2,000 may be assessed under Minnesota Statutes, section 176 221, subdivision 3a, as follows

- (1) one to 15 days late, \$250;
- (2) 16 to 30 days late, \$500;
- (3) 31 to 60 days late, \$1,000, and
- (4) over 60 days late, \$2,000

E. Where the insurer has filed a frivolous denial under part 5220 2570, subpart 10, a penalty may be assessed under Minnesota Statutes, section 176 221, subdivision 3a, as follows

- (1) one to five violations in the two-year period before the assessment, \$1,000, and
- (2) six or more violations in the two-year period before the assessment, \$2,000.

*[For text of subps 3 and 4, see MR ]*

**Statutory Authority:** *MS s 175 17; 175 171, 176 129, 176 138, 176 221; 176 225; 176 231, 176.238, 176 83, 176 84*

**History:** *23 SR 1484*

## 5220.2780 FAILURE TO PAY UNDER ORDER; PENALTY.

*[For text of subpart 1, see MR ]*

Subp 2. **Amount.** The penalty available under Minnesota Statutes, section 176 221, subdivision 3 or 3a, shall be assessed where there has been a failure to pay under an order which has not been appealed. If the payor chooses not to appeal the order, payments made more than 14 days after the order is served and filed are late. Each day after the 14th day is considered a day late. Penalties under Minnesota Statutes, section 176 221, subdivision 3a, shall be assessed as follows:

- A. one to 15 days late, \$500,
- B. 16 to 30 days late, \$1,000,
- C. 31 to 60 days late, \$1,500, and
- D. over 60 days late, \$2,000

*[For text of subp 3, see MR ]*

**Statutory Authority:** *MS s 175 17, 175.171, 176 129, 176 138, 176 221, 176 225; 176 231, 176.238, 176 83, 176.84*

**History:** *23 SR 1484*

## 5220.2790 INEXCUSABLE DELAY IN MAKING PAYMENT, INCREASE IN PAYMENT.

*[For text of subpart 1, see MR ]*

Subp 2. **Amount.** The amount of the increase in payment under Minnesota Statutes, section 176 225, subdivision 5, for a delay under subpart 1, item A, is calculated as 25 percent of the payment found to be delayed.

The amount of the increase in payment assessed under subpart 1, item B, will be calculated at 25 percent of the payment found to be delayed

*[For text of subp 3, see MR.]*

Subp 4. **Assessment.**

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

B The calculation of a penalty under this part for late payment of temporary total, temporary partial, or permanent total disability benefits must be as follows

*[For text of subitems (1) to (3), see M R ]*

(4) The penalty is calculated at 25 percent of the sum paid in an untimely manner

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

(1) the due date specified in part 5220 2540 or 5220 2550 is determined,

(2) if payment of the sum due is not made within three business days of the due date on more than three occasions in any 12-month period, a penalty of 25 percent of the sum paid in an untimely manner is assessed

**Statutory Authority:** *MS s 175 17; 175 171, 176 129, 176 138, 176.221, 176.225, 176 231, 176 238, 176 83, 176 84*

**History:** *23 SR 1484*

### **5220.2810 FAILURE TO RELEASE MEDICAL DATA; PENALTY.**

*[For text of subps 1 and 2, see M R ]*

#### **Subp 3 Amount.**

A. The division must send a warning letter before a monetary penalty is assessed unless the initial request for records is from the division. The warning letter must advise the collector or possessor against whom the penalty is sought of the obligation to provide medical data under Minnesota Statutes, section 176 138, and that a penalty will be assessed if it fails to provide the requested data within seven working days after the warning letter and to file written verification of the release of the data or a copy of the data with the division within that time

B If the requested data is not provided and written verification filed with the division within seven working days after receipt of a required warning letter or the division's request where no warning letter is required, a penalty of \$300 shall be imposed

C. If the requested data is not provided and written verification filed with the division within 30 days after the date of a required warning letter or the division's request where no warning letter is required, a penalty of \$450 will be imposed

D. If the requested data is not provided and written verification filed with the division within 60 days after the date of a required warning letter or the division's request where no warning letter is required, a penalty of \$600 will be imposed

*[For text of subp 4, see M R ]*

**Statutory Authority:** *MS s 175 17, 175 171, 176 129, 176.138, 176 221, 176 225, 176 231, 176 238; 176 83; 176 84*

**History:** *23 SR 1484*

### **5220.2820 FAILURE TO MAKE TIMELY REPORT OF INJURY; PENALTY.**

*[For text of subpart 1, see M.R ]*

**Subp 2 Amount.** If the employer or insurer has violated subpart 1 and has had no similar violations in the 12-month period prior to the assessment, an advisory letter informing the employer or insurer of the violation and the statutory requirement must be sent. If the employer or insurer has had one violation of subpart 1 in the past 12 months, a penalty of \$125 must be assessed. If the employer or insurer has had two violations in the past 12 months, a penalty of \$250 must be assessed. If the employer or insurer has had three violations in the past 12 months, a penalty of \$375 must be assessed. If the employer or insurer has had four or more violations in the past 12 months, a penalty of \$500 must be assessed

*[For text of subps 3 and 4, see M.R ]*

**Statutory Authority:** *MS s 175 17, 175 171, 176 129; 176 138, 176 221, 176 225, 176 231, 176 238, 176 83, 176 84*

**History:** *23 SR 1484*

**5220.2830 OTHER FAILURE TO FILE REPORT IN MANNER OR WITHIN TIME LIMITS PROVIDED; PENALTY.***[For text of subpart 1, see M.R.]***Subp 2. Amount.**

A If a report under subpart 1, item A, is not filed in the manner or within the time limitations prescribed, a penalty may be assessed under Minnesota Statutes, section 176 231, subdivision 10, as follows

- (1) if more than 30 days after the date due, \$125,
- (2) if more than 90 days after the date due, \$375, and
- (3) if more than 180 days after the date due, \$500.

B If, after a letter request from the commissioner or authorized designee, a report under this part is not received by the division within 21 days, a penalty of \$125 must be assessed. A failure to file a report after a second request will result in an additional penalty assessment of \$375. A subsequent failure will result in penalty assessments of \$500.

*[For text of subp 3, see M.R.]*

**Statutory Authority:** *MS s 175 17, 175 171, 176.129, 176 138, 176 221, 176.225, 176 231, 176 238, 176.83, 176 84*

**History:** *23 SR 1484***5220.2840 FAILURE TO MAKE PAYMENT OR REPORT TO SPECIAL FUND; PENALTY.***[For text of subps 1 and 2, see M.R.]*

**Subp. 3 Amount.** Within 30 days of the due date, the special compensation fund will give notice of penalty to those who have neither filed the completed assessment form and paid the assessment amount, nor submitted a certified reason for nonpayment by the due date as follows

*[For text of item A, see M.R.]*

B. \$1,000, whichever is greater, or

C \$200 for failure to timely report under subpart 2, item B, that no assessment is due

**Subp 4 Payable to.** The penalty is payable to the assigned risk safety account

*[For text of subp 5, see M.R.]*

**Statutory Authority:** *MS s 175.17, 175 171, 176 129, 176 138; 176 221, 176 225, 176 231, 176 238, 176.83, 176 84*

**History:** *23 SR 1484***5220.2860** [Repealed, 23 SR 1484]**5220.2865 FAILURE TO INSURE; PENALTY.**

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

A "Avoided premium" means the workers' compensation insurance premium computed pursuant to Minnesota Statutes, chapter 79, by multiplying the employer's payroll for the uninsured period by the applicable assigned risk plan workers' compensation insurance rate and adjusted for any applicable experience modification

B "Objection" means the written objection filed by an employer with the commissioner pursuant to Minnesota Statutes, section 176 181, subdivision 3

C "Order to comply and notice of penalty assessment" means the order to comply and notice of penalty assessment issued by the commissioner and issued to the employer under Minnesota Statutes, section 176 181, subdivision 3

**Subp 2 Determination of penalty.** In determining the amount of the administrative penalty for the failure to insure, the commissioner must take into consideration the factors listed in Minnesota Statutes, section 14 045. The basis for determining the penalty shall be the employer's avoided premium which shall be adjusted by the factors listed in Minnesota Statutes, section 14 045

A No uninsured employer shall be assessed an administrative penalty of less than \$200, nor more than \$1,000 per employee per week uninsured

B For purposes of this subpart, the ability to pay shall not be considered a factor for adjusting the penalty amount

**Subp 3 Business license or permit penalty.** In addition to the assessed administrative penalty, the commissioner shall assess the penalty amount specified in Minnesota Statutes, section 176.182, against the uninsured employer who did not report, or falsely reported, the required information about their workers' compensation insurance coverage to any state or local governmental agency when obtaining or renewing a license or permit to operate a business in Minnesota

**Subp 4 Order to comply and penalty assessment.** The commissioner shall, by certified mail, issue to the employer an order to comply and penalty assessment after conducting the investigation authorized by Minnesota Statutes, section 176.181, subdivision 8, paragraph (b)

**Subp 5 Contents of order.** An order to comply and penalty assessment must describe the alleged violations and reference the statute or rule which the employer has violated. The order to comply and penalty assessment must state that the employer has ten working days to object to the order by filing a written objection with the commissioner and stating in detail its reasons for objecting

**Subp 6 Objections.** The objection must contain

- A. the employer's name and address,
- B. the investigation number, and
- C. a detailed statement of the reasons for objecting.

**Subp 7 Filing.** The written objection must be filed with the commissioner within ten working days of the date the employer receives the order to comply and penalty assessment. Upon receipt of a timely objection, the commissioner shall attempt to settle informally an agreed upon penalty. If the parties fail to agree, the commissioner shall refer the matter to the Office of Administrative Hearings for an expedited hearing before a compensation judge. An objection may be filed with the commissioner by postage-paid first class mail, personal delivery, or facsimile transmission

**Subp 8 Hearing.** The compensation judge shall use the contested case procedures contained in Minnesota Statutes, sections 14.57 to 14.62, in conducting the expedited hearing under Minnesota Statutes, section 176.181, subdivision 3

**Statutory Authority:** *MS s 175.17, 175.171, 176.129, 176.138, 176.221, 176.225; 176.231, 176.238, 176.83, 176.84*

**History:** 23 SR 1484

#### **5220.2870 PENALTY OBJECTION AND HEARING.**

A party to whom notice of assessment has been issued may object to the penalty assessment by filing a written objection with the division on the form prescribed by the commissioner. The objection must also be served on the employee if the penalty is payable to the employee. The objection must be filed and served within 30 days after the date the notice of assessment was served on that party by the division. The written objection must contain a detailed statement explaining the legal or factual basis for the objection and including any documentation supporting the objection. Upon receipt of a timely objection, unresolved issues shall be referred for a hearing to determine the amount and conditions of any penalty. Objections which are not served and filed within the 30-day objection period must be dismissed by a compensation judge.

**Statutory Authority:** *MS s 175.17, 175.171, 176.129, 176.138, 176.221; 176.225; 176.231, 176.238, 176.83, 176.84*

**History:** 23 SR 1484