

1415.1100 NOTICE TO POTENTIAL INTERVENORS.

Subpart 1. **Responsibilities of attorneys.** All attorneys, whether representing employees, employers, or any other parties to a workers' compensation proceeding, shall ask their clients whether a third party, other than the workers' compensation insurer, has paid or provided benefits or services to the employee or on the employee's behalf, or whether there is an outstanding order under Minnesota Statutes, chapter 518, for an employer to withhold sums for the payment of support or maintenance that may entitle the person or entity to intervene as a party under Minnesota Statutes, section 176.361.

Subp. 2. **Notice to potential intervenors.** If inquiry discloses the existence of a potential intervenor, the attorney must promptly serve the potential intervenor with written notice of its right to petition for intervention and reimbursement pursuant to subpart 3. Notice to potential intervenors under Minnesota Statutes, section 176.361, may not be given before a proceeding at the office or division has been commenced. The attorney shall attach to the notice a copy of all pleadings in the case, and a copy of all notices and orders served in the case to date. The notice need not be filed with the division except as required by part 1420.1850. If a party files the notice to potential intervenors, the party shall omit the attachments in the copy filed with the division unless directly relevant to a dispute. The notice must specifically advise:

A. that the petitioner has commenced a proceeding to recover workers' compensation benefits, and that under part 1415.1250 and Minnesota Statutes, section 176.361, the potential intervenor has the right to petition for intervention and reimbursement of payments of monetary benefits, treatment expenses, or vocational rehabilitation services;

B. the name and address of parties to the proceeding and the name and address of their attorney;

C. the name of a potential intervenor's insured, if applicable, the nature of the payments made or services provided, and any identifying claim and policy number;

D. that the failure of a potential intervenor to file a motion for intervention within 60 days of service of the notice or within 30 days of notice of an administrative conference or expedited hearing shall result in a denial of the claim for reimbursement unless otherwise provided by law;

E. that, unless an intervenor's right to reimbursement is established by stipulation or otherwise, failure to personally attend scheduled administrative conferences and hearings when required by Minnesota Statutes, section 176.361, subdivision 4, or appear by an alternative method approved by the commissioner or a judge, will result in a denial of the claim for reimbursement; and

F. how the potential intervenor may obtain a copy of the intervention statute, rule, and sample form.

Subp. 3. **Time to notify.** Attorneys shall comply with this part within 30 days after the service of an answer; or within 60 days of service of a petition if no answer has been filed; and when a medical or rehabilitation request or response is filed. Attorneys shall promptly notify a potential intervenor whose interest arises upon payment made or services rendered after the petition, answer, rehabilitation request, or medical request was filed, but not before a proceeding at the office or division has been commenced.

Subp. 4. **Failure to notify potential intervenors.** Failure to comply with the notice requirements of this part may result in the matter being stricken from the hearing or conference calendar, or other sanction under part 1420.3700, if the judge or commissioner finds the noncompliance materially prejudices the rights and liabilities of the other parties or the potential intervenor.

Further proceedings may be ordered under part 1420.1850 if an intervenor or potential intervenor claims to have been effectively excluded from a binding determination or from settlement negotiations or has been unable to reach a resolution of its claim at the time the other parties have resolved their claims.

Statutory Authority: *MS s 14.51; 175.17; 175.171; 176.081; 176.155; 176.231; 176.285; 176.312; 176.361; 176.83*

History: *9 SR 333; 29 SR 1448*

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