

1420.1850 RESOLUTION OF CLAIMS WITH INTERVENORS; HEARINGS.

Subpart 1. **Stipulations without agreement of all intervenors or potential intervenors.** A stipulation for settlement that does not include the agreement of all intervenors or that seeks to preclude rights of potential intervenors must meet the requirements of this subpart.

A. Where a potential intervenor has been excluded from the settlement for failure to timely file a petition to intervene, a statement to that effect must be made in the stipulation for settlement and the stipulation must be accompanied by a copy of the notice given to the potential intervenor under part 1415.1100 and an affidavit of service. If the judge finds a potential intervenor had proper notice or actual notice of the right to intervene within a reasonable period of time before a case was finally concluded but failed to act, the judge may order extinguishment of the potential intervenor's interest under Minnesota Statutes, section 176.361.

B. Where other parties have reached an agreement to settle a claim but have been unable to reach agreement with an intervenor, the requirements of subitem (1) or (2) must be met.

(1) If the stipulation is signed by the intervenor, the stipulation must include a statement that the parties negotiated with the intervenor in good faith but the intervenor chooses not to enter into an agreement and reserves the right to petition for hearing on the merits under subpart 3. By signing the stipulation in this manner, the intervenor is waiving the right to a Parker/Lindberg hearing under subpart 2, but not waiving the right to a hearing on the merits under subpart 3.

(2) If the stipulation, or a letter of agreement attached to the stipulation, is not signed by the intervenor, the stipulation must include a statement that the parties were unable to obtain a response from the intervenor despite good faith efforts, or were unable to reach agreement with the intervenor despite the belief that the parties negotiated with the intervenor in good faith and made a reasonable offer to settle the intervention claim. At the time the stipulation is filed for approval, a copy of the stipulation must be served on the intervenor. An affidavit of service of the stipulation must accompany the stipulation when it is filed for approval.

Subp. 2. Initial hearing on partial settlement.

A. Where the principal parties have reached an agreement to settle a pending matter but are unable to reach agreement with one or more intervenors as provided in subpart 1, item B, subitem (2), the office shall schedule the matter for an expedited hearing to be held within 60 days of the filing of the stipulation for settlement.

B. The purpose of the initial hearing is to determine whether the stipulation for settlement of the other parties precludes the nonparticipating party from pursuing its claim.

C. If the judge finds that the stipulation for settlement does not preclude the intervenor from pursuing its claim and the stipulation for settlement is otherwise in accordance with the law, the stipulation will be approved. An intervenor claim of exclusion from the settlement negotiations or entitlement on the merits of the claim will be scheduled for hearing at a later date as provided in subpart 3.

Subp. 3. Intervenor hearing on the merits.

A. If the parties have not fully resolved the intervenor claim following the procedures in subparts 1 and 2 and there is no action pending at the office, a party must file a written petition under Minnesota Statutes, section 176.291, for a hearing on the merits of the intervening party's claim. The petition must be filed within 30 days after an award on stipulation is served and filed. If a petition is pending at the time an award on stipulation is served and filed under subpart 2, the office shall schedule the intervenor claims for a hearing on the merits for at least one-half day.

B. The intervenor may present evidence that the intervenor was effectively excluded from meaningful settlement negotiations through lack of an offer of settlement, lack of notice of the right to intervene, or an unreasonable or bad faith offer of settlement. If the judge finds that the intervenor was effectively excluded from the proceeding or negotiations, full reimbursement to the intervenor will be ordered. If the judge does not find that the intervenor was excluded from the proceeding or negotiations, the intervenor must present evidence regarding the compensability of the employee's claim from which the intervenor's claim is derived as well as evidence of the intervenor's claim. The intervenor has the burden of proving the claims.

Subp. 4. Potential intervenor claims after final order. If a potential intervenor claims the potential intervenor was not served with a notice of the right to intervene and a settlement or decision is now final, the potential intervenor may request a hearing on the issue of whether the parties failed to provide proper notice under part 1415.1100. The potential intervenor must, within 30 days of knowledge of the exclusion, file a motion under part 1420.2250 for a hearing under subpart 3.

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

History: *29 SR 1446*

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