1420.2900 HEARING.

Subpart 1. **Notice.** A place, date, and time certain will be assigned to each case. Written notice of the hearing will be given as soon as the assigned date is known, but must be given at least 30 days in advance of the hearing, except:

A. when notice is waived by the parties;

B. when a different time is expressly agreed to by the parties;

C. when the notice is governed by contrary law or rule; or

D. when the hearing has been continued from an earlier date and the parties are all available at an earlier date.

The notice must include the place of hearing, the amount of time allowed for the hearing, and if known, the name of the judge assigned. If an additional hearing date is required, the office will set the date and time.

Subp. 2. **Availability of witnesses.** As soon as the parties know the hearing date, they shall immediately notify all witnesses in writing and arrange for the witnesses to be present or for the taking of a deposition under part 1420.2200. A party calling a witness for whom an interpreter is required shall advise the office in advance of the need for an interpreter.

Subp. 3. **Medical evidence.** Rules governing medical evidence are as follows:

A. If a party believes that the oral testimony of a physician or health care provider is crucial to the accurate determination of the employee's disability, the party shall file a written motion pursuant to part 1420.2250.

B. If medical evidence is submitted in the form of written reports, rather than by oral testimony, under Minnesota Statutes, section 176.155, subdivision 5, the reports should include:

(1) the date of the examination;

(2) the history of the injury;

(3) the patient's complaints;

(4) the source of all facts in the history and complaints;

(5) findings on examination;

(6) opinion as to the extent of disability and work limitations, if any;

(7) the cause of the disability and, if applicable, whether the work injury was a substantial contributing factor toward the disability;

(8) the medical treatment indicated;

(9) if permanent disability is an issue, an opinion as to whether or not the 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;

(10) if a permanent partial disability is a result of two or more injuries or occurrences, or if part of the permanent disability is a result of a preexisting disability that arises from a congenital condition, traumatic injury, or incident, whether or not compensable under Minnesota Statutes, chapter 176, the health care provider shall apportion the disability between the injuries, occurrences, or conditions;

(11) if future medical care or treatment is anticipated, a statement of the nature and extent of treatment recommended and, if possible, the anticipated results;

(12) the reason for each opinion; and

(13) if applicable, a statement that the health care provider has read the rules concerning determination of permanent partial disability, understands them, and has applied those rules in making the determination.

C. Medical reports to be used at the hearing must be served on the parties and filed with the office, with an affidavit of service, sufficiently in advance of the hearing to allow other parties the opportunity to cross-examine the health care provider, if desired, unless the delay in filing the report was caused by a failure of the employee to report for an adverse medical examination or to provide medical support for the claim on a timely basis, or other good cause. If the report is filed too late to allow the cross-examination, the record will be held open to allow other parties to either cross-examine the health care provider after the hearing or provide a follow-up report from an expert of the other parties.

Subp. 4. **Rights of parties.** All parties have the right to present evidence, to cross-examine witnesses, and to present rebuttal testimony.

Subp. 5. **Witnesses.** A party may be a witness and present other witnesses at the hearing. Oral testimony at the hearing must be under oath or affirmation. At the request of a party or upon the judge's motion, the judge may exclude witnesses other than parties from the hearing room so that they cannot hear the testimony of other witnesses.

Subp. 6. **Evidence.**

A. The judge will accept only relevant and material evidence that is not repetitive or cumulative.

B. Exhibits for hearings scheduled to be conducted by video technology must be prefiled with the office at least three business days before the hearing. Mailed or delivered exhibits must be placed in a separate, sealed envelope marked with the name and date of the case, the file number, and must be identified as exhibits of the submitting party. Faxed exhibits may not exceed 15 pages in length and must be clearly marked as video hearing exhibits for immediate hand delivery to the judge, and must include the name and file number of the case, the date of hearing, and identify the

submitting party. An adverse party must also receive the exhibits at least three business days before the hearing.

Subp. 7. **Record requirements.** Record requirements are as follows:

A. The office shall maintain the official record, other than the stenographic notes of a hearing reporter, in each case until the issuance of the final order.

B. The record shall contain:

(1) all pleadings, motions, and orders;

(2) subject to part 1415.3500, evidence received or considered unless, through agreement of the parties or by order of the judge, custody of an exhibit is given to one of the parties;

(3) those parts of the division's official file on the matter which the judge incorporates on the record;

(4) offers of proof, objections, and the resulting rulings;

(5) the judge's order;

(6) memoranda submitted by a party in connection with the case and accepted by the judge;

(7) a transcript of the hearing, if one was prepared; and

(8) until a final order is issued after any appeals, the audio-magnetic recording tapes used to record the hearing, if any.

C. The chief judge shall direct that the verbatim record of a hearing be transcribed if requested by any person. The person requesting a transcript must pay the person preparing the transcript a reasonable fee.

D. Under Minnesota Statutes, section 176.421, subdivision 4, clause (3), a party may petition the chief judge 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 must include:

(1) the caption of the case;

(2) case identification numbers;

(3) the name, address, and telephone number of the attorney representing the appellant; and

(4) a sworn affidavit from the appellant which must include a complete accounting of all household income from any source, the market value of any holdings including real estate, and all expenses on a monthly basis.

Subp. 8. **Hearing procedure.**

A. Unless the judge determines that the substantial rights of the parties will be ascertained better in some other manner, the hearing will be conducted in the following manner:

(1) After opening the hearing, the judge shall, unless all parties are represented by counsel, state the procedural rules for the hearing.

(2) Stipulations entered into by the parties before the hearing must be entered into the record.

(3) If the judge requests opening statements, the party with the burden of proof shall proceed first. Other parties shall make opening statements in a sequence determined by the judge.

(4) After opening statements, the party with the burden of proof shall begin the presentation of evidence. That party will be followed by the other parties in a sequence determined by the judge.

(5) Cross-examination of witnesses will be conducted in a sequence determined by the judge.

(6) When the parties and witnesses have been heard and if the judge believes that legal issues remain unresolved, final arguments may be presented in a sequence determined by the judge. Final argument may, in the discretion of the judge, be in the form of written memoranda or oral argument, or both. The judge shall decide when memoranda must be submitted. Final arguments must be limited to legal issues only.

(7) The record of the case will be closed upon receipt of the final written memorandum or transcript, if any, or late-filed exhibits which the judge has received into the record, whichever occurs last.

Subp. 9. **Disruption of hearing.** Persons in the hearing room may not converse in a disruptive manner, read newspapers, smoke, chew gum, eat food, or drink liquids other than water, or otherwise disrupt the hearing while the hearing is in session, and counsel shall so instruct parties they represent, witnesses they call, and persons accompanying them. A cellular telephone must be turned off in the hearing room unless the judge grants permission for it to be turned on. Guns and other weapons are not allowed in the hearing room or on the premises of the office.

No television, video, digital, still, or other camera, and no electronic recording devices, other than those provided by the office may be operated in the hearing room during the course of the hearing unless permission is obtained from the judge. Permission is subject to conditions set by the judge to avoid disruption of the hearing.

Under Minnesota Statutes, section 624.72, no person may interfere with the free, proper, and lawful access to or egress from the hearing room. No person may interfere or threaten interference with a hearing, or disrupt or threaten disruption of a hearing.

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

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