

5228.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 5228.0100 to 5228.0130, the following terms have the meanings given them.

Subp. 2. **Attorney.** "Attorney" means a person licensed to practice law in Minnesota who represents a party for a fee on matters over which the commissioner has jurisdiction.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Labor and Industry or the commissioner's designee.

Subp. 4. **Compensation or workers' compensation benefits.** "Compensation" or "workers' compensation benefits" has the meaning given compensation in Minnesota Statutes, section 176.011, subdivision 8.

Subp. 5. **Employee.** "Employee" has the meaning given it in Minnesota Statutes, section 176.011, subdivisions 9 and 9a.

Subp. 6. **Employer.** "Employer" has the meaning given it in Minnesota Statutes, section 176.011, subdivision 10.

Subp. 7. **Fraud unit.** "Fraud unit" means the workers' compensation investigative unit established at the Department of Labor and Industry under Minnesota Statutes, section 176.86.

Subp. 8. **Health care provider.** "Health care provider" has the meaning given it in Minnesota Statutes, section 176.011, subdivision 24, and includes managed care organizations certified by the commissioner.

Subp. 9. **Illegal activity.** "Illegal activity" for purposes of Minnesota Statutes, section 176.86, means acts, omissions, or material misrepresentations which are in violation of statutes or rules relating to workers' compensation, including Minnesota Statutes, section 176.178 or 609.52. The acts and omissions include, but are not limited to, the following:

A. making a knowingly false statement or misrepresentation to obtain or deny workers' compensation benefits;

B. presenting a knowingly false material written or oral statement in support of, or in opposition to, a claim for workers' compensation benefits, including a notice, proof of injury, bill and payment for services, test result, and medical or legal expense;

C. knowingly assisting persons or parties who engage in illegal activity; or

D. making a knowingly false material statement or material representation regarding entitlement to benefits with the intent to discourage an injured worker from pursuing a claim or with the intent to encourage an employee to pursue a claim.

Subp. 10. **Insurer.** "Insurer" has the meaning given it in Minnesota Statutes, section 79.01, subdivision 2, and includes self-insurers.

Subp. 11. **Material fact.** "Material fact," for purposes of Minnesota Statutes, section 176.178, means a fact which if untruly asserted or wrongfully suppressed, if it had been known to the person paying workers' compensation benefits, would have influenced the decision to pay. Material facts include, but are not limited to:

A. representations or omissions regarding employment status, income, or job offers by any party which result in an underpayment or overpayment or payment of benefits;

B. representations or omissions regarding symptoms or ability to perform physical activities, including but not limited to standing, sitting, driving, walking, climbing, crawling, or any other aspect relating to a work or non-work-related medical condition or functional capacity which affects the payment or nonpayment of workers' compensation benefits;

C. representations or omissions regarding past or present medical conditions, illnesses, diseases, or injuries, whether related to employment or not, which influence the decision to pay or not pay workers' compensation benefits and which result in underpayment, overpayment, payment, or nonpayment of workers' compensation benefits;

D. representations or omissions concerning medical treatment or supplies or rehabilitation services submitted in connection with claims by health care providers under Minnesota Statutes, section 176.135, or rehabilitation providers under Minnesota Statutes, section 176.102, for reimbursement which result in an overpayment or nonpayment;

E. representations or omissions regarding compensable hours and costs or disputed amounts on attorney fee petitions which result in overpayment of attorney fees;

F. representations or omissions to the commissioner concerning the payment or receipt of workers' compensation benefits by employers, employees, insurers, third-party administrators, or attorneys;

G. representations or omissions to the commissioner concerning the filing of requested or required reports under Minnesota Statutes, chapter 176, by employers, employees, insurers, third-party administrators, or attorneys;

H. representations or omissions by a person regarding a notice of injury under Minnesota Statutes, section 176.141; and

I. representations or omissions by a party or person regarding the occurrence, nature, or extent of a claimed work injury under Minnesota Statutes, chapter 176.

Subp. 12. **Person.** "Person" means a party, individual, partnership, association, corporation, or other legal entity including, but not limited to, employers, employees, insurers, third-party administrators, attorneys, health care providers, vendors, and rehabilitation providers.

Subp. 13. **Probable cause.** "Probable cause" means evidence which leads fraud unit investigators to reasonably believe that illegal activity has been or is being committed.

Subp. 14. **Prosecuting authority.** "Prosecuting authority" means the attorney general, county attorney, or other appropriate law enforcement agency or agency designee having jurisdiction and

authority to prosecute criminal, civil, or administrative violations of Minnesota Statutes, sections 176.178, 176.179, and 609.52.

Subp. 15. **Rehabilitation provider.** "Rehabilitation provider" has the meaning given it in part 5220.0100, subpart 28.

Subp. 16. **Request for action.** "Request for action" means the fraud unit standard for referral to the prosecuting authority based on probable cause that illegal activity has been or is being committed.

Statutory Authority: *MS s 176.87*

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