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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2988

- 03/20/2023 Authored by Wolgamott, McDonald and Hussein
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy
- 04/26/2023 Adoption of Report: Re-referred to the Committee on Labor and Industry Finance and Policy
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration
Adoption of Report: Re-referred to the Committee on Labor and Industry Finance and Policy
Joint Rule 2.03 has been waived for any subsequent committee action on this bill
- 05/01/2023 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
- 05/04/2023 Adoption of Report: Placed on the General Register
Read for the Second Time
- 05/08/2023 Calendar for the Day
Read for the Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act

1.2 relating to workers' compensation; adopting recommendations of the 2023 Workers'

1.3 Compensation Advisory Committee; modifying workers' compensation

1.4 self-insurance; improving system efficiencies; modifying the permanent partial

1.5 disability schedule; requiring a post-traumatic stress disorder study and report;

1.6 making housekeeping changes; appropriating money; amending Minnesota Statutes

1.7 2022, sections 79A.01, subdivision 4; 79A.04, subdivisions 7, 9, 10, 16, by adding

1.8 a subdivision; 79A.08; 79A.13; 79A.24, subdivision 4; 79A.25, subdivisions 1, 2,

1.9 3, by adding a subdivision; 176.011, subdivision 11a, by adding a subdivision;

1.10 176.081, subdivision 1; 176.101, subdivision 2a; 176.102, subdivision 3; 176.111,

1.11 subdivision 16, by adding a subdivision; 176.135, subdivisions 1, 1a, 7; 176.1362,

1.12 subdivision 1; 176.1364, subdivision 3; 176.155, subdivision 1; 176.239,

1.13 subdivisions 6, 7; 176.291; 176.305, subdivision 4; 176.331; repealing Minnesota

1.14 Statutes 2022, sections 176.1364, subdivision 6; 176.223.

1.15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.16 ARTICLE 1

1.17 WORKERS' COMPENSATION SELF-INSURANCE

1.18 Section 1. Minnesota Statutes 2022, section 79A.01, subdivision 4, is amended to read:

1.19 Subd. 4. **Insolvent self-insurer.** "Insolvent self-insurer" means: (1) a member private

1.20 self-insurer who has failed to pay compensation as a result of a declaration of bankruptcy

1.21 or insolvency by a court of competent jurisdiction and whose security deposit has been

1.22 called by the commissioner pursuant to chapter 176; (2) a member self-insurer who has

1.23 failed to pay compensation and who has been issued a certificate of default by the

1.24 commissioner and whose security deposit has been called by the commissioner pursuant to

1.25 chapter 176; ~~or~~ (3) a member or former member private self-insurer who has failed to pay

1.26 an assessment required by section 79A.12, subdivision 2, and who has been issued a

1.27 certificate of default by the commissioner and whose security deposit has been called by

2.1 the commissioner; or (4) a member private self-insurer whose security deposit has been
2.2 called by the commissioner pursuant to chapter 176 and in accordance with section 79A.04,
2.3 subdivision 9a, paragraph (b).

2.4 Sec. 2. Minnesota Statutes 2022, section 79A.04, subdivision 7, is amended to read:

2.5 Subd. 7. **Perfection of security.** Upon the commissioner sending a request to renew,
2.6 request to post, or request to increase a security deposit, a perfected security interest is
2.7 created in the private self-insured's assets in favor of the commissioner to the extent of any
2.8 then unsecured portion of the self-insured's incurred liabilities. That perfected security
2.9 interest is transferred to any cash or securities thereafter posted by the private self-insured
2.10 with the commissioner of management and budget and is released only upon either of the
2.11 following:

2.12 (1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit
2.13 for the full amount of the incurred liabilities for the payment of compensation; or

2.14 (2) the return of cash or securities by the commissioner.

2.15 The private self-insured employer loses all right, title, and interest in and any right to
2.16 control all assets or obligations posted or left on deposit as security. In the event that a
2.17 ~~private self-insurer is the subject of a voluntary or involuntary petition under the United~~
2.18 ~~States Bankruptcy Code, title 11, or a court of competent jurisdiction has declared the private~~
2.19 ~~self-insurer to be bankrupt or insolvent, or in the event of the issuance of a certificate of~~
2.20 ~~default by the commissioner, the commissioner shall liquidate the deposit as provided in~~
2.21 ~~this chapter, and transfer it to the self-insurer's security fund for application to the self-insured~~
2.22 ~~employer's incurred liability and other current or future obligations of the self-insurers'~~
2.23 ~~security fund. In the event that a private self-insurer is the subject of a voluntary or~~
2.24 ~~involuntary petition under the United States Bankruptcy Code, title 11, or a court of~~
2.25 ~~competent jurisdiction has declared the private self-insurer to be bankrupt or insolvent, or~~
2.26 ~~in the event of the issuance of a certificate of default by the commissioner, all right, title,~~
2.27 ~~and interest in and any right to control all assets or obligations which have been posted or~~
2.28 ~~deposited as security must be transferred to the self-insurers' security fund.~~

2.29 Sec. 3. Minnesota Statutes 2022, section 79A.04, subdivision 9, is amended to read:

2.30 Subd. 9. **Insolvency, ~~bankruptcy~~, or default; utilization of security deposit.** The
2.31 commissioner of labor and industry shall notify the commissioner and the security fund if
2.32 the commissioner of labor and industry has knowledge that any private self-insurer has
2.33 failed to pay workers' compensation benefits as required by chapter 176. The security deposit

3.1 shall be used to administer and pay the private self-insurers' workers' compensation or
3.2 assessment obligations or any other current or future obligations of the self-insurers' security
3.3 fund if any of the following occurs:

3.4 (1) the private self-insurer has failed to pay workers' compensation as required by chapter
3.5 176 and ~~either:~~

3.6 ~~(i) the commissioner determines that a private self-insurer is the subject of a voluntary~~
3.7 ~~or involuntary petition under the United States Bankruptcy Code, title 11; or~~

3.8 ~~(ii) the commissioner determines that a court of competent jurisdiction has declared the~~
3.9 ~~private self-insurer to be bankrupt or insolvent; or~~

3.10 (2) the commissioner issues a certificate of default against a private self-insurer for
3.11 failure to pay workers' compensation as required by chapter 176; or

3.12 (3) the commissioner issues a certificate of default against a private self-insurer for
3.13 failure to pay an assessment to the self-insurer's security fund when due.

3.14 Sec. 4. Minnesota Statutes 2022, section 79A.04, is amended by adding a subdivision to
3.15 read:

3.16 Subd. 9a. **Bankruptcy; utilization of security deposit.** (a) A private self-insurer must
3.17 notify the commissioner prior to, or immediately upon, the filing of a voluntary or involuntary
3.18 petition under the United States Bankruptcy Code, title 11, and when a court of competent
3.19 jurisdiction has declared the private self-insurer to be bankrupt.

3.20 (b) If a private self-insurer is (1) the subject of a voluntary or involuntary petition under
3.21 the United States Bankruptcy Code, title 11, or (2) a court of competent jurisdiction has
3.22 declared the private self-insurer to be bankrupt and the private self-insurer has failed to pay
3.23 workers' compensation as required by chapter 176, the commissioner must call the security
3.24 and proceed in accordance with this section.

3.25 (c) If, upon notice that a private self-insurer is the subject of a voluntary or involuntary
3.26 petition under the United States Bankruptcy Code, title 11, or a court of competent
3.27 jurisdiction has declared the private self-insurer to be bankrupt but the private self-insurer
3.28 has not failed to timely pay workers' compensation benefits as required by chapter 176, the
3.29 commissioner may call the security and proceed in accordance with this section if the
3.30 commissioner determines that the private self-insurer's payment of workers' compensation
3.31 benefits would be delayed in any way as a result of the bankruptcy petition or declaration
3.32 or that the private self-insurer would otherwise be unable to fulfill its obligations under
3.33 chapter 79A or 176.

4.1 (d) In making the determination provided for in paragraph (c) to call a private
4.2 self-insurer's security and proceed in accordance with this section, the commissioner must
4.3 consult with the commissioner of labor and industry to determine if the commissioner of
4.4 labor and industry has knowledge that the private self-insurer has failed to pay workers'
4.5 compensation benefits as required by chapter 176. The commissioner shall also consider
4.6 the following:

4.7 (1) the self-insurer's most recent actuarial statement, including but not limited to estimated
4.8 future liability and posted security;

4.9 (2) the self-insurer's claims history and claims projections;

4.10 (3) the circumstances surrounding the self-insurer's petition to file bankruptcy; and

4.11 (4) any other circumstances the commissioner deems relevant.

4.12 (d) In making the determination under paragraph (c), the commissioner must also meet
4.13 and confer with the private self-insurer and the security fund. The initial meet and confer
4.14 must occur within 30 days of the filing of the petition for chapter 11 bankruptcy. Failure to
4.15 participate in the meet and confer process by the self-insurer may result in a default
4.16 determination to immediately transfer the posted security and claims obligations to the
4.17 security fund. During the meet and confer, the commissioner may ask the self-insurer to
4.18 provide additional information. Additionally, the security fund may inspect the private
4.19 self-insurer's most recent actuarial study on file with the commissioner as well as its current
4.20 security deposit amount required by the commissioner. Data disclosed during the meet and
4.21 confer must remain confidential. Nothing in this section shall limit the fund's authority to
4.22 seek information directly from its members.

4.23 Sec. 5. Minnesota Statutes 2022, section 79A.04, subdivision 10, is amended to read:

4.24 Subd. 10. **Notice; obligation of fund.** In the event of ~~bankruptcy~~, insolvency; or
4.25 certificate of default, the commissioner shall immediately notify by certified mail the
4.26 commissioner of management and budget, the surety, the issuer of an irrevocable letter of
4.27 credit, and any custodian of the security required in this chapter. At the time of notification,
4.28 the commissioner shall also call the security and transfer and assign it to the self-insurers'
4.29 security fund. The commissioner shall also immediately notify by certified mail the
4.30 self-insurers' security fund, and order the security fund to assume the insolvent self-insurers'
4.31 obligations for which it is liable under chapter 176. The security fund shall commence
4.32 payment of these obligations within 14 days of receipt of this notification and order. Payments
4.33 shall be made to claimants whose entitlement to benefits can be ascertained by the security

5.1 fund, with or without proceedings before the Department of Labor and Industry, the Office
5.2 of Administrative Hearings, the Workers' Compensation Court of Appeals, or the Minnesota
5.3 Supreme Court. Upon the assumption of obligations by the security fund pursuant to the
5.4 commissioner's notification and order, the security fund has the right to immediate possession
5.5 of any posted or deposited security and the custodian, surety, or issuer of any irrevocable
5.6 letter of credit or the commissioner, if in possession of it, shall turn over the security,
5.7 proceeds of the surety bond, or letter of credit to the security fund together with the interest
5.8 that has accrued since the date of the self-insured employer's insolvency. The security fund
5.9 has the right to the immediate possession of all relevant workers' compensation claim files
5.10 and data of the self-insurer, and the possessor of the files and data must turn the files and
5.11 data, or complete copies of them, over to the security fund within five days of the notification
5.12 provided under this subdivision. If the possessor of the files and data fails to timely turn
5.13 over the files and data to the security fund, it is liable to the security fund for a penalty of
5.14 \$500 per day for each day after the five-day period has expired. The security fund is entitled
5.15 to recover its reasonable attorney fees and costs in any action brought to obtain possession
5.16 of the workers' compensation claim files and data of the self-insurer, and for any action to
5.17 recover the penalties provided by this subdivision. The self-insurers' security fund may
5.18 administer payment of benefits or it may retain a third-party administrator to do so.

5.19 Sec. 6. Minnesota Statutes 2022, section 79A.04, subdivision 16, is amended to read:

5.20 Subd. 16. **Certificate to self-insure; revocation.** If, following a private self-insurer's
5.21 ~~bankruptcy~~, insolvency, or certificate of default, the commissioner calls its security and
5.22 proceeds in accordance with this section, the commissioner shall revoke the certificate to
5.23 self-insure of the private self-insurer as soon as practicable but no later than 30 days after
5.24 its security has been called. No insolvent self-insurer, as defined in section 79A.01,
5.25 subdivision 4, shall be eligible to receive another grant of authority to self-insure unless
5.26 either: (1) the insolvent self-insurer's posted security was sufficient to pay all direct and
5.27 indirect administrative and professional expenses of the security fund related to the insolvent
5.28 self-insurer, and all losses, including estimated future liability, allocated loss expense, and
5.29 unallocated loss expense of the insolvent self-insurer; or (2) the insolvent self-insurer pays
5.30 the security fund an amount equal to all such losses and expenses the security fund has paid
5.31 or will be required to pay related to this insolvent self-insurer.

6.1 Sec. 7. Minnesota Statutes 2022, section 79A.08, is amended to read:

6.2 **79A.08 LEGISLATIVE INTENT.**

6.3 It is the intent of the legislature in enacting sections 79A.08 to 79A.10 to provide for
6.4 the continuation of workers' compensation benefits delayed due to the failure of a private
6.5 self-insured employer to meet its compensation obligations, whenever the commissioner
6.6 of commerce issues a certificate of default or there is a declaration of ~~bankruptcy or~~
6.7 insolvency by a court of competent jurisdiction. With respect to the continued liability of
6.8 a surety for claims that arise under a bond after termination of that bond and to a surety's
6.9 liability for the cost of administration of claims, it is the intent of the legislature to provide
6.10 that that liability ceases upon lawful termination of that bond. This applies to all surety
6.11 bonds which are purchased by the self-insured employer after July 1, 1988. The legislature
6.12 finds and declares that the establishment of the self-insurers' security fund is a necessary
6.13 component of a complete system of workers' compensation, required by chapter 176, to
6.14 have adequate provisions for the comfort, health, safety, and general welfare of any and all
6.15 workers and their dependents to the extent of relieving the consequences of any industrial
6.16 injury or death, and full provision for securing the payment of compensation.

6.17 Sec. 8. Minnesota Statutes 2022, section 79A.13, is amended to read:

6.18 **79A.13 AUDIT; ANNUAL REPORT.**

6.19 The trustees shall annually contract for an independent certified audit of the financial
6.20 activities of the fund. An annual report on the financial status of the fund as of June 30 shall
6.21 be submitted to the commissioner and to each member.

6.22 The security fund shall be established on July 1, 1988, or 90 days after July 1, 1988,
6.23 whichever occurs later. All applications for private self-insurers which are made after July
6.24 1, 1988, prior to the establishment of the security fund, shall comply with all requirements
6.25 of this chapter. Applications for private self-insurers which are made after January 1, 1988,
6.26 but prior to July 1, 1988, shall, prior to the establishment of the security fund, comply with
6.27 the requirements of this chapter. The security fund shall be liable for payment of benefits
6.28 only for members where there has been a declaration of ~~bankruptcy or~~ insolvency by a court
6.29 of competent jurisdiction after the date on which the security fund is established, or where
6.30 the commissioner has issued a certificate of default which has occurred after the date on
6.31 which the security fund is established.

7.1 Sec. 9. Minnesota Statutes 2022, section 79A.24, subdivision 4, is amended to read:

7.2 Subd. 4. **Custodial accounts.** (a) All surety bonds, irrevocable letters of credit, and
7.3 documents showing issuance of any irrevocable letter of credit shall be deposited in
7.4 accordance with the provisions of section 79A.071.

7.5 (b) Upon the commissioner sending a request to renew, request to post, or request to
7.6 increase a security deposit, a perfected security interest is created in the commercial
7.7 self-insurance group's and member's assets in favor of the commissioner to the extent of
7.8 any then unsecured portion of the commercial self-insurance group's incurred liabilities.
7.9 The perfected security interest is transferred to any cash or securities thereafter posted by
7.10 the commercial self-insurance group with the commissioner of management and budget
7.11 and is released only upon either of the following:

7.12 (1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit
7.13 for the full amount of the incurred liabilities for the payment of compensation; or

7.14 (2) the return of cash or securities by the commissioner. The commercial self-insurance
7.15 group loses all right, title, and interest in and any right to control all assets or obligations
7.16 posted or left on deposit as security. In the event of a declaration of ~~bankruptcy~~ or insolvency
7.17 by a court of competent jurisdiction, or in the event of the issuance of a certificate of default
7.18 by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter,
7.19 and transfer it to the commercial self-insurance group security fund for application to the
7.20 commercial self-insurance group's incurred liability.

7.21 (c) No securities in physical form on deposit with the commissioner of management and
7.22 budget or the commissioner or custodial accounts assigned to the state shall be released or
7.23 exchanged without an order from the commissioner. No security can be exchanged more
7.24 than once every 90 days.

7.25 (d) Any securities deposited with the commissioner of management and budget or with
7.26 a custodial account assigned to the commissioner of management and budget or letters of
7.27 credit or surety bonds held by the commissioner may be exchanged or replaced by the
7.28 depositor with any other acceptable securities or letters of credit or surety bond of like
7.29 amount so long as the market value of the securities or amount of the surety bonds or letter
7.30 of credit equals or exceeds the amount of the deposit required. If securities are replaced by
7.31 surety bond, the commercial self-insurance group must maintain securities on deposit in an
7.32 amount sufficient to meet all outstanding workers' compensation liability arising during the
7.33 period covered by the deposit of the replaced securities.

8.1 Sec. 10. Minnesota Statutes 2022, section 79A.25, subdivision 1, is amended to read:

8.2 Subdivision 1. **Notice of insolvency, ~~bankruptcy~~, or default.** The commissioner of
8.3 labor and industry shall notify the commissioner and the commercial self-insurance group
8.4 security fund if the commissioner of labor and industry has knowledge that any commercial
8.5 self-insurance group has failed to pay workers' compensation benefits as required by chapter
8.6 176. If the commissioner determines that a court of competent jurisdiction has declared the
8.7 commercial self-insurance group to be ~~bankrupt~~ or insolvent and the commercial
8.8 self-insurance group has failed to pay workers' compensation as required by chapter 176 or
8.9 if the commissioner issues a certificate of default against a commercial self-insurance group
8.10 for failure to pay workers' compensation as required by chapter 176, then the security deposit
8.11 posted by the commercial self-insurance group shall be utilized to administer and pay the
8.12 commercial self-insurance group's workers' compensation obligation.

8.13 Sec. 11. Minnesota Statutes 2022, section 79A.25, subdivision 2, is amended to read:

8.14 Subd. 2. **Mandatory revocation of certificate to self-insure.** (a) The commissioner
8.15 shall revoke the commercial self-insurance group's certificate to self-insure once notified
8.16 of the commercial self-insurance group's ~~bankruptcy~~, insolvency, or upon issuance of a
8.17 certificate of default. The revocation shall be completed as soon as practicable, but no later
8.18 than 30 days after the commercial self-insurance group's security has been called.

8.19 (b) The commissioner shall also revoke a commercial self-insurance group's authority
8.20 to self-insure on the following grounds:

8.21 (1) failure to comply with any lawful order of the commissioner;

8.22 (2) failure to comply with any provision of chapter 176;

8.23 (3) a deterioration of the commercial self-insurance group's financial condition affecting
8.24 its ability to pay obligations in chapter 176;

8.25 (4) committing an unfair or deceptive act or practice as defined in section 72A.20; or

8.26 (5) failure to abide by the plan of operation of the Workers' Compensation Reinsurance
8.27 Association.

8.28 Sec. 12. Minnesota Statutes 2022, section 79A.25, is amended by adding a subdivision to
8.29 read:

8.30 **Subd. 2a. Discretionary revocation of certificate to self-insure.** (a) A commercial
8.31 self-insurance group must notify the commissioner, prior to or immediately upon a court

9.1 of competent jurisdiction declaring it to be insolvent. If a commercial self-insurance group
9.2 has been declared insolvent by a court of competent jurisdiction and the commercial
9.3 self-insurance group has failed to pay workers' compensation as required by chapter 176,
9.4 the commissioner must call the security and proceed in accordance with this section.

9.5 (b) If a commercial self-insurance group has notified the commissioner that a court of
9.6 competent jurisdiction has declared it bankrupt but the commercial self-insurance group
9.7 has not failed to pay workers' compensation benefits as required by chapter 176, the
9.8 commissioner may call the security and proceed in accordance with this section if the
9.9 commissioner determines that the commercial self-insurance group's payment of workers'
9.10 compensation benefits would be delayed in any way as a result of the bankruptcy petition
9.11 or declaration or that the commercial self-insurance group would otherwise be unable to
9.12 fulfill its obligations under chapter 79A or 176.

9.13 (c) In making the determination provided for in paragraph (b) to call a commercial
9.14 self-insurance group's security and proceed in accordance with this section, the commissioner
9.15 must consult with the commissioner of labor and industry to determine if the commissioner
9.16 of labor and industry has knowledge that the commercial self-insurance group has failed to
9.17 pay workers' compensation benefits as required by chapter 176. The commissioner shall
9.18 also consider the following:

9.19 (1) the commercial self-insurance group's most recent actuarial statement, including but
9.20 not limited to estimated future liability and posted security;

9.21 (2) the commercial self-insurance group's claims history and claims projections;

9.22 (3) the circumstances surrounding the commercial self-insurance group's petition to file
9.23 bankruptcy; and

9.24 (4) any other circumstances the commissioner deems relevant.

9.25 (d) The commissioner must also meet and confer with the commercial self-insurance
9.26 group and the group security fund. The initial meet and confer must occur within 30 days
9.27 of the filing of the petition for chapter 11 bankruptcy. Failure to participate in the meet and
9.28 confer process by the commercial self-insurance group may result in a default determination
9.29 to immediately transfer the posted security and claims obligations to the fund. During the
9.30 meet and confer, the commissioner may ask the commercial self-insurance group to provide
9.31 additional information and the commercial self-insurance group security fund may inspect
9.32 the commercial self-insurance group's most recent actuarial study on file with the
9.33 commissioner as well as its current security deposit amount required by the commissioner.

10.1 Data disclosed during the meet and confer must remain confidential. Nothing in this section
10.2 shall limit the fund's authority to seek information directly from its members.

10.3 Sec. 13. Minnesota Statutes 2022, section 79A.25, subdivision 3, is amended to read:

10.4 Subd. 3. **Notice by commissioner.** In the event of ~~bankruptcy~~, insolvency, or certificate
10.5 of default, the commissioner shall immediately notify by certified mail the commissioner
10.6 of management and budget, the surety, the issuer of an irrevocable letter of credit, and any
10.7 custodian of the security. At the time of notification, the commissioner shall also call the
10.8 security and transfer and assign it to the commercial self-insurance group security fund.
10.9 The commissioner shall also notify by certified mail the commercial self-insurance group's
10.10 security fund and order the commercial security fund to assume the insolvent commercial
10.11 self-insurance group's obligations for which it is liable under chapter 176.

10.12 ARTICLE 2

10.13 SYSTEM EFFICIENCIES

10.14 Section 1. Minnesota Statutes 2022, section 176.081, subdivision 1, is amended to read:

10.15 Subdivision 1. **Limitation of fees.** (a) A fee for legal services of 20 percent of the first
10.16 \$130,000 of compensation awarded to the employee is the maximum permissible fee and
10.17 does not require approval by the commissioner, compensation judge, or any other party.
10.18 All fees, including fees for obtaining medical or rehabilitation benefits, must be calculated
10.19 according to the formula under this subdivision, except as otherwise provided in clause (1)
10.20 or (2).

10.21 (1) The contingent attorney fee for recovery of monetary benefits according to the
10.22 formula in this section is presumed to be adequate to cover recovery of medical and
10.23 rehabilitation benefit or services concurrently in dispute. Attorney fees for recovery of
10.24 medical or rehabilitation benefits or services shall be assessed against the employer or
10.25 insurer only if the attorney establishes that the contingent fee is inadequate to reasonably
10.26 compensate the attorney for representing the employee in the medical or rehabilitation
10.27 dispute. In cases where the contingent fee is inadequate the employer or insurer is liable for
10.28 attorney fees based on the formula in this subdivision or in clause (2).

10.29 For the purposes of applying the formula where the employer or insurer is liable for
10.30 attorney fees, the amount of compensation awarded for obtaining disputed medical and
10.31 rehabilitation benefits under sections 176.102, 176.135, and 176.136 shall be the dollar
10.32 value of the medical or rehabilitation benefit awarded, where ascertainable.

11.1 (2) The maximum attorney fee for obtaining a change of doctor or qualified rehabilitation
11.2 consultant, or any other disputed medical or rehabilitation benefit for which a dollar value
11.3 is not reasonably ascertainable, is the amount charged in hourly fees for the representation
11.4 or \$500, whichever is less, to be paid by the employer or insurer.

11.5 (3) The fees for obtaining disputed medical or rehabilitation benefits are included in the
11.6 \$26,000 limit in paragraph (b). An attorney must concurrently file all outstanding disputed
11.7 issues. An attorney is not entitled to attorney fees for representation in any issue which
11.8 could reasonably have been addressed during the pendency of other issues for the same
11.9 injury.

11.10 (b) All fees for legal services related to the same injury are cumulative and may not
11.11 exceed \$26,000. If multiple injuries are the subject of a dispute, the commissioner,
11.12 compensation judge, or court of appeals shall specify the attorney fee attributable to each
11.13 injury.

11.14 (c) If the employer or the insurer or the defendant is given written notice of claims for
11.15 legal services or disbursements, the claim shall be a lien against the amount paid or payable
11.16 as compensation. Subject to the foregoing maximum amount for attorney fees, up to 20
11.17 percent of the first \$130,000 of periodic compensation awarded to the employee may be
11.18 withheld from the periodic payments for attorney fees or disbursements if the payor of the
11.19 funds clearly indicates on the check or draft issued to the employee for payment the purpose
11.20 of the withholding, the name of the attorney, the amount withheld, and the gross amount of
11.21 the compensation payment before withholding. In no case shall fees be calculated on the
11.22 basis of any undisputed portion of compensation awards. Allowable fees under this chapter
11.23 shall be available to an attorney who procures a benefit on behalf of the employee and be
11.24 based solely upon genuinely disputed claims or portions of claims, including disputes related
11.25 to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. The
11.26 existence of a dispute is dependent upon a disagreement after the employer or insurer has
11.27 had adequate time and information to take a position on liability. Neither the holding of a
11.28 hearing nor the filing of an application for a hearing alone may determine the existence of
11.29 a dispute. Except where the employee is represented by an attorney in other litigation pending
11.30 at the department or at the Office of Administrative Hearings, a fee may not be charged
11.31 after June 1, 1996, for services with respect to a medical or rehabilitation issue arising under
11.32 section 176.102, 176.135, or 176.136 performed before the employee has consulted with
11.33 the department attorney has filed with the commissioner and served on the employer or
11.34 insurer and the attorney representing the employer or insurer, if any, a request for certification
11.35 of dispute containing the name of the employer and its insurer, the date of the injury, and

12.1 a description of the benefits claimed, and the department certifies that there is a dispute and
12.2 that it has tried to resolve the dispute. If within 30 days of the filing of the request the
12.3 department has not issued a determination of whether a dispute exists, the dispute shall be
12.4 certified if all of the following apply:

12.5 (1) the insurer has not approved the requested benefit;

12.6 (2) the employee, the employee's attorney, or the employee's treating provider has
12.7 submitted any and all additional information requested by the insurer necessary to determine
12.8 whether the requested benefit is disputed or approved; and

12.9 (3) the insurer has had at least seven calendar days to review any additional information
12.10 submitted.

12.11 In cases of nonemergency surgery, if the employer or insurer has requested a second opinion
12.12 under section 176.135, subdivision 1a, or an examination under section 176.155, subdivision
12.13 1, a dispute shall be certified if 45 days have passed following a written request for an
12.14 examination or second opinion and the conditions in clauses (1) to (3) have been met.

12.15 (d) An attorney who is claiming legal fees for representing an employee in a workers'
12.16 compensation matter shall file a statement of attorney fees with the commissioner or
12.17 compensation judge before whom the matter was heard. A copy of the signed retainer
12.18 agreement shall also be filed. ~~The employee and insurer,~~ employer or insurer, and the
12.19 attorney representing the employer or insurer, if any, shall receive a copy of the statement
12.20 of attorney fees. The statement shall be on a form prescribed by the commissioner and shall
12.21 report the number of hours spent on the case.

12.22 (e) Employers and insurers may not pay attorney fees or wages for legal services of
12.23 more than \$26,000 per case.

12.24 (f) An attorney must file a statement of attorney fees within 12 months of the date the
12.25 attorney has submitted the written notice specified in paragraph (c). If the attorney has not
12.26 filed a statement of attorney fees within the 12 months, the attorney must send a renewed
12.27 notice of lien to the insurer. If 12 months have elapsed since the last notice of lien has been
12.28 received by the insurer and no statement of attorney fees has been filed, the insurer must
12.29 release the withheld money to the employee, except that before releasing the money to the
12.30 employee, the insurer must give the attorney 30 days' written notice of the pending release.
12.31 The insurer must not release the money if the attorney files a statement of attorney fees
12.32 within the 30 days.

12.33 **EFFECTIVE DATE.** This section is effective August 1, 2023.

13.1 Sec. 2. Minnesota Statutes 2022, section 176.135, subdivision 1, is amended to read:

13.2 Subdivision 1. **Medical, psychological, chiropractic, podiatric, surgical, hospital.** (a)

13.3 The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and
13.4 hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and
13.5 surgical supplies, crutches and apparatus, including artificial members, or, at the option of
13.6 the employee, if the employer has not filed notice as hereinafter provided, Christian Science
13.7 treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may
13.8 reasonably be required at the time of the injury and any time thereafter to cure and relieve
13.9 from the effects of the injury. This treatment shall include treatments necessary to physical
13.10 rehabilitation.

13.11 (b) The employer shall pay for the reasonable value of nursing services provided by a
13.12 member of the employee's family in cases of permanent total disability.

13.13 (c) Exposure to rabies is an injury and an employer shall furnish preventative treatment
13.14 to employees exposed to rabies.

13.15 (d) The employer shall furnish replacement or repair for artificial members, glasses or
13.16 spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth,
13.17 hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out
13.18 of and in the course of the employment. If an item under this paragraph is customized
13.19 specifically for the injured worker, the item is the property of the injured worker. For the
13.20 purpose of this paragraph, "injury" includes damage wholly or in part to an artificial member.
13.21 In case of the employer's inability or refusal seasonably to timely provide the items required
13.22 to be provided under this paragraph, the employer is liable for the reasonable expense
13.23 incurred by or on behalf of the employee in providing the same, including costs of copies
13.24 of any medical records or medical reports that are in existence, obtained from health care
13.25 providers, and that directly relate to the items for which payment is sought under this chapter,
13.26 limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee.

13.27 (e) Both the commissioner and the compensation judges have authority to make
13.28 determinations under this section in accordance with sections 176.106 and 176.305.

13.29 (f) An employer may require that the treatment and supplies required to be provided by
13.30 an employer by this section be received in whole or in part from a managed care plan certified
13.31 under section 176.1351 except as otherwise provided by that section.

13.32 (g) An employer may designate a pharmacy or network of pharmacies that employees
13.33 must use to obtain outpatient prescription and nonprescription medications. An employee

14.1 is not required to obtain outpatient medications at a designated pharmacy unless the pharmacy
14.2 is located within 15 miles of the employee's place of residence.

14.3 (h) Notwithstanding any fees established by rule adopted under section 176.136, an
14.4 employer may contract for the cost of medication provided to employees. All requests for
14.5 reimbursement from the special compensation fund formerly codified under section 176.131
14.6 for medication provided to an employee must be accompanied by the dispensing pharmacy's
14.7 invoice showing its usual and customary charge for the medication at the time it was
14.8 dispensed to the employee. The special compensation fund shall not reimburse any amount
14.9 that exceeds the maximum amount payable for the medication under Minnesota Rules, part
14.10 5221.4070, subparts 3 and 4, notwithstanding any contract under Minnesota Rules, part
14.11 5221.4070, subpart 5, that provides for a different reimbursement amount.

14.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.13 Sec. 3. Minnesota Statutes 2022, section 176.135, subdivision 1a, is amended to read:

14.14 Subd. 1a. **Nonemergency surgery; second surgical opinion.** (a) The employer or
14.15 insurer is required to furnish surgical treatment pursuant to subdivision 1 when the surgery
14.16 is reasonably required to cure and relieve the effects of the personal injury or occupational
14.17 disease. An employee may not be compelled to undergo surgery. If an employee desires a
14.18 second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining
14.19 the second opinion. Except in cases of emergency surgery, the employer or insurer may
14.20 require the employee to obtain a second opinion on the necessity of the surgery, at the
14.21 expense of the employer or insurer, before the employee undergoes surgery. ~~Failure to~~
14.22 ~~obtain a second surgical opinion shall not be reason for nonpayment of the charges for the~~
14.23 ~~surgery. The employer is required to pay the reasonable value of the surgery unless the~~
14.24 ~~commissioner or compensation judge determines that the surgery is not reasonably required.~~
14.25 If an employer or insurer receives a request for nonemergency surgery, the employer or
14.26 insurer must respond in writing no later than seven calendar days after receiving the request
14.27 from the health care provider or employee by approving the request, denying authorization,
14.28 requesting additional information, requesting a second opinion under this section, or
14.29 requesting an examination by the employer's physician under section 176.155.

14.30 (b) An employer or insurer requesting a second opinion must notify the employee and
14.31 the health care provider of the request for a second opinion within seven calendar days of
14.32 the request for nonemergency surgery. If the employer or insurer denies authorization within
14.33 seven calendar days of receiving the second opinion, the health care provider may elect to

15.1 perform the surgery, subject to a determination of compensability by the commissioner or
15.2 compensation judge.

15.3 (c) Failure to obtain a second surgical opinion is not reason for nonpayment of the
15.4 charges for the surgery. The employer or insurer is required to pay the reasonable value of
15.5 the surgery unless the commissioner or compensation judge determines that the surgery is
15.6 not reasonably required.

15.7 **EFFECTIVE DATE.** This section is effective August 1, 2023.

15.8 Sec. 4. Minnesota Statutes 2022, section 176.135, subdivision 7, is amended to read:

15.9 Subd. 7. **Medical bills and records.** (a) Health care providers shall submit to the insurer
15.10 an itemized statement of charges in the standard electronic transaction format when required
15.11 by section 62J.536 or, if there is no prescribed standard electronic transaction format, on a
15.12 billing form prescribed by the commissioner. Health care providers shall also submit copies
15.13 of medical records or reports that substantiate the nature of the charge and its relationship
15.14 to the work injury. Pursuant to Minnesota Rules, part 5219.0300, health care providers may
15.15 charge for copies of any records or reports that are in existence and directly relate to the
15.16 items for which payment is sought under this chapter. The commissioner shall adopt, by
15.17 rule, a schedule of reasonable charges ~~by rule~~ that will apply to charges not covered by
15.18 paragraphs (d) and (e).

15.19 A health care provider shall not collect, attempt to collect, refer a bill for collection, or
15.20 commence an action for collection against the employee, employer, or any other party until
15.21 the information required by this section has been furnished.

15.22 A United States government facility rendering health care services to veterans is not
15.23 subject to the uniform billing form requirements of this subdivision.

15.24 (b) For medical services provided under this section, the codes from the International
15.25 Classification of Diseases, Tenth Edition, Clinical Modification/Procedure Coding System
15.26 (ICD-10), must be used to report medical diagnoses and hospital inpatient procedures when
15.27 required by the United States Department of Health and Human Services for federal
15.28 programs. The commissioner must replace the codes from the International Classification
15.29 of Diseases, Ninth Edition, Clinical Modification/Procedure Coding System (ICD-9), with
15.30 equivalent ICD-10 codes wherever the ICD-9 codes appear in rules adopted under this
15.31 chapter. The commissioner must use the General Equivalence Mappings established by the
15.32 Centers for Medicare and Medicaid Services to replace the ICD-9 diagnostic codes with
15.33 ICD-10 codes in the rules.

16.1 (c) The commissioner shall amend rules adopted under this chapter as necessary to
16.2 implement the ICD-10 coding system in paragraph (b). The amendments shall be adopted
16.3 by giving notice in the State Register according to the procedures in section 14.386, paragraph
16.4 (a). The amended rules are not subject to expiration under section 14.386, paragraph (b).

16.5 (d) The requirements in this paragraph and paragraph (e) apply to each request for copies
16.6 of existing medical records that are required to be maintained in electronic format by state
16.7 or federal law.

16.8 (1) If an authorized requestor of copies of medical records submits a written request for
16.9 advance notice of the cost of the copies requested, the health care provider must notify the
16.10 requestor of the estimated cost before sending the copies. If the requestor approves the cost
16.11 and copies of the records are provided, the payment is the applicable fee under paragraph
16.12 (e). If the requestor does not pay for the records, the health care provider may charge a fee,
16.13 which must not exceed \$10.

16.14 (2) A health care provider shall not require prepayment for the cost of copies of medical
16.15 records under this paragraph or Minnesota Rules, chapter 5219, unless there is an outstanding
16.16 past-due invoice for the requestor concerning a previous request for records from the health
16.17 care provider.

16.18 (3) A health care provider shall provide copies of medical records in electronic format.

16.19 (4) The charges under paragraph (e) include any fee for retrieval, download, or other
16.20 delivery of records.

16.21 (e) For any copies of electronic records provided under paragraph (d), a health care
16.22 provider may not charge more than a total of:

16.23 (1) \$10 if there are no records available;

16.24 (2) \$30 for copies of records of up to 25 pages;

16.25 (3) \$50 for copies of records of up to 100 pages;

16.26 (4) \$50, plus an additional 20 cents per page for pages 101 and above; or

16.27 (5) \$500 for any request.

16.28 **EFFECTIVE DATE.** This section is effective August 1, 2023.

16.29 Sec. 5. Minnesota Statutes 2022, section 176.155, subdivision 1, is amended to read:

16.30 Subdivision 1. **Employer's physician.** (a) The injured employee must submit to
16.31 examination by the employer's physician, if requested by the employer, and at reasonable

17.1 times thereafter upon the employer's request. Examinations shall not be conducted in hotel
17.2 or motel facilities. The examination must be scheduled at a location within 150 miles of the
17.3 employee's residence unless the employer can show cause to the department to order an
17.4 examination at a location further from the employee's residence. The employee is entitled
17.5 upon request to have a personal physician or witness present at any such examination. Each
17.6 party shall defray the cost of that party's physician.

17.7 (b) Any report or written statement made by the employer's physician as a result of an
17.8 examination of the employee, regardless of whether the examination preceded the injury
17.9 or was made subsequent to the injury, shall be made available, upon request and without
17.10 charge, to the injured employee or representative of the employee or whether litigation is
17.11 pending, must be served upon the employee and the attorney representing the employee, if
17.12 any, no later than 14 calendar days within the issuance of the report or written statement.

17.13 (c) The employer shall pay reasonable travel expenses incurred by the employee in
17.14 attending the examination including mileage, parking, and, if necessary, lodging and meals.
17.15 The employer shall also pay the employee for any lost wages resulting from attendance at
17.16 the examination.

17.17 (d) A self-insured employer or insurer who is served with a claim petition pursuant to
17.18 section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of
17.19 the employee, if an examination by the employer's physician or health care provider is
17.20 necessary to evaluate benefits claimed. The examination shall be completed and the report
17.21 of the examination shall be served on the employee and filed with the commissioner within
17.22 120 days of service of the claim petition. Any request for a good cause extension pursuant
17.23 to paragraph (e) must be made within 120 days of service of the claim petition, except that
17.24 a request may be made after 120 days of service of a claim petition in the following
17.25 circumstances:

17.26 (1) a change to the employee's claim regarding the nature and extent of the injury;

17.27 (2) a change to the permanency benefits claimed by the employee, including a change
17.28 in permanent partial disability percentage;

17.29 (3) a new claim for indemnity benefits; or

17.30 (4) the employment relationship is not admitted by the uninsured employer.

17.31 (e) No evidence relating to the examination or report shall be received or considered by
17.32 the commissioner, a compensation judge, or the court of appeals in determining any issues
17.33 unless the report has been served and filed as required by this section, unless a written

18.1 extension has been granted by the commissioner or compensation judge. The commissioner
18.2 or a compensation judge shall extend the time for completing the adverse examination and
18.3 filing the report upon good cause shown. The extension must not be for the purpose of delay
18.4 and the insurer must make a good faith effort to comply with this subdivision. Good cause
18.5 shall include but is not limited to:

18.6 (1) that the extension is necessary because of the limited number of physicians or health
18.7 care providers available with expertise in the particular injury or disease, or that the extension
18.8 is necessary due to the complexity of the medical issues, or

18.9 (2) that the extension is necessary to gather additional information which was not included
18.10 on the petition as required by section 176.291.

18.11 **EFFECTIVE DATE.** This section is effective August 1, 2023.

18.12 Sec. 6. Minnesota Statutes 2022, section 176.239, subdivision 6, is amended to read:

18.13 Subd. 6. **Scope of the administrative decision.** If benefits have been discontinued due
18.14 to the employee's return to work, the commissioner shall determine whether, as a result of
18.15 occurrences arising during the initial 14 calendar days after the return to work, the employee
18.16 is entitled to additional payment of temporary total, temporary partial, or permanent total
18.17 compensation.

18.18 If periodic payment of temporary total, temporary partial, or permanent total
18.19 compensation has been discontinued for reasons other than a return to work, the commissioner
18.20 shall determine whether the employer has reasonable grounds to support the discontinuance.
18.21 Only ~~information~~ or reasons specified on the notice of discontinuance shall provide a basis
18.22 for a discontinuance, unless the parties agree otherwise.

18.23 **EFFECTIVE DATE.** This section is effective August 1, 2023.

18.24 Sec. 7. Minnesota Statutes 2022, section 176.239, subdivision 7, is amended to read:

18.25 Subd. 7. **Interim administrative decision.** After considering the information provided
18.26 by the parties at the administrative conference and exhibits filed by the parties with the
18.27 office, the commissioner shall issue to all interested parties a written decision on payment
18.28 of compensation. Administrative decisions under this section shall be issued within five
18.29 working days from the close of the conference. Disputed issues of fact shall be determined
18.30 by a preponderance of the evidence.

18.31 **EFFECTIVE DATE.** This section is effective August 1, 2023.

19.1 Sec. 8. Minnesota Statutes 2022, section 176.291, is amended to read:

19.2 **176.291 DISPUTES; PETITIONS; PROCEDURE.**

19.3 (a) Where there is a dispute as to a question of law or fact in connection with a claim
19.4 for compensation, a party may serve on all other parties and file a petition with the office
19.5 stating the matter in dispute. The petition shall be on a form prescribed by the commissioner
19.6 and shall be signed by the petitioner.

19.7 (b) The petition shall also state and include, where applicable:

19.8 (1) names and residence or business address of parties;

19.9 (2) facts relating to the employment at the time of injury, including amount of wages
19.10 received;

19.11 (3) extent and character of each injury;

19.12 (4) notice to or knowledge by employer of injury;

19.13 (5) copies of written medical reports or medical records supporting each claim asserted;

19.14 (6) copies of other information in support of the claim;

19.15 ~~(6)~~ (7) names and addresses of all known witnesses intended to be called in support of
19.16 ~~the~~ each injury and claim;

19.17 ~~(7)~~ (8) the desired location of any hearing and estimated time needed to present evidence
19.18 at the hearing;

19.19 ~~(8)~~ (9) any requests for a prehearing or settlement conference;

19.20 ~~(9)~~ (10) a list of all known third parties, including the Departments of Human Services
19.21 and Employment and Economic Development, who may have paid any medical bills or
19.22 other benefits to the employee for the injuries or disease alleged in the petition or for the
19.23 time the employee was unable to work due to the injuries or disease, together with a listing
19.24 of the amounts paid by each;

19.25 ~~(10)~~ (11) the nature and extent of ~~the~~ each claim; and

19.26 ~~(11)~~ (12) a request for an expedited hearing which must include an attached affidavit of
19.27 significant financial hardship which complies with the requirements of section 176.341,
19.28 subdivision 6.

19.29 (c) Incomplete petitions may be stricken or dismissed from the calendar as provided by
19.30 section 176.305, subdivision 4. Within ~~30~~ 14 days of a request by a party, an employee who
19.31 has filed a claim petition pursuant to section 176.271 or this section shall furnish a list of

20.1 physicians and health care providers from whom the employee has received treatment for
20.2 the same or a similar condition as well as authorizations to release relevant information,
20.3 data, and records to the requester. The petition may be stricken from the calendar upon
20.4 motion of a party for failure to timely provide the required list of health care providers or
20.5 authorizations.

20.6 **EFFECTIVE DATE.** This section is effective August 1, 2023.

20.7 Sec. 9. Minnesota Statutes 2022, section 176.305, subdivision 4, is amended to read:

20.8 Subd. 4. **Striking from calendar.** A compensation judge, after receiving a properly
20.9 served motion, may strike a case from the active trial calendar after the employee has been
20.10 given 30 days to correct ~~the deficiency~~ a deficient petition if it is shown that the information
20.11 on the petition or included with the petition is incomplete. Once a case is stricken, it may
20.12 not be reinstated until the missing information is provided to the adverse parties and filed
20.13 with the compensation judge. If a case has been stricken from the calendar for ~~one year~~ 180
20.14 days or more and no corrective action has been taken, the compensation judge may, upon
20.15 the judge's own motion or a motion of a party which is properly served on all parties, dismiss
20.16 the case. The petitioner must be given at least 30 days' advance notice of the proposed
20.17 dismissal before the dismissal is effective.

20.18 **EFFECTIVE DATE.** This section is effective August 1, 2023.

20.19 Sec. 10. Minnesota Statutes 2022, section 176.331, is amended to read:

20.20 **176.331 PROCEEDINGS WHEN ANSWER NOT FILED.**

20.21 Except in cases involving multiple employers or multiple insurers, if an adverse party
20.22 fails to file and serve an answer or obtain an extension from the office or the petitioner as
20.23 required by section 176.321, subdivision 3, the office shall set the matter for an immediate
20.24 pretrial conference and hearing ~~and~~ for prompt award or other order. The adverse party that
20.25 failed to file an answer or appear at a pretrial conference may appear at the hearing, present
20.26 evidence and question witnesses, but shall not be granted a continuance except upon a
20.27 showing of good cause.

20.28 If an adverse party who fails to serve and file an answer is neither insured for workers'
20.29 compensation liability nor a licensed self-insured as required by section 176.181 and the
20.30 special compensation fund is a party to the proceeding, the compensation judge may enter
20.31 an order awarding benefits to the petitioning party without a hearing if so requested by the
20.32 special compensation fund.

21.1 **EFFECTIVE DATE.** This section is effective August 1, 2023.

21.2 **ARTICLE 3**

21.3 **PERMANENT PARTIAL DISABILITY SCHEDULE**

21.4 Section 1. Minnesota Statutes 2022, section 176.101, subdivision 2a, is amended to read:

21.5 Subd. 2a. **Permanent partial disability.** (a) Compensation for permanent partial disability
 21.6 is as provided in this subdivision. Permanent partial disability must be rated as a percentage
 21.7 of the whole body in accordance with rules adopted by the commissioner under section
 21.8 176.105. During the 2026 regular legislative session, and every even-year legislative session
 21.9 thereafter, the Workers' Compensation Advisory Council must consider whether the
 21.10 permanent partial disability schedule in paragraph (b) represents adequate compensation
 21.11 for permanent impairment.

21.12 (b) The percentage determined pursuant to the rules adopted under section 176.105 must
 21.13 be multiplied by the corresponding amount in the following table at the time permanent
 21.14 partial disability is payable according to paragraph (c):

Impairment Rating	Amount
(percent)	
less than 5.5	78,800 \$ <u>114,260</u>
5.5 to less than 10.5	84,000 <u>121,800</u>
10.5 to less than 15.5	89,300 <u>129,485</u>
15.5 to less than 20.5	94,500 <u>137,025</u>
20.5 to less than 25.5	99,800 <u>139,720</u>
25.5 to less than 30.5	105,000 <u>147,000</u>
30.5 to less than 35.5	115,500 <u>150,150</u>
35.5 to less than 40.5	126,000 <u>163,800</u>
40.5 to less than 45.5	136,500 <u>177,450</u>
45.5 to less than 50.5	147,000 <u>177,870</u>
50.5 to less than 55.5	173,300 <u>181,965</u>

22.1		<u>199,500</u>
22.2	55.5 to less than 60.5	<u>209,475</u>
22.3		<u>225,800</u>
22.4	60.5 to less than 65.5	<u>237,090</u>
22.5		<u>252,000</u>
22.6	65.5 to less than 70.5	<u>264,600</u>
22.7		<u>278,300</u>
22.8	70.5 to less than 75.5	<u>292,215</u>
22.9		<u>330,800</u>
22.10	75.5 to less than 80.5	<u>347,340</u>
22.11		<u>383,300</u>
22.12	80.5 to less than 85.5	<u>402,465</u>
22.13		<u>435,800</u>
22.14	85.5 to less than 90.5	<u>457,590</u>
22.15		<u>488,300</u>
22.16	90.5 to less than 95.5	<u>512,715</u>
22.17		<u>540,800</u>
22.18	95.5 up to and including 100	<u>567,840</u>

22.19 An employee may not receive compensation for more than a 100 percent disability of
 22.20 the whole body, even if the employee sustains disability to two or more body parts.

22.21 ~~(b)~~ (c) Permanent partial disability is payable upon cessation of temporary total disability
 22.22 under subdivision 1. If the employee requests payment in a lump sum, then the compensation
 22.23 must be paid within 30 days. This lump-sum payment may be discounted to the present
 22.24 value calculated up to a maximum five percent basis. If the employee does not choose to
 22.25 receive the compensation in a lump sum, then the compensation is payable in installments
 22.26 at the same intervals and in the same amount as the employee's temporary total disability
 22.27 rate on the date of injury. Permanent partial disability is not payable while temporary total
 22.28 compensation is being paid.

22.29 **EFFECTIVE DATE.** This section is effective for injuries occurring on or after October
 22.30 1, 2023.

22.31 **ARTICLE 4**

22.32 **HOSPITAL OUTPATIENT FEE SCHEDULE**

22.33 Section 1. Minnesota Statutes 2022, section 176.1364, subdivision 3, is amended to read:

22.34 Subd. 3. **Hospital outpatient fee schedule (HOFS).** (a) Effective for hospital outpatient
 22.35 services on or after October 1, 2018, the commissioner shall establish a workers'
 22.36 compensation hospital outpatient fee schedule (HOFS) to establish the payment for hospital
 22.37 bills with charges for services with a J1 or J2 status indicator as listed in the status indicator

23.1 (SI) column of Addendum B and the comprehensive observation services Ambulatory
23.2 Payment Classification (APC) 8011 with a J2 status indicator in Addendum A. The
23.3 commissioner shall publish a link to the HOFS in the State Register before October 1, 2018,
23.4 and shall maintain the current HOFS on the department's website.

23.5 (b) The amount listed for each of the procedures in the HOFS as described in paragraph
23.6 (a) shall be the relative weight for the procedure multiplied by a HOFS conversion factor
23.7 that results in the same overall payment for hospital outpatient services under this section
23.8 as the actual payments made in the most recent 12-month period available before October
23.9 1, 2018. The commissioner must establish separate conversion factors to achieve the same
23.10 overall payment for noncritical access hospitals of 100 or fewer licensed beds and hospitals
23.11 with more than 100 licensed beds. The commissioner shall establish the two conversion
23.12 factors according to the requirements in clauses (1) to (4) in consultation with insurer and
23.13 hospital representatives.

23.14 (1) The commissioner shall obtain a suitable sample of de-identified data for Minnesota
23.15 workers' compensation outpatient cases at Minnesota hospitals for the most recently available
23.16 12-month period. The commissioner may obtain de-identified data from any reliable source,
23.17 including Minnesota hospitals and insurers, or their representatives. Any data provided to
23.18 the commissioner by a hospital, insurer, or their representative under this subdivision is
23.19 nonpublic data under section 13.02, subdivision 9.

23.20 (2) The sample must be divided into a data set for hospitals over 100 licensed beds, and
23.21 100 or fewer licensed beds, excluding critical access hospitals.

23.22 (3) For each data set the commissioner shall:

23.23 (i) calculate the total amount of the actual payments made in the most recent 12-month
23.24 period available before October 1, 2018, adjusted for inflation to July 2018; and

23.25 (ii) apply all of the payment provisions in this section to each claim including, as
23.26 applicable, payment under the relative value fee schedule or 85 percent of the hospital's
23.27 usual and customary charge under section 176.136, subdivisions 1a and 1b, to determine
23.28 the total payment amount using the Medicare conversion factor in effect for the OPFS in
23.29 effect on July 1, 2018.

23.30 (4) The commissioner shall calculate the Minnesota conversion factor to equal the
23.31 Medicare conversion factor multiplied by the ratio of total payments under clause (3), item
23.32 (i), divided by the total payments under clause (3), item (ii).

23.33 (c) For purposes of this section:

24.1 (1) the relative weight is the amount in the "relative weight" column in Addendum B
24.2 and Addendum A for comprehensive observation services;

24.3 (2) references to J1, J2, and H status indicators; Addenda A and B; APC 8011; and
24.4 HCPCS code G0378 includes any successor status indicators, addenda, APC, or HCPCS
24.5 code established by the Centers for Medicare and Medicaid Services.

24.6 (d) On October 1 of each year, the commissioner shall adjust the HOFS conversion
24.7 factors based on the market basket index for inpatient hospital services calculated by
24.8 Medicare and published on its website. The adjustment on each October 1 shall be a
24.9 percentage equal to the value of that index averaged over the four quarters of the most recent
24.10 calendar year divided by the value of that index over the four quarters of the prior calendar
24.11 year.

24.12 (e) No later than October 1, 2021, and at least once every three years thereafter, the
24.13 commissioner shall update the HOFS established under this subdivision by incorporating
24.14 services with a J1 or J2 status indicator, and the corresponding relative weights, listed in
24.15 the Addenda A and B most recently available on Medicare's website as of the preceding
24.16 July 1. If Addenda A and B are not available on Medicare's website on the preceding July
24.17 1, the HOFS most recently published on the department's website remains in effect.

24.18 (1) Each time the HOFS is updated under this paragraph, the commissioner shall adjust
24.19 the conversion factors so that there is no difference between the overall payment under the
24.20 new HOFS and the overall payment under the HOFS most recently in effect, for services
24.21 in both HOFSs.

24.22 (2) The conversion factor adjustments under this paragraph shall be made separately for
24.23 each hospital category in paragraph (b).

24.24 (3) The conversion factor adjustments under this paragraph must be made before making
24.25 any additional adjustment under paragraph (d).

24.26 (f) The commissioner shall give notice in the State Register of the adjusted conversion
24.27 factor in paragraph (d) no later than October 1 annually. The commissioner shall give notice
24.28 in the State Register of an updated HOFS under paragraph (e) no later than October 1 of
24.29 the year in which the HOFS becomes effective. The notice must include a link to the HOFS
24.30 published on the department's website. The notices, the updated fee schedules, and the
24.31 adjusted conversion factors are not rules subject to chapter 14, but have the force and effect
24.32 of law as of the effective date published in the State Register.

25.1 (g) Beginning October 1, 2023, to October 1, 2025, the commissioner shall adjust the
25.2 conversion factors calculated under this subdivision to result in the following:

25.3 (1) for services effective October 1, 2023, a three percent overall reduction in total
25.4 payments for hospital outpatient services;

25.5 (2) for services effective October 1, 2024, a three percent overall reduction in total
25.6 payments for hospital outpatient services; and

25.7 (3) for services effective October 1, 2025, a four percent overall reduction in total
25.8 payments for hospital outpatient services.

25.9 Sec. 2. **REPEALER.**

25.10 Minnesota Statutes 2022, section 176.1364, subdivision 6, is repealed.

25.11 **EFFECTIVE DATE.** This section is effective for services on or after October 1, 2023.

25.12 **ARTICLE 5**

25.13 **POST-TRAUMATIC STRESS DISORDER STUDY**

25.14 Section 1. **POST-TRAUMATIC STRESS DISORDER STUDY.**

25.15 (a) The commissioner of labor and industry shall conduct a study to identify systemic
25.16 or regulatory changes to improve the experience and outcomes of employees with
25.17 work-related post-traumatic stress disorder. At a minimum, the study must:

25.18 (1) identify evidence-based methods and best practices for early detection and treatment
25.19 of post-traumatic stress disorder;

25.20 (2) review models, including those used in other jurisdictions and systems, for delivering
25.21 mental health wellness training or employee assistance programs, treatment for post-traumatic
25.22 stress disorder, and benefits related to post-traumatic stress disorder. Review must include
25.23 outcomes and cost considerations;

25.24 (3) identify any programs in other jurisdictions with effective prevention, timely and
25.25 effective medical intervention, or high return-to-work rates for employees with work-related
25.26 post-traumatic stress disorder;

25.27 (4) review the definition of post-traumatic stress disorder provided in Minnesota Statutes,
25.28 section 176.011, subdivision 15, paragraph (d), and compare to definitions in other
25.29 jurisdictions; and

26.1 (5) consider the list of occupations subject to the rebuttable presumption in Minnesota
26.2 Statutes, section 176.011, subdivision 15, paragraph (e).

26.3 (b) The Public Employees Retirement Association, the Minnesota State Retirement
26.4 System, the Minnesota Workers' Compensation Insurers Association, and any relevant state
26.5 agencies shall cooperate with the commissioner in conducting this study. The commissioner
26.6 must report the results of the study to the Workers' Compensation Advisory Council and
26.7 the chairs and ranking minority members of the house of representatives and senate
26.8 committees with jurisdiction over workers' compensation by August 1, 2025. The
26.9 commissioner may contract with a third party to complete part or all of the study. The
26.10 commissioner is exempt from the requirements of Minnesota Statutes, sections 16A.15,
26.11 subdivision 3; 16B.97; and 16B.98, subdivisions 5, 7, and 8; and chapter 16C, and any other
26.12 state procurement laws and procedures in completing the study.

26.13 (c) \$500,000 in fiscal year 2023 is appropriated from the workers' compensation fund
26.14 to the commissioner of labor and industry to conduct the study in paragraph (a) and for the
26.15 Department of Labor and Industry's provision of legal, technical, and clerical staff support
26.16 for the study. This is a onetime appropriation and is available until June 30, 2026.

26.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

26.18 **ARTICLE 6**

26.19 **HOUSEKEEPING**

26.20 Section 1. Minnesota Statutes 2022, section 176.011, subdivision 11a, is amended to read:

26.21 Subd. 11a. **Family farm.** (a) "Family farm" means any farm operation which pays or is
26.22 obligated to pay cash wages, exclusive of machine hire, to farm laborers for services rendered
26.23 during the preceding calendar year in an amount:

26.24 (1) less than \$8,000; or

26.25 (2) less than the statewide average annual wage as described in subdivision ~~20~~ 1b when
26.26 the farm operation has total liability and medical payment coverage equal to \$300,000 and
26.27 \$5,000, respectively, under a farm liability insurance policy, and the policy covers injuries
26.28 to farm laborers.

26.29 (b) For purposes of this subdivision, farm laborer does not include any spouse, parent
26.30 or child, regardless of age, of a farmer employed by the farmer, or any executive officer of
26.31 a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent
26.32 or child, regardless of age, of such an officer employed by that family farm corporation, or

27.1 other farmers in the same community or members of their families exchanging work with
27.2 the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered
27.3 as an independent contractor for the purposes of this chapter; provided that a commercial
27.4 baler or commercial thresher shall be considered an independent contractor.

27.5 Sec. 2. Minnesota Statutes 2022, section 176.011, is amended by adding a subdivision to
27.6 read:

27.7 Subd. 17b. **Relative value fee schedule.** "Relative value fee schedule" means the medical
27.8 fee schedule adopted by rule under section 176.136, subdivision 1a, using the Physician
27.9 Fee Schedule tables adopted for the federal Medicare program.

27.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

27.11 Sec. 3. Minnesota Statutes 2022, section 176.102, subdivision 3, is amended to read:

27.12 **Subd. 3. Review panel.** There is created a rehabilitation review panel composed of the
27.13 commissioner or a designee, who shall serve as an ex officio member and two members
27.14 each from employers, insurers, and rehabilitation, two licensed or registered health care
27.15 providers, one chiropractor, and four members representing labor. The members shall be
27.16 appointed by the commissioner and shall serve four-year terms which may be renewed.
27.17 Terms, compensation, and removal for members shall be governed by section 15.0575.
27.18 Notwithstanding section 15.059, this panel does not expire unless the panel no longer fulfills
27.19 the purpose for which the panel was established, the panel has not met in the last 18 months,
27.20 or the panel does not comply with the registration requirements of section 15.0599,
27.21 subdivision 3. The panel shall select a chair. The panel shall review and make a determination
27.22 with respect to appeals from orders of the commissioner regarding certification approval
27.23 of qualified rehabilitation consultants, qualified rehabilitation consultant firms, and vendors.
27.24 The hearings are de novo and initiated by the panel under the contested case procedures of
27.25 chapter 14, and are appealable to the Workers' Compensation Court of Appeals in the manner
27.26 provided by section 176.421.

27.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

27.28 Sec. 4. Minnesota Statutes 2022, section 176.111, subdivision 16, is amended to read:

27.29 **Subd. 16. Cessation of compensation.** Except as provided in this chapter, compensation
27.30 ceases upon the death or marriage of any dependent. Cessation of benefits requires notice
27.31 pursuant to subdivision 23.

27.32 **EFFECTIVE DATE.** This section is effective for violations on or after August 1, 2023.

28.1 Sec. 5. Minnesota Statutes 2022, section 176.111, is amended by adding a subdivision to
28.2 read:

28.3 Subd. 23. Notice of cessation of dependency benefits. If an employer intends to
28.4 discontinue dependency benefits of any individual identified as a dependent in this section,
28.5 the employer must file with the commissioner, as required under section 176.231, subdivision
28.6 6, paragraphs (a) and (e), and serve on the dependent whose benefits are being discontinued
28.7 written notice within 14 calendar days of discontinuance. The notice shall state the name
28.8 of the individual whose dependency benefits are being discontinued, the date the individual's
28.9 benefits will be discontinued, and a statement of facts clearly indicating the reason the
28.10 individual will no longer receive dependency benefits and is no longer considered a dependent
28.11 under this section. Any document in the employer's possession which is relied on for the
28.12 discontinuance shall be attached to the notice. Failure to file this form as required may result
28.13 in a penalty under section 176.231, subdivision 10.

28.14 **EFFECTIVE DATE.** This section is effective for violations on or after August 1, 2023.

28.15 Sec. 6. Minnesota Statutes 2022, section 176.1362, subdivision 1, is amended to read:

28.16 Subdivision 1. **Payment based on Medicare MS-DRG system.** (a) Except as provided
28.17 in subdivisions 2 and 3, ~~the maximum~~ reimbursement for inpatient hospital services, articles,
28.18 and supplies is the lesser of the hospital's total usual and customary charge or 200 percent
28.19 of the amount calculated for each hospital under the federal Inpatient Prospective Payment
28.20 System developed for Medicare, using the inpatient Medicare PC-Pricer program or the
28.21 inpatient PPS Web Pricer for the applicable MS-DRG as provided in this subdivision. All
28.22 adjustments included in the PC-Pricer program or the inpatient PPS Web Pricer are included
28.23 in the amount calculated, including but not limited to any outlier payments.

28.24 (b) Payment under this section is effective for services, articles, and supplies provided
28.25 to patients discharged from the hospital on or after January 1, 2016. Payment for services,
28.26 articles, and supplies provided to patients discharged on January 1, 2016, through December
28.27 31, 2016, must be based on the Medicare PC-Pricer program in effect on January 1, 2016.

28.28 (c) For patients discharged on or after May 31, 2017, payment for inpatient services,
28.29 articles, and supplies must be calculated according to the PC-Pricer program identified on
28.30 Medicare's website as FY 2016.1, updated on January 19, 2016.

28.31 (d) For patients discharged on or after October 1, 2017, payment for inpatient services,
28.32 articles, and supplies must be calculated according to the PC-Pricer program or the inpatient
28.33 PPS Web Pricer posted on the Department of Labor and Industry's website as follows:

29.1 (1) No later than October 1, 2017, and October 1 of each subsequent year until October
29.2 1, 2021, the commissioner must post on the department's website the version of the PC-Pricer
29.3 program that is most recently available on Medicare's website as of the preceding July 1.
29.4 If no PC-Pricer program is available on the Medicare website on any July 1, the PC-Pricer
29.5 program most recently posted on the department's website remains in effect.

29.6 The commissioner must publish notice of the applicable PC-Pricer program in the State
29.7 Register no later than October 1 of each year.

29.8 (2) Beginning on October 1, 2021, payment for inpatient services, articles, and supplies
29.9 must be calculated using the inpatient PPS Web Pricer available on Medicare's website
29.10 using the applicable dates of inpatient hospitalization. The department must publish the link
29.11 to the inpatient PPS Web Pricer on its website.

29.12 (e) The MS-DRG grouper software or program that corresponds to or is included with
29.13 the applicable version of the PC-Pricer program or inpatient PPS Web Pricer must be used
29.14 to determine payment under this subdivision.

29.15 (f) Hospitals must bill workers' compensation insurers using the same codes, formats,
29.16 and details that are required for billing for hospital inpatient services by the Medicare
29.17 program. The bill must be submitted to the insurer within the time period required by section
29.18 62Q.75, subdivision 3. For purposes of this section, "insurer" includes both workers'
29.19 compensation insurers and self-insured employers.

29.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

29.21 Sec. 7. **REPEALER.**

29.22 Minnesota Statutes 2022, section 176.223, is repealed.

176.1364 WORKERS' COMPENSATION HOSPITAL OUTPATIENT FEE SCHEDULE.

Subd. 6. **Study.** (a) The commissioner shall conduct a study analyzing the percentage of claims with a service in the HOFs that were paid timely and the percentage of claims paid accurately. The commissioner must report the results of the study and recommendations to the Workers' Compensation Advisory Council and chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over workers' compensation by January 15, 2021.

(b) Based on the results of the study, the WCAC shall consider whether there is a minimum 80 percent compliance in timeliness and accuracy of payments, and additional statutory amendments, including but not limited to:

- (1) a maximum ten percent reduction in payments under the HOFs; and
- (2) an increase in indemnity benefits to injured workers.

176.223 PROMPT FIRST ACTION REPORT.

(a) For purposes of this section:

(1) "insurer" means a workers' compensation insurer licensed in Minnesota and a self-insured employer approved to self-insure by the commissioner of commerce;

(2) "prompt first action" means that an insurer commenced payment of wage loss benefits, or filed a denial of liability for an injury or for wage loss benefits, within the time frames required by section 176.221, subdivision 1; and

(3) "wage loss benefits" means temporary total disability, temporary partial disability, and permanent total disability benefits, as described in section 176.101.

(b) No later than March 15 of each year, beginning on March 15, 2022, the department shall publish a report providing data for each insurer on the total number of the insurer's claims, and the number and percentage of the insurer's claims with prompt first action. The report must be based on data that the insurer reported to the commissioner in the previous calendar year, except that the commissioner may exclude incomplete or unreliable data. The five most recent reports must be published on the department's website.

(c) On or before January 15, 2022, and on or before each January 15 thereafter, the department must provide each insurer listed in the report with notice of the data on that insurer that the department plans to include in the report. By February 15, 2022, and by each February 15 thereafter, the insurer must electronically file corrected data with the commissioner in CAMPUS in order for it to be reflected in the March 15 report.