

STATEMENT OF NEED AND REASONABLENESS governing fees for rehabilitation services provided to injured workers under an approved rehabilitation plan.

Minnesota Statutes, Section 129A.03(c), authorizes the Division of Rehabilitation Services (DRS) of the Minnesota Department of Jobs and Training to provide rehabilitation services to injured workers who are covered under the Workers' Compensation Act (Minnesota Statutes, Chapter 176) of the Minnesota Department of Labor and Industry. Minnesota Statutes, Section 129A.03(b), describes the rehabilitation services to be provided by DRS to injured employees. Minnesota Statutes, Section 129A.03(m), authorizes DRS to adopt rules necessary to implement or make specific programs that the Commissioner of the Minnesota Department of Jobs and Training is empowered to administer. Charging fees is integral to implementing the DRS program that provides rehabilitation services to injured employees. For these reasons, DRS proposes to adopt rules governing the services to be provided and the fees to be charged.

Minnesota Statutes, Section 176.102, Subdivision 9(b), requires an employer to pay the cost of all rehabilitation services and supplies necessary for implementation of a rehabilitation plan. Thus, the employer is liable for the rehabilitation services provided by DRS. The types of rehabilitation services offered by DRS are listed in the proposed rules. These services have historically been offered by DRS, and are a complete listing of DRS's rehabilitation services. The services, themselves, Items A through L, are self-explanatory.

DRS proposes to charge a fee of \$50 per hour for rehabilitation services. The Minnesota Department of Finance (DOF) has approved DRS's request to charge for the cost of providing rehabilitation services. A copy of DOF's fee review is attached.

Many of the employers who are charged for rehabilitation services are small businesses as defined in Minnesota Statutes, Section 14.115, Subdivision 1. Whenever proposed rules may affect small businesses, an agency must consider methods for reducing the impact of the proposed rules on small businesses.

DRS has considered each of the methods listed in Minnesota Statutes, Section 14.115, Subdivision 2. Under the proposed rules:

- A. There are no compliance or reporting requirements for small businesses;
- B. Nor are there any schedules or deadlines for the requirements in A.;
- C. Thus, consolidation or simplification of the requirements of A. does not apply to the proposed rules;
- D. There are no required design or operational standards to replace with performance standards for small businesses; and
- E. Small businesses cannot be exempted from any or all requirements of the proposed rules because Minnesota Statutes, Section 176.102, Subdivision 9(b), requires employers to pay the cost of rehabilitation services. To exempt small business employers from Minnesota Statutes, Section 176.102, Subdivision 9(b), would defeat its mandate to charge the cost of rehabilitation services to the employer.

Thus, pursuant to Minnesota Statutes, Section 14.115, Subdivision 3, the Minnesota Department of Jobs and Training finds that it is not feasible to incorporate any of the methods listed above (Items A through E) into the proposed rules.

Minnesota Laws 1985, First Special Session, Chapter 14, Section 2, states that no public hearing will be held if less than 20 percent of the persons who would be required to pay the fee request a hearing on the proposed rules.