

**STATE OF MINNESOTA  
DEPARTMENT OF PUBLIC SAFETY**

**In The Matter Of The Proposed Rules Of The  
Department Of Public Safety Relating To  
Public Safety Officer Death Benefits**

**STATEMENT  
OF NEED AND  
REASONABLENESS**

Introduction

In 1973, the Minnesota legislature created the Public Safety Officer's Benefit Account in order to provide special financial assistance to dependents of officers who are killed in the line of duty. The intent of the legislature was to provide death benefits when officers are killed under conditions that are a result of the hazardous nature of their work.

The fund originally provided a lump sum payment of \$25,000 to dependents. This amount was increased to \$50,000 in 1975 and \$100,000 in 1984.

From 1973 to 1984, authority for administration of the fund was assigned to the workers' compensation court of appeals. In 1984, this responsibility was transferred to the department of labor and industry; in 1987, it was transferred to the department of employee relations; and in 1990 it was transferred to the department of public safety. The transfer to public safety was made, at least partially, to disassociate the fund from its relationship with workers' compensation which provides benefits that are separate and unrelated to those of this fund.

After a year's experience administering the fund, the department of public safety recognizes a need to clarify the statute which governs the fund. The goal of the department in creating these rules is twofold:

1. Establish requirements for filing a claim.
2. Establish time frames for appeal consistent with the administrative procedure act.

Statutory Authority

Minnesota Statutes, section 299A.46, states: "The commissioner of public safety may adopt rules, including emergency rules, under chapter 14 to implement, coordinate, and administer sections 299A.41 through 299A.44."

Small Business Considerations

Minnesota Statutes, section 14.115, requires the Department of Public Safety to consider the effect on small businesses when it adopts rules. The Department has analyzed these rules and has concluded that the rules do not affect small business.

Fees Imposed By The Rules

Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

### Fiscal Impact

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

### Agricultural Land Impact

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

### Other Statutory Requirements

Minnesota Statutes, sections 115.43, subdivision 1, 116.07, subdivision 6, and 144A.29, subdivision 4, do not apply to these rules.

### Witnesses

If these rules go to a public hearing, it is anticipated that there will be no expert witnesses called to testify on behalf of the agency.

### Rule-By-Rule Analysis

**7521.0200 Determination of Claims.** The transfer of responsibility for administration of the fund to the department of public safety resulted in the need for new procedures in regard to the application for benefits, the processing of claims, and the appeal of decisions. The rules previously governing this program (Minnesota Rules, part 5220.2940) were promulgated by the department of labor and industry and do not apply to the department of public safety. The five items in this part outline the new procedures which will be used.

Subpart 1. Persons making application for benefits under the Public Safety Officer Death Benefit program are required by the proposed rules to complete a prescribed form and provide a variety of substantiating information to the commissioner for consideration. This requirement is necessary so the commissioner can know the circumstances surrounding the death of the officer and the relationship and dependency of the claimant in order to determine eligibility. It is reasonable to require the claimant to provide this information because the claimant is the person most likely to have ready access to the information.

A completed and signed claim form must be received by the commissioner for a claim to be considered filed. Submittal of a completed claim form signed by the claimant or their representative is necessary in order to establish a formal record of and basis for a claimant's request. Because only the claimant can initiate a claim and provide the necessary information, it is reasonable to deem the claim filed only after receipt of a completed claim form by the commissioner.

Subpart 2. The proposed rules require the commissioner to perform a detailed investigation into the cause and nature of death and the relationship and dependency of claimants.

An investigation is necessary in order to verify the information submitted with the claim and to obtain all relevant information about the death of the officer and his or her relationship to dependents. This information is used by the commissioner in making a determination of eligibility for benefits. It is essential in order to assure that fair and consistent determinations are made.

It is reasonable that the commissioner conduct the investigation because the commissioner has the responsibility of certifying to the governor whether the claimant is eligible for benefits.

Subpart 3. Minnesota Statutes, section 299A.44, gives the commissioner of public safety the authority to make determinations of eligibility in regard to public safety officer death benefits.

It is necessary to have a means of processing approved claims so that claimants receive benefits on a timely basis. Subpart 3 requires the commissioner to initiate the payment procedure and inform the claimant. It is reasonable to require the commissioner to initiate the payment procedure because the commissioner is the only person who has authority under section 299A.44 to do so. The commissioner will be the first person to know whether the claimant is eligible for benefits. It is reasonable for the commissioner to notify the claimant so that the claimant knows of the determination as soon as possible.

Subpart 3 also requires the commissioner to deny the claim and inform the claimant of the grounds for denial when the commissioner determines that benefits are not payable. This requirement is necessary so that claimants know of the denial of a claim and how to challenge the denial. This requirement is also necessary as a means to finalize a claim. As stated above, it is reasonable to require the commissioner to deny the claim because the commissioner is the only person who has authority to do so. Also as stated above, it is reasonable to require the commissioner to notify the claimant upon making a determination so the claimant knows as soon as possible.

Subpart 4. Subpart 4 of the proposed rules outlines a claimant's right to request that the commissioner reconsider a claim within 30 days after receiving a denial. This provision was included in order to provide access to a second review by the commissioner should new or additional information be available after a determination is made.

It is necessary that a claimant have the opportunity to challenge a denial of benefits because Minnesota Statutes, section 299A.43, gives the claimant the right to a contested case hearing under the Minnesota administrative procedure act. Minnesota Statutes, section 14.59 allows for the informal disposition of a contested case.

Proposed subpart 4 is reasonable because it provides for a less complicated process of review than a contested case hearing. It also allows for a less combative arena for resolution of claims. Further, this provision is reasonable because it allows the claimant to submit additional information and the commissioner to correct any errors without going through the time and expense of a formal contested case hearing.

Subpart 4 requires that a request for reconsideration be submitted to the commissioner within 30 days of the notice of denial of benefits. It is necessary to limit the time to request reconsideration because it is important to make final decisions on claims within a timely manner. Thirty days is reasonable because it balances the needs of the claimant and the commissioner. The claimant needs to have sufficient time to consider the denial and decide whether to request reconsideration. The commissioner needs to address the request for reconsideration before the facts and issues of the claim have become stale.

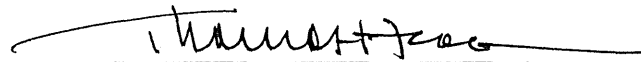
Subpart 5. Minnesota Statutes, section 299A.43, gives the claimant the right to a contested case hearing, but it does not set out the procedures for requesting the hearing. It is, therefore, necessary to outline the procedures a claimant must use to request a contested case hearing. Subpart 5 requires the claimant to submit a written request to the commissioner in order to obtain a hearing. It is reasonable to require the claimant to initiate the process because the claimant decides whether to challenge a denial of benefits. Further, it is reasonable to require that the request be in writing so that there is a permanent record of the claimant's request and the basis for the request.

Subpart 5 requires that the request for a hearing be submitted to the commissioner within 30 days of the notice of denial upon reconsideration or within 30 days of the original notice of denial if no reconsideration is requested. It is necessary to limit the time to request a hearing because it is important to make final decisions on claims within a timely manner. Thirty days is reasonable because it balances the needs of the claimant and the commissioner. The claimant needs to have sufficient time to consider the denial and the decide whether to appeal. The commissioner needs to address the issues of the appeal before the facts and issues of the claim have become stale.

#### Conclusion

Based on the foregoing, the Department's proposed rules are both necessary and reasonable.

Feb 3, 1992  
Date

  
Thomas H. Frost, Commissioner  
Department of Public Safety