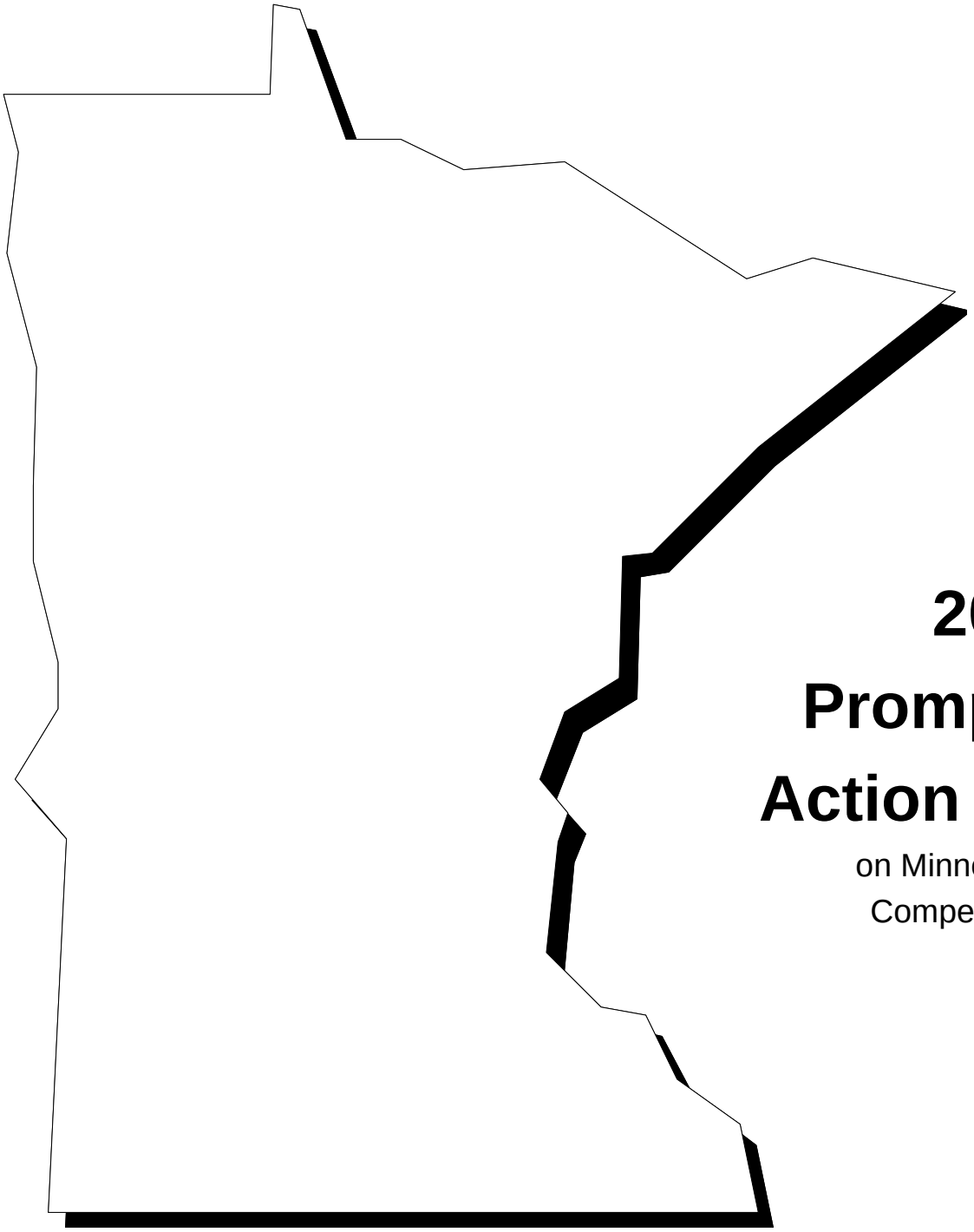

2004 Prompt First Action Report

on Minnesota Workers' Compensation Claims

Minnesota Department of Labor and Industry
Compliance Services

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Introduction

Work-related injuries resulting in disability which extends beyond three calendar-days (lost-time claims) must be reported to the Minnesota Department of Labor and Industry by the self-insured employer or the employer's insurance company. The department currently receives approximately 30,000 lost-time claims each year. Although the total number of work-related injuries is actually much higher, many injured workers lose no time from work. By law, those injuries do not need to be reported to the department.

Reporting an injury is only the beginning of the insurer's (insurance company or self-insured employer) responsibilities. Minnesota Statutes §176.221, Subdivision 1, states, "Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence." This statute also gives insurers the same 14-day deadline to deny the claim and to communicate this decision to the injured worker and the department. Minnesota Rules Part 5220.2540, Subpart 1, further applies this 14-day deadline to the first payment or denial of temporary partial benefits. The workers' compensation statute sends a clear message that liability decisions must be made and communicated, and first payments begun, within a short period of time.

Promptness in reporting claims, deciding liability, and making first payments is critical to the outcome of a claim. Employers have a statutory deadline of 10 days to report lost-time claims to their insurance company[1]. The insurer must investigate the claim, determine liability, communicate its decision and pay the injured worker by the 14th day. Penalties may be assessed against either party for reporting the claim late, which adds costs to the overall system. Penalties may also be assessed for the insurer's failure to issue the first benefit check or deny the claim on time.

However, there is more at stake than the cost of penalties. Injured workers who do not know whether their claims have been accepted, or who receive their first check late, lose trust in their employer, the insurer and the workers' compensation system. This mistrust can linger throughout the lifetime of the claim, making the substantial costs of litigation more likely.

The 1995 Minnesota Legislature recognized the importance of prompt first payments when it passed Minnesota Statutes §176.223. This statute requires the department to publish an annual report providing data about the promptness of all insurers in making first payments on a lost-time claim. Because the insurer's responsibility for promptness lies also with the denial of a claim, the *Prompt First Action Report on Minnesota Workers' Compensation Claims* combines data related to the promptness of first payments and denials. This report focuses public attention on the performance of the insurer in the workers' compensation system, with the goal of improving the promptness of individual companies and the entire industry.

[1]Minnesota Statutes §176.231, Subdivision 1 states, "Where ... injury occurs which wholly or partly incapacitates the injured worker from performing labor or service for more than three calendar days, the employer shall report the injury to the insurer on a form prescribed by the commissioner within ten days from its occurrence. An insurer and self-insured employer shall report the injury to the commissioner no later than 14 days from its occurrence."

Filing Requirements of Employers and Insurers

The *First Report of Injury* form is the tool used to report work-related injuries and illnesses to the insurer and the department (see Appendix A). Employers are required to complete the form when they become aware that a lost-time claim has occurred. The employer must then forward the form to the insurer before its 10-day deadline expires.

After it receives the *First Report of Injury* form, the insurer conducts an investigation to decide whether to accept liability for the claim. If the injury is a lost-time claim, the *First Report of Injury* form must be sent to the department. In addition, a liability decision must be reported to the injured worker and the department, and a first payment must be made (if the claim is accepted) by the 14-day deadline.

The *Notice of Insurer's Primary Liability Determination* form, is used by the insurer to report the acceptance or denial of the claim and to communicate valuable information about the payment of benefits (see Appendix B). This form also gives the insurer an opportunity to clarify or change information previously submitted on the *First Report of Injury* form. Additional information on this form includes the date the injured worker was sent notice of the liability decision and the date of the first payment.

Department Actions Upon Receipt of the Data

The department's computer system uses data submitted on the *First Report of Injury* and the *Notice of Insurer's Primary Liability Determination* forms to determine whether the first payment or denial of benefits is timely. When the data is inconclusive, a letter asking for the missing or incomplete data is sent to the insurer (see Appendix C). The database is updated when the response is received.

To create the report for fiscal year 2004 (July 1, 2003 through June 30, 2004), the department again reviewed the data submitted on the two forms by the insurer for each claim. The department also reviewed any additional data submitted by the insurer about the claim, regarding the promptness of the denial or first payment. A list of claims, where the first actions were believed to be untimely, was then sent to each insurer on a quarterly basis. A period of approximately 30 days was allowed for each insurer to submit information to refute the accuracy of the department's data.

After reviewing the responses to all quarterly lists, the department makes further corrections to the database and then computes the percentage of timely first actions for each insurer.

Explanation of Prompt First Action Report Table

This table includes all insurance companies and self-insured employers who filed lost-time claims during fiscal years 2000, 2001, 2002, 2003 and 2004. It reports the annual number of lost-

time claims for each company, and the number and percentage of those claims that were paid or denied within the statutory 14-day deadline.

Data used to determine the timeliness of first payments and denials includes:

- the date the first payment was actually sent to an injured worker; and
- the date the denial was served on an injured worker.

Some claims from previous fiscal years were litigated over the promptness of the denial or first payment. Experience has shown that updating previously published data to reflect the outcome of litigation results in insignificant changes to the timeliness percentages. Therefore, no data from previous fiscal years has been updated as a result of litigation.

Other Information

The promptness with which insurers make first payments and deny claims depends a great deal on how promptly the employer files the *First Report of Injury* form with them. This report can not make a distinction between first actions that were untimely due to the actions of the employer versus the insurer. All untimely actions, regardless of responsible party, are subtracted from the overall number of claims to arrive at the number and percentage of timely first actions.

Some employers, particularly self-insured employers, have a policy that includes the continuation of an employee's full wages after a work injury has occurred. For those companies, the promptness with which first payments are made may be higher than for other self-insured employers and insurance companies that do not have full wage continuation plans. The method used to compute the promptness of first payments and denials for these companies is identical to the method used for all companies in this report.