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September 7, 2016

FIRST REQUEST

To: Minn. Workers' Compensation Advisory Council

From: Elizabeth Lincoln, Director

According to our records, the following legislation mandated your agency to produce a report:

Cite: Minn. Stat. 175.007 Subd. 2

Topic: Recommendations with respect to amendments to Minnesota Statutes chapter 176 (workers compensation) and views upon any pending bill relating to chapter 176 to the proper legislative committee.

Due date: February 01, 2016

Date of last publication:

Notes:

Return this form, with two print copies and one electronic version of the report to:

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St. Paul, MN 55155-1050

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Thank you for your help. If you have questions, please contact Katie Elmore (651-296-0586), katiee@lrl.leg.mn.

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CHAPTER 110--H.F.No. 2478

An act relating to workers' compensation; adopting recommendations of the Workers' Compensation Advisory Council; amending Minnesota Statutes 2014, sections 176.011, subdivision 7a; 176.081, subdivisions 1, 3; 176.137, subdivisions 1, 4, by adding a subdivision; 176.331; 176.361, subdivisions 1, 2, 3, 4, 5, 6, by adding a subdivision; 176.471, subdivisions 3, 5; 176.511, subdivisions 2, 3; 176.571, subdivision 1; Minnesota Statutes 2015 Supplement, sections 176.135, subdivision 7a; 176.136, subdivision 1b.

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

ARTICLE 1**WORKERS' COMPENSATION COURT OF APPEALS PROPOSALS**

Section 1. Minnesota Statutes 2014, section 176.081, subdivision 1, is amended to read:

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

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

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

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

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

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

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. Subject to the foregoing maximum amount for attorney fees, up to 20 percent of the first \$130,000 of periodic compensation awarded to the employee may be withheld from the periodic payments for attorney fees or disbursements if the payor of the funds clearly indicates on the check or draft issued to the employee for payment the purpose of the withholding, the name of the attorney, the amount withheld, and the gross amount of the compensation payment before withholding. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed claims or portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. The existence of a dispute is dependent upon a disagreement after the employer or insurer has had adequate time and information to take a position on liability. Neither the holding of a hearing nor the filing of an application for a hearing alone may determine the existence of a dispute. Except where the employee is represented by an attorney in other litigation pending at the department or at the Office of Administrative Hearings, a fee may not be charged after June 1, 1996, for services with respect to a medical or rehabilitation issue arising under section 176.102, 176.135, or 176.136 performed before the employee has consulted with the department and the department certifies that there is a dispute and that it has tried to resolve the dispute.

(d) An attorney who is claiming legal fees for representing an employee in a workers' compensation matter shall file a statement of attorney fees with the commissioner, or compensation judge before whom the matter was heard, ~~or Workers' Compensation Court of Appeals on cases before the court.~~ A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner and shall report the number of hours spent on the case.

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

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

Sec. 2. Minnesota Statutes 2014, section 176.081, subdivision 3, is amended to read:

Subd. 3. **Review.** A party that is dissatisfied with its attorney fees awarded by the commissioner or a compensation judge may file an application a petition for review by the Workers' Compensation Court of Appeals. The application petition shall state the basis for the need of review and whether or not a hearing is requested. A copy of the application-petition shall be served by the court upon the party's attorney by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing awarded or denied attorney fees. ~~The notice of hearing shall be served upon known interested parties.~~ The Workers' Compensation Court of Appeals shall have the authority to raise the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 3. Minnesota Statutes 2014, section 176.471, subdivision 3, is amended to read:

Subd. 3. **Service of writ and bond; filing fee.** To effect a review upon certiorari, the party shall serve a writ of certiorari ~~and a bond~~ upon the administrator of the Workers' Compensation Court of Appeals within the 30-day period referred to in subdivision 1. The party shall also at this time pay to the ~~administrator~~ clerk of the appellate courts the fee prescribed by rule ~~403.04~~ 116.03 of the Rules of Civil Appellate Procedure ~~which shall be disposed of in the manner provided by that rule.~~

Sec. 4. Minnesota Statutes 2014, section 176.471, subdivision 5, is amended to read:

Subd. 5. **Bond.** ~~The bond required by subdivision 3 shall be executed in such amount and with such sureties as the Workers' Compensation Court of Appeals directs and approves. The bond shall be conditioned to pay the cost of the review. The Workers' Compensation Court of Appeals may, upon motion of any respondent and a showing that extraordinary circumstances warrant the requirement of a cost bond, order that a bond be provided as prescribed by rule 107.02 of the Rules of Civil Appellate Procedure.~~

Sec. 5. Minnesota Statutes 2014, section 176.511, subdivision 2, is amended to read:

Subd. 2. **Disbursements, taxation.** The commissioner or compensation judge, or ~~on appeal~~ the Workers' Compensation Court of Appeals on cases before the court, may award the prevailing party reimbursement for actual and necessary disbursements. ~~These Disbursements shall be taxed upon five ten~~ days' written notice to adverse parties.

Sec. 6. Minnesota Statutes 2014, section 176.511, subdivision 3, is amended to read:

Subd. 3. **Attorney fee, allowance.** ~~Where upon an appeal to the Workers' Compensation Court of Appeals, (1) an award of compensation is affirmed, or modified and affirmed, or (2) an order disallowing compensation is reversed, or (3) a petition to vacate an award is granted, the Workers' Compensation Court of Appeals may include in its award as an incident to its review on appeal an amount to cover a reasonable attorney fee, or it may allow the an attorney fee in a proceeding to tax disbursements.~~

If the employer or insurer files a notice of discontinuance of an employee's benefits and an administrative conference is held to resolve the dispute, but the employer or insurer fails to attend the administrative conference, the commissioner or compensation judge may order the employer or insurer to pay the employee's attorney fees as a cost under this section if the employee's benefits are continued.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective the day following final enactment.

ARTICLE 2**WORKERS' COMPENSATION DEPARTMENT PROPOSALS**

Section 1. Minnesota Statutes 2015 Supplement, section 176.135, subdivision 7a, is amended to read:

Subd. 7a. **Electronic transactions.** (a) For purposes of this subdivision, the following terms have the meanings given:

(1) "workers' compensation payer" means a workers' compensation insurer and an employer, or group of employers, that is self-insured for workers' compensation;

(2) "clearinghouse" has the meaning given in section 62J.51, subdivision 11a; and

(3) "electronic transactions" means the health care administrative transactions described in section 62J.536.

(b) In addition to the requirements of section 62J.536, workers' compensation payers and health care providers must comply with the requirements in paragraphs (c) to (e).

(c) No later than January 1, 2016, each workers' compensation payer must place the following information in a prominent location on its Web site or otherwise provide the information to health care providers:

(1) the name of each clearinghouse with which the workers' compensation payer has an agreement to exchange or transmit electronic transactions, along with the identification number each clearinghouse has assigned to the payer in order to route electronic transactions through intermediaries or other clearinghouses to the payer;

(2) information about how a health care provider can obtain the claim number assigned by the workers' compensation payer for an employee's claim and how the provider should submit the claim number in the appropriate field on the electronic bill to the payer; and

(3) the name, phone number, and e-mail address of contact persons who can answer questions related to electronic transactions on behalf of the workers' compensation payer and the clearinghouses with which the payer has agreements.

(d) No later than ~~July 1, 2016~~ January 1, 2017:

(1) health care providers must electronically submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury using the ~~most recently approved~~ ASC X12N 5010 version of the ASC X12N 275 transaction ("Additional Information to Support Health Care Claim or Encounter"), according to the requirements in the corresponding implementation guide. The ASC X12N 275 transaction is the only one that shall be used to electronically submit attachments unless a national standard is adopted by federal law or rule. If a new version of the attachment transaction is approved, it must be used one year after the approval date;

(2) workers' compensation payers and all clearinghouses receiving or transmitting workers' compensation bills must accept attachments using the ASC X12N 275 transaction and must respond with the ~~most recently approved~~ ASC X12N 5010 version of the ASC X12 electronic

acknowledgment for the attachment transaction. If a new version of the acknowledgment transaction is approved, it must be used one year after the approval date; and

(3) if a different national claims attachment or acknowledgment requirement is adopted by federal law or rule, it will replace the ASC X12N 275 transaction, and the new standard must be used on the date that it is required by the federal law or rule.

(e) No later than September 1, 2015, workers' compensation payers must provide the patient's name and patient control number on or with all payments made to a provider under this chapter, whether payment is made by check or electronic funds transfer. The information provided on or with the payment must be sufficient to allow providers to match the payment to specific bills. If a bulk payment is made to a provider for more than one patient, the check or electronic funds transfer statement must also specify the amount being paid for each patient. For purposes of this paragraph, the patient control number is located on the electronic health care claim 837 transaction, loop 2300, segment CLM01, and on the electronic health care claim payment/advice 835 transaction, loop 2100, CLP01.

(f) The commissioner may assess a monetary penalty of \$500 for each violation of this section, not to exceed \$25,000 for identical violations during a calendar year. Before issuing a penalty for a first violation of this section, the commissioner must provide written notice to the noncompliant payer, clearinghouse, or provider that a penalty may be issued if the violation is not corrected within 30 days. Penalties under this paragraph are payable to the commissioner for deposit in the assigned risk safety account.

Sec. 2. Minnesota Statutes 2015 Supplement, section 176.136, subdivision 1b, is amended to read:

Subd. 1b. Limitation of liability. (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a Critical Access Hospital certified by the Centers for Medicare and Medicaid Services, or while an outpatient at a hospital with 100 or fewer licensed beds, shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive.

(b) The liability of the employer for the treatment, articles, and supplies that are not limited by paragraph (a), subdivision 1a, 1c, or section 176.1362 shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount. The commissioner may by rule establish the reasonable value of a service, article, or supply in lieu of the 85 percent limitation in this paragraph. A prevailing charge established under Minnesota Rules, part 5221.0500, subpart 2, must be based on no more than two years of billing data immediately preceding the date of the service.

(c) The limitation of liability for charges provided by paragraph (b) does not apply to a nursing home that participates in the medical assistance program and whose rates are established by the commissioner of human services.

(d) An employer's liability for treatment, articles, and supplies provided under this chapter by a health care provider located outside of Minnesota is limited to the payment that the health care

provider would receive if the treatment, article, or supply were paid under the workers' compensation law of the jurisdiction in which the treatment was provided.

Sec. 3. Minnesota Statutes 2014, section 176.571, subdivision 1, is amended to read:

Subdivision 1. **Preliminary investigation.** When the head of a department has filed a report or the commissioner of administration has otherwise received information of the occurrence of an injury to a state employee for which liability to pay compensation may exist, the commissioner of administration shall make a preliminary investigation to determine the question of probable liability.

In making this investigation, the commissioner of administration may require the assistance of the head of any department or any employee of the state. The commissioner of ~~management and budget administration~~ may require that all facts be furnished which appear in the records of any state department bearing on the issue.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective the day following enactment.

ARTICLE 3

WORKERS' COMPENSATION LITIGATION-RELATED PROPOSALS

Section 1. Minnesota Statutes 2014, section 176.011, subdivision 7a, is amended to read:

Subd. 7a. ~~(1)~~ **Compensation judge.** "Compensation judge" means a workers' compensation judge at the Office of Administrative Hearings.

~~(2) Calendar judge.~~ "Calendar judge" means a workers' compensation judge at the Office of Administrative Hearings.

~~(3) Compensation judge.~~ "Compensation judge" means a compensation judge at the Department of Labor and Industry. Compensation judges may conduct settlement conferences, issue summary decisions, approve settlements and issue awards thereon, determine petitions for attorney fees and costs, and make other determinations, decisions, orders, and awards as may be delegated to them by law or the commissioner. Compensation judges must be learned in the law.

Sec. 2. Minnesota Statutes 2014, section 176.137, subdivision 1, is amended to read:

Subdivision 1. **Requirement; determination.** The employer shall furnish to an employee who is permanently disabled because of a personal injury suffered in the course of employment with that employer such alteration or remodeling of the employee's principal residence as is reasonably required to enable the employee to move freely into and throughout the residence and to otherwise adequately accommodate the disability. Any remodeling or alteration shall be furnished only when the ~~division or Workers' Compensation Court of Appeals~~ determines that the injury is to such a degree that the employee is substantially prevented from functioning within the principal residence.

Sec. 3. Minnesota Statutes 2014, section 176.137, subdivision 4, is amended to read:

Subd. 4. Certification required; exceptions. (a) Except as provided in paragraph (b), no award may be made except upon the certification of a licensed architect to the division ~~or Workers' Compensation Court of Appeals~~ that the proposed alteration or remodeling of an existing residence or the building or purchase of a new or different residence is reasonably required for the purposes specified in subdivision 1. The Council on Disability shall advise the division ~~or Workers' Compensation Court of Appeals~~ as provided in section 256.482, subdivision 5, clause (7). The alteration or remodeling of an existing residence, or the building or purchase of a new home must be done under the supervision of a licensed architect relative to the specific needs to accommodate the disability.

(b) Remodeling or alteration projects do not require an architect's certification and supervision if the project is:

(1) approved by the Council on Disability;

(2) performed by a residential building contractor or residential remodeler licensed under section 326B.805, subdivision 1; and

(3) approved by a certified building official or certified accessibility specialist under section 326B.133, subdivision 3a, paragraphs (b) and (d), who states in writing that the proposed remodeling or alterations are reasonably required to enable the employee to move freely into and throughout the residence and to otherwise accommodate the disability.

Sec. 4. Minnesota Statutes 2014, section 176.137, is amended by adding a subdivision to read:

Subd. 6. Disputes. A proceeding to resolve a dispute under this section shall be initiated by petition under sections 176.271 and 176.291 and decided by a compensation judge at the office under section 176.305, 176.322, or 176.341. The decision of the compensation judge is appealable to the Workers' Compensation Court of Appeals under section 176.421.

Sec. 5. Minnesota Statutes 2014, section 176.331, is amended to read:

176.331 PROCEEDINGS WHEN ANSWER NOT FILED.

Except in cases involving multiple employers or multiple insurers, if an adverse party fails to file and serve an answer or obtain an extension from the commissioner or the petitioner as required by section 176.321, subdivision 3, the commissioner shall refer the matter to the chief administrative law judge for an immediate hearing and prompt award or other order. The adverse party that failed to file an answer may appear at the hearing, present evidence and question witnesses, but shall not be granted a continuance ~~for any reason~~ except upon a showing of good cause.

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

Sec. 6. Minnesota Statutes 2014, section 176.361, subdivision 1, is amended to read:

Subdivision 1. **Right to intervene.** A person who has an interest in any matter before the Workers' Compensation Court of Appeals, or commissioner, or compensation judge such that the person may either gain or lose by an order or decision may intervene in the proceeding by filing ~~an application or a motion~~ in writing stating the facts which show the interest. The commissioner is considered to have an interest and shall be permitted to intervene at the appellate level when a party relies in its claim or defense upon any statute or rule administered by the commissioner, or upon any rule, order, requirement, or agreement issued or made under the statute or rule.

The commissioner may adopt rules, not inconsistent with this section to govern intervention. The Workers' Compensation Court of Appeals shall adopt rules to govern the procedure for intervention in matters before it.

If the Department of Human Services or the Department of Employment and Economic Development seeks to intervene in any matter before the division, a compensation judge or the Workers' Compensation Court of Appeals, a nonattorney employee of the department, acting at the direction of the staff of the attorney general, may prepare, sign, serve and file motions for intervention and related documents, ~~appear at~~ attend prehearing conferences, and participate in matters before a compensation judge or the Workers' Compensation Court of Appeals. Any other interested party may intervene using a nonattorney and may participate in any proceeding to the same extent an attorney could. This activity shall not be considered to be the unauthorized practice of law. An intervenor represented by a nonattorney shall be deemed to be represented by an attorney for the purposes of the conclusive presumption of section 176.521, subdivision 2.

Subdivisions 3 to 6 do not apply to ~~matters pending in the mediation or rehabilitation and medical services sections~~ the following proceedings conducted by the Department of Labor and Industry or the office: mediation proceedings; discontinuance conferences under section 176.239; or administrative conferences under section 176.106.

Sec. 7. Minnesota Statutes 2014, section 176.361, subdivision 2, is amended to read:

Subd. 2. **Written ~~application or motion~~.** A person desiring to intervene in a workers' compensation case as a party, including but not limited to a health care provider who has rendered services to an employee or an insurer who has paid benefits under section 176.191, shall submit a timely written ~~application or motion~~ to intervene to the commissioner, the office, or to the court of appeals, whichever is applicable.

(a) The ~~application or motion~~ must be served on all parties, except for other intervenors, either personally, by first class mail, or by registered mail, return receipt requested. ~~An application or A~~ motion to intervene must be served and filed within 60 days after a potential intervenor has been served with notice of a right to intervene or within 30 days of notice of an administrative conference. Upon the filing of a timely ~~application or motion~~ to intervene, the potential intervenor shall be granted intervenor status without the need for an order. Objections to the intervention may be subsequently addressed by a compensation judge. Where a motion to intervene is not timely filed under this section, the potential intervenor interest shall be extinguished and the potential intervenor may not collect, or attempt to collect, the extinguished interest from the employee, employer, insurer, or any government program.

(b) The ~~application or motion~~ must show how the applicant's legal rights, duties, or privileges may be determined or affected by the case; state the grounds and purposes for which intervention

is sought; and indicate the statutory right to intervene. The ~~application or~~ motion must be accompanied by the following:

(1) an itemization of disability payments showing the period during which the payments were or are being made; the weekly or monthly rate of the payments; and the amount of reimbursement claimed;

(2) a summary of the medical or treatment payments, or rehabilitation services provided by the Vocational Rehabilitation Unit, broken down by creditor, showing the total bill submitted, the period of treatment or rehabilitation covered by that bill, the amount of payment on that bill, and to whom the payment was made;

(3) copies of all medical or treatment bills ~~on which some~~ for which payment was made is sought;

(4) copies of the work sheets or other information stating how the payments on medical or treatment bills were calculated;

(5) a copy of the relevant policy or contract provisions upon which the claim for reimbursement is based;

(6) the name and telephone number of the person representing the intervenor who has authority to represent the intervenor, including but not limited to the authority to reach a settlement of the issues in dispute;

(7) proof of service or copy of the registered mail receipt evidencing service on all parties except for other intervenors;

(8) at the option of the intervenor, a proposed stipulation which states that all of the payments for which reimbursement is claimed are related to the injury or condition in dispute in the case and that, if the petitioner is successful in proving the compensability of the claim, it is agreed that the sum be reimbursed to the intervenor; and

(9) if represented by an attorney, the name, address, telephone number, and Minnesota Supreme Court license number of the attorney.

Sec. 8. Minnesota Statutes 2014, section 176.361, subdivision 3, is amended to read:

Subd. 3. **Stipulation.** If the person submitting the ~~application or motion for intervention to~~ intervene has included a proposed stipulation, all parties shall either execute and return the signed stipulation to the intervenor who must file it with the division or judge or serve upon the intervenor and all other parties and file with the division specific and detailed objections to any payments made by the intervenor which are not conceded to be correct and related to the injury or condition the petitioner has asserted is compensable. If a party has not returned the signed stipulation or filed specific and detailed objections within 30 days of service of the ~~application or motion to intervene~~, the intervenor's right to reimbursement for the amount sought is deemed established provided that the petitioner's claim is determined to be compensable. The office may establish procedures for filing objections if a timely motion to intervene is filed less than 30 days before a scheduled hearing.

Sec. 9. Minnesota Statutes 2014, section 176.361, subdivision 4, is amended to read:

Subd. 4. Attendance by intervenor. ~~Unless a stipulation has been signed and filed or the intervenor's right to reimbursement has otherwise been established, the intervenor shall attend all settlement or pretrial conferences, administrative conferences, and the hearing. Failure~~ A person who has submitted a timely written motion to intervene, as required by subdivision 2, is not required to attend settlement or pretrial conferences or the hearing, unless attendance is ordered by the compensation judge assigned to the case, pursuant to a motion to require the intervenor's attendance filed by a party or as a matter of the judge's discretion. A motion to require attendance must be served and filed at least 20 days before a scheduled hearing, and the compensation judge must serve and file an order granting or denying the motion at least ten days before a scheduled hearing. If attendance is ordered, failure of the intervenor to appear attend a proceeding either in person or, if approved by the compensation judge, by telephone or some other electronic medium, shall result in the denial of the claim for reimbursement: except upon a showing of good cause. If attendance has not been ordered, this subdivision does not prohibit an intervenor from attending a conference or hearing in person, or from requesting permission from the compensation judge to attend a conference or hearing by telephone or other electronic medium.

Sec. 10. Minnesota Statutes 2014, section 176.361, subdivision 5, is amended to read:

Subd. 5. Order Objections. ~~If an~~ a specific and detailed objection to intervention remains following settlement or pretrial conferences, the issue shall be addressed at the hearing. If the intervenor has not been ordered to attend the hearing pursuant to subdivision 4, or has received permission to attend the hearing by telephone or other electronic medium, the intervenor may provide a written response to the objection before the hearing according to subdivision 6 for consideration as a matter of discretion by the judge.

Sec. 11. Minnesota Statutes 2014, section 176.361, subdivision 6, is amended to read:

Subd. 6. Presentation of evidence by intervenor. ~~Unless a stipulation has been signed and filed or the intervenor's right to reimbursement has otherwise been established, the intervenor shall present evidence in support of the claim at or before the hearing unless otherwise ordered by the compensation judge. When the intervenor has not been ordered to attend the hearing pursuant to subdivision 4, or has received permission to attend the hearing by telephone or other electronic medium, the office may establish a procedure for submission of the intervenor's evidence and response to outstanding objections to intervention. If the intervenor does not submit a written response to the objection before the hearing, the compensation judge's determination on the objection must be based on the information and evidence submitted prior to or at the hearing, as a matter of judicial discretion.~~

Sec. 12. Minnesota Statutes 2014, section 176.361, is amended by adding a subdivision to read:

Subd. 8. Chief administrative law judge orders. The chief administrative law judge may issue standing orders to implement this section. The chief administrative law judge has the authority to issue standing orders instead of, or in addition to, the authority granted to the office or compensation judges under this section, provided that any standing order issued by the chief administrative law judge must be consistent with this section.

Sec. 13. **EFFECTIVE DATE.**

This article is effective August 1, 2016.

Presented to the governor May 12, 2016

Signed by the governor May 12, 2016, 1:27 p.m.

Leifeld, Christopher (DLI)

From: Leifeld, Christopher (DLI)
Sent: Tuesday, August 23, 2016 1:00 PM
To: Madigan, Lenora (ADM)
Subject: Interest in meeting to discuss current developments regarding the Ekdahl Hartwig decisions

Good afternoon Lenora.

We are both very busy people and rather than exchanging phone calls I thought it would be best to email you. As I noted in my call, I propose that we have a meeting with you and your appropriate staff to discuss the latest activity related to the Ekdahl Hartwig Supreme Court decisions.

First, in regard to potential legislation, the Ekdahl Hartwig decisions and their impact on the work comp system has not been presented to or discussed by the Workers' Compensation Advisory Council (WCAC). <http://www.dli.mn.gov/Wcac.asp> This matter is tentatively now on the agenda for the September 14, 2016 WCAC meeting. As you may know, it has been the practice since 1995 that all work comp legislation must first be approved by the WCAC. In conversations with the LMCIT, a proposed legislative solution was discussed. At this point in time, a legislative proposal will not be presented to the WCAC at the meeting on the 14th. Rather, one of our attorneys will walk through the decisions with the WCAC and the impact of the decisions on the work comp system and on the injured workers that are owed money. It is possible that at future WCAC meeting(s), specific legislative proposals may be considered by the council.

At our meeting, we would like to review with you the WCAC process, what to expect at the WCAC meeting and potential legislative solutions.

Second, we have also discussed with LMCIT the possibility of certifying the legal issues to the Supreme Court. At our meeting, we would like to discuss this option with you.

Third, we would like to discuss with you ways to streamline the ongoing litigation between our Departments, facilitate the exchange of information, and minimize state resources needed to resolve the disputes.

I am hopeful that a meeting can be arranged prior to the WCAC meeting on the 14th, possibly as soon as one day next week.

I appreciate your consideration Lenora and look forward to hearing from you.

Chris
Christopher Leifeld
Assistant Commissioner
Workers' Compensation Division
Minnesota Department of Labor and Industry
(651) 284-5434
christopher.leifeld@state.mn.us

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