Minnesota Department of Labor and Industry

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Guide to Minnesota's Workers' Compensation System

for employers, employees, insurance companies, health care providers, rehabilitation professionals and other interested parties

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Preface

This *Guide to Minnesota's Workers' Compensation System* is the most comprehensive non-technical explanation of the program undertaken since it began in 1913. The guide is intended to provide readers with a simple, concise and accurate description of a complex system that has gone through many law changes. It is to be used as a reference guide for all parties connected to the workers' compensation system, including employers, employees, insurance companies, health care professionals, vocational rehabilitation professionals, union officials and any other interested individuals.

While the guide provides a comprehensive summary of Minnesota's workers' compensation system, it does not answer every question readers may have, nor should it be used in place of Minnesota's workers' compensation statutes. We suggest readers refer to state law, and in some cases federal law, for greater detail. Statutory references are provided throughout the guide. This guide is not intended to replace legal advice.

The *Guide to Minnesota's Workers' Compensation System* will be updated as the laws covering the Minnesota workers' compensation system change. For this reason, we recommend that readers make sure that the information they are using is current, by contacting either the Minnesota Department of Labor and Industry or other related organizations listed in this guide. The contents of the guide are not copyrighted; in fact, readers should freely copy and distribute materials (other than forms) as needed. However, readers should first make sure the information is up to date.

Information for the guide was drawn from a number of sources, and could not have been completed without the assistance of many people. Many members of the department's Workers' Compensation Division, the Legal Services unit and the Research and Statistics unit provided their expertise to this project. Special thanks and appreciation go to the following individuals from the Minnesota Department of Labor and Industry who gave their time and expertise to this project: Gloria Gebhard, Dorothy Hanson, Penny Johnson, Nancy Lane, Susan Lauer, Jane Luger, Brandon Miller, Mary Miller and Pat Sexton. Brian Zaidman served as the project coordinator and worked closely with the contractor for the guide, Alice Pepin of Pepin Communications. Alice assembled and edited the text. The graphic design was provided by Connie Baker of Connie Baker Design. We are very proud of this guide and encourage you to use and share the information we have provided.

Gary Bastian
Commissioner
Minnesota Department of Labor and Industry

Introduction

Minnesota's workers compensation system is a combination of private insurance, self-insurance and a state regulatory program. Primary responsibility for overseeing the program belongs to the Minnesota Department of Labor and Industry, particularly as it relates to workers' compensation coverage and benefits, workplace safety and vocational rehabilitation services. Workers' compensation insurance is regulated by the Minnesota Department of Commerce.

The Department of Labor and Industry strives to foster a safe, efficient and productive working environment for Minnesota's workplaces.

The department's goals are to:

- support and enhance a "customer-first" tradition
- regulate through well-defined, consistently enforced policies
- educate stakeholders and employees of the Department of Labor and Industry
- analyze and review business processes
- utilize technology to enhance effectiveness

The department believes that people who use the workers' compensation system can function within the system effectively, efficiently, honestly and fairly when they understand how it works. This guide will help educate the department's customers so that they are able to follow the rules and laws and obtain the services and benefits available to them.

This *Guide to Minnesota's Workers' Compensation System* is organized into four parts and 11 chapters, and includes information on: the history of workers' compensation; coverage and claims; disability benefits; medical benefits; vocational rehabilitation; dispute resolution; insurance; workplace issues; other related laws; and fraud. The Service and Information chapter provides descriptions of the many other organizations, boards and councils that are part of the workers' compensation system. Readers should review the Contents pages for a detailed list of topics included.

Each chapter is designed to help readers easily find the information they need. Key information is highlighted and cross-referenced to other areas of the guide. Many chapters provide definitions of terms at the beginning of the chapter. Example cases are included to assist readers in understanding the sometimes complex nature of the program. Frequently Asked Questions are also included throughout the book. For exact legal definitions, readers should consult the statutes referred to throughout the guide and listed in Endnotes.

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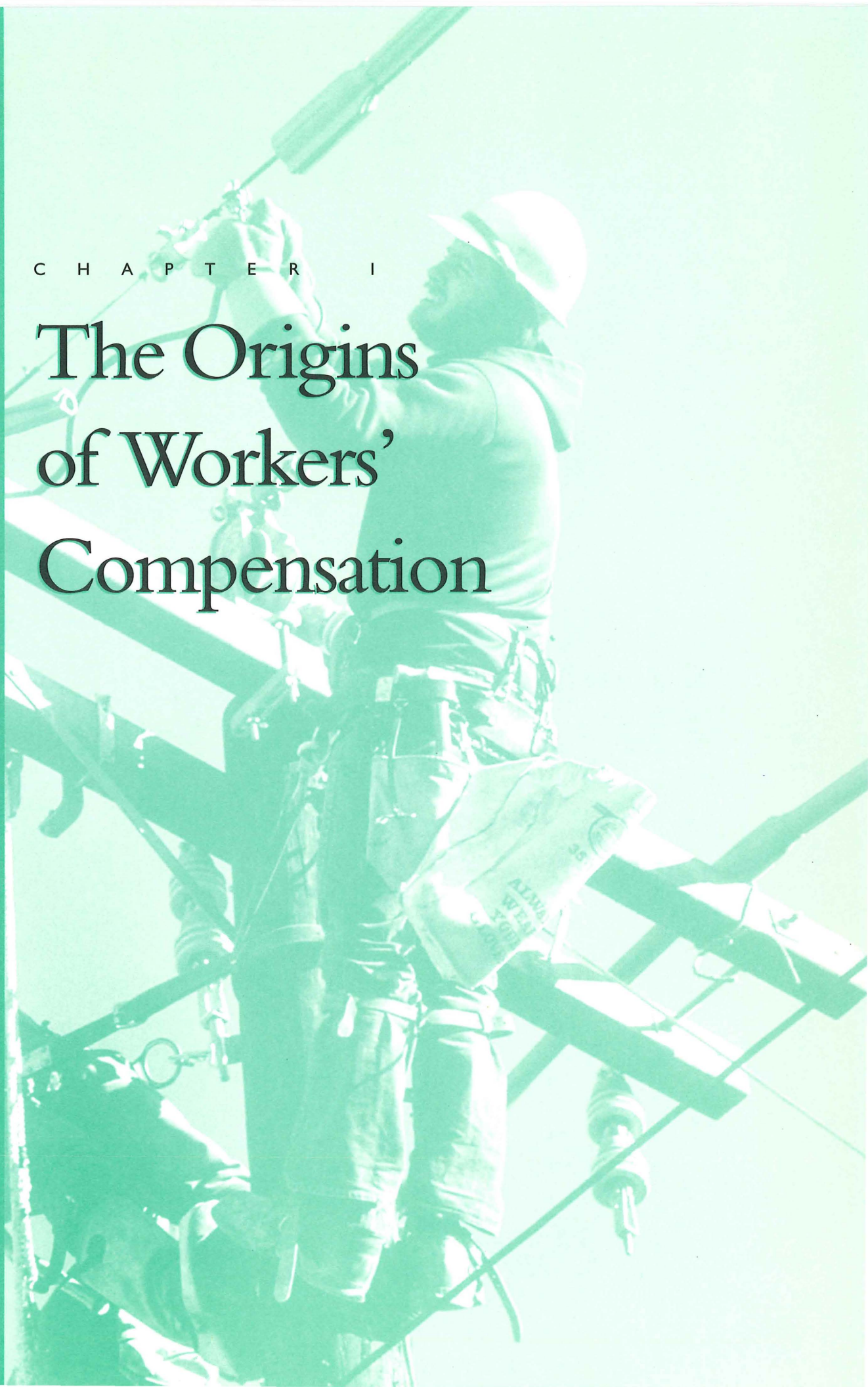
CHAPTER 1

The Origins of Workers' Compensation



CHAPTER 1:

The Origins of Workers' Compensation

The Beginning

Our modern day workers' compensation system began during the industrial revolution in the 1700s. With more factories and mechanization came increased injuries to workers. At first, the only way an injured worker could be compensated for his or her injury was to sue the employer in court. This fault-based method was costly for both parties, and workers won only if they could prove the employer was largely at fault. For example, if the accident was caused by a fellow employee, or if the injured worker was also at fault, the employer was often able to defeat the claim.

Germany adopted the first modern workers' compensation system in 1884. Efforts to start a workers' compensation system in the United States lagged behind the European countries. However, the rate of serious and minor industrial accidents rose continually in the U.S. from the onset of the industrial revolution, and peaked during the first decade of the twentieth century. At that time, no government social insurance programs existed in the U.S. It wasn't until the 1930s that unemployment insurance and Social Security programs emerged. The solution to how to compensate injured workers had to break new legal territory.

Our modern day workers' compensation system began during the industrial revolution in the 1700s.

Finally in 1908, Congress, at the urging of President Theodore Roosevelt, passed a workers' compensation act covering certain federal employees. Federal law did not allow a national workers' compensation system for most of the private sector, so states passed their own laws requiring private employers to insure their employees. Wisconsin's law in 1911 was the first to pass legal challenges.

By 1917, when the U.S. Supreme Court held that compulsory workers' compensation laws were constitutional, most states had similar laws. Coverage of the early laws was limited—none covered all classes of employees, few covered public employees, several states made no provision for medical benefits, and coverage for occupational diseases was nonexistent. However, the employee was eligible for benefits, regardless of fault, if the injury occurred as a result of his or her employment. Employers, on the other hand, were responsible only for the benefits provided through the workers' compensation payment. Both employers and employees generally benefited from the limited liability, no-fault system.

Other laws cover some employees. The Federal Employees' Compensation Act covers U.S. federal government employees; the Federal Employment Liability Act covers interstate rail transportation workers; and the Longshoremen and the Harbor Workers' Act covers maritime workers—other than sea personnel—and workers in certain other groups. [1]

Minnesota's Experience: the Workers' Compensation Compromise

Before Minnesota passed its first workers' compensation law in 1913, the injured industrial worker had three options:

1. Sue his or her employer for damages under the common-law system.

2. Hope the employer would provide financial aid.

3. Turn to private or governmental charity for help.

Both employers and employees alike were unhappy with this method. Court action was costly and the result uncertain. Employees could not count on aid from employers. Most insurance policies provided only minimal emergency coverage, and most coverage occurred only when an accident was fatal. Other private and state institutions did not have enough money to provide aid to all those in need.

Minnesota passed its first workers' compensation law in 1913.

Employers were especially unhappy with the mounting volume of accidents resulting in law suits and the increases in the verdicts awarded by judges and juries after 1903. Between 1903 and 1909, casualty insurance companies in Minnesota paid out 76 percent of employers' liability insurance premiums to injured workers. As premiums increased to cover the costs of the new trend in court verdicts, employers found they were paying more and more for an inefficient system that spent funds on law suits and created friction with their employees.

In 1909 the Labor Federation joined with the Employers' Association and the Minnesota State Bar Association to petition Governor John A. Johnson to create a special non-partisan commission to thoroughly study how to establish a workers' compensation system. All three groups were represented on the commission, which met for the first time that year. While significant progress and discussion took place, the commission members and the casualty insurance companies were unable to reach agreement on a system. The 1911 Minnesota Legislature decided to delay bill passage and learn from the experience of other states that had passed workers' compensation laws. Another committee was appointed to draft a workers' compensation bill for consideration in 1913.

Finally in 1913, the Minnesota Legislature decided it could no longer delay. The 1913 Minnesota law was a compromise measure reflecting the views of all interested parties. It contained the basic benefit levels favored by employers, and the medical benefit was double the employers' original proposal. [2]

Changes since 1913

Minnesota's workers' compensation system has been changed by the legislature many times since its original enactment in 1913. In recent years, major changes were made in 1983, 1992 and 1995. The goals of the 1983 Minnesota Workers' Compensation Reform Act were to standardize the benefit structure, reduce litigation, and encourage early vocational rehabilitation assistance, good employee-employer relations and return-to-work programs. Changes made in 1992 covered, among other topics, attorney fees, joint labor-management safety committees, repeal of the Second Injury Fund, a new relative value medical fee schedule and medical managed care plans.

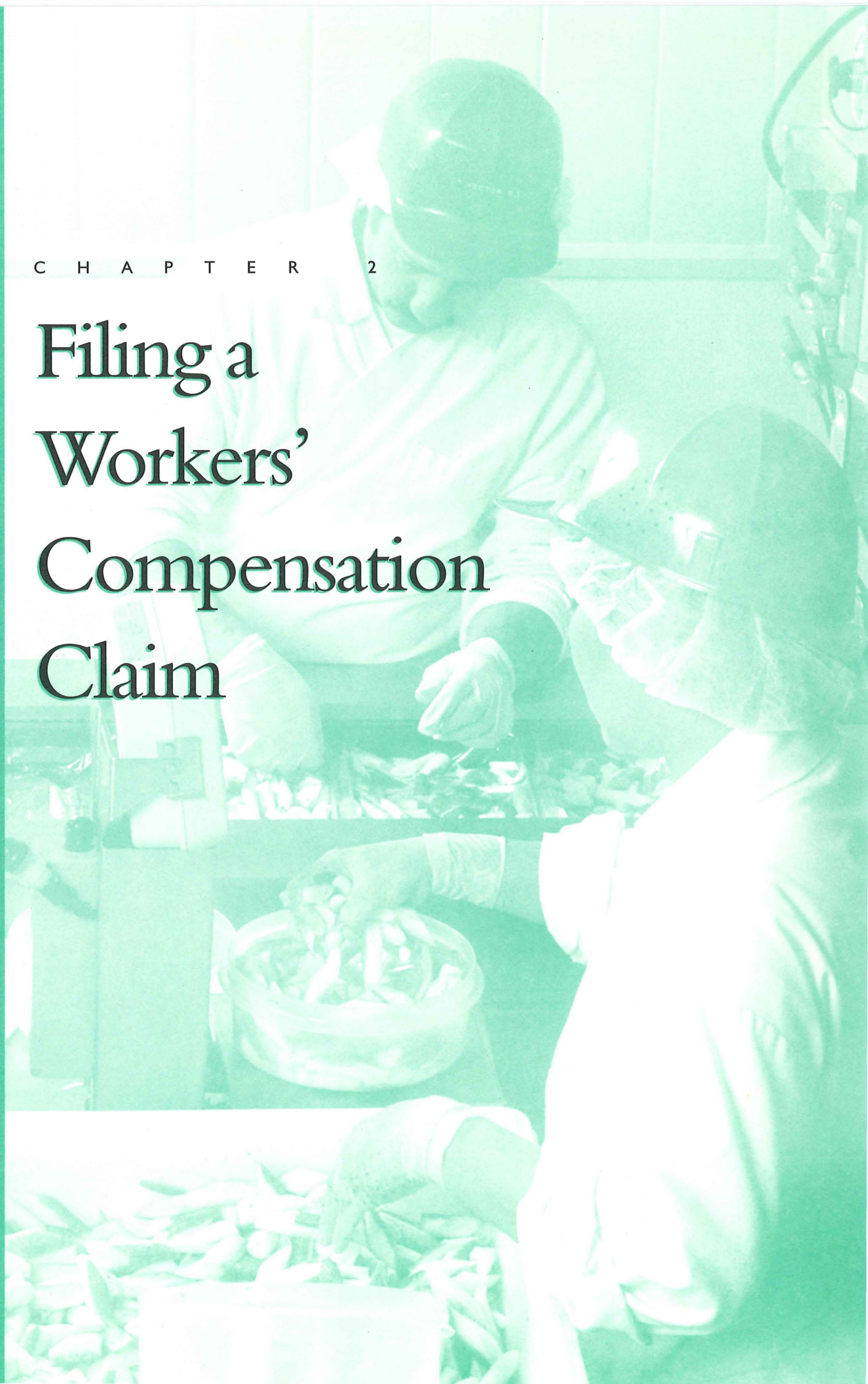
The system changes in 1995:

- replaced the two-tier permanent partial disability program with a single benefit based on the impairment compensation schedule, paid out at the same intervals as temporary total disability benefits;
- placed a time limit on temporary total disability benefits;
- created a graduated eligibility schedule for permanent total disability benefits;
- eliminated supplemental benefits for injuries occurring on or after October 1, 1995;
- set a new minimum for the permanent total disability benefit;
- set a dollar level maximum and minimum weekly benefit amount for temporary total benefits;
- modified procedures for resolving medical and rehabilitation disputes;
- increased penalties; and
- added a provision allowing the state Commerce commissioner to disapprove workers' compensation rates filed by insurers.

PART 2: THE BENEFIT SYSTEM

CHAPTER 2

Filing a Workers' Compensation Claim



TERM **used throughout this guide**

Compensable injury (claim)

Compensable means that the injury arose out of and in the course of employment such that workers' compensation benefits are to be paid.

C H A P T E R 2 :

Filing a Workers' Compensation Claim

After workers' compensation legislation was passed in Minnesota in 1913, benefits under the Workers' Compensation Act became, in most instances, the injured employee's exclusive remedy. If the injury arose out of and in the course of employment, the employee was eligible for benefits — regardless of whether or not he or she was negligent.

Workers' compensation insurance covers injuries and diseases that "arise out of and in the course of employment."

Arising out of means the injury or illness was caused by, accelerated by, or aggravated by the employment. **In the course of** refers to the hours of employment or place of employment.

Workers' compensation is a type of insurance. Benefits include partial wage replacement, payments for loss of use or function, medical treatment, vocational rehabilitation and, in the case of work-related deaths, dependents' benefits. State law sets benefit levels.

Despite numerous legislative changes in the Minnesota Workers' Compensation Act, the definitions of temporary total disability, permanent total disability, and temporary partial disability have remained substantially the same over the years. However, the law concerning the amount and duration of these benefits has changed frequently. **The law in effect on the date of the injury determines the amount and duration of benefits to be paid.**

See "Your Responsibility in the Workers' Compensation System" in the Appendix.

Minnesota's system is intended to be a cooperative system with employers, employees, insurers, health care professionals, vocational rehabilitation professionals and the State of Minnesota working in partnership to serve injured workers, and to create the safest workplaces possible.

What is Covered?

Covered	Not Covered
Injuries/diseases that arise out of and in the course of employment, regardless of fault	Injuries/diseases not in course of employment
	Personal assault, unrelated to job
	Mental stress injuries with no physical component
	Injuries resulting from intoxication (intoxication was the proximate cause)

Work-related Disability

A work-related disability is a condition that is either caused or aggravated by the work activity or the work environment. To be covered by workers' compensation insurance, the injury or disease must arise out of employment, not from non-work-related daily activities.

The disability could be caused by:

- a **traumatic accident**, such as a fall from a ladder or an accident with machinery;
- the **gradual effects** of normal work activities, such as carpal tunnel syndrome arising out of repetitive motion, or exposure to hazardous materials; or
- an **occupational disease** contracted because of the hazards of the employment and that is a particular risk of the occupation. For example, asbestosis can arise from the handling of asbestos.

Psychological Injuries

Three categories are used to determine if injuries in this area are compensable:

1. **Mental – Mental**: Cases involving mental trauma resulting in only psychological disablement **are not compensable** under workers' compensation. For example, a worker who becomes depressed because the employer announces layoffs will occur in the company generally cannot receive workers' compensation benefits to treat the depression.
2. **Physical – Mental:** Cases involving psychological problems or disability due to a physical injury **are compensable**. For example, a worker who becomes depressed after losing the use of an arm from a work injury can receive workers' compensation benefits to treat the depression.
3. **Mental – Physical:** Mental trauma at work resulting in a physical injury **is compensable**; however, for this purpose, the physical condition must be treatable by physical medicine, rather than purely psychological means. For example, a worker who experiences a heart attack caused by job stress can receive workers' compensation benefits for the heart condition.

When the Injury First Appears

An injury does not have to become obvious at work to be compensable. The deciding factor is whether work or the work environment caused the condition or injury, or aggravated a pre-existing condition.

Also, if an employee has a work-related injury and suffers a relapse of the problem while doing some ordinary activity outside of work, this relapse may be related to the original work injury.

Notice of Injury

All employees should report any work-related injury or disease promptly to someone in authority, such as a supervisor, company nurse or personnel director. If it is not clear, the employee must tell his or her employer that the

reason is, or may be, work related. Employers may not be liable for compensation if they do not know about a possible work-related injury in a timely fashion.

If possible, **employees should notify their employers within 14 days of the occurrence of the injury if they think they have a work-related injury or disease**. There are some circumstances in which this limit can be extended to **30 days or 180 days.** If the employer is notified within 30 days, the insurer cannot raise the "late notice" defense. If the employee cannot give notice due to physical or mental incapacity, the time frame starts after the incapacity ends. The time frames for occupational diseases are somewhat different (see the Frequently Asked Questions at the end of this chapter).

First Report of Injury Form

When an employee is injured and the employer is notified, it is the employer's responsibility, not the employee's or health care provider's, to complete a First Report of Injury form (see Appendix).

When an employee is injured and the employer is notified, **it is the employer's responsibility, not the employee's or health care provider's, to complete a First Report of Injury form** (see Appendix). This should be filed promptly by the employer so the insurance carrier will have adequate time to investigate the claim. An employer must give the injured employee a copy of the First Report of Injury form.

Employers legally have up to 10 days—after an injury that disables the employee for more than three calendar days—to file the form with their insurance company. If the report is not filed within this time, the employer can be assessed a penalty by the Minnesota Department of Labor and Industry (DLI). Insurance companies and self-insured employers have 14 days from the date of injury to file the report with the department's Workers' Compensation Division if the injured employee has more than three calendar days of disability.

Sometimes the employee does not have any disability or there is not notice of injury at the time of the injury. Then the 14 days begin with the first day of disability or from the employer's notice of the disability, whichever is later. As with employers, insurance companies and self-insured employers can be fined by the department for late filing of this form.

If the work-related injury is serious or results in a fatality, the employer must notify DLI by telephone at 1 (800) DIAL-DLI or (612) 297-1272 within 48 hours of the occurrence, in addition to filing the First Report of Injury form.

It is extremely important that the First Report of Injury form be as accurate and complete as possible. Even if all the information for the report is not known within the 10-day deadline, it should be submitted with as much information included as possible. Additional information can be forwarded to the insurer later. Employers should review the form and understand what information is needed ahead of time. Instructions for completing the form are printed on the back side of the form. Employers are responsible for filing the form; employees and health care providers should **not** complete the form.

Of particular importance are the two items asking for descriptions of the injury or illness and the events causing the injury or illness. Employers need to be as descriptive as possible. When describing the nature of the injury or illness (item

27 on the form), employers should identify the body part(s) injured and the type of injury or illness affecting the body part(s). Use words like these when naming body parts:

skull	spinal cord	upper back	knee
brain	throat	lower back	lower leg
ear	upper arm	chest	calf
eye	shoulder	rib(s)	ankle
nose	elbow	pelvis	foot
teeth	lower arm	groin	toe(s)
mouth	wrist	abdomen	internal organs
facial bones	hand	heart	vertebrae
disc	finger(s)	thumb	hip

If the work-related injury is serious or results in a fatality, the employer must notify DLI by telephone at 1 (800) DIAL-DLI or (612) 297-1272 within 48 hours of the occurrence, in addition to filing the First Report of Injury form.

The other part of the injury description is to identify the type of injury or illness. Employers should not make a medical diagnosis. They should use common language to communicate what happened to the body part(s). Try to use terms like these as much as possible:

amputation	sprain	burn
strain	concussion	asbestosis
contusion	silicosis	crushing
respiratory disorder	dislocation	rash
electric shock	hearing loss	fracture
infection	cut	laceration
puncture	cumulative trauma	

When employers describe the event causing the injury or illness (item 28 on the form), it is critical to describe the cause of the accident in as much detail as possible. Employers should use terms such as the following, completing the phrase, "injury from _____" to describe what happened in the occurrence or exposure.

contact with chemicals (name of chemical)

contact with hot object (name of object)

contact with flame

welding operations

contact with hot fluids

caught in machinery (type of machinery)

caught in objects being handled

broken glass

using hand tool

using power tool

fall from higher level

fall on same level

fall from ladder

slip

slip on wet or greasy surface

collision with another vehicle

collision with object (name object)

struck by motor vehicle

carrying object or person

lifting object or person

pushing or pulling object or person

strain using machine

reaching, turning, stretching

stepped off object

stepped on sharp object

struck by falling object

struck by moving machine parts

contact with electric current

explosion

assault by person

object in eye

jumping

The name of the employer's insurance company must be posted in the workplace. If it's not, employees should contact the employer's personnel or human resources office. If it is still not posted, contact DLI for assistance.

Liability

Completing a First Report of Injury form does not mean that the employer is accepting liability for the injury. The insurance company pays the claim only after it has investigated the claim and determined that it is compensable. If the insurance company determines the claim is not compensable, it will file a Notice of Primary Liability Determination form and indicate the claim is being denied.

When Payment of Partial Wage Replacement Benefits Starts

After receiving the First Report of Injury form, if the claim is not denied, the insurer or self-insured employer must begin to pay disability compensation benefits to an injured employee **within 14 days** of:

- when the employer becomes aware of the claimed compensable injury, or
- the employee's first day of lost wages or time from work, whichever day is later.

An employee whose claim is denied can request assistance from the department and through the dispute resolution process (see Chapter 6).

The insurer can continue its investigation after beginning payment. A denial can be asserted within a reasonable time if the insurer finds that benefits were paid because of wrong information. After 60 days from the employer's knowledge of injury, however, the insurer must use a Notice of Intention to Discontinue form rather than the denial form. This gives the employee a chance to contest the denial at an expedited hearing.

The name of the employer's insurance company must be posted in the workplace. If it's not, employees should contact the employer's personnel or human resources office. If it is still not posted, contact DLI for assistance.

FAQS Frequently Asked Questions

Q: What are the time limitations for notifying an employer that an employee has an occupational disease?

A: The employee must give notice within three years after he or she had knowledge of the cause of the disease and the disease resulted in a disability. The date of knowledge can be either the date the employee visited a physician and learned of the condition or when the disabling disease occurred, based upon the following employee situations:

- inability to work as a result of the claimed disease;
- taking another job at reduced wages as a result of the claimed disease;
- requesting a job change due to the claimed disease; or
- sustaining permanent partial disability as a result of the claimed disease.

Q: If the insurer denies liability for a work-related injury, how much time does an injured worker or his or her dependents have to file a claim petition if benefits are not paid voluntarily?

A: The injured employee has three years after the employer has made a written report to DLI, but not more than six years from the date of the accident.

In the case where the injured employee or his or her dependents are physically or mentally incapacitated, the limitation is extended three years from the date when the incapacity ceases.

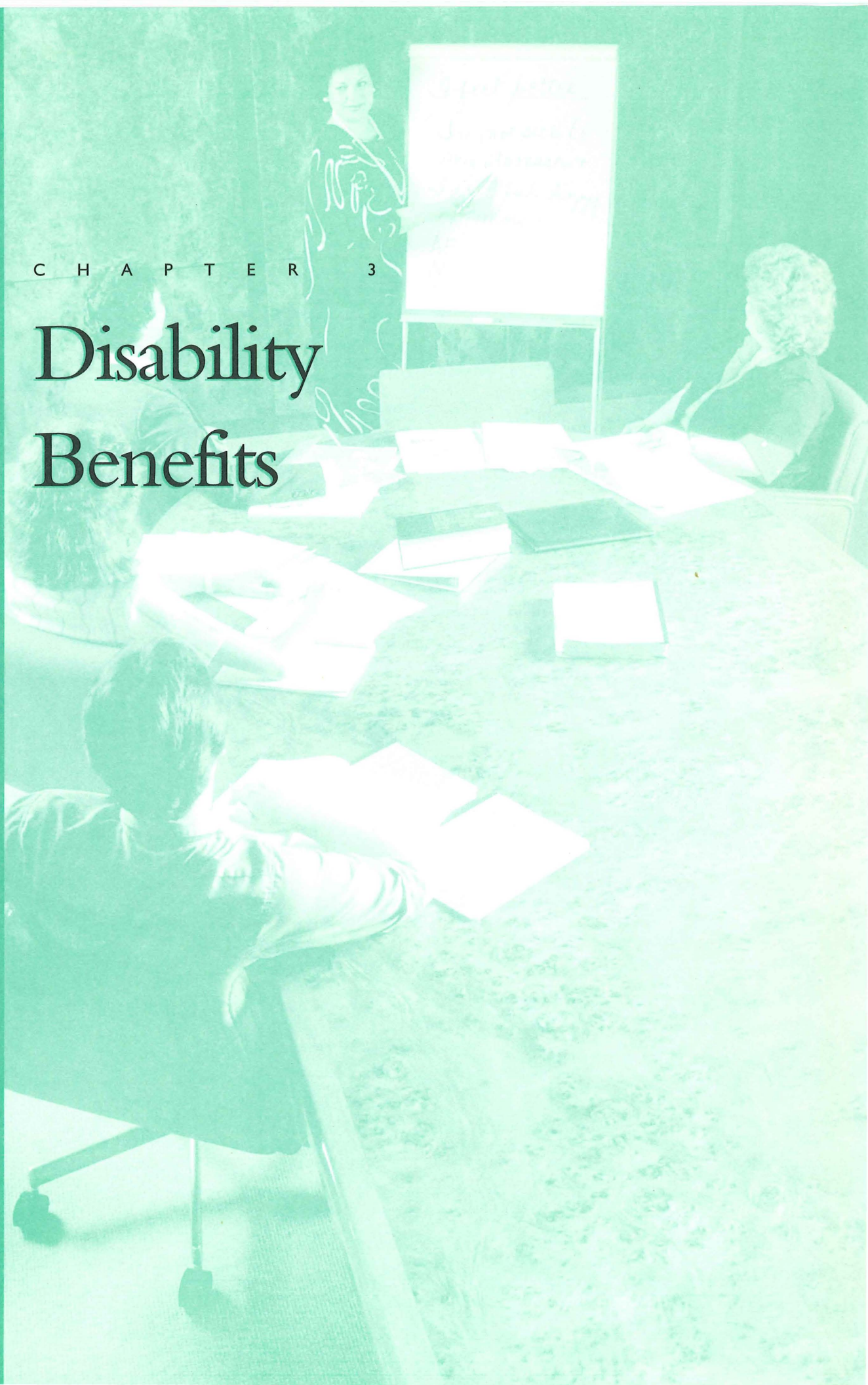
Once the workers' compensation insurer accepts responsibility for paying benefits, there is no time limit in which to seek further benefits.

In the case of dependents seeking compensation for a relative's death, the time limitation is three years after the department receives written notification from the employer of the worker's death, but not more than six years from the date of the accident. If the injured worker receives compensation prior to his or her death from the injury, the time limitation is not more than six years from the date of death.

PART 2: THE BENEFIT SYSTEM

CHAPTER 3

Disability Benefits



TERMS **used in this chapter**

Gross weekly wage

This generally refers to gross wages paid to the employee for a week of work at the time of the injury. This is used as the basis for calculating an injured employee's compensation rate. If the wage is for part-time employment, or is irregular or difficult to determine, an average weekly wage is computed by multiplying the average daily wage by the average number of days per week normally worked by the employee. Wages from any other employer the employee had at the time of the injury should be included in the same manner.

Maximum medical improvement

Maximum medical improvement (MMI) is the point in an injured employee's recovery at which no further significant, lasting improvement can be anticipated based on reasonable medical probability. It is the point at which an employee is as well as he or she will get. MMI will vary with the individual and the severity of the injury; some people recover faster than others. A report from a physician is needed to establish that an employee has reached MMI.

Statewide Average Weekly Wage (SAWW)

SAWW is a number defined in state statute representing the average weekly wage earned by all Minnesota workers. It is used to set certain benefit and payment levels. SAWW is based on the total number of employees covered by re-employment insurance in Minnesota and their total wages each year, as reported by the Minnesota Department of Economic Security. It is determined by dividing the total wages by the annual average number of insured workers, and dividing that number by 52 weeks. The SAWW becomes effective on October 1 of the year following the reporting period.

C H A P T E R 3 :

Disability Benefits

What are the Benefits?

Because Minnesota's workers' compensation law has changed many times over the years, an important point to remember is:

The law in effect at the time of the employee's injury determines the amount and duration of disability benefits to be paid. For example, workers injured in 1993 are not affected by the disability benefit changes made in 1995.

The law in effect at the time of the employee's injury determines the amount and duration of disability benefits to be paid. For example, workers injured in 1993 are not affected by the disability benefit changes made in 1995.

Workers' compensation has five main types of benefits:

- Wage replacement benefits — partial replacement of wages for the period during which the employee is unable to work or unable to earn as much as his or her pre-injury wage.
- Functional impairment benefits — payment for the loss of, or permanent damage to, body parts (such as the back, a hand or a leg).
- Death benefits — provided to the dependents of a worker whose death was caused or aggravated by a work-related injury or occupational disease.
- Medical benefits — all reasonable current and future costs arising from, or connected to, the evaluation and treatment of a work-related injury (see Chapter 4).
- Vocational rehabilitation benefits — including, but not limited to, counseling, job placement, evaluations and testing, on-the-job training, retraining, or other activities provided under a rehabilitation plan necessary to prepare the employee to return to his or her old job or a new job (see Chapter 5).

Wage replacement benefits fall into the following three categories:

1. Temporary Total Disability (TTD)
2. Temporary Partial Disability (TPD)
3. Permanent Total Disability (PTD)

Workers' compensation benefits are not taxable.

The 1995 Legislature made significant changes to these benefits. The following descriptions of benefits apply to injuries occurring on or after October 1, 1995, unless otherwise noted.

Temporary Total Disability Benefits (TTD)

An injured employee, who is temporarily not working, is entitled to TTD benefits if he or she is:

- totally unable to work because of the work injury, or
- released to work with restrictions, but is unable to find work within his or her restrictions.

Payment rate:

This wage loss benefit is two-thirds of the employee's pre-injury gross weekly wage at the time of injury. Minimum and maximum levels are set by the legislature (see Appendix).

Waiting period:

Initially, benefits are not paid for the first three calendar days starting with the first day of disability. A day of disability is a day with any loss of work time or wages or permanent loss of use or function due to the injury or illness. Benefits are paid for these three days if the worker has disability 10 or more calendar days after the first day of disability.

These descriptions of benefits apply to injuries occurring on or after October 1, 1995, unless otherwise noted.

For example, an injured worker who is totally disabled for the five consecutive days including and following an accident, only receives temporary total disability benefits for two days. However, if an employee loses time on June 1, returns to work for two weeks, then loses more time on June 15, the waiting period has passed and the employee receives benefits for all the lost time. [1]

(See Appendix for TTD Benefit Entitlement Limits.)

Duration:

- For injuries occurring from January 1, 1984, to the present: the insurer may propose to discontinue temporary total benefits if 90 days have passed since: a) the employee was sent a medical report indicating that he or she has reached maximum medical improvement, or b) the end of an approved retraining plan, whichever is later.
- For injuries on or after October 1, 1995, to the present: temporary total benefits may not be paid for more than **104 weeks**, except during an approved retraining plan.

An insurer, following proper procedures, may propose to discontinue temporary total disability benefits if the employee:

- returns to appropriate work;
- is released to work without effects of the injury;
- fails to diligently search for appropriate work within his or her physical restrictions, after released to return to work;
- unreasonably refuses gainful work;
- fails to make a good faith effort to cooperate with an approved vocational rehabilitation plan; or

- voluntarily withdraws from the labor market or retires for reasons other than the injury. For injuries occurring after January 1, 1984, an employee who receives Social Security old age and survivors' insurance retirement benefits is presumed retired. [2] However, the employee may present evidence to challenge this presumption.

Case Study:

Ruth worked part time at a retail clothing store. Ruth hurt her leg after tripping over some boxes and was unable to work for the six calendar days immediately following her accident. Her average weekly wage at the date of injury was $130. Ruth received temporary total disability benefits at the rate of $104 per week, the minimum benefit. However, because of the three-day waiting period, Ruth received benefits for only three days.

Case Study:

Lois injured her back while helping lift a nursing home resident. Her gross weekly wage was $450 at the time of the injury. Lois was unable to work for three weeks while she recuperated. Her weekly temporary total disability benefit was $300 (2/3 of $450) and, for the three weeks, her benefits totaled $900.

Temporary Partial Disability Benefits (TPD)

These are wage-loss benefits for an injured employee who is back to work but earning less than his or her pre-injury gross weekly wage. This may be due to fewer hours of work, a lower paying job, or a combination of both.

Payment rate:

Temporary partial benefits are two-thirds of the **difference** between the employee's gross weekly wages at the time of injury and the employee's current earning capacity (generally the gross weekly wage). The maximum wage plus TPD payment is capped at 500 percent of the statewide average weekly wage.

Duration:

TPD benefits are paid only while the injured employee is working. For injuries on or after October 1, 1992, TPD benefits are limited to 225 weeks during the first 450 weeks (8 2/3 years) after the injury.

Case Study:

Ricardo worked at a commercial bakery, earning $480 per five-day work week. Ricardo burned his arm taking pies out of an oven. He was unable to work for eight calendar days, and then he returned to work for half days for one week before returning to work full time. Ricardo received TTD for one week and one day, because of the continuing disability for more than 10 days after the injury. He also received TPD for five days. This amounted to $384 in TTD and $160 in TPD. The TPD is calculated as two-thirds of the wage loss during the second week (2/3 of $480 - $240 = 2/3 x $240 = $160).

(See Appendix for TPD Benefits Entitlement Limits.)

Permanent Total Disability (PTD)

PTD benefits are paid for certain severe injuries [3] or when other requirements have been met. The severe injuries named in the statute are:

1) total and permanent loss of sight in both eyes;

2) loss of both arms at the shoulder;

3) loss of both legs close to the hip, so that no artificial members can be used;

4) complete and permanent paralysis; and

5) total and permanent loss of mental faculties.

PTD is payable for these injuries even if the injured employee is able to work at a later date.

For all other injuries, PTD exists when the injured employee's physical disability permanently causes the employee to be unable to find anything more than occasional employment resulting in insubstantial income. [4] This means the worker cannot secure a steady job and earn a living from the work.

There are eligibility thresholds for claiming PTD benefits for injuries on or after October 1, 1995. To claim the benefit, employees must have one of the following:

- at least a 17 percent PPD rating of the whole body;
- a PPD rating of the whole body of at least 15 percent, and be at least 50 years old at the time of the injury; or
- a PPD rating of the whole body of at least 13 percent, and be at least 55 years old at the time of the injury, and have not completed grade 12 or obtained a general education degree.

Payment rate:

For injuries before October 1, 1995:

This wage-loss benefit is two-thirds of the employee's gross weekly wage. Maximum and minimum weekly benefits are the same as TTD benefits for the date of injury.

For injuries after October 1, 1995:

Same as for earlier dates of injury, but the minimum is 65 percent of the Statewide Average Weekly Wage.

Duration:

For injuries sustained on or after October 1, 1995, PTD ends at age 67 because the employee is presumed retired, unless the employee successfully challenges this presumption. [5]

If an injured worker has received $25,000 in PTD benefits, an offset can then be taken against further PTD benefits for Social Security retirement benefits or government disability benefits the employee receives, if the payments are for the same disability.

Permanent Partial Disability (PPD)

Permanent partial disability or "permanency" is a payment for loss of use of or loss of body function. Benefits are paid according to a state compensation schedule. The insurer obtains an impairment rating (also called a permanency rating) from a qualified health care provider. Then the insurer consults the payment schedule to determine the benefit amount.

PPD Rules

PPD is paid weekly, not as a lump sum, for dates of injury on or after October 1, 1995.

Following are some examples of impairments and their PPD percentage rating from the rules. [6] The ratings are different than the ratings used in other states. These impairments are very exact; if an impairment is even slightly different from those listed here, please consult the PPD rules to determine the percentage rating. Additional impairment percentages are awarded to some injuries for loss of range of motion of the affected body part. These ratings are used to determine the benefit amount.

Impairment examples	Percentage of body rating
Amputation of index finger at furthest joint from hand	2.5 percent
Achilles tendon rupture, unable to sustain body weight on toes	4
Nonunion of hip fracture	12
Loss of vision in one eye	24
Amputation of a hand at the wrist	54

The PPD benefit payment is determined by multiplying the percent of the disability in the permanent partial disability rules by the dollar amount corresponding to the percentage category in the compensation schedule (see next page).

When a worker's injuries affect more than one body part, the permanent partial disability percentage ratings are combined according to a statutory formula. Permanent partial disability is payable when temporary total disability benefits end. It is paid out at the same rate and intervals as temporary total disability.

The entire permanent partial disability rules, including all percentages, is available from Minnesota's Bookstore (see Chapter 11). For injuries before October 1, 1995, the permanent partial disability might be paid differently than described here. If you have questions about benefits, or need information about a specific injury, please contact the department.

PPD is paid weekly, not as a lump sum, for dates of injury on or after October 1, 1995.

Permanent Partial Disability Compensation Schedule

Percent of disability (Percentage category)	X	Amount	=	Benefit range
0 – 25		$ 75,000		$ 0 – 18,750
26 – 30		80,000		20,800 – 24,000
31 – 35		85,000		26,350 – 29,750
36 – 40		90,000		32,400 – 36,000
41 – 45		95,000		38,950 – 42,750
46 – 50		100,000		46,500 – 50,000
51 – 55		120,000		61,200 – 66,000
56 – 60		140,000		78,400 – 84,000
61 – 65		160,000		97,600 – 104,000
66 – 70		180,000		118,800 – 126,000
71 – 75		200,000		142,000 – 150,000
76 – 80		240,000		182,400 – 192,000
81 – 85		280,000		226,800 – 238,000
86 – 90		320,000		275,200 – 288,000
91 – 95		360,000		327,600 – 342,000
96 – 100		400,000		384,000 – 400,000

For example, the PPD payment for a 20 percent impairment is equal to 20 percent of $75,000, or $15,000.

Supplementary Benefits

For injury dates before October 1, 1983, supplementary benefits are payable to injured workers collecting either TTD or PTD for more than two years. Regardless of the number of weeks actually paid, an injured worker receiving either TTD or PTD benefits after four years from the date of injury would be eligible for supplementary benefits.

Supplementary benefits were abolished for injuries on or after October 1, 1995.

For injury dates between October 1, 1983, and September 30, 1992, eligibility for supplementary benefits does not begin until four years after the injury for employees receiving TTD. If the employee is receiving PTD, 208 weeks of either TTD and/or PTD must have been paid before the employee is eligible for supplementary benefits.

For injury dates between October 1, 1992 and September 30, 1995, only workers collecting PTD benefits are eligible for supplementary benefits, and after receipt of TTD and/or PTD for 208 weeks or four years have elapsed.

Supplementary benefits were abolished for injuries on or after October 1, 1995.

To be eligible for supplementary benefits, the employee's adjusted compensation rate must be lower than the current supplementary benefit rate. Call the workers' compensation hotline to get the current supplementary benefit rate.

Dependency or Death Benefits

Death benefits are provided to the dependent(s) of an injured employee whose death arose out of and in the scope and course of employment. The amount and duration of benefits is determined by the law in effect on the date of death. A spouse living with the injured employee at the time of injury or death is automatically considered a dependent. Children under 18, children under 25 who are students, and incapacitated children of any age are considered dependents. [7] Other persons may be considered dependent. An offset for Social Security Survivor benefits received may apply to dependency benefits to the same person.

Payment rate:

The benefit for a spouse without dependent children is 50 percent of the injured workers' gross weekly wage at the time of injury or death, plus cost-of-living increases. The benefit is increased to 60 percent of the gross weekly wage if there is one dependent child and to 66 2/3 percent of the gross weekly wage with two or more dependent children. [8]

Duration:

Under current law, the spouse receives benefits for a total of 10 years if there are no dependent children. If there are dependent children, the benefits are payable for 10 years after the last dependent child is no longer dependent.

Cost-of-living Increases

The law provides for cost-of-living increases for temporary total, temporary partial, permanent total and dependency benefits. The cost-of-living figure is determined by the state and is available by calling 1(800) 342-5354.

- For dates of injury on or after October 1, 1981, the yearly increase in benefits is made on the anniversary date of the employee's injury or death.
- For injuries from October 1, 1975, through September 30, 1992: The employee is eligible for a cost-of-living increase every year. For injuries occurring from October 1, 1992, through September 30, 1995, the first increase is delayed until the second year and is for the last year's adjustment only.
- For all injuries occurring prior to October 1, 1995, current benefit increases may not exceed four percent a year.
- For injuries occurring on or after October 1, 1995: The first increase in benefits may not occur until the fourth anniversary of the injury and is for the last year's adjustment only. Benefit increases may not exceed two percent a year.

(See Appendix, Adjustment of Benefits charts.)

Special Compensation Fund

The purpose of the Special Compensation Fund is to administer special programs of the Minnesota workers' compensation system. Insurers and self-insured employers pay an assessment to the fund that supports the administration of the workers' compensation system and assures payment of benefits to injured workers of uninsured employers.

If an employee suffers a compensable injury and the employer has not bought insurance or been approved for self-insurance, the employee may request that the state Special Compensation Fund pay the appropriate benefits (see Chapter 7).

FAQ Frequently Asked Questions

Q: Can anyone look at my workers' compensation file?

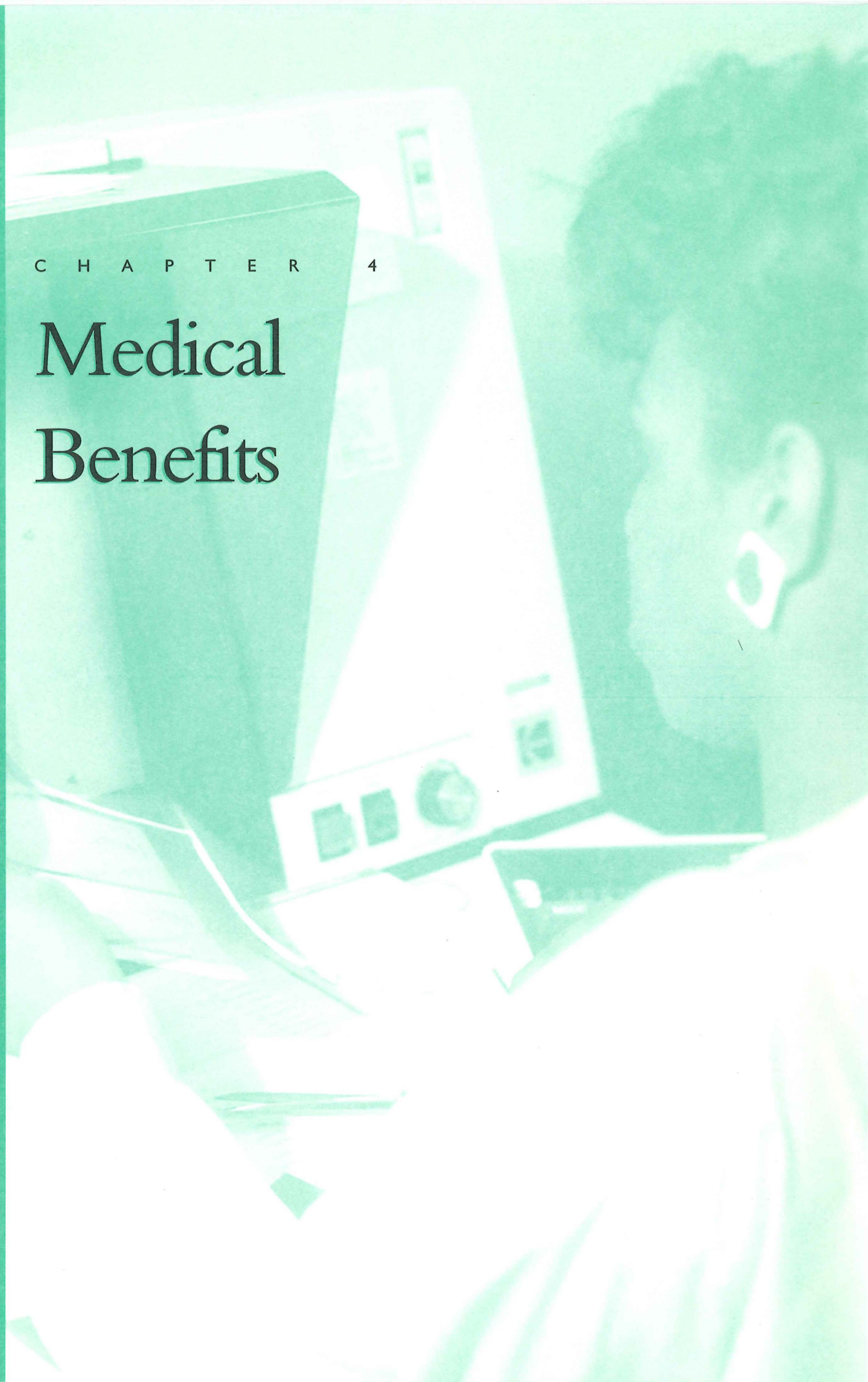
A: No, DLI's workers' compensation files are private. The file contents can be examined only by the employee, the employer at the time of injury, the appropriate insurer, the dependents of a deceased employee, the Department of Labor and Industry, or a person who has been authorized in writing by the employee to review it. There are some exceptions to this general rule; call the department for further guidance.

To request a file copy, call (612) 297-3167. For all injuries on or after February 1997 and most injuries between March 1995 and January 1997, files are stored as computer images and the original paper documents are not available. However, a paper document will be created if needed by the persons requesting the file.

PART 2: THE BENEFIT SYSTEM

CHAPTER 4

Medical Benefits



TERMS **used in this chapter**

Health care provider

A health care provider refers to a physician, podiatrist, chiropractor, dentist, optometrist, osteopath, psychologist, psychiatric social worker, or any other person who furnishes a medical or health service to an employee.

Qualified rehabilitation consultant

A qualified rehabilitation consultant (QRC) is professionally trained, experienced and registered with the Minnesota Department of Labor and Industry (DLI) to provide services under a vocational rehabilitation plan. The QRC determines if the employee is eligible for vocational rehabilitation services during a rehabilitation consultation, which is the first in-person meeting between the injured employee and the QRC. The QRC develops the rehabilitation plan with assistance from the employee and employer, and implements the plan.

C H A P T E R 4 :

Medical Benefits

When a work-related injury occurs, a primary goal is to return the employee to work as soon as possible. A number of different persons — employee, employer, health care provider, insurer and, in some cases, a qualified rehabilitation consultant (QRC) — have roles in helping achieve that goal.

Claims have successful outcomes when reports, forms and bills are completed accurately and timely, and when phone calls are returned promptly.

Injured workers are entitled to reasonable and necessary health care services. Workers' compensation pays for reasonable health care expenses related to the work injury. This includes health care treatment, prescriptions, supplies, equipment and reimbursement for mileage to appointments. It includes chiropractic and prescribed physical therapy sessions.

The employee's health care provider plays an important role in the return-to-work process. The health care provider starts the process by determining when the employee is capable of returning to work. While this may sound simple, it can become complicated as a result of:

- a poor relationship between the employee and employer;
- poor cooperation with return-to-work efforts due to lack of motivation by the employee;
- an incomplete medical history obtained in a first-time meeting between the patient and the health care provider; or
- incomplete information about the employee's actual job duties.

Sorting through it all can get very confusing and time consuming for the health care provider. Working with the insurer's claims administrator and the employer—and in some cases, a medical case manager from a certified managed care plan or a QRC—can be helpful in these situations. With information from all parties, a health care provider can get a clear picture of the employee's work situation, and the injured employee will be more likely to return to productive employment.

Medical Information and Data Privacy

The communication and distribution of an employee's medical records are governed by both state and federal privacy laws. Federal and state constitutional and statutory rights of privacy and patient/health care provider privilege, which protect the privacy of an individual under general health care laws, also apply in workers' compensation cases. An employee is protected against an employer's unauthorized communication with the employee's health care provider.

The employee has access to his or her medical record and the right to release access to it. However, written medical information directly related to a current claim for

compensation must be released to the employer, insurer or DLI, without the need for authorization by the employee. [1] Anyone else requesting copies of existing medical records and reports must get a signed authorization from the employee and provide it and a written request to the health care provider. Existing written medical data directly related to a current claim must be given these authorized requestors within seven days of the request.

The health care provider may, but is not required to, discuss medical information related to the claim. If there is a discussion, the requester must notify the employee at the time the discussion is requested or write the employee a letter after the discussion.

A penalty of up to $600 may be assessed for failure to provide written data related to a current claim for workers' compensation when an authorized request has been made. The requester must treat all data received as private data. Misuse of the data is a misdemeanor.

Meeting with the Health Care Provider

Employees are allowed to select the health care provider for their workers' compensation claim, except when their employer has a contract with a certified medical managed care plan. If the employer has a certified managed care plan, an employee may have to see a health care provider in the plan. There are exceptions (see Certified Managed Care Plans below).

An employee should tell the health care provider that the injury is likely work related. In addition to describing symptoms and problems, the employee should give the health care provider a complete and accurate description of how the injury happened or how the symptoms developed, and his or her work activities.

Before leaving the health care provider's office, the employee should understand clearly if he or she is released to return to work. If the employee is released to return to work, he or she needs to ask the provider what the work restrictions are, if any. The provider should give the employee a Report of Work Ability or a written report which contains the work restriction information. The employee should give the report to the employer, insurer and QRC promptly.

Medical Records and Reports

Medical records and reports are the most common way that health care providers communicate with insurers, employers, medical case managers and QRCs. The providers' records and reports address health care treatment issues and any limitations on return-to-work. Therefore, they must be prompt, legible, complete and appropriate.

The various parties involved review the records and reports for different reasons:

- The insurer needs to decide if the condition is work-related, justify the services billed, determine the clinical necessity of the treatment rendered and assess the employee's work ability.
- In a certified managed care plan, a medical case manager may see that the injured employee receives appropriate treatment, and promote a prompt, successful return to work.

- The QRC (developing the employee's rehabilitation plan) reviews the report to determine work status and restrictions.

Therefore, the medical records and office notes should include:

- The provider's opinion that the injury is or is not related to work activities. Also included should be the history of the injury and job activities, as reported by the employee. This is important because while it is often clear that the injury is work related (i.e. cuts and abrasions), it may not be so clear in other cases (i.e. back injuries, cumulative trauma injuries).
- Verification that the treatment was appropriate for the claimed injury (proper body part, type of treatment, etc.).
- Information on the clinical necessity and level of treatment provided.
- Detailed work restrictions, if applicable, so the employer can begin planning the employee's return to work.

Case Study:

Susan went to her family-practice doctor because she frequently woke up at night with pain in her hands. Her doctor determined that Susan had carpal tunnel syndrome, and asked her how she used her hands and arms at home and at work. Susan explained that her job involved applying twist ties to several hundred product bags each day.

Susan's doctor decided that her job was a factor in her condition. He stated his opinion in the medical records and described Susan's activities as she related them. He specifically noted that the condition was work related, and told Susan to report this to her employer. Susan promptly reported this to her employer who filed a First Report of Injury form with the workers' compensation insurer.

Because Susan had reported the injury, the insurer investigated the claim by requesting the medical records for the injury. The employer submitted Susan's job description, verifying the job duties. With this information, the claims adjuster confirmed that the claim was compensable. Susan notified her doctor about the insurer's acceptance of the claim so that all bills would be sent directly to and paid by the workers' compensation insurer.

The Report of Work Ability

The health care provider completes the Report of Work Ability (see Appendix)—or a similar form or a narrative report—containing the requested information at the following times:

- after every visit if visits are less frequent than once every two weeks;
- every two weeks if visits are more frequent than once every two weeks; or
- when work restrictions change.

On the form, the health care provider describes work abilities in detail, or if the employee is unable to work at all. The type of restrictions and their duration must be described in as much detail as possible. It is not appropriate for the physician to give a vague description such as "work as tolerated." With detailed work ability information, the employer can decide if there is work that fits the employee's work ability. A QRC may aid the employer and employee in this determination (see Chapter 5).

A copy of the completed Report of Work Ability must be kept as part of the medical record or office notes. In addition, a copy must be provided to the injured employee. Since medical records and reports may not be immediately sent to the insurer, it is the **employee's** responsibility to promptly submit any Report of Work Ability they receive to the employer, insurer and the qualified rehabilitation consultant, if there is one. The insurer may also request a Report of Work Ability, and must receive it within 10 days from the health care provider.

The Health Care Provider Report

The Health Care Provider Report form (see Appendix) is used to assist the insurer (or self-insured employer) in obtaining health care information about an injured employee. Whenever the insurer sends this form to the health care provider, the provider has 10 days to complete and return the form, or return a similar form or a narrative report containing the requested information. The insurer should clearly mark on the form the information that is being requested. The insurer must send a copy of the request to the employee.

Information about **maximum medical improvement (MMI)** and **permanent partial disability (PPD)** is reported on the Health Care Provider Report form. MMI is the point in an injured employee's recovery at which no further significant, lasting improvement can be anticipated based on reasonable medical probability (see Chapter 3). It is the point at which an employee is as well as he or she will get. MMI will vary with the individual and the severity of the injury because some people heal faster than others.

For injuries occurring on or after October 1, 1995, MMI might be found regardless of subjective pain or worsening of condition. Once MMI is reached, the employer/insurer informs the employee via a Notice of Intention to Discontinue form; or via a letter stating the employee has reached MMI based on the report of the health care provider, if benefits are not being paid.

A permanent partial disability benefit is payable for permanent loss of use of the body based on the permanent partial disability rules in effect at the time of the injury [2] (see Chapter 3).

Requests for Return-to-work Information

A health care provider has 10 days to respond to a request on, or for, a state form [3] from an employee, insurer or the assigned QRC about whether the physical requirements of a proposed job are within the employee's medical restrictions.

Case Study:

Josh is a salesman who fractured his left elbow when he fell at work. His doctor took him off work for six weeks when Josh said that he couldn't hold the phone and write at the same time. Josh's employer obtained authorization from Josh and then contacted the doctor to see if Josh could do one-handed job activities, or do his job using a speaker phone or phone headset. A meeting between Josh, his employer and his doctor quickly determined his special needs. Following the doctor's recommendations, Josh's employer modified his job site with a speaker phone and a means to elevate his broken arm as needed. His employer also made temporary transportation arrangements because driving was difficult for Josh.

Charges for Reports and Copies

The Health Care Provider Report and the Report of Work Ability (or a substitute narrative report) are required forms; therefore, the provider must respond, without charge, to requests for these forms. If the health care provider is asked for information not included in these reports, the requested information would be classified as an additional report and the provider may charge a reasonable fee for this service.

The health care provider may charge a reasonable fee for reviewing records and responding to questions, verbally or in writing, if authorized by law. He or she may also charge for copies of existing medical records and reports that are related to a current claim for workers' compensation benefits. [4]

Second Surgical Opinion

If a health care provider recommends a surgical procedure, the employee and insurer are entitled to get a second opinion on the surgery at the expense of the employer. An employee cannot be forced to undergo surgery. However, if surgery is the only remaining option, refusal may result in the employee being found to be at maximum medical improvement.

Examination by a Health Care Provider Selected by the Insurer

If a claim is in dispute or medical treatment or restrictions are not agreed upon, the employee may have to submit, at reasonable times, to an examination by a health care provider selected by the employer or insurer. This examiner may be called the "employer's physician" and the examination may be called an "independent medical examination" or an "adverse examination." [5]

Medical Fee Schedule

The Medical Fee Schedule was created to establish the maximum amounts that the insurer must pay for reasonable and necessary medical services.

If a health care provider's fee is higher than the amount listed in the fee schedule, neither the insurer, employer, nor the employee is required to pay the difference. Not all services are specifically listed in the fee schedule. If the service is not listed, the provider is usually paid 85 percent of the charged fee.

Treatment Parameters

Copies of the permanent treatment parameters may be obtained from Minnesota's Bookstore at (612) 297-3000 or 1(800) 657-3757.

A majority of the costs of workers' compensation claims is related to health care treatment. Concern over this fact prompted DLI, at the direction of the 1992 Legislature, to develop treatment parameters dealing with the most common types of injuries and most common treatments associated with workers' compensation claims. The challenge was to develop standards that are flexible enough to permit health care providers to use independent judgment in each case, yet specific enough to minimize excessive treatment.

The parameters were developed by DLI in conjunction with the Medical Services Review Board, and in consultation with the Minnesota Medical Association, the Minnesota Physical and Occupational Therapy Associations and the Minnesota Chiropractic Association.

The treatment parameters are designed to assist insurers in identifying health care services that are performed at a level or at a frequency that is excessive, unnecessary or inappropriate based upon accepted medical standards for quality health care. [6] The insurer may deny payment for services if they go beyond the treatment parameters.

Treatment parameters address certain medical conditions covered by the rules. [7] Treatment phases are outlined for each condition.

A key concept included in the treatment parameters is the concept of "effective care." "Effective care" means the injured worker is improving, medical tests show improvement, and/or the patient's ability to function is improving. For care to be effective, two of the three improvements must be occurring. If care is not effective, the provider must reassess and either stop care, change the treatment plan, or refer the injured worker to another provider.

Disciplinary Action and Penalties

A health care provider is required to cooperate with an investigation of complaints about the provider. DLI's administrative process allows the commissioner to resolve a complaint through instruction or written agreement, in appropriate cases. Allegations of some infractions will be sent to the Rehabilitation and Medical Affairs unit, then referred to the Medical Services Review Board. A hearing may be initiated.

Certified Managed Care Plans

Certified medical managed care plans became part of the workers' compensation system as a part of the 1992 law changes.

Self-insured employers are allowed to provide medical services through a certified managed care plan, but are not required to do so. [8] Insured employers may do so if their workers' compensation insurer has contracted with a certified managed care plan. *However, once an employer has a contract with a certified managed care plan and the employer has notified his or her employees that treatment will be provided through it, the injured employee is required to be treated by a health care provider in the managed care plan network. (Exceptions are listed below)*

Specific criteria have been developed for workers' compensation certified managed care plans, and DLI is authorized to certify plans and to suspend or revoke certification (see Appendix for a list of the certified plans).

The focus of a workers' compensation certified managed care plan is to:

- provide prompt evaluation (within 24 hours) and treatment following a reported injury;
- encourage communication between the employee, health care provider and employer to help the employee recover and return to work; and
- provide medical case management where needed to monitor and coordinate health care services.

Obtaining Certified Managed Care Coverage

An insurer or self-insured employer may contract with one or more certified managed care plans to provide health care services to injured employees. However, unless the insurer makes managed care a condition of coverage, the employer is not obligated to select a certified managed care plan. Once an insurer has contracted with a certified managed care plan, the insurer may negotiate with the employer as to whether or not that employer will use the certified managed care plan as part of the workers' compensation coverage.

An employee cannot be required to see a health care provider within a medical managed care plan that has not been certified by DLI.

An employer may be unable to select a certified managed care plan. For example, in some areas of Minnesota, a managed care plan provider may not be accessible. Managed care plans must provide health care providers within 50 miles of either the employee's residence or the workplace for businesses outside of the seven-county Twin Cities metropolitan area. The distance limit is 30 miles for Twin Cities area employers. This mileage requirement is for primary care only. Specialty doctors may care for patients outside these mileage limits.

There are situations where an employer is unwilling to contract with a certified managed care plan. For example, the employer may already have a good working relationship with a health care provider who is not part of a certified managed care plan. In other cases, an employer may have an active in-house medical program. In either case, employees are allowed to select their own health care provider, if they so choose.

If the employer has selected more than one managed care plan, the employee may choose from among those selected plans. Once the employee has been evaluated by a health care provider in the managed care plan, that employee may choose any appropriate provider within the network.

Exceptions to Using a Certified Managed Care Plan Provider

The managed care plan must have a 24-hour number that provides information about its services.

The primary exceptions to the requirement that an employee select a health care provider in the certified managed care plan network are:

1. The injured employee's choice of provider has maintained the employee's medical records and has a documented history of treatment prior to the injury.
2. The injured employee requires emergency care.
3. The employer or insurer is part of forming, owning or operating the managed care plan.
4. The injured employee's medical treatment started before the employer chose a managed care plan.
5. The injured employee's place of employment and residence are beyond the mileage limits of a participating health care provider.

The first exception is automatically met if the injured employee documents at least two visits with the provider within the two years before the date of the injury. If the employee's treatment history does not meet this standard, the employee may still request approval based on the specific treatment history of the health care provider.

A provider who is not part of the certified managed care plan is generally subject to all the treatment standards and internal requirements of the plan while the

injured employee's workers' compensation coverage includes certified managed care. The managed care plan has the responsibility of notifying the employee's provider of the treatment standards and internal requirements. If the injured employee needs specialty care for services the health care provider cannot provide, or if the employee decides to change treating providers, those services must be supplied within the certified managed care plan provider network, if available.

The second exception is met if the employee needs emergency care services. Emergency services are services required for the diagnosis and treatment of medical conditions that could cause serious disability or death if not treated immediately. Services needed to immediately treat severe pain are also considered emergency services.

Internal Dispute Resolution

The certified managed care plan must have an internal dispute resolution procedure to handle medical managed care plan disputes. The managed care plan's internal dispute resolution procedure must be completed before filing the dispute with the department.

The managed care plan has 30 days to handle the complaint. [9] If the issue is still in dispute at the end of 30 days, any party may bring the issue to DLI for resolution.

Paying Medical Bills

Sometimes getting the health care provider bill paid can be the most frustrating part of a workers' compensation claim. Usually direct communication is the most effective way to handle problems or misunderstandings with bills. All parties must be willing to cooperate and provide the necessary information to speed the payment of the medical bill.

"Guidelines for Payment of Workers' Compensation Medical Bills" summarizes the responsibilities of the provider and payer (call DLI for a copy).

Health Care Provider Responsibilities

"Guidelines for Payment of Workers' Compensation Medical Bills" summarizes the responsibilities of the provider and payer (call DLI for a copy).

The health care provider's role is to send the bill to the insurer along with a copy of the medical record documenting the services provided. The bill should be itemized and include office visits, physical therapy and any diagnostic procedures. It is important that the health care provider use the appropriate codes and uniform billing forms. The documentation should provide reasons for the services provided and their relationship to the work injury.

The health care provider must openly and quickly communicate with the insurer, providing any office notes or other reports as requested within the data-privacy limits. The provider has seven working days to respond to a request from an insurer for copies of existing medical data directly related to a current claim for compensation.

Insurer Responsibilities

No later than 30 calendar days after receiving the bill and the appropriate medical record, the insurance company must:

- pay the charge or any portion of the charges not denied;
- deny all or part of the bill because it is not compensable or services provided were excessive; or
- request specific additional information to determine if the charge or condition is compensable.

If the insurance company denies all or part of a charge, it must send written notification, including the basis for the denial, to the employee and provider within 30 days.

Employees and Medical Bills

Employees can help ensure a smooth process by:

- promptly reporting the injury to their employer;
- getting the insurer's address from their employer and giving it to their health care provider; and
- notifying their provider if they are covered by a certified managed care plan.

In almost all circumstances, the employee may not be billed for health care services or supplies related to a work injury. The health care provider may send the employee a copy of the bill, but must indicate that it is a copy only and that the employee is not responsible for the bill.

The provider may bill the injured employee if the employee has not reported the injury to the employer. Sometimes the injured employee reports the injury but the insurer or self-insured employer sends a denial on a Notice of Primary Liability Determination form to the employee stating that the employee's condition is not related to a work injury. If this happens and the employee does not file a claim petition with DLI or otherwise establish a work-related condition, the provider may bill the employee for the health care services.

If the claim is denied, the injured employee may file a claim petition over the issue of whether the injury is work related. When this happens, the medical bills may be paid by the employee's general health insurance until the claim is decided. If the employee's condition is later determined to be work related, the general health insurance must be reimbursed by the workers' compensation insurer. This is a rather complicated issue and the employee and provider are advised to call DLI for more information.

FAQ Frequently Asked Questions

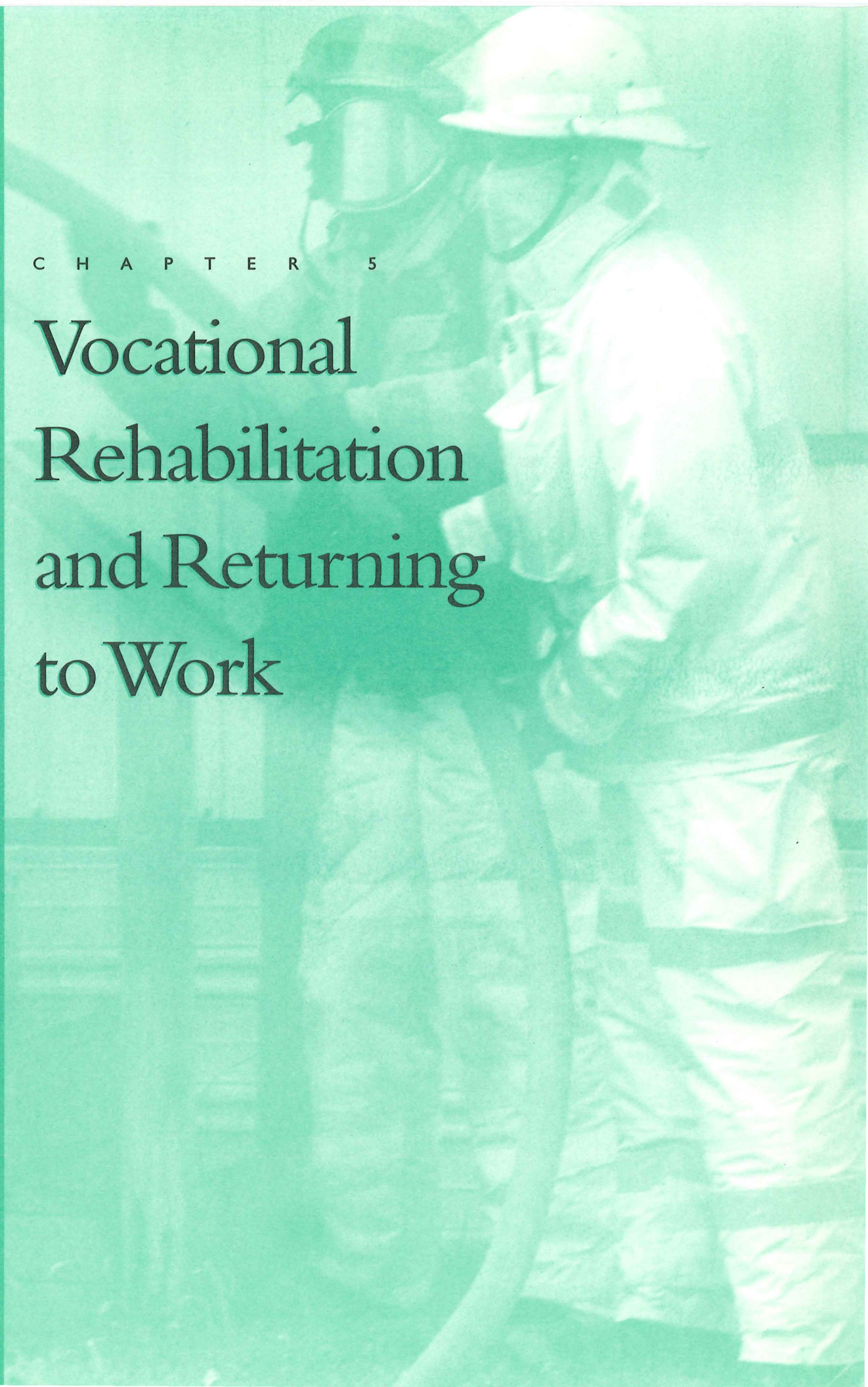
Q: How does an employee know if he or she is covered by a certified managed care plan?

A: An employer or an insurer that has contracted with a certified managed care plan must post a notice, notify each employee of the enrollment, and tell an employee about managed care coverage when the employee gives notice of a work injury. ***An employee is not required to receive treatment for a work injury from the managed care network of providers if notice of coverage has not been given or if the managed care plan is not certified by the department (see Appendix for a list of certified managed care plans).***

PART 2: THE BENEFIT SYSTEM

CHAPTER 5

Vocational Rehabilitation and Returning to Work



TERMS **used in this chapter**

Suitable gainful employment

Suitable gainful employment means employment that is:

- reasonably attainable and within the employee's work abilities, and
- restores the injured employee as close as possible to his or her pre-injury economic status

Consideration is to be given to the employee's former employment, age, education, qualifications, previous work history, and interests and skills.

Qualified rehabilitation consultant

A qualified rehabilitation consultant (QRC) is professionally trained, experienced and registered with the Minnesota Department of Labor and Industry (DLI) to provide services under a vocational rehabilitation plan. The QRC determines if the employee is eligible for vocational rehabilitation services during a rehabilitation consultation, which is the first in-person meeting between the injured employee and the QRC. The QRC develops the rehabilitation plan with assistance from the employee and employer, and implements the plan.

Registered rehabilitation vendor

A registered rehabilitation vendor is a public or private entity registered with the department to provide job development and job placement services under an approved rehabilitation plan.

Rehabilitation request

Any party may file a rehabilitation request with the department when there is a dispute about a rehabilitation matter (see Rehabilitation Dispute in this chapter).

C H A P T E R 5 :

Vocational Rehabilitation and Returning to Work

Employer Return-to-work Programs

Experts agree that employers should strive to bring their injured workers back to work quickly—even before they have fully recovered—if possible. Depending upon the extent of the injury, employees may return to light-duty work or to different jobs than they had before they were injured. Key benefits of return-to-work programs include lower workers' compensation costs, greater retention of skilled employees, improved employer-employee relations and improved morale of the injured worker. Disability management programs will help employers get employees back to work in suitable positions.

Key benefits of return-to-work programs include lower workers' compensation costs, greater retention of skilled employees, improved employer-employee relations and improved morale of the injured worker.

Employers should be aware that an employee may have restrictions upon returning to work after an injury. It is important to offer a number of approaches to work within the employee's restrictions as a transition to permanent duties. It is also important to permit and encourage the employee to participate in prescribed treatments and exercises.

Requirements of the date-of-injury job may have to be modified because of medical restrictions. Employers can get assistance on job modification by working with a disability manager or qualified rehabilitation consultant (QRC). The employee's supervisor should also be involved in the job modification.

Sometimes employers are unable to modify the work setting to accommodate the employee's restrictions and the injured employee is not able to return to his or her previous position. In such cases, any party may request a rehabilitation consultation to determine whether vocational rehabilitation services would be helpful in returning the employee to work. A rehabilitation consultation by a QRC is provided at the request of the employer, employee or the Minnesota Department of Labor and Industry (DLI). (See the Rehabilitation Consultation section for information on other times when a consultation is needed.)

In cases where the employee is a union member, it is important to coordinate return-to-work programs with the union because a return-to-work program must conform to seniority provisions in union contracts.

Another important point to remember is that an employer with more than 15 employees may be penalized for refusing to offer continued employment to an employee when work is available within the employee's physical limitations. That penalty is equal to one year's wages for the employee, up to $15,000. This penalty is not insurable.

Goal: Suitable Gainful Employment

Vocational rehabilitation benefits are available to help eligible injured workers return to suitable gainful employment. Rehabilitation is designed to:

- restore the injured employee to a job related to his or her former employment, or
- return the injured employee to a job in another work area which produces an economic status as close as possible to what he or she would have enjoyed without a disability.

An employee may be rehabilitated to a job with a higher economic status than would have occurred without a disability if doing so increases the likelihood of reemployment. Economic status is measured not only by immediate income, but also by opportunity for future income.

Disability Status Report

The insurer is required to file a Disability Status Report at certain points in time to notify DLI of the employee's disability and rehabilitation consultation referral status. A copy of the report is to be provided to the employee.

The insurer must file a Disability Status Report to notify DLI when:

the employee has not returned to work:

- within 14 days of knowledge that his or her disability is expected to last 13 or more weeks;
- the employee is off work at 90 days after the date of injury;
- within 14 days of a request for a rehabilitation consultation; or
- if a rehabilitation waiver has been granted, 180 days have passed since the date of injury, and no rehabilitation consultation has been provided.

the employee has returned to work:

- and there is a request for a rehabilitation consultation.

Rehabilitation Services Waiver

When the insurer files a Disability Status Report, the employer/ insurer is to refer the employee for a rehabilitation consultation or request a waiver of rehabilitation services.

DLI reviews requests for waivers of rehabilitation services. A waiver will be granted when the employer documents that the employee will return to suitable gainful employment with the employer within 180 days of the date of injury. Currently, DLI notifies the insurer and the employee whether the waiver was granted or denied.

A waiver is only effective for 180 days after the date of injury. The initial waiver can be renewed when the employer documents that the employee will return to work shortly. If the employee is still off work after that point in time, it is appropriate for a QRC to provide rehabilitation services.

If a waiver is not granted, a rehabilitation consultation should be provided. If

the insurer does not refer the employee for a rehabilitation consultation, the department will order that a rehabilitation consultation be provided by DLI's Vocational Rehabilitation unit or by a QRC of the employee's choice.

A penalty may be issued for failure to file a Disability Status Report as required.

Case Study:

Tom broke his arm while working as a roofer. The treating physician said Tom would be released to return to work within 100 days of the date of injury, and would be able to resume roofing without restrictions. The roofing company, in writing, offered Tom his date-of-injury job as a roofer when he was released to return to work.

The waiver of rehabilitation services was granted for the following reason: the roofing company documented that Tom would return to suitable gainful employment with the company, within the treating physician's restrictions, within 180 days of the date of the injury. Tom returned to work as planned, and no rehabilitation services were needed.

Rehabilitation Consultation

A rehabilitation consultation is the first in-person meeting between the injured employee and a QRC. The goal of the consultation is to determine if the employee is eligible for rehabilitation services.

Unless a waiver of rehabilitation consultation services is granted, a rehabilitation consultation is to be provided to an injured employee in the following situations:

- upon request of the employee, an employer/insurer, or DLI; or
- when the employee is off work 90 days after the date of injury or when the employee's disability will last more than 13 weeks, whichever is earliest.

The employee requests a rehabilitation consultation by giving written notice to the insurer and a copy to the department. A list of QRCs is available from DLI's Rehabilitation and Medical Affairs unit.

Choosing a Qualified Rehabilitation Consultant

An employee can choose a QRC once during the period starting:

- before a referral by an insurer to a QRC; or
- before a first in-person meeting between a QRC and the employee;

and continuing until 60 days after the filing of the rehabilitation plan.[1]

A decision regarding a subsequent request for a change of QRC is made by the commissioner or a workers' compensation judge based on the best interests of the parties.

Eligibility for Rehabilitation Services

An employee is qualified for vocational rehabilitation services if he or she, due in substantial part to the effects of the work injury, meets the following requirements:

1. The employee is:

- ◆ unable to return to the pre-injury job or occupation;
- ◆ not expected to return to suitable gainful employment with the date-of-injury employer without rehabilitation services; and
- ◆ expected to return to suitable gainful employment through rehabilitation services, considering the treating physician's opinion of the employee's work ability. OR,

2. The parties agree that the employee is a qualified employee for rehabilitation services.

A QRC makes the eligibility decision following the rehabilitation consultation. The QRC files a copy of the Rehabilitation Consultation Report with DLI within seven days of the first in-person meeting with the employee, and provides a copy to the employee, employer and the insurer.

Case Study:

As a maintenance worker for a small business, Ned was expected to lift and bend to use and service heavy equipment. He sustained a low back injury and needed surgery. The treating physician said that Ned would have lifting and bending restrictions after surgery, but was not able to specify what they would be. The employer did not have employment available to accommodate lifting and bending restrictions.

Ned qualified for rehabilitation services because he could not be expected to return to his date-of-injury position, or another job with the employer, within the projected restrictions of the treating physician.

The Rehabilitation Plan

Once a QRC determines that an employee is qualified for rehabilitation services, the QRC will develop, record and file a rehabilitation plan using the Rehabilitation Plan form (R-2). This plan is completed in consultation with the employee and the employer/insurer. The purpose of the rehabilitation plan is to state:

- ◆ the vocational goal;
- ◆ the rehabilitation services to be provided; and
- ◆ the projected amounts of time and money that will be needed to achieve the vocational goal.

A rehabilitation plan must be filed before vocational rehabilitation services are provided.

The QRC will provide a copy of the proposed rehabilitation plan to the employee and the employer/insurer within 30 days of the first in-person meeting between the QRC and the employee.

After receiving the plan, each party has 15 days to either:

- sign the plan, signifying agreement, and return it to the QRC, or
- promptly notify the QRC of any objection to the plan, and work with the QRC to resolve the objections to the plan.

If agreement is not reached on the plan, the objecting party has 15 days to file a rehabilitation request with DLI. If, after 15 days, the objecting party has not filed a rehabilitation request or signed the plan, the QRC will file the plan with DLI and show that it was sent to each party.

Once received by DLI, the plan will be considered approved. The QRC also sends a copy to the employee's treating physician. Once the plan is approved, the QRC is to begin providing the services in the plan.

Rehabilitation Services

Rehabilitation services means a program of vocational rehabilitation, including medical management, designed to return an employee to suitable gainful employment. It consists of the delivery and coordination of services by rehabilitation providers under a rehabilitation plan tailored to the individual employee's needs.

Specific services may include:

- vocational evaluation
- counseling
- medical management
- job analysis
- job modification
- job development
- job placement
- labor market surveying
- vocational testing
- transferable skills analysis
- work adjustment
- job seeking skills training
- on-the-job training
- retraining

Amending the Rehabilitation Plan

A rehabilitation plan is to be amended when one or more of the following occurs:

- costs or duration of the plan have been exceeded;
- the vocational goal needs to be changed;

- the employee's physical restrictions change significantly; or
- restrictions significantly interfere with plan implementation.

The QRC, the employee or the employer/insurer may propose amendments to the rehabilitation plan. The QRC facilitates discussions of proposed amendments, prepares the amendment using the Rehabilitation Plan Amendment form (R-3), and provides a copy of the amendment to the parties. The parties are to respond to the amendment as described above for response to the Rehabilitation Plan.

Retraining

The purpose of retraining is to return an injured employee to suitable gainful employment through a formal course of study. Retraining is to be given equal consideration with other rehabilitation services, and is proposed if other services are not likely to lead to suitable gainful employment.

The purpose of retraining is to return an injured employee to suitable gainful employment through a formal course of study.

For injuries on or after October 1, 1995, any request for retraining by an employee must be filed with the commissioner before 104 weeks of any combination of temporary total and temporary partial disability benefits have been paid.

The employer or insurer must notify the employee in writing of the 104-week limitation for filing a request for retraining. The notice to the employee must be given before 80 weeks of temporary total or temporary partial disability benefits have been paid.

Retraining is limited to 156 weeks. The QRC is responsible for preparing the retraining plan. A retraining plan, submitted on a retraining form, must also include the following attachments:

- the retraining goal;
- a syllabus for each course;
- the physical requirements of the work for which the employee is being retrained;
- medical documentation that the work will be within the employee's physical restrictions;
- vocational testing results; and
- a recent labor market survey for the field in which the training is proposed.

When the parties agree to a retraining plan, the plan is submitted to DLI for approval. If the parties do not agree, a rehabilitation request for approval of the plan is to be filed with the DLI.

During an approved retraining plan, the employer is liable for the following expenses:

- required rehabilitation services during the plan, and
- reasonable costs of tuition, books, travel, custodial day care, board and lodging.

If the employee is not employed during the retraining plan, temporary total disability benefits are payable during retraining and for up to 90 days after the

end of the approved retraining plan. This payment during retraining does not reduce the 104 weeks of temporary total benefits the employee may also be entitled to receive.

If the employee is employed during the retraining plan, temporary partial disability benefits may be payable during the retraining. This payment does not reduce the 225 weeks of temporary partial disability benefits the employee may also be entitled to receive.

On-the-job Training

The goal of on-the-job training (OJT) is to restore the injured employee to suitable gainful employment with the employer that provides the OJT. During OJT, the injured employee learns new job skills in the actual workplace. When the parties agree to OJT, the plan is submitted to the Labor and Industry commissioner for approval or denial. If the parties do not agree, a rehabilitation request for approval of the plan is to be filed with the DLI.

Job Development and Job Placement Services

Job development and job placement services are to be provided under a rehabilitation plan by one of the following:

- the QRC;
- a placement specialist in the QRC's firm;
- a registered rehabilitation vendor; or
- an organization accredited by the Commission on Accreditation of Rehabilitation Facilities.

If a registered rehabilitation vendor provides job placement or job development services under the rehabilitation plan, the insurer may select the vendor.

Closure of the Rehabilitation Plan

Rehabilitation is completed when the employee has returned to suitable gainful employment, or when it is determined by the commissioner or a workers' compensation judge that further rehabilitation services will not help the employee return to suitable gainful work. The QRC will close the rehabilitation plan after the employee has successfully worked for 30 days.

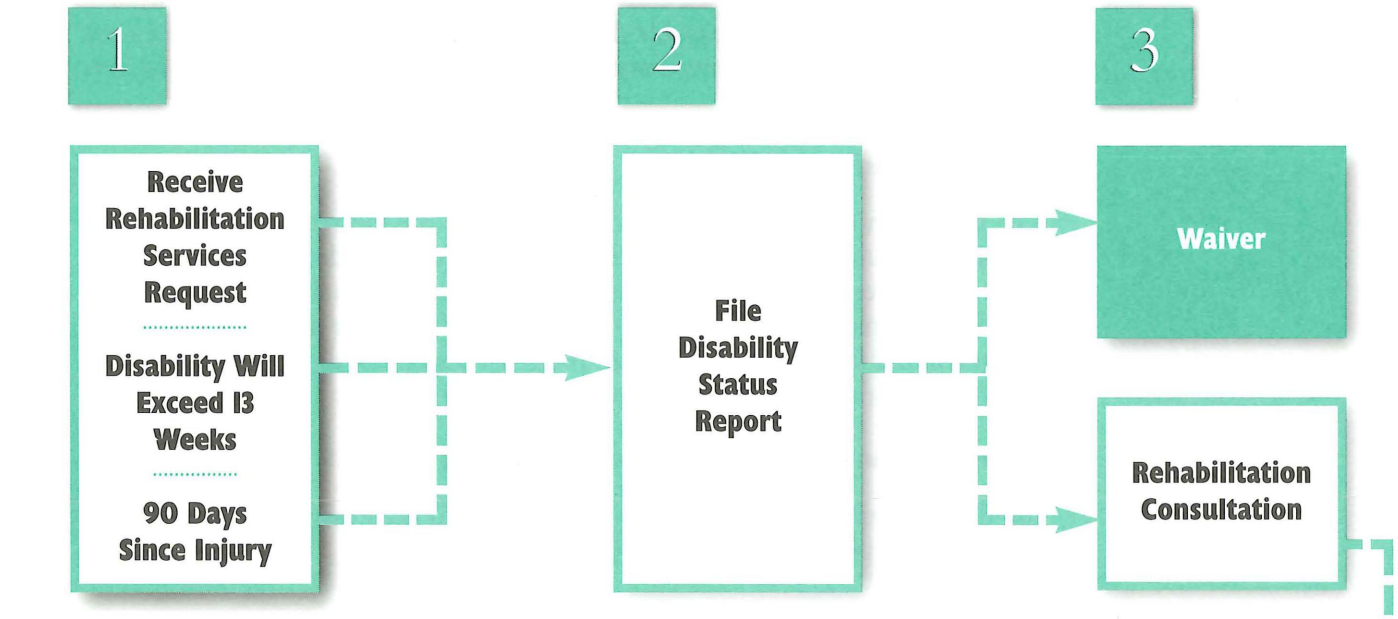
The employee or the insurer may request the closure of rehabilitation services at any time by filing a rehabilitation request with DLI. The commissioner or a workers' compensation judge may close a rehabilitation plan for the following reasons:

- The employee is not likely to benefit from further rehabilitation services.
- The employee is not participating effectively in the plan.
- Based on the employee's performance, he or she is unlikely to successfully complete the plan.

The rehabilitation plan may also be closed by written agreement of the parties.

The QRC completes the Notice of Rehabilitation Plan Closure form (R-8) to close rehabilitation. The R-8 is filed with the employee, the insurer and DLI.

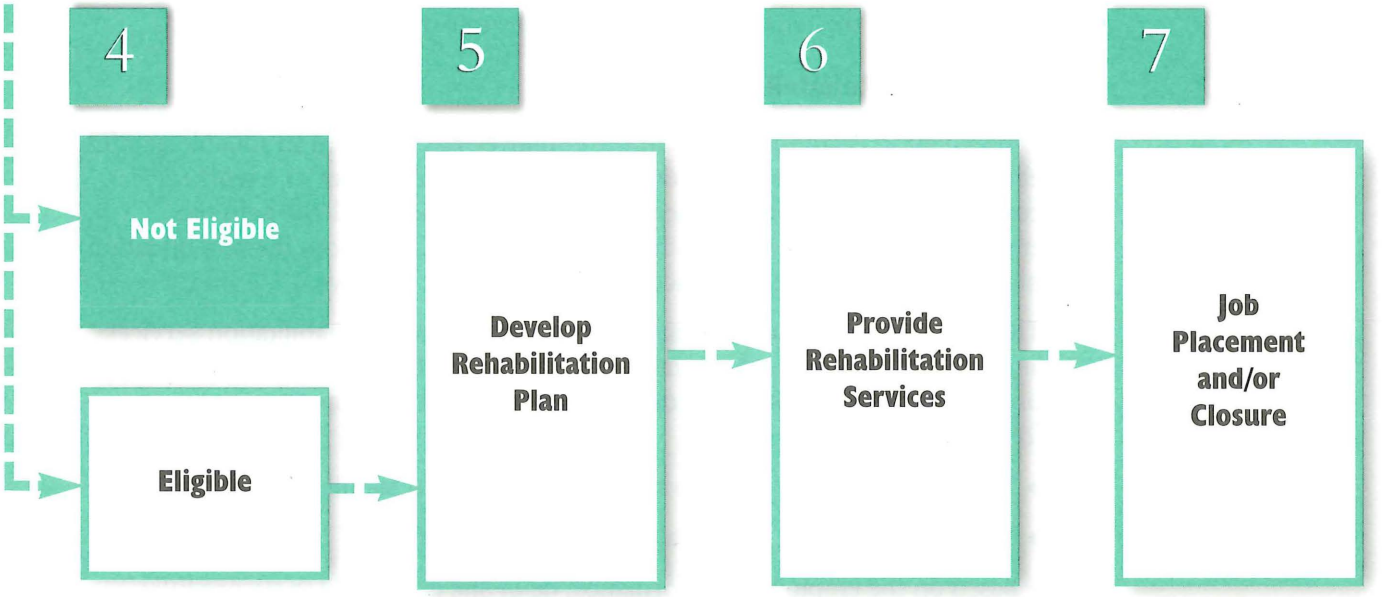
Vocational Rehabilitation Process



1. Employer/insurer receives request for rehabilitation services or learns that disability will exceed 13 weeks or 90 days have passed since injury and no return to work.

2. Employer/insurer completes Disability Status Report, requesting a waiver or making a referral for consultation.

3. Rehabilitation consultation conducted by QRC to determine eligibility for rehabilitation services.



4. If the employee is found eligible, a plan will be developed. If the employee is found not eligible, the determination can be appealed.

5. Plan development by QRC, in consultation with the other parties; 30 days are allowed. The parties then have 15 days to review the plan, object or approve it.

6. Rehabilitation services provided according to the plan by QRC and registered vendors, if any. Plan Progress Report filed after six months.

7. Job placement and return to work monitored, plan closed.

Resolution of Rehabilitation Issues

Any party may file a rehabilitation request with DLI if there is a dispute about rehabilitation plans, services or rehabilitation providers, such as:

- eligibility for rehabilitation services
- the rehabilitation plan
- retraining
- rehabilitation plan closure
- change of QRC

A response should be filed by the other party if that party contests the requested decision (see Chapter 6 for a complete discussion of the dispute resolution process).

Discontinuing Monetary Benefits

An employee's workers' compensation temporary benefits may be discontinued after a determination by the commissioner or a compensation judge for the following reasons, among others:

- any time in which the employee refuses to submit to any examinations or evaluations ordered by the commissioner or judge to determine rehabilitation issues, and/or
- the employee does not make a good-faith effort to participate in the approved rehabilitation plan.

Professional Conduct

Professional conduct rules [2] cover those rehabilitation providers defined in the law —QRCs, QRC interns, QRC firms and registered rehabilitation vendors. DLI investigates complaints about the professional conduct of these rehabilitation providers. Violations of professional conduct standards may lead to a fine, specified requirements, or suspension or revocation of registration.

These rehabilitation providers have separate roles and functions from claims adjusters. Rehabilitation providers may not engage in claims adjustment or claims investigation of the injured worker. Rehabilitation providers are to remain professionally objective while providing rehabilitation services.

Copies of Reports

The QRC is to file all required rehabilitation reports with the commissioner and provide copies to all parties and their attorneys. The QRC also provides copies of required progress records to any requesting party and his or her attorney.

Registered rehabilitation vendors provide required progress records, required rehabilitation reports and cost information to the QRC every 30 days.

Rehabilitation Services and Costs

The rehabilitation provider bills the insurer for rehabilitation services on a vocational rehabilitation invoice prescribed by DLI. The employee is not responsible for the cost of workers' compensation rehabilitation services.

Registered rehabilitation vendors provide job placement billing information to the QRC on a monthly basis. The QRC provides this information to the insurer on the invoice; however, the registered rehabilitation vendor bills the insurer directly.

The hourly fees for rehabilitation providers are subject to maximum rates adjusted annually. QRC interns bill $10 per hour less than the rate on file for their QRC firm. The hourly rates for job development and job placement services, whether provided by QRCs, the QRC firm or registered rehabilitation vendors, are limited by a rate which is adjusted annually.

Billing for services by QRCs based on hourly rates will be reduced by $10 an hour when:

- the duration of the rehabilitation plan exceeds 39 weeks from the date of the first in-person visit between the QRC and the employee, or
- the costs of rehabilitation services billed by the QRC exceed $3,500, whichever comes first.

Within 30 days of receipt of the rehabilitation provider's bill, the employer or insurer must pay the bill or deny all or part of the charge, stating the reason it is excessive or unreasonable, or specify the additional data needed.

A rehabilitation provider may bill for only reasonable and necessary services. A dispute about reasonable and necessary services will be determined by the commissioner or a compensation judge.

The QRC may not bill in excess of eight hours for a rehabilitation consultation. If the QRC must travel over 50 miles to visit the employee, employer or health care provider, billing beyond this is allowed upon consent of the parties or determination of DLI or a compensation judge.

When a registered rehabilitation vendor provides job placement or job development services under a rehabilitation plan, the QRC may not bill in excess of two hours in any 30-calendar-day period without approval of the parties or a determination by the department or a compensation judge.

No rehabilitation provider may attempt to collect a fee or reimbursement for an unnecessary or unreasonable service from any party or another insurer. [3]

The following case study comes from DLI's Vocational Rehabilitation unit.

Case Study:

Jane was diagnosed with overuse syndrome which affected her arms and neck. The insurance carrier denied liability. The employer laid off the employee because she was unable to perform the job. The QRC worked with the employee, employer and the physician and returned the employee to a new position with the same employer.

To prepare the work environment for the employee, the QRC did a job analysis. This resulted in ergonomic changes, including a new chair, longer lunch breaks and shorter hours.

Services Through DLI's Vocational Rehabilitation Unit

Vocational rehabilitation services are available through the private sector as well as DLI's Vocational Rehabilitation unit (VRU). QRCs are on staff at DLI to provide rehabilitation services to help injured workers return to suitable, gainful employment. In addition, the VRU is authorized to provide rehabilitation services to employees when there is a dispute about primary liability or medical causation. If it is later determined that the employer is liable for a work injury, the employer reimburses DLI for the cost of rehabilitation services provided by the VRU.

Services through the VRU begin with a rehabilitation consultation with a QRC. Following the consultation, the QRC will tell the parties if the worker is eligible for services through the VRU.

If the injured worker is eligible for these services, he or she can choose a staff QRC who will work with the employee to develop a vocational rehabilitation plan.

Employees do not need to pay the cost of utilizing the VRU's services. These services are paid for by insurers, self-insured employers or special state funds.

The Vocational Rehabilitation unit has a volunteer program to enhance individualized services and assistance to injured workers. Volunteers work with QRCs, and assist injured workers in resumé writing, job interview coaching, finding job leads, filling out job applications and transporting employees to job interviews.

FAQS Frequently Asked Questions

Q: Who pays for the cost of vocational rehabilitation services?

A: Once it's been determined that an injury is work-related, the insurer or self-insured employer pays for rehabilitation services. Sometimes an employer will pay for these services even if the insurer has denied liability.

Q: Can employees choose their own QRC?

A: Yes, QRCs are employed by private vocational rehabilitation organizations and by DLI. Employees may choose a QRC until 60 days after the rehabilitation plan is filed. See sections above on Choosing a QRC and Services Through DLI's Vocational Rehabilitation Unit.

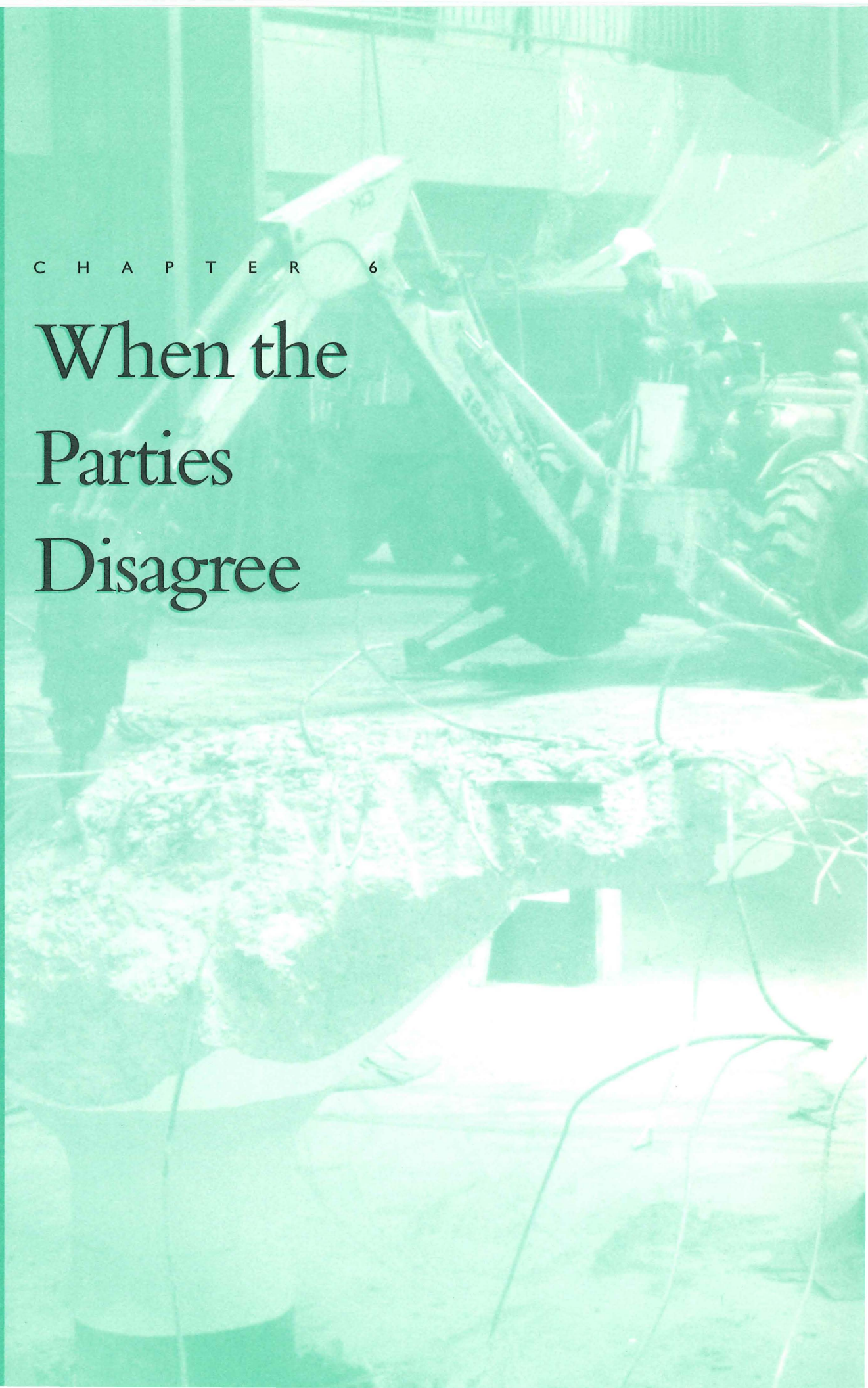
Q: Can I receive vocational rehabilitation services even if the insurance company denies the injury is work-related?

A: Yes, you may be qualified for vocational rehabilitation services through DLI. See section above on Services Through DLI's Vocational Rehabilitation Unit.

PART 2: THE BENEFIT SYSTEM

CHAPTER 6

When the Parties Disagree



C H A P T E R 6 :

When the Parties Disagree

While the workers' compensation system ideal is for the appropriate payments to be made and services provided, the reality is that many cases result in a dispute. In 1996, more than 16,000 new disputes were filed.

Claim disputes increase the overall costs of workers' compensation significantly. They can cause bad feelings and mistrust between the parties, which can create difficulties when employers and employees must continue to work together.

Disputes typically arise when:

- an employer or insurer denies that an injury is work related;
- an employee misrepresents an injury;
- benefits associated with an injury are being reduced or discontinued; or
- there is disagreement about the nature and extent of the medical treatment needed for the injury.

At the Minnesota Department of Labor and Industry (DLI), the Judicial Services (JS) and Customer Assistance (CA) units offer alternatives to formal litigation to address and resolve disputes in the workers' compensation system. When a dispute is not resolved at DLI, the case is heard at the Office of Administrative Hearings (OAH), and can be appealed to the Workers' Compensation Court of Appeals and the Minnesota Supreme Court.

Alternative Dispute Resolution

The alternative dispute resolution process at DLI was designed to resolve disagreements early and to avoid costly litigation. These services are performed by CA and JS. Customer Assistance staff serves as a neutral party in providing information and assistance, and is available to assist parties on a walk-in basis or by telephone. If the parties are unable to reach a resolution informally, they may submit a Claim Petition or a Petition to Discontinue.

Judges at JS and the CA staff provide the following alternative dispute resolution services:

- Informal resolution by telephone
- Non-conference Decisions and Orders
- Administrative Conferences
- Settlement Conferences
- Mediation
- Small Claims Court

- Special Term Hearings
- Attorney Fee and Cost Hearings

Decisions and Orders - Medical and Rehabilitation Issues

The Customer Assistance staff handles medical disputes under $1,500 and most rehabilitation issues. Judicial Services is responsible for handling medical issues which involve a cost of $1,500 and over.

An injured employee or the employer/insurer may request that DLI make a determination on a medical or rehabilitation issue. A health care provider may make this request if the payer has asserted that the charge is excessive. The requesting party obtains DLI's assistance by completing a Medical Request or a Rehabilitation Request form. *The CA staff handles medical disputes under $1,500 and rehabilitation issues. JS is responsible for initial handling of medical issues which involve a cost of $1,500 and over.*

Non-conference Decision and Order

Based on the information provided on the Medical or Rehabilitation Request and Response, the CA unit may make a decision without holding a conference with the parties.

Appeal Process

Any party may appeal a Decision and Order from the CA staff by filing a written Request for a Formal Hearing with the department on a prescribed form no later than 30 days after the date of the decision. The request is considered filed upon its receipt by the department. The request form may be obtained by calling 1 (800) 342-5354.

Decisions and Orders from the CA unit involving the reasonableness and necessity of medical services of $1,500 or less are appealed to JS. Appeals from Decisions and Orders which involve proposed discontinuances, rehabilitation issues, whether the medical treatment is related to the work injury, or medical issues of more than $1,500, are heard by the OAH.

Administrative Conferences - Disability, Medical and Rehabilitation Benefits

The department's Administrative Conferences fall into three categories:

1. Conferences held by JS to determine if the insurer is to be granted the insurer's request to discontinue disability benefits to an injured worker.
2. Conferences conducted by either the CA staff or JS on medical issues. Typical issues involve the reasonableness and necessity of medical care, a change-of-doctors dispute, or an issue over whether or not the medical treatment is related to the work injury.
3. Conferences conducted by the CA unit or JS involving vocational rehabilitation disputes. Typical rehabilitation disputes involve the necessity of rehabilitation services or retraining, and problems or proposed changes in the rehabilitation plan.

Administrative Conference Procedures

Administrative Conferences were developed at DLI in 1984 as a quick, informal proceeding to resolve workers' compensation disputes. Attorneys may represent the parties but are not mandatory.

At an Administrative Conference, the parties exchange information and identify the common ground and the remaining issues. The staff member holding the conference assists in discussions involving resolution attempts. If the parties are able to reach a resolution and wish an Order on Agreement, one will be issued. If an agreement is not possible, the Customer Assistance staff or Judicial Services judge will issue a Decision and Order.

Mediation

The CA staff will conduct mediation at the request of the parties on any workers' compensation issue or dispute. Mediation is different from other types of dispute resolution in that it does not result in a decision by a presiding official. Participation in a mediation session is voluntary. Representation by an attorney is not mandatory. The CA mediator assists the parties in reaching an acceptable settlement of the case.

Mediation sessions can be held to resolve many different kinds of problems that can arise in workers' compensation claims. These sessions may involve the denial of liability of the claim, a settlement of disputed disability benefits, or a resolution of a rehabilitation or medical benefit dispute. Once an agreement has been reached by the parties, the CA mediator will prepare the Mediation Resolution/Award, and arrange for it to be properly signed, awarded, served and filed.

Settlement Conferences

More than half of the daily proceedings in Judicial Services are settlement conferences to attempt to negotiate an acceptable compromise between parties who have issues regarding pending workers' compensation benefits. The parties generally appear in person before the judge to summarize their cases, share information, propose settlement or narrow the issues remaining for hearing.

The JS judge assists the parties to settle the case, issues orders on pretrial matters, and approves or disapproves settlements reached.

Miscellaneous Proceedings

Small Claims Court

Claims of $5,000 or less may be resolved through a final small claims court. All parties must agree to the jurisdiction of this court.

Special Term Hearings

These are held by Judicial Services for a number of purposes, including contested petitions for temporary order, gathering additional information to approve or disapprove settlement agreements, contested motions on pretrial matters and early resolution of employment status issues.

Attorney Fee and Cost Hearings

Contested claims for attorney fees and costs and disbursements related to DLI proceedings are resolved by negotiated settlements or by judicial determination.

Arbitration

Arbitration is contracted out to the National Arbitration Forum and only involves disputes between employers and insurers over their responsibility for benefit payments.

Office of Administrative Hearings

Judges located at an independent agency, the Office of Administrative Hearings, preside over workers' compensation disputes directly and appealed from decisions made by DLI staff. They also hear disputes when it appears a dispute cannot be resolved within DLI or when another matter is already pending at OAH. After the hearing, a written decision and order is issued.

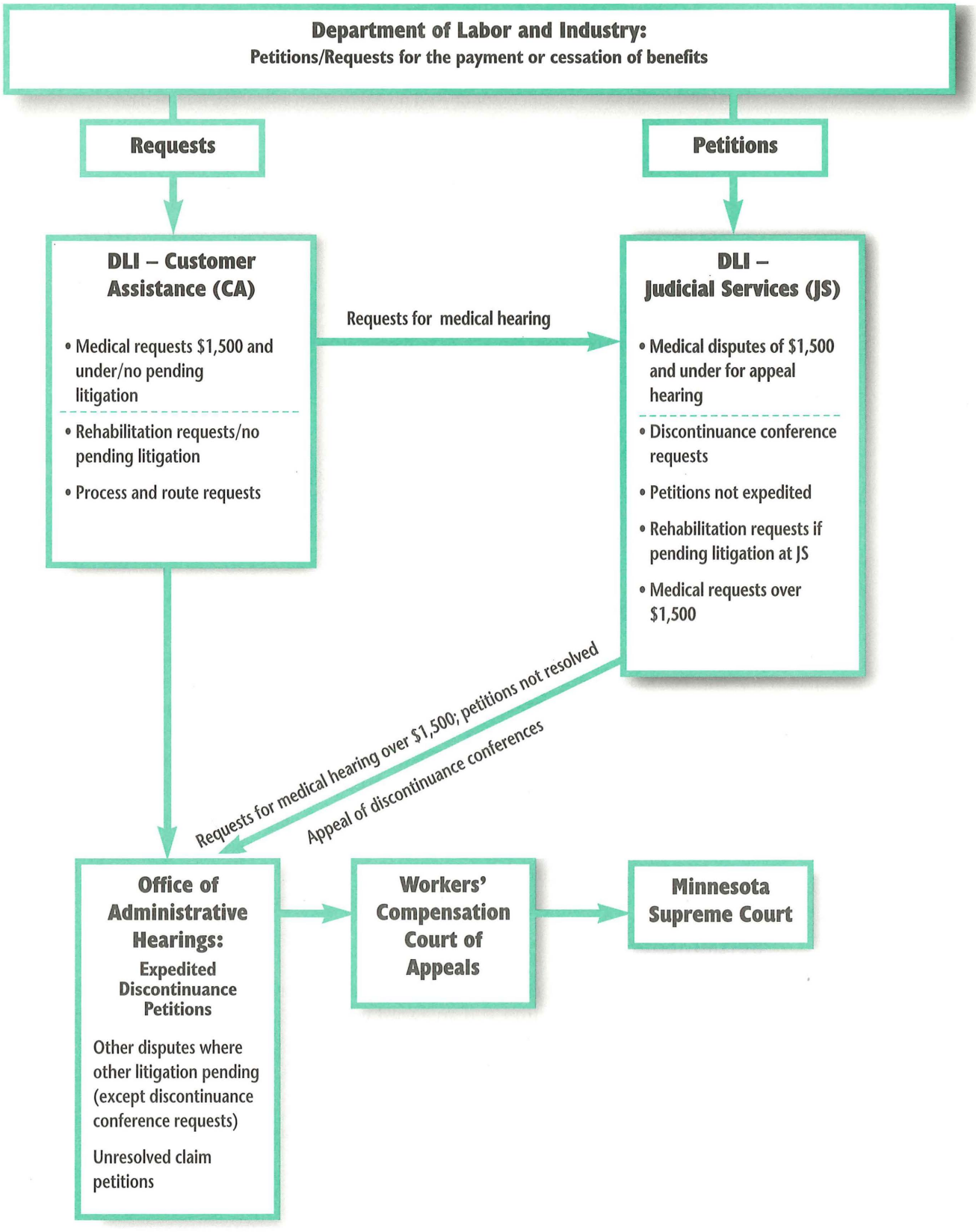
Workers' Compensation Court of Appeals

Some decisions made following a hearing by the judges at DLI or OAH can be appealed to the Workers' Compensation Court of Appeals. The court consists of five judges appointed by the governor who generally sit in panels of three to hear a dispute. By law, the court is not allowed to hear new issues but must confine determinations to those issues raised in the hearing by the parties. The court's decision is based on the hearing record and the arguments filed by the parties; generally no new evidence may be introduced. The court also hears requests to reopen previously settled cases and reviews attorney fee issues at the request of a party.

Minnesota Supreme Court

Decisions made by the Workers' Compensation Court of Appeals can be appealed to the Minnesota Supreme Court, the highest court in the state. The seven judges of the Supreme Court may either affirm or overturn the decision by the Workers' Compensation Court of Appeals. Unless a constitutional issue is involved, a workers' compensation case cannot be appealed beyond the Minnesota Supreme Court.

Dispute Resolution



Case Study:

When an insurer filed a Notice of Intention to Discontinue Benefits, the employee, Bill, requested a discontinuance conference to contest the proposed discontinuance of benefits. A conference was held with the employee, employer and insurer.

The insurer claimed that Bill had refused a job offer. Bill said that he wanted to return to work, but had been told by his supervisor that his old job was not available. He said the supervisor offered no alternatives and acted like he didn't want to talk to him.

At the conference, Bill's physical restrictions were clarified by reviewing various medical reports. The employer then called the workplace to confirm the details of a new job offer. At first Bill was hesitant about whether or not he could physically handle the new job, but he agreed to give it a try. The insurer continued to pay benefits from the date they were proposed to be discontinued until Bill started the new job.

The conference ended in handshakes all around. The employer encouraged Bill to contact her if he had any problems. The judge then issued the order reflecting the agreement of the parties.

Case Study:

Jim contracted asbestosis from his job and learned that he had a tumor and was dying. When Judicial Services was notified of Jim's condition, a settlement conference was immediately scheduled to reach a quick resolution to Jim's claim. The conference resulted in an award for Jim's loss of wages and permanent partial disability. Jim appreciated the early resolution and knowledge that his family would be provided for financially.

Temporary Orders

A temporary order is a court order issued by a workers' compensation judge or the Workers' Compensation Court of Appeals. The temporary order provides workers' compensation benefit payments to the injured employee while a dispute over who owes the benefits is being resolved. The payments are made by the insurer designated in the order. The party eventually found liable is responsible for reimbursing any other party that has been paying the benefits, with interest.

A temporary order is appropriate only when workers' compensation benefits are due, but a dispute exists between two or more employers or insurers over who is liable. In such situations, the insurer liable for the benefits is responsible for paying the employee's attorney fees to obtain the order.

Settlements

A settlement usually refers to a documented agreement reached by the employee and the employer/insurer and an award issued by a workers' compensation judge. Most frequently, the agreement involves an employee accepting a stated amount of money paid by the employer/insurer in return for giving up the claimed right to one or more benefits.

It is important for parties to remember that they are not required to settle if the proposal is unacceptable to them.

In general, parties thinking about a settlement should consider the following:

- what benefits are being settled out, and to what extent
- the nature and extent of the injury
- current state of recovery
- future medical or vocational rehabilitation needs
- sources of income
- employment prospects
- impact on other disability benefits
- the employee's age
- the strength or weakness of their benefit claim or defenses

Parties who need assistance working through these questions may contact DLI's Customer Assistance unit.

Certification of Disputes

A 1995 change in the workers' compensation law makes it mandatory for DLI to attempt to resolve medical and rehabilitation disputes before an attorney fee can be charged in the matter. The attorney for the injured worker may only charge a fee if the CA unit certifies that a dispute exists and the unit hasn't been able to resolve it. The need to have a dispute certified before attorney fees may be charged only applies to medical and rehabilitation issues. Certification is not necessary when the injured worker's attorney is representing the employee in other issues as well as a medical or rehabilitation issue.

A Customer Assistance staff member reviews the case and contacts the appropriate parties to determine if a dispute actually exists and, if so, attempts to resolve it. If it is not resolved, the CA unit certifies that a dispute exists for attorney fee purposes and notifies the parties via a Certification of Dispute form.

Attorney Fees

The attorney must have a retainer agreement with a client for a workers' compensation claim before the department will order the payment of fees to the attorney. [1]

Beginning June 1, 1996, no attorney fees may be paid for disputes concerning *only* medical or rehabilitation issues unless the employee first consults with DLI and DLI *certifies* that there is a dispute and that it has tried to resolve it.

Attorney fees are paid only for disputed claims. Attorney fees are not payable for any issue that should have been raised during the litigation of other issues.

Beginning June 1, 1996, no attorney fees may be paid for disputes concerning **only** medical or rehabilitation issues unless the employee first consults with DLI and DLI **certifies** that there is a dispute and that it has tried to resolve it.

An employee can change attorneys, but the fee might be split between the attorneys according to the benefits obtained by each attorney.

Types of Fees

Several types of attorney fees are applicable in workers' compensation matters.

1. Contingent fees

The contingent fee is based on the amount of compensation the attorney obtains for the employee. If the employee does not receive any benefit, a fee is not paid to the attorney.

The current statute provides that fees paid to attorneys are limited to $13,000. The presumed fee for the employee's attorney is 25 percent of the first $4,000 of compensation awarded to the employee and 20 percent of the next $60,000 of compensation awarded to the employee.

2. Medical and Rehabilitation Issue dispute fees

An attorney may charge the employer/insurer a fee for the recovery of rehabilitation or medical benefits or services for the employee. The additional fee is determined by applying the contingent fee formula to the dollar amount of the rehabilitation or medical benefit obtained. For example, an attorney could claim a fee of 25 percent on a $2,000 medical judgment won for a client. When the attorney has won any disputed benefit for which a dollar value can't be determined, the attorney's fee is based on an hourly rate or $500, whichever is less.

3. Administrative conferences involving wage loss benefits

These fees are generally based on the contingent fee formula.

If an employee has retained an attorney, the insurer may withhold the fees from the benefit checks. If the attorney directs the insurer to withhold attorney fees, the insurer must comply. Specific information about the withholding must be included on the workers' compensation check.

Attorney Fees Paid by the Employer or Insurer

The employer/insurer is now required to reimburse the employee 30 percent of the attorney's fees over $250 in a case where an employer or insurer unsuccessfully disputes a claim. This fee reimbursement might be waived if the claim is resolved by settlement agreement.

If the primary dispute is between two or more employers or insurers, the employee's attorney fees are paid by the insurer found liable for the benefit. This amount, too, is limited to a reasonable attorney fee.

Workers' compensation disputes may involve a combination of issues; therefore, different types of attorney fees may be paid.

Attorney Conduct

The Lawyers Professional Responsibility Board has jurisdiction over attorney conduct (for telephone number, see Chapter 11). Workers' compensation judges award attorney fees, but if the attorney collects an improper fee, or otherwise violates the rules of professional conduct, the board has jurisdiction to sanction the attorney.

The rules of professional conduct require that the attorney:

- provide competent representation;

- act with reasonable diligence and promptness in representation;
- keep the client reasonably informed about the status of the matter, promptly comply with reasonable requests for information, and explain the matter to the client to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- charge a reasonable fee according to a number of factors;
- maintain the confidentiality of information; and
- avoid any conflict of interest.

FAQ Frequently Asked Questions

Q: Do I need an attorney to resolve a dispute with my employer?

A: If a dispute arises and especially if it progresses beyond DLI's informal dispute resolution process, you may need an attorney to represent you at a conference, hearing or trial, and to ensure that procedures are handled properly.

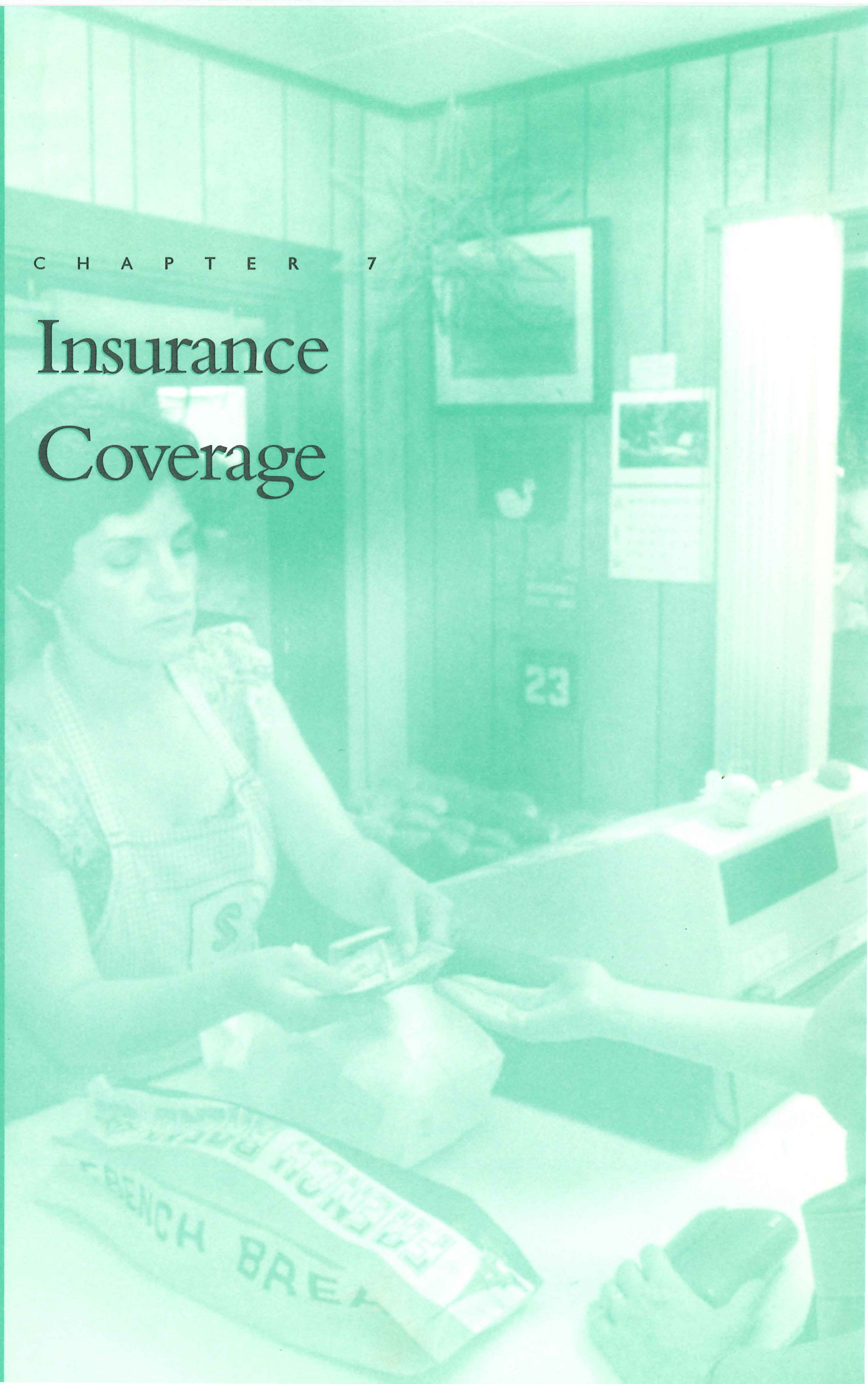
Q: Does DLI provide walk-in assistance?

A: Yes, the Customer Assistance unit sees about 25-30 customers each week who come to the office for assistance unrelated to a scheduled hearing. Usually, they have questions about their own specific situations, and will bring with them workers' compensation forms, medical receipts or letters from medical providers. If the customer has extensive material or questions, a follow-up call or visit may be required (see Chapter 11 for office location information).

PART 3: INSURANCE AND WORKPLACE ISSUES

CHAPTER 7

Insurance Coverage



CHAPTER 7:

Insurance Coverage

Employers Provide Coverage

All Minnesota employers are required to insure for workers' compensation through one of the following methods:

- buy workers' compensation insurance from a private insurance company licensed by the Minnesota Department of Commerce; [1]
- buy insurance through the state's Assigned Risk Plan (see below); or
- self-insure after receiving approval from the Minnesota Department of Commerce. [2]

Employers must display in the workplace the "Employee Rights and Responsibilities" poster which includes the name of the workers' compensation insurance company.[3]

Insurance is required regardless of the number of employees. An employer must provide insurance even if he or she only has one part-time employee. Employers risk lawsuits and fines if they do not provide workers' compensation insurance for their employees. However, some types of workers are not covered by the workers' compensation law, as detailed in the next section.

Who is Not Covered?

The following workers are excluded from mandatory coverage of Minnesota's workers' compensation law, [4] but they may be covered by other laws:

1. a person employed by a common carrier railroad engaged in interstate or foreign commerce and covered by the Federal Employment Liability Act;
2. the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer, or a person employed by a family farm; [5]
3. a partner engaged in a business or an executive officer of a family farm corporation or a partner engaged in a farm operation, and the spouse, parent, and child, regardless of age, of a business partner or of an executive officer of a family farm corporation or of a partner in the farm operation or business; [6]
4. another farmer or a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation operator in the same community;
5. a sole proprietor, or the spouse, parent, and child, regardless of age, of a sole proprietor;
6. an executive officer of a closely held corporation having 22,880 hours or less of payroll for employees in the preceeding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation (a closely held corporation is one with 10 or fewer shareholders);

7. a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in paragraph (6);
8. employees of a closely held corporation who are related within the third degree of kindred by blood or marriage [7] to an officer of the corporation referred to in paragraph (6), if the corporation files a written exclusion of such individuals with the commissioner;
9. a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer;
10. persons who are self-employed as independent contractors, but not employees of independent contractors; [8]
11. an officer or a member of a veterans' organization whose employment relationship arises only from attending meetings or conventions of the veterans' organization, unless the veterans' organization elects by resolution to provide workers' compensation coverage for that person;
12. a private household worker who earns less than $1,000 in cash in a three-month period from a single household provided that a worker who has earned $1,000 or more from his or her current employer in a three-month period within the previous year is not excluded;
13. a nonprofit association which does not pay more than $1,000 in salary or wages in a year;
14. persons covered under the Domestic Volunteer Service Act of 1973, as amended; [9]
15. a manager of a limited liability company having 10 or fewer members and having less than 22,880 hours of payroll in the preceding calendar year, if that manager owns at least a 25 percent membership interest in the limited liability company;
16. a spouse, parent, or child, regardless of age, of a manager of a limited liability company described in paragraph (15);
17. persons employed by a limited liability company having 10 or fewer members and having less than 22,880 hours of payroll in the preceding calendar year who are related in the third degree of kindred by blood or marriage to a manager of a limited liability company described in paragraph (15), if the company files a written request with the commissioner to exclude these persons; and
18. members of limited liability companies who satisfy the requirements of paragraph (9).

Many of these workers not covered by workers' compensation can be covered if the business owner chooses.

Independent Contractors

Individuals who are independent contractors without employees are **not** covered by workers' compensation. Questions often arise about when a relationship is contractor-independent contractor or employer-employee. Minnesota Rules

Chapter 5224 contains the details of laws used to determine employee status. Following are five of the factors that may be considered by the courts to determine if there is an employment relationship:

1. the right to control the means and manner of performance;
2. the method of payment;
3. the furnishing of tools and materials;
4. control over the premises where the work is done; and
5. the right to hire or discharge.

The general test has been further refined for the **construction industry**. [10] To qualify as an independent contractor for workers' compensation purposes, the individual must meet **all** nine criteria below:

1. maintain a separate business with the independent contractor's own office, equipment, materials and other facilities;
2. hold or have applied for a federal employer identification number;
3. operate under contracts to perform specific services or work for specific amounts of money where the independent contractor controls the means of performing the services or work;
4. be responsible for the main expenses related to the service or work that is performed under contract;
5. be responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and be liable for a failure to complete the work or services;
6. be paid for work or service performed under a contract on a commission or per-job or competitive-bid basis and not on any other basis;
7. realize a profit or suffer a loss under contracts to perform work or service;
8. have continuing or recurring business liabilities or obligations; and
9. base the success or failure of the independent contractor's business on the relationship of business receipts to expenditures.

Injuries Outside of the State

Employees are covered by Minnesota's workers' compensation laws if they are hired in Minnesota by a Minnesota employer or generally work here, even if they are required by their jobs to go out of the state or they are transferred temporarily to an assignment out of the state or overseas.

Injuries to Out-of-state Workers

In some situations, persons who are employed in another state but are injured on the job in Minnesota may choose to be covered by Minnesota's workers' compensation. Depending on the law in the state where they are employed, they may be able to elect coverage in that state instead of Minnesota.

Purchasing Workers' Compensation Insurance

The workers' compensation insurance market is very competitive, and employers will find many options from which to choose. Employers may want to "shop around" for insurance providers who will provide them with assistance on safety programs, injury data analysis, and provide fast and thorough assistance to injured employees. Research has shown that these factors contribute to a safer workplace and help reduce workers' compensation costs for the employers (see Chapter 8). An insurance agent can help find an insurer that best meets the employer's needs.

Insurance rates

The cost of workers' compensation insurance is expressed as dollars per $100 of covered payroll. It costs more to insure workers in more dangerous occupations. Insurance rates for the safest jobs are typically less than half a dollar per $100 of payroll. Rates for the most dangerous jobs may be more than $50 per $100 of payroll.

The Minnesota Department of Commerce regulates workers' compensation insurance companies for underwriting and rate-setting and authorizes self-insured employers. For information, call (612) 296-4026.

Workers' compensation insurance covers the risk that one or more of the insured employer's workers will be injured or contract an occupational disease and become eligible for benefits.

Some employers find that they pay thousands of dollars for their workers' compensation insurance and never have a claim filed. Other employers end up paying much less than the cost of their employees' claims. This is because employers pay money for insurance policies, not employee benefits. It is the responsibility of the insurance companies to see that the premiums they collect from employers are enough to pay for the benefits and loss adjustment costs generated by the claims of the covered workers.

Insurance rates are based, in large part, on the expected total cost of workers' compensation benefits for the coming year. This total cost is then divided between the various insurance rate classes. The rate classes differentiate between the various types of jobs. There are over 600 rate classes. The total cost is then divided by the payroll and multiplied by 100 to produce the loss cost rate.

Insurance companies add their expected claims handling and business costs to the loss costs. This produces the manual rate. Insurers modify the manual rate by the employer's recent workers' compensation claims history (for companies that qualify) and any other policy modifications to produce the employer's premium rate. Insurers use an "experience modifier" to measure how the past experience of a business compares to other businesses in the same risk classification. A good safety record can decrease an employer's insurance rates, and a poor record can increase them.

Therefore, rates vary not only with the type of businesses, but also among businesses of the same type. For example, rates are higher for a roofing business than for a candy store because losses (the total cost of claims) are greater in the roofing business. However, a roofing company with few losses will have lower insurance rates than another roofing company with a larger number of losses, if both companies are experience rated.

Insurers must file their manual rates with the Minnesota Department of Commerce. A complete set of rate filings for all job classifications is available

through the Commerce department. A Carrier Rate Book is also compiled by the Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) (see below). It contains the current workers' compensation rates filed by the state's most active insurers for the most common job classifications in Minnesota.

The lowest rate listed may not always mean the lowest premium because workers' compensation insurers may also offer rating plans that modify the published rate and ultimately the premium employers pay for insurance. These ratings are designed to make premiums more responsive to cost factors and to increase competition among insurers. Contact the Minnesota Department of Commerce or an insurance agent for more information on these rating plans.

Deductible Plans

To reduce the cost of their insurance premiums, some employers may want to purchase a deductible plan policy. Under a workers' compensation deductible plan, the employer reimburses the insurer for a pre-determined deductible amount for each workers' compensation claim. As with non-deductible plans, the insurer must first determine the validity of the claim. **Then the insurer pays the entire amount, including the deductible, and the insurer is reimbursed by the employer for the deductible amount.**

Self-insurance

More than 500 Minnesota employers have chosen to obtain self-insurance authorization. Usually only larger employers can qualify for self-insurance; however, smaller employers can join together to form a self-insurance group (see below). [11]

An employer wishing to self-insure must submit an application to the Minnesota Department of Commerce. The following requirements must be met:

1. The employer must possess adequate financial resources to fulfill workers' compensation obligations, such as:
   - costs of minor, short-term claims, and
   - current and future costs of long-term claims.
2. The employer must be able to fulfill the necessary administrative tasks to self-insure, such as:
   - be a member of the Workers' Compensation Reinsurance Association (see below),
   - fulfill stringent bonding requirements, and
   - arrange for claims handling, either in-house or through a licensed third-party administration company.

Self-insured employers are required to submit filings and reports concerning their financial condition and loss experience on a regular basis. Any employer considering becoming self-insured should review the rules governing self-insurance. For more information, contact the Minnesota Department of Commerce.

Group Self-insurance

Small businesses, or two or more employers, whether or not they are in the same industry, can join together to self-insure if they are able to meet the requirements listed above for individual self-insurance. Because development of a self-insurance group is a significant administrative undertaking, employers should not attempt it without getting qualified technical advice. They should also be prepared to hire experienced staff and do detailed financial analysis of the benefits and risks of self-insurance. Because many insurance plans attempt to duplicate the advantages of group self-insurance, employers would do well to explore these plans first. Insurance agents and brokers can provide more information.

Assigned Risk Plan

Sometimes an employer is unable to obtain workers' compensation insurance because the business is too small to justify the expense of selling and servicing the account, or because it's a high-risk business. In a case like this, the employer can get insurance through the Assigned Risk Plan by contacting the Minnesota Workers' Compensation Insurers Association, Inc. (see below). Coverage provided through the plan is identical to coverage available from the other workers' compensation insurers.

The Assigned Risk Plan was established in 1982 to ensure all employers could obtain workers' compensation coverage. The MWCIA reviews applications and issues policies. It contracts with insurance companies or third-party administrators to collect premiums, pay claims and perform other administrative duties for the plan per signed contracts. More than 40,000 Minnesota employers are covered under the plan. A merit rating plan provides an automatic 33 percent credit to employers who are not experience rated and who have no lost-time claims for the past three years.

Collective Bargaining and Workers' Compensation

Certain employers and unions with the approval of DLI can make changes in the non-benefit aspects of workers' compensation through the use of collective bargaining agreements. The changes allowed include: an alternative dispute resolution system; a network of health care providers; a list of impartial physicians for expert opinions; a light-duty, return-to-work program; a network of vocational rehabilitation and retraining providers; safety committees; and a 24-hour coverage pilot plan if authorized by law.

If Coverage Isn't Provided

Special Compensation Fund

If an employee suffers a compensable injury and the employer has not purchased insurance coverage or followed the proper procedures for self-insurance, the employee may petition the Special Compensation Fund to pay the appropriate benefits. The Special Compensation Fund will first determine whether the employer is liable for the employee's injury and, if appropriate, the Special Compensation Fund will pay all appropriate compensation benefits to the employee. [12] The employer will also be required to reimburse the fund for all compensation benefits paid to the employee and all actual and necessary

disbursements, and may be liable to pay a an administrative charge amounting to 65 percent of the benefits awarded to the employee.

Civil Lawsuit

If the injured employee decides not to request benefits through the Special Compensation Fund, the employee may elect to sue the employer for injury in a civil action for damages. The amount awarded in this way might be considerably higher than the amount of workers' compensation benefits due. Where an employer fails to purchase workers' compensation insurance, the employer may not defend a civil personal injury lawsuit by claiming the usual common law defenses (such as assumption of risk) unless the employer can prove that the employee was willfully negligent.

Fines for Failure to Insure

In addition to facing other liability, the uninsured employer may also be fined by the Minnesota Department of Labor and Industry (DLI) for failing to insure employees, regardless of whether or not an injury has occurred. The employer may be ordered to:

- provide the necessary insurance coverage;
- refrain from employing any person at any time without insuring employees; or
- pay a penalty of up to $1,000 per employee per week during the time the employer was not insured. [13]

Other Penalties and Consequences

An employer has 10 days to comply with or object to a DLI order to provide insurance coverage. If an objection is not received by the DLI commissioner, the order is considered final and cannot be appealed. If the employer objects to the order, the matter will be referred to the Office of Administrative Hearings. If the penalty is approved, the judge may order the employer to pay additional penalties if uninsured persons were employed while the case was pending. [14]

Enforcement

Minnesota's laws provide DLI with the ability to enter and inspect a business and its records, take depositions, and issue subpoenas to determine if insurance coverage exists. Further investigation might follow. [15]

Minnesota Workers' Compensation Insurers Association, Inc.

The Minnesota Workers' Compensation Insurers Association, Inc. operates as a data gathering and distributing organization. Its purpose is to aid the insurance companies and the Minnesota Department of Commerce in determining rates. The MWCIA is a private business licensed by Commerce (see Purchasing Workers' Compensation Insurance above).

All workers' compensation insurance companies must join the MWCIA and contribute information regarding the premiums they collect and the losses they've incurred with workers' compensation claims in Minnesota.

The MWCIA has the following four main functions:

1. Collects, organizes and distributes data back to the member insurance companies for their use in determining the amount of money they will charge for insurance. The MWCIA also sends its data to the Minnesota Department of Commerce. Commerce has the authority to disapprove the workers' compensation rates proposed by the insurance companies.
2. Helps the insurance industry determine how much it will charge individual employers by providing information on each employer's workers' compensation experience. An "experience modifier" is multiplied by the basic rate to calculate the premium to be charged. (It is important for employers to report information accurately to their insurers to avoid a large retroactive premium adjustment after an insurance audit.)
3. Collects the Assigned Risk Pool applications, to provide insurance to employers who are unable to get coverage from a private insurance company. The actual claims handling is done by insurance companies and third-party administrators on a contractual basis.
4. By contract, the MWCIA provides its coverage, policy renewal and cancellation information to DLI. DLI uses the information to perform its insurance verification functions.

All workers' compensation insurance companies must join MWCIA and contribute information regarding their premiums collected and losses incurred.

For more information, contact the MWCIA at (612) 897-1737.

Workers' Compensation Reinsurance Association

The Workers' Compensation Reinsurance Association (WCRA) is a non-profit organization created by the Minnesota legislature to provide risk-sharing among all insurers and self-insurers for serious compensation losses. The WCRA is an important part of the Minnesota workers' compensation system.

Insurers, self-insurers and self-insurance groups must buy reinsurance from the WCRA.

Reinsurance protects against catastrophic occurrences that might seriously undermine the financial stability of insurance companies and self-insured employers. Because it specializes in serious cases in Minnesota, the WCRA has special expertise in difficult cases and will help the insurer or self-insurer manage those claims. The WCRA makes it easier for employers to take on the responsibilities of self-insurance, individually or through a group.

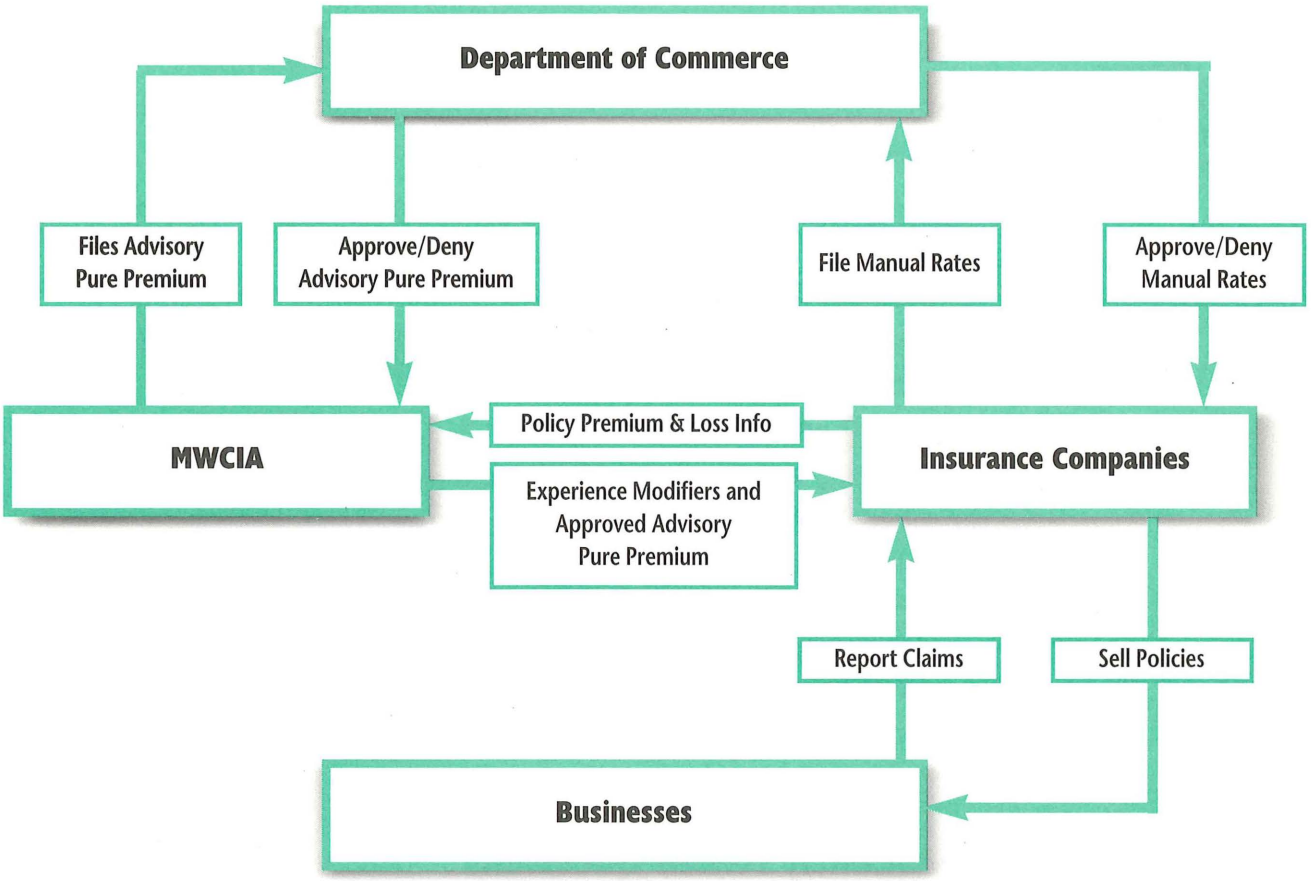
Insurance companies and self-insured employers select one of three retention levels. This is similar to a deductible level. If the cost of a claim exceeds the retention level, the WCRA reimburses the insurer for the amount over the retention level.

For more information, contact the WCRA at (612) 293-0999.

Controlling Costs

Employers are justifiably concerned about the cost of providing workers' compensation insurance. Yet, experts agree that employers can have an impact on cost reduction by effectively managing the workplace. A study of 5,568 Michigan employers found that three main factors had a greater impact on insurance costs

How Workers' Compensation Insurance Rates are Determined



within a rating classification in one state than the difference between the highest and lowest insurance rates between states.

The study of firms found that the following factors contributed to reductions in workers' compensation claims: [16]

1. Safety and prevention of work-related accidents
   - monitoring and correcting unsafe behaviors on a systematic basis
   - the occurrence of safety training for new and transferred employees
   - modeling and attending to safe behavior on the part of company leaders
2. Management, climate and culture
   - using a profit-or gain-sharing program to stimulate and reward productivity of employees at all levels
   - employee participation in problem solving and decision making
   - two-way communication traveling from the bottom up as well as the top down
3. Disability prevention and management
   - providing wellness programs and fitness resources to promote employee health
   - using light-duty or modified work assignments to help restricted workers back to the job
   - developing procedures to monitor and encourage supervisors to assist in the return to work of injured workers
   - providing employee assistance programs

Insurers, self-insurers and self-insurance groups must buy reinsurance from the WCRA.

FAQS Frequently Asked Questions

Q: As an employer, can I pay for "small bills" directly and not submit them to my insurance company as a way to control my insurance costs?

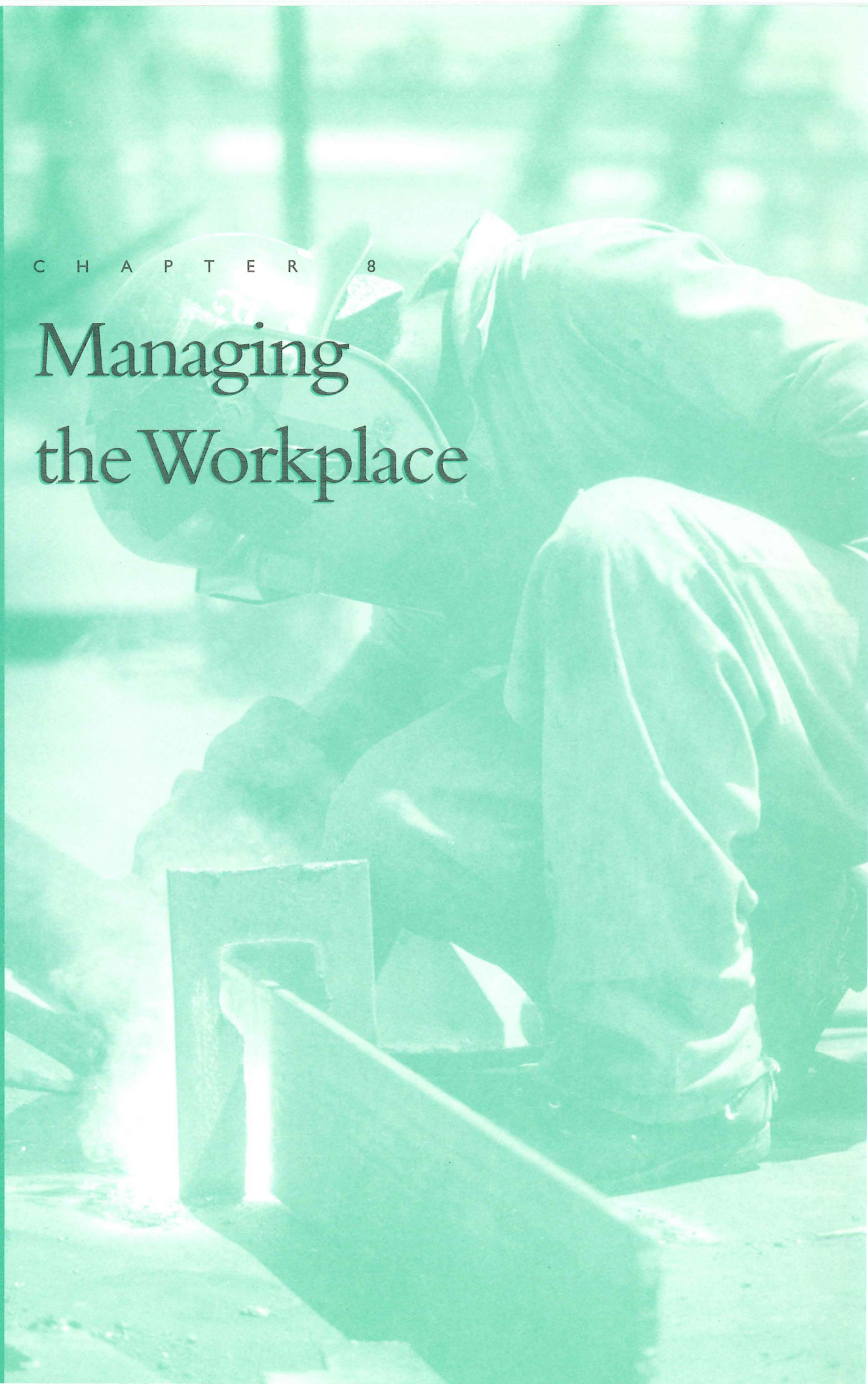
A: It is illegal for an employer to do this unless the employer is self-insured. Even employers with deductible plans cannot pay bills directly.

It is also important to note that doing so may be in violation of the employer/insurer contract. Failing to report an injury to an insurer frequently leads to claims problems, which may increase costs to the employer through penalties and unnecessary paperwork.

PART 3: INSURANCE AND WORKPLACE ISSUES

CHAPTER 8

Managing the Workplace



C H A P T E R 8 :

Managing the Workplace

The most important components of workers' compensation costs are the relative safety of the workplace environment and employer-employee relations. Creating and managing a safe, healthy and supportive workplace environment are top priorities for many Minnesota employers. All businesses should be constantly trying to improve their safety programs. Employees are a tremendous source of knowledge and should be involved in creating and running health and safety programs.

The Minnesota Department of Labor and Industry (DLI) has taken a comprehensive approach to help employers maintain safe and healthy workplaces. Assistance is provided through:

- consultation services
- grants
- cost incentives
- recognition programs
- enforcement programs

Most of these programs are administered by DLI's Occupational Safety and Health Compliance and Workplace Safety Consultation units.

Occupational Safety and Health Compliance

Congress passed the Occupational Safety and Health Act in 1970 . . . "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."[1] Minnesota has an approved state plan under the federal act, with supporting legal authority under the Minnesota Occupational Safety and Health Act of 1973 (MNOSHA). DLI administers the state act through its OSHA Compliance unit. [2]

DLI issues safety and health standards and conducts workplace inspections to ensure compliance.

MNOSHA issues safety and health standards and conducts workplace inspections to ensure compliance.

Under MNOSHA, employers are required to:

- provide a workplace and working conditions free from recognized hazards that cause or are likely to cause death or serious injury or harm;
- comply with safety and health standards issued by the department;
- evaluate their workplaces to identify safety and health hazards;
- establish methods to control or eliminate identified hazards and promote safe work practices;

- provide necessary protective equipment at no cost to employees;
- keep injury and illness logs for each workplace; and
- post summary injury and illness information for each year in February of the following year (this is reported on the OSHA log).

Record keeping on the OSHA log is the basis for the annual Bureau of Labor Statistics survey of occupational injuries and illnesses for sampled employers. The Minnesota results are published in the Annual Workplace Safety Report (for a copy call DLI's publications number).

Employees are required to comply with MNOSHA safety and health standards that apply to their own jobs. They may refuse to perform assigned tasks they reasonably believe pose an imminent danger of death or serious injury. Employees may also file a confidential complaint with MNOSHA requesting an inspection if they believe unsafe or unhealthy conditions exist in their workplace. Employers may not discharge or otherwise take retaliatory action against employees for exercising their rights under MNOSHA.

Employee Right-to-Know Act

Under MNOSHA, employers must evaluate their workplaces for the presence of hazardous substances, harmful physical agents and infectious agents. [3] They must also:

- determine which employees are routinely exposed to these substances and agents;
- provide these employees with appropriate training;
- provide understandable written information to employees on identified hazardous substances and agents; and
- label containers, work areas and equipment to warn employees of associated hazardous substances or agents.

"A Workplace Accident and Injury Reduction" Act (AWAIR)

AWAIR is a statutory safety program and also part of the state's MNOSHA regulations. [4] Under AWAIR, employers in high-hazard industries must develop and implement written safety and health plans to reduce workplace injuries and illnesses. The list of AWAIR industries is updated every two years and is published in the rules and available by calling MNOSHA.

Labor-Management Safety and Health Committees

The state act also requires all public and private employers with more than 25 employees, and smaller employers in high-hazard industries, to establish and use a joint labor-management safety and health committee. Employee representatives are chosen by the employees and the committee is to meet regularly. Assistance with organizing these committees, technical help and customized training is jointly provided by DLI and the Bureau of Mediation Services.

Workplace Inspections

MNOSHA is authorized to conduct workplace inspections to determine whether employers are complying with safety and health standards. MNOSHA inspectors are trained in OSHA standards and how to recognize safety and health hazards. With certain exceptions, the state act requires that the inspections be done without notice. Employers are required to allow the inspector to enter work areas without delay and must otherwise cooperate with the inspection. The MNOSHA Compliance unit has a system of inspection priorities. The priorities, **from most to least important are:**

1. imminent danger (based on reports by employees, the public or observations by MNOSHA investigators);
2. fatal accidents and catastrophes (accidents causing hospitalization of three or more employees)
3. other employee complaints, not of an imminent nature;
4. programmed inspections targeted at employers in high-hazard industries; and
5. follow-up inspections to see if previous violations have been corrected.

When employers violate OSHA standards, they receive citations and are assessed penalties based on the seriousness of the violations. They are also required to correct the violations. Employers or employees may appeal citations, penalties and the time allowed to correct the violation.

Minnesota First

The Minnesota First program, which began in 1996, supports the belief that safety is the *first* priority in Minnesota workplaces. Minnesota First is an **enforcement-based** inspection program with **compliance assistance** for employers with 100 or more workers in high-hazard industries, other than construction, who have injury and illness rates above the current average for all Minnesota employers. The program is administered through state MNOSHA Compliance. It is not available to employers who have had a comprehensive MNOSHA inspection in the past two years. Unannounced comprehensive inspections are targeted at these workplaces by state MNOSHA compliance staff.

Minnesota First is an enforcement-based inspection program with compliance assistance for employers with 100 or more workers in high-hazard industries, other than construction, who have injury and illness rates above the current average for all Minnesota employers.

Employers choosing to participate in the program work with MNOSHA staff to develop a two-year action plan. The plan specifies measures to be taken to decrease workplace hazards and address safety and health program development, safety committee formation and employee involvement.

Benefits

A key benefit to employers who complete the action plan is a potential 70 percent reduction in assessed penalties. If the action plan is completed, employers receive a two-year exemption from compliance inspections. (However, MNOSHA will continue to conduct inspections in the event of fatalities, serious injuries, complaints or referrals.) Employers also have access to safety and health investigators who will work with them on the plan and on compliance assistance. In addition to healthier workers and improved production, employers can enhance their company's image by being recognized for making worker safety a priority.

Employees benefit from Minnesota First by:

- fewer illnesses and injury accidents;
- improved communication between employer and employee;
- more involvement in the company's safety and health program;
- strengthening of uniform enforcement of existing company safety and health rules;
- improved employer/employee relationships; and
- having a quick outlet for employees' concerns.

Workplace Safety Consultation

All parties in the workers' compensation system benefit from working cooperatively to achieve a safe and healthy workplace. Workplace Safety Consultation (WSC) is a means to that end. It is voluntary, confidential and completely separate from DLI's MNOSHA Compliance unit.

Workplace Safety Consultation offers a free consultation service on request to help employers prevent workplace accidents and diseases by recognizing and correcting safety and health hazards.

Workplace Safety Consultation offers a free consultation service on request to help employers prevent workplace accidents and diseases by recognizing and correcting safety and health hazards. This service is targeted primarily toward smaller businesses in high-hazard industries, but it is also available to public-sector employers.

On-site consultations are conducted by safety and health professionals. During consultations, employers are assisted in determining how to improve workplace conditions and practices in order to comply with regulations and to reduce accidents and illnesses and their associated costs. The consultant makes recommendations dealing with all aspects of an effective safety and health program. A written report with recommendations is sent to the employer after the consultation.

No citations or penalties result from a consultation. The employer is only obligated to correct in a timely manner any serious safety and health hazards found, a commitment that must be made beforehand. No information about the employer is reported to the MNOSHA Compliance unit unless the employer fails to correct the detected safety and health hazards within a specified period of time.

Workplace Safety Consultation also provides assistance in understanding and complying with safety and health regulations and in developing and implementing mandatory programs, including the Employee Right-to-Know Act, AWAIR, and the Labor-Management Safety Committee Program. This assistance takes the form of periodic training sessions and responses to phone calls and written inquiries.

MNSHARP

MNSHARP stands for Minnesota Safety and Health Achievement Recognition Program. It began in 1996 and is a **recognition program** providing incentives and support to:

- smaller, high-hazard employers to work with their employees to develop, implement and continuously improve the effectiveness of their workplace safety and health programs, and

- larger employers who are willing to develop exemplary safety and health programs, and mentor others to achieve similar results.

MNSHARP is a voluntary program under WSC. Participants receive a free and comprehensive safety and health consultation survey from WSC, which results in a one-year action plan. The goal of MNSHARP is to reduce the employer's total injury and illness rate and lost-workday case rate to a point at or below the national average for the industry for at least one year.

The goal of MNSHARP is to reduce the employer's total injury and illness rate and lost-workday case rate to a point at or below the national average for the industry for at least one year.

Hazards identified in the initial survey must be corrected within one year, and employers must develop and implement effective safety and health programs with full employee involvement. Participants must also consult in advance with WSC on changes in work processes or conditions that might introduce new hazards.

A second consultation one year after plan implementation determines if the employer has met the goal. If so, the employer:

- receives a MNSHARP Certificate of Recognition, and
- is exempted for one year from the programmed inspection schedule of OSHA Compliance. (However, inspections will continue in the event of fatalities, serious injuries, complaints or referrals.)

Larger employers may participate in MNSHARP at the Mentor Level if they have a lost-workday injury and illness rate below the average for their industry. To achieve Mentor Level status, the employer must provide substantial assistance to two other employers per year in meeting the Standard Level MNSHARP requirements. In return, the Mentor Level employer receives a MNSHARP Certificate of Recognition and exemption from scheduled OSHA Compliance inspections.

Certified MNSHARP employers at either the Standard or Mentor Level may apply annually for renewal of their certification. For renewal, WSC must conduct a new on-site safety and health survey. If it determines that the employer is continuing to meet the program requirements, the employer's certification is renewed and it continues to be exempt from programmed OSHA Compliance inspections.

Loggers' Safety Education Program

The Loggers' Safety Education Program, under WSC, provides safety training through eight-hour seminars. In order to receive workers' compensation premium rebates from the Targeted Industry Fund, logger employers must maintain workers' compensation insurance and they or their employees must have attended, during the previous year, a loggers' safety seminar sponsored or approved by DLI.

Workplace Violence Prevention Program

The Workplace Violence Prevention Program, also under WSC, helps employers and employees reduce the incidence of violence in their workplaces. Services include on-site consultation, telephone assistance, education and training seminars, a resource center, and an informal process for handling complaints about working conditions that present risks of violence. This program is targeted toward workplaces at high risk of violence, such as convenience stores, service

stations, taxi and transit operations, restaurants and bars, motels, guard services, patient care facilities, schools, social services, residential care facilities, and correctional institutions (see below for more on violence in the workplace).

Safety Grants Program

The Safety Grants Program awards funds of up to $10,000 to qualifying employers for projects designed to reduce the risk of injury and illness to their employees. To qualify, an employer must meet the following conditions:

- The employer must come under the jurisdiction of Minnesota OSHA.
- A qualified safety and health professional must have conducted an on-site safety inspection and produced a written report with recommendations based on the inspection.
- The project must be consistent with the recommendations of the safety and health inspection, must reduce the risk of injury or disease to employees, and must be feasible.
- The employer must have the knowledge and experience to complete the project, and must be committed to its implementation.
- The employer must be able to match the grant money awarded, and all estimated project costs must be covered by available funds (safety grant, employer match, and any other funds).
- The project must be supported by all public entities involved, and must comply with federal, state and local regulations.

If the number of qualified applicants exceeds the availability of funds, priority will be given first to businesses in manufacturing, second to projects at sites where jobs have been lost or are jeopardized because of problems relating to safety shortcomings, and third to other projects.

Case Study:

A nursing home in northern Minnesota with more than 90 employees and 70 residents received a $10,000 grant to help employees work in a safer, healthier environment. The grant was used to purchase ergonomic workstations, housekeeping carts and a variety of patient lifts, including mechanical raiser chairs and pneumatic beds to help raise and lower patients more easily.

Since the new equipment was installed, no lost-time injuries have been reported. Previously, the nursing home experienced two to three injuries each year, with a high of six. The nursing home also reports that employee morale has improved greatly.

In the four years since the nursing home began a safety program, its annual workers' compensation premiums have decreased from $180,000 to $22,000.

Special Workplace Topics

Health and Safety Communications

A healthy, safe, supportive and secure workplace has a continuous flow of open, two-way communication between all employees, including supervisors and managers, on workplace safety issues. A communication system should include readily accessible and easily understood information, keeping in mind the unique characteristics of the workforce. Employees should feel free to communicate without fear of reprisal from management.

Management should be assured employees are following established safety measures. A workplace communication system consists of the following:

Some short-term safety incentive programs that reward employees for no reported injuries don't always ensure safety.

1. New employee orientation on workplace health and safety policies, procedures and work practices;
2. Periodic review of health and safety policies with all personnel;
3. Customized training programs designed to address specific aspects of workplace health and safety;
4. Regularly scheduled health and safety meetings with all personnel;
5. A system to ensure that all employees, including managers and supervisors, understand the workplace health and safety policies;
6. Posted and/or distributed workplace health and safety information that is easily understood;
7. A system for employees to inform management about workplace hazards or threats of violence;
8. Procedures for protecting employees who report threats from retaliation by the person making the threats
9. A procedure in place for employees to report "near misses" so unsafe conditions can be corrected before an accident occurs;
10. Employees encouraged to follow safety guidelines; and
11. Addressing safety issues at workplace security team meetings.

Cumulative Trauma Injuries

It was once believed that injuries caused by repetitive body movements were confined to assembly-line workers, meat cutters, typists and the elderly. However, the number of reported cases of these injuries has grown both nationally and in Minnesota as jobs have become more specialized.

The injuries are variously referred to as cumulative trauma disorders, repetitive strain injuries and repetitive motion injuries. These labels cover the many clinical terms used to describe injuries of the upper extremities, back and joints. In Minnesota, they are also referred to as Gillette injuries, named after the first Minnesota case to establish employer liability for work-caused gradual injuries.

The incidence of cumulative trauma cases in Minnesota grew from 11.5 per 10,000 full-time-equivalent workers in 1984 to 58.9 in 1994, according to the Bureau of Labor Statistics. It is unknown how much of this growth is due to an

increase in cumulative trauma or an increase in reporting these injuries.

To protect employees from cumulative trauma injuries, employers should 1) identify work-related risk factors, and 2) make appropriate modifications of workplaces, tools, work organization and tasks.

Ergonomics is the science of positioning the body and the work task so that work injuries can be prevented as much as possible. It consists of identifying occupational risk factors; assessing the employee and employer to identify risk factors to be modified; and assessing the options to modify exposure by changing the work process, using alternative tools, reducing time on a high-risk task through job rotation or transfer, or using protective equipment.

Following are just some of the questions to be asked in an ergonomic assessment:

1. Can the work be performed without eye strain or glare to the employee?
2. Does the task require prolonged raising of the arms?
3. Do the neck and shoulders have to be stooped to view the task?
4. Are there pressure points on any parts of the body (wrists, forearms, back of thighs)?
5. Can the work be done using the larger muscles of the body?
6. Can the work be done without twisting or overly bending the lower back?
7. Are there sufficient rest breaks, in addition to the regular rest breaks, to relieve stress from repetitive tasks?
8. Are tools, instruments and machinery shaped, positioned and handled so that tasks can be performed comfortably?
9. Are all pieces of furniture adjusted, positioned and arranged to minimize strain on all parts of the body?

Violence in the Workplace

An average of 20 employee homicides occurs in the workplace each week in the United States, most from robbery-related crimes. In addition, an estimated one million workers are assaulted annually, according to the U.S. Department of Health and Human Services. On average, 10 Minnesota workers are killed on the job each year as a result of violent acts, and another 1,500 are assaulted, according to DLI.

Risk factors

The following factors may increase a worker's risk of assault:

- contact with the public;
- exchange of money;
- having a mobile workplace such as a taxicab or a police cruiser;
- working with unstable or volatile personnel in health care, social services or criminal justice settings;
- working alone or in small numbers;
- working late at night or during early morning hours;

- working in high-crime areas;
- guarding valuable property or possessions; and
- working in community-based settings.

Prevention strategies

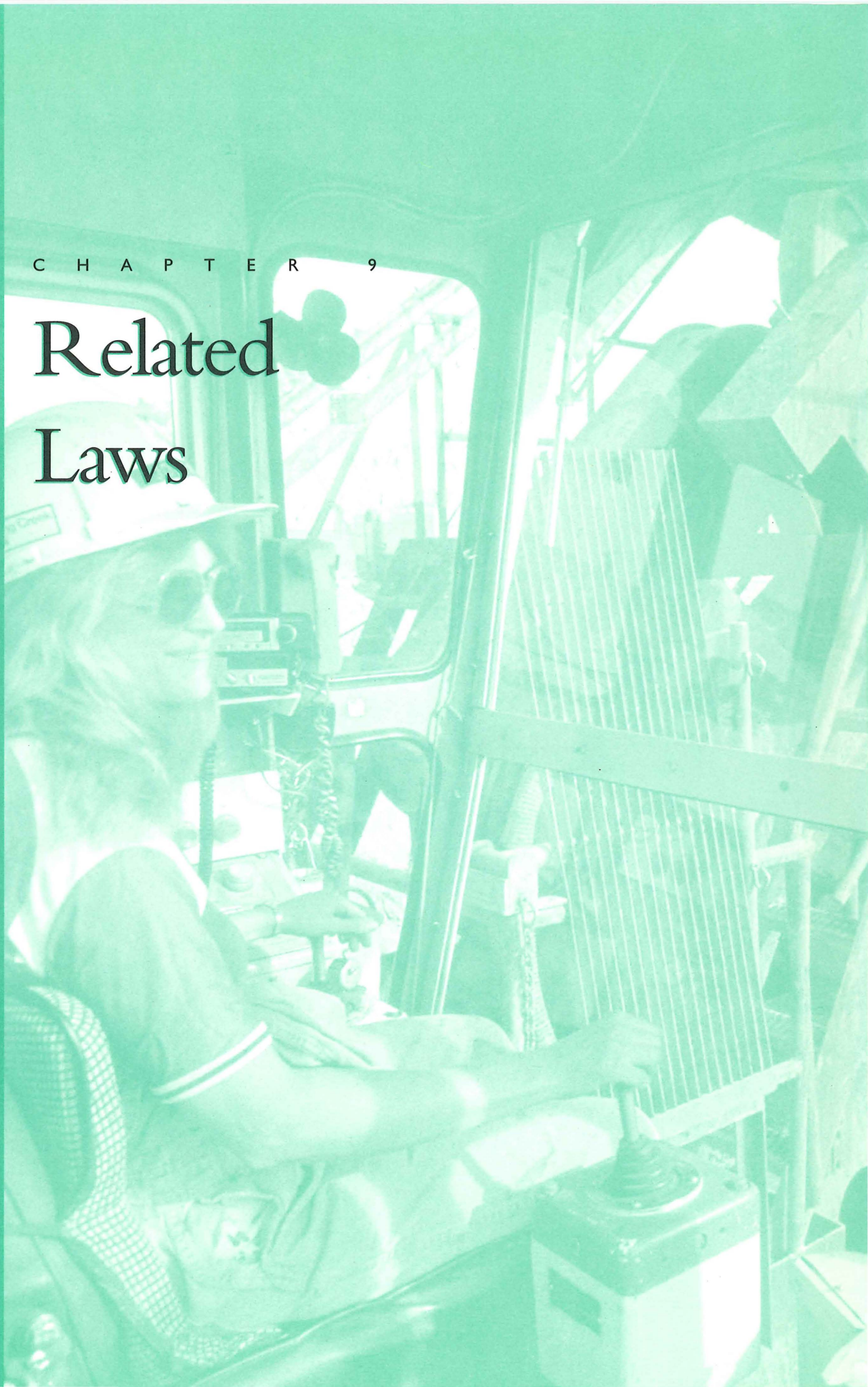
According to the U.S. Department of Health and Human Services, violence prevention strategies include:

- environmental designs, such as cash-handling policies, physical separation of workers from customers, visibility and lighting, and security devices;
- administrative controls, such as staffing plans and work practices, use of security guards, and reporting of threats; and
- behavioral strategies, such as training employees in conflict resolution, use of protective equipment, and increased knowledge and awareness of the risk of workplace violence.

PART 3: INSURANCE AND WORKPLACE ISSUES

CHAPTER 9

Related Laws



C H A P T E R 9 :

Related Laws

Two federal laws, the Americans with Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA), interact with Minnesota's workers' compensation law. Reemployment insurance (formerly unemployment insurance) can also be affected by workers' compensation benefits.

The Americans with Disabilities Act

In passing the Americans with Disabilities Act, Congress found that some 43 million Americans have one or more physical or mental disabilities and that discrimination against such individuals persists in such critical areas as employment, public accommodations, transportation, education, communication and access to public services. The purpose of the ADA is to provide a clear and comprehensive national mandate to end discrimination against persons with disabilities.

The ADA's Impact on Workers' Compensation

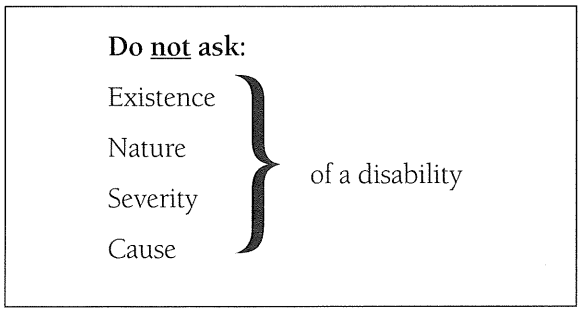
The ADA changes the way employers handle workers' compensation issues in three key areas.

The ADA changes the way employers handle workers' compensation issues in three key areas:

1. pre-employment and hiring;
2. confidentiality of records; and
3. claims management, particularly the decision whether to return an injured employee to work.

Pre-employment and Hiring

Employers may not ask about an applicant's workers' compensation history prior to making a conditional offer of employment.



Employers may not ask the applicant, and they may not ask previous employers or other sources for this information. For example, asking a job applicant during the interview process whether he or she has ever been hurt at work is prohibited.

However, once the conditional job offer is made, an employer may ask questions that might involve workers' compensation injuries. This can only be done as part of a medical inquiry or examination required of all applicants in the same job category to determine whether the employee is able to do the job.

An employer may **not** base an employment decision on the grounds that a person may be a workers' compensation risk.

Confidentiality

Any medical information an employer obtains after extending a conditional job offer, including any injury history, must be kept confidential and separate from the regular personnel file.

The ADA and Handling Workers' Compensation Claims

In cases where a workplace injury causes a condition which heals within a short period of time with little or no long-term or permanent effects, the employee may be entitled to workers' compensation benefits. However, he or she is probably not a person with a "disability" within the meaning of the ADA.

In all cases, however, employers must independently evaluate whether an injured worker might have a "disability," might have a "record" of a disability, or might be "regarded as" having a disability. Back injury cases are an obvious example. In those situations, employers must evaluate their exposure to the ADA liability, particularly when making decisions about bringing injured employees back to work.

Contact DLI for a fact sheet on how the ADA affects workers' compensation. For more information on the ADA, contact the Minnesota State Council on Disability at (612) 296-6785 or 1 (800) 945-8913 or the Equal Employment Opportunity Commission at (612) 335-4040 or 1 (800) 669-3362.

The Family and Medical Leave Act

The Family and Medical Leave Act became effective August 5, 1993, and covers most U.S. employers. It requires employers to permit unpaid leave, and allows employees to return to the same or similar job for any one of the reasons listed below.

FMLA covers:

- the birth, adoption or foster care placement of a child;
- time off to care for a child, spouse or parent who has a serious health problem; and
- treatment of an employee's own serious health condition.

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- the birth, adoption or foster care placement of a child;
- time off to care for a child, spouse or parent who has a serious health problem; and
- an employee's own serious health condition.

Employers may not limit the FMLA leave to a single reason or occurrence per year. The act entitles eligible employees to a total of 12 weeks of unpaid FMLA leave in any 12-month period which may be taken all at once or at intervals for the reasons listed above.

In addition to providing the mandated leave, employers must:

- maintain health care benefits coverage if they are provided under an existing contract;

- reinstate the employee to the former or equivalent position with equivalent pay, benefits and status; and
- inform the employee of his or her rights under the FMLA.

The FMLA's Impact on Workers' Compensation

In certain instances, an injured worker will also have FMLA rights which must be integrated into workers' compensation practices. While the definition of "injury" or "illness" under workers' compensation and "serious health condition" under the FMLA are not synonymous, from a practical standpoint, many injuries compensable under workers' compensation would qualify as serious health conditions under the FMLA.

If an injury or illness covered by workers' compensation qualifies as a serious health condition within the FMLA definition, related absences from work can be counted against an employee's FMLA leave entitlement. However, an employer cannot require exhaustion of vacation, sick leave or other forms of paid leave during concurrent FMLA/workers' compensation leave, as the employer could require in a non-workers' compensation case.

An employee must provide a 30-day notice of the need for FMLA leave if at all practicable so as not to unduly disrupt the employer's operations, regardless of the reason for the request.

Specific notice of FMLA rights and obligations must be given to an employee requesting leave before the leave may be counted against his or her FMLA entitlement. In order to provide adequate notice, the employer should inform the employee:

- whether the leave would be counted against the 12-week annual FMLA entitlement;
- that medical certification of a serious health condition is expected and the consequences of not providing such information;
- whether the employer will require a fitness-for-duty certificate as a condition for returning to work;
- that the employee has a right to restoration to the same or an equivalent position at the end of the leave; and
- whether the employee would be liable for any health insurance premiums paid by the employer should the employee not return to work at the expiration of the FMLA leave.

An employee must provide a 30-day notice of the need for FMLA leave if at all practicable so as not to unduly disrupt the employer's operations, regardless of the reason for the request.

The FMLA does not require an employer to return an employee to work who is medically unable to do his or her job, nor does it require modification of the job or reassignment to a new position. Light-duty jobs are typically very different from the employee's previous job and thus do not meet the FMLA requirement that a worker must be restored to *the same or equivalent position upon return from leave.*

An employer may not compel an injured worker to accept light-duty work. In addition, an employer may not require an FMLA-eligible employee to accept reasonable accommodation under the ADA instead of FMLA leave. Such accommodation or a light-duty position may be offered but may not be compelled. On the other hand, if an employee rejects an offer of employment that is within the

employee's medical restrictions, and is otherwise appropriate for workers' compensation purposes, an employer may contest the employee's entitlement to workers' compensation indemnity benefits.

The FMLA is administered and enforced by the U.S. Labor Department's Employment Standards Administration, Wage and Hour Division. The office can be reached at (612) 370-3371.

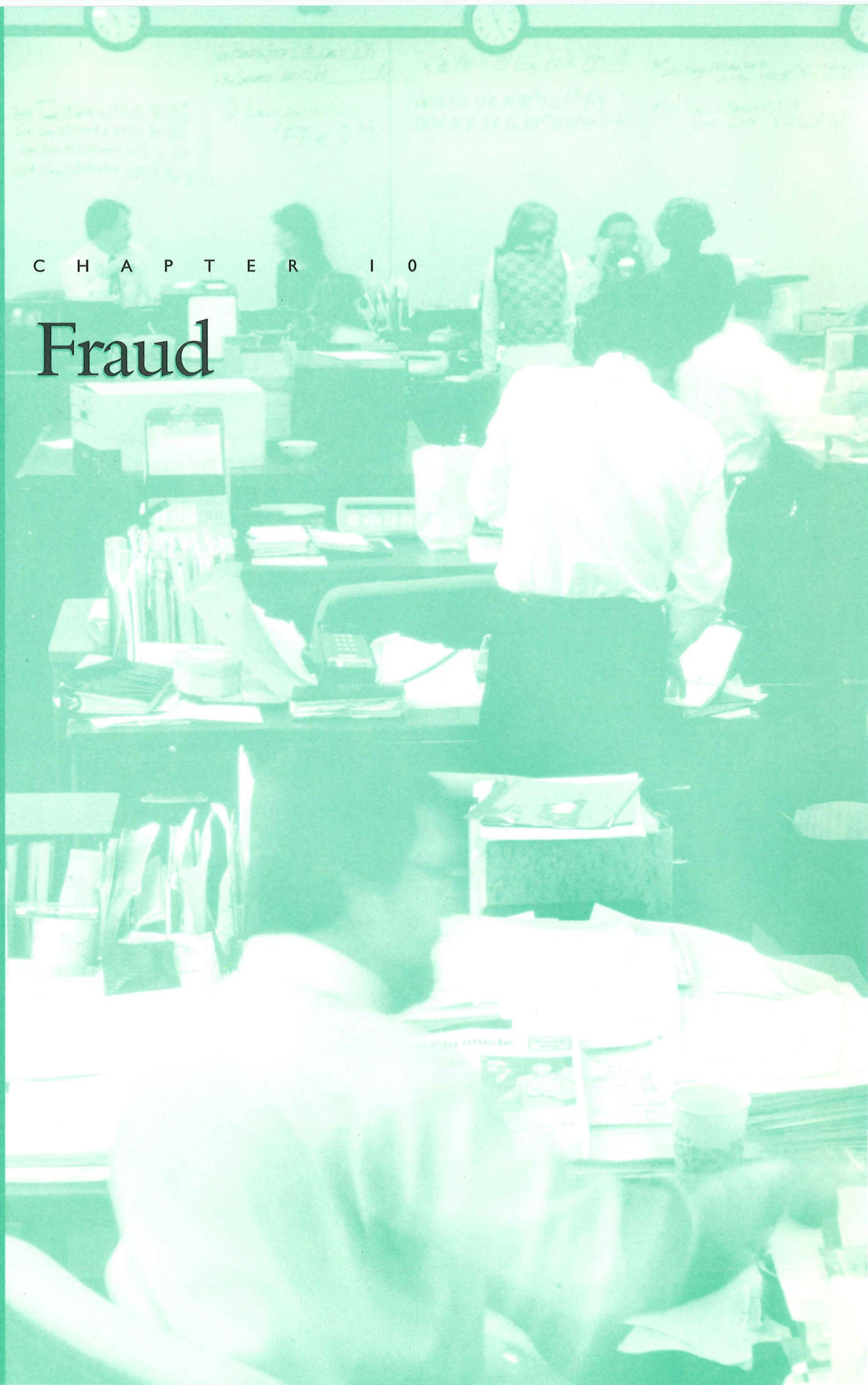
Reemployment Insurance

Under the reemployment insurance law, an employee who has received or claimed workers' compensation benefits exceeding the reemployment benefit amount for a specified time period is not eligible for reemployment benefits during that period.[1]

PART 3: INSURANCE AND WORKPLACE ISSUES

CHAPTER 10

Fraud



CHAPTER 10:

Fraud

It is a crime under Minnesota law for any person, entity, or organization to receive payments for services or benefits from the workers' compensation system through intentional misrepresentation, misstatement, or failure to disclose a material fact. Anyone considering, or participating in, workers' compensation fraud should be aware that fraud can be theft.[1] Any theft of more than $500 is a felony. If convicted, the party will have a criminal record, and could be sentenced to a jail term, and/or be ordered to pay back the amount of the theft.

Unfortunately, fraud is sometimes committed in the workers' compensation system by employees, employers, insurers and their agents, health care providers, attorneys and qualified rehabilitation consultants. Of course, not everyone is involved in fraudulent behavior, but fraud can affect everyone through higher workers' compensation costs and unfair practices.

Fraud Takes Many Forms

Coverage

Some employers commit fraud by refusing to comply with mandatory workers' compensation coverage laws or by attempting to reduce their premiums.

An employer may attempt to mislead insurers by submitting false information about annual payroll or business classification to try to reduce the employer's insurance premium.

To report suspected cases of workers' compensation fraud, call 1 (888) FRAUD MN [1 (888) 372-8366].

Another tactic is for an employer to falsely declare that some or all of the employer's workers are independent contractors. This is particularly prevalent in industries where the employer-employee relationship is more fluid, such as in construction and trucking. By declaring the employees to be independent contractors, the employer attempts to avoid providing workers' compensation coverage.

Employee leasing is tried by employers to reduce costs, especially when they have high experience modifiers. This is sometimes attempted by "firing" all of the employees and then leasing them back through an employee leasing company. The leasing company tries to purchase the workers' compensation insurance with a lower experience modifier.

An insurance agent may misrepresent coverage to his or her clients, leading them to believe that they have a legitimate workers' compensation policy, when in reality they are uninsured. In a case like this, the agent deposits the premium in his or her personal bank account instead of turning it over to the insurance company.

Case Study:

The owner of a Twin Cities manufacturing company was charged with theft by swindle for providing false information to an insurance company premium auditor. The owner claimed that he had 11 employees and an annual payroll of $200,000. An investigation revealed that the company actually had 60 employees and an annual payroll of more than $700,000. The owner pleaded guilty to one count of felony theft and was sentenced to up to four months in jail, and restitution of at least $70,000.

Claims

Employee fraud usually involves reports of an injury. An employee may claim that an injury happened on the job when, in fact, the injury occurred away from work. Sometimes employees fake injuries or exaggerate an injury's severity.

Other cases of employee fraud involve "double dipping." In this situation, the employee may be collecting weekly wage loss benefits on a legitimate claim, but is employed elsewhere and earning unreported income.

Health care or rehabilitation providers commit fraud when they bill for services that were never rendered. Sometimes a health care provider will "double bill" by billing both the workers' compensation insurer and a general health care insurer.

Case Study:

Michael collected workers' compensation temporary total disability benefits for a work-related back injury, which, he asserted, prevented him from performing work activities. While collecting benefits, Michael went antelope hunting in Montana, snorkeling in the Caribbean and participated in other strenuous activities. The employee pleaded guilty to fraud, was fined and had to pay back more than $14,000 in workers' compensation benefits. His sentence was stayed pending his successful completion of probation.

Investigative Services Unit

The Investigative Services unit (ISU) was established in 1993 as a criminal investigative agency within the Minnesota Department of Labor and Industry (DLI). It conducts criminal investigations of alleged workers' compensation fraud and presents cases for prosecution to Minnesota's county attorneys. In 1995 the unit was expanded to include the issue of mandatory coverage through investigation and penalty assessment. ISU also works with the Special Compensation Fund to investigate uninsured claims.

Fraud investigations primarily focus on theft and conspiracy by any party in the workers' compensation system. Some cases may also include perjury and forgery. Hundreds of fraud investigations are conducted each year.

ISU publicizes the names of entities and individuals sentenced for workers' compensation fraud. This publicity is intended to act as a deterrent as well as to gain the cooperation of the public in obtaining information about workers' compensation fraud.

Case Study:

The Investigative Services unit investigated a Twin Cities man who was eventually found guilty of stealing workers' compensation insurance premiums. The man, an independent insurance agent, collected insurance payments from Twin Cities bars and restaurants and then diverted the money for his own use, without obtaining the promised insurance coverage. He stole more than $28,000 in premiums in this manner.

The agent pleaded guilty and was sentenced to 120 days in jail and 10 years' probation. He will also be required to pay restitution to the various establishments.

Mandatory Coverage

Employers who don't provide mandatory workers' compensation coverage also commit a form of insurance fraud. Uninsured employers lead to uninsured claims, which are paid through the Special Compensation Fund. Assessment rates for insurers for the Special Compensation Fund go up as the number of uninsured claims increase. Uninsured employers would have an unfair advantage through lower business costs if compliance is not required.

ISU, the Special Compensation Fund and the Minnesota Attorney General's Office have combined forces to reduce the number of uninsured employers.

Employers who do not obtain the mandatory workers' compensation coverage can be assessed penalties at a rate twice the avoided premium if a payroll can be determined. If the payroll cannot be determined, the maximum penalty is applied at $1,000 per week per employee during the uninsured period.

The Investigative Services unit and the Special Compensation Fund investigate hundreds of uninsured employer cases annually, and assess millions of dollars in penalties.

FAQS **Frequently Asked Questions**

Q: I don't think my employer is accurately reporting my employment status. I'm a full-time employee, but he is reporting that I work on a contract basis. I don't want to get in trouble, but I think he should be reported. Plus, I want to be sure I have workers' compensation coverage.

A: A toll-free fraud "tip line" provides a way for concerned citizens, employers and employees to report suspected fraudulent workers' compensation activity. Callers may remain anonymous, and the tip line is available 24 hours a day. To report suspected cases of workers' compensation fraud, call 1-888-FRAUD MN (1-888-372-8366). You can contact the Insurance Verification section of the department (612-296-2170) to be sure that your employer has workers' compensation insurance.

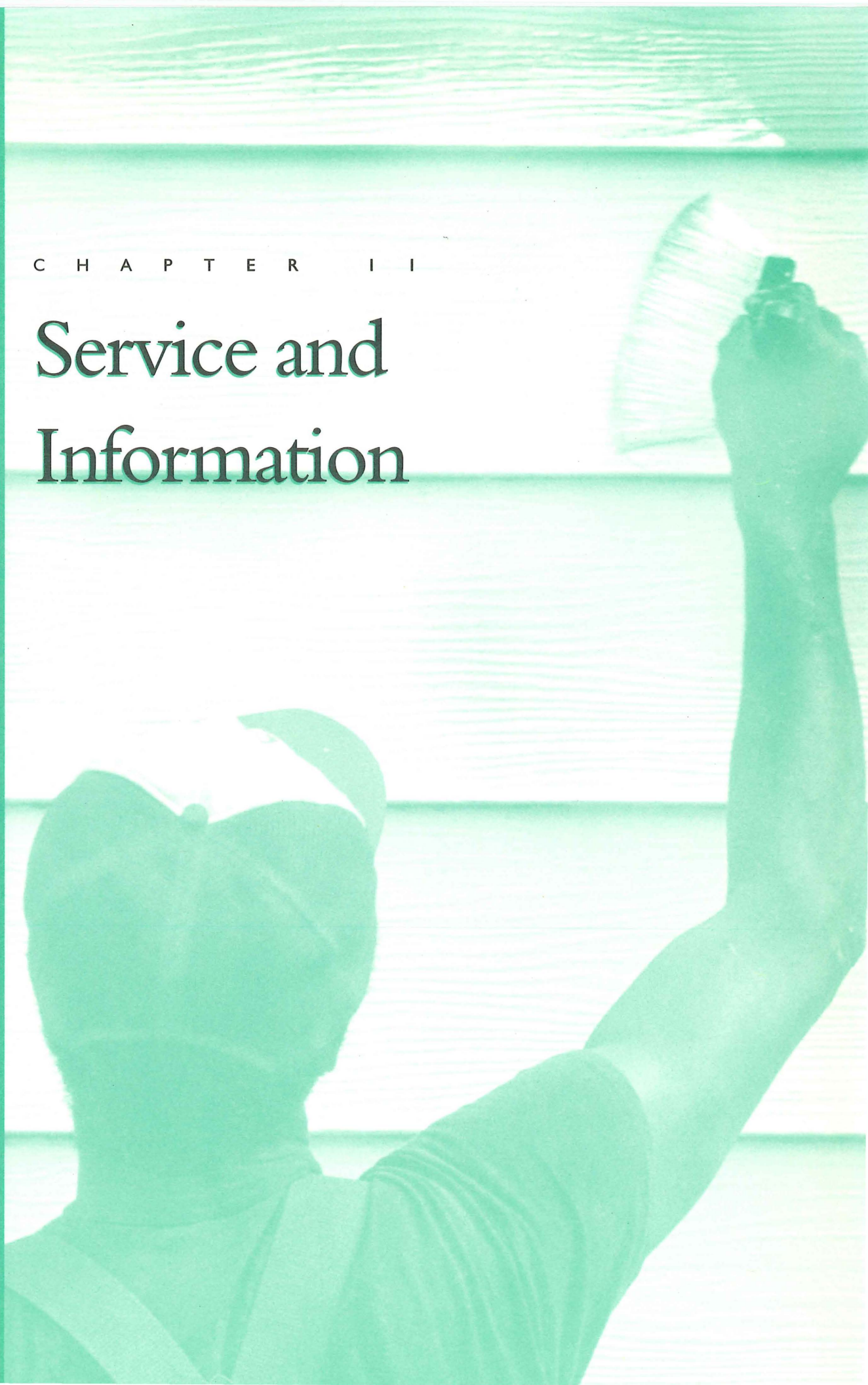
Q: As an employer, how can I be sure that my employees are accurately reporting injuries?

A: It is very important that you consistently and thoroughly investigate any reports of injury. Accurately and completely fill out the First Report of Injury form. This is discussed in detail in Chapter 2. Treat all reports of injuries the same, whether or not you think they are legitimate. In addition to talking with the employee about the injury and how it happened, also talk with any witnesses, as well as any of your medical personnel who may have treated the employee. Get a written statement from the employee. Note any pre-injury conditions that may have contributed to the injury. Be concerned for the employee.

PART 4: RESOURCES

CHAPTER 11

Service and Information



CHAPTER 11:

Service and Information

Customers of the Minnesota Department of Labor and Industry (DLI) can receive assistance through a variety of ways: telephone, walk-in service, the DLI web site, from individual divisions, Internet e-mail, publications and seminars. Authorized individuals can also review workers' compensation files (see below). Many boards, councils, agencies and organizations are part of the workers' compensation system. Those organizations and phone numbers are also included in this chapter.

DLI Web site

A variety of workers' compensation information is available on DLI's web site 24 hours a day. Check the site for reports, forms, general information, news releases and the *COMPACT* newsletter. The DLI web site address is: www.doli.state.mn.us

Internet e-mail addresses

Following are generic DLI e-mail addresses:

Commissioner— <DLI.Commissioner@state.mn.us>

Communications—<DLI.Communications@state.mn.us>

Workers' Compensation Division (for workers' compensation units not listed here)—<DLI.Workcomp@state.mn.us>

Investigative Services—<DLI.ISU@state.mn.us>

Occupational Safety and Health Administration—<OSHA.Compliance@state.mn.us>

Workplace Safety Consultation—<OSHA.Consultation@state.mn.us>

Rehabilitation and Medical Affairs—<DLI.Rehabmed@state.mn.us>

Special Compensation Fund—<DLI.Specialcomp@state.mn.us>

Research and Statistics—<DLI.Research@state.mn.us>

Vocational Rehabilitation—<DLI.Vocrehab@state.mn.us>

Telephone Assistance

Telephone assistance is provided by workers' compensation customer assistance specialists Monday through Friday from 9:30 a.m. to 4:30 p.m. Other units in the department can be reached between 8 a.m. and 4:30 p.m.

For information, or to request single copies of forms, call:

1 (800) DIAL-DLI or 1 (800) 342-5354 or (612) 296-2432.

In the Duluth area, call:1 (800) 365-4584 or (218) 723-4670

Hearing impaired persons, call: (612) 297-4198 for TTY line

Walk-in Assistance

Walk-in assistance is provided by customer assistance specialists Monday through Friday from 9:30 a.m. to 4:30 p.m. (see Appendix for map)

Minnesota Department of Labor and Industry
443 Lafayette Road North
St. Paul, MN 55155

Minnesota Department of Labor and Industry
5 North Third Ave. West
Suite 400
Duluth, MN 55802-1614

Divisions and Units		Phone	Fax
WORKERS' COMPENSATION			
Division Administration		(612) 296-6490	282-5293
Compliance Services		(612) 296-2636	282-6877
Customer Assistance		(612) 297-4377	296-9634
Information Processing Center		(612) 297-3467	215-0170
Judicial Services		(612) 297-3663	282-5404
Duluth		(218) 723-4670	723-2362
Detroit Lakes		(218) 846-0766	846-0768
Rehabilitation and Medical Affairs		(612) 296-3970	297-7098
Special Compensation Fund		(612) 296-2117	297-7098
Vocational Rehabilitation		(612) 297-1114	296-8899
Qualified rehabilitation consultants:			
Bemidji		(218) 755-4205	755-4201
Duluth	1 (800) 365-4584	(218) 723-4904	723-2362
Fergus Falls	1 (800) 657-3758	(218) 739-7565	739-7496
Hibbing	1 (800) 657-3768	(218) 262-6789	262-7304
Mankato	1 (800) 366-4510	(507) 389-6514	389-2746
Roseville		(612) 628-6750	628-6754
Rochester	1 (800) 657-3950	(507) 280-5596	280-5535
St. Cloud	1 (800) 657-3749	(320) 255-2490	255-3951
Workplace Services Division			
Labor-Management Safety Committee Program		(612) 297-2393	297-1953
Occupational Safety and Health Compliance (MNOSHA)		(612) 296-2116	297-2527
Duluth		(218) 723-4678	725-7722
Mankato		(507) 389-6501	389-2746
Safety Grants Program		(612) 297-2393	297-1953
Workplace Safety Consultation		(612) 297-2393	297-1953
General Support Division			
Investigative Services	Tipline 1 (888) 372-8366	(612) 297-5797	282-5358
Legal Services		(612) 296-8184	296-8899
Publications		(612) 297-4595	296-8899
Research and Statistics		(612) 297-3163	296-8899

Publications

COMPACT Newsletter—A quarterly publication providing department news and workers' compensation case information to professionals who work within Minnesota's workers' compensation system.

Quick Reference Guide— Provides a summary of Minnesota's workers' compensation system (available in packages of 25 from Minnesota's Bookstore, see number below).

Employee Guide —Informs employees on various aspects of the workers' compensation system (available in packages of 10 from Minnesota's Bookstore).

Safety Lines Newsletter—Published quarterly to promote job safety and inform readers of the purpose, plans and progress of MNOSHA.

Minnesota Workplace Safety Report—Contains statistical information on workplace injuries.

For single copies, call the Research and Statistics unit at (612) 297-4595, or visit DLI's web site.

Seminars

DLI presents and participates in seminars on workers' compensation to all parties involved in the workers' compensation system, and will tailor the material to the needs of the requesting group. For more information, call (612) 297-3476 or 1(800)DIAL-DLI. Or, click "seminars" on the department web site.

Minnesota's Bookstore

(612) 297-3000 or 1(800) 657-3757

A variety of publications about the state are available for retail sale from Minnesota's Bookstore at the Minnesota Department of Administration. Located near the state Capitol building, Minnesota's Bookstore sells law and rule extracts, publications, reports, forms, guides, directories and a variety of products with a Minnesota theme. The *Minnesota Guidebook to State Agency Services* provides information on all state agencies in the executive, judicial and legislative branches of government. Workers' compensation statutes and rules are available from the bookstore.

Workers' Compensation File Review

DLI's workers' compensation files are private. [1] The file contents can be examined only by the employee, employer, the appropriate insurer, the dependents of a deceased employee, the Department of Labor and Industry, the Office of Administrative Hearings, an appeals court, or another person who furnishes a valid authorization to do so. [2] There are some exceptions to this general rule.

If you are authorized to request a file copy, call (612) 297-3167. For injuries on or after February 1997, files are stored as computer images and the original paper documents are not available. However, a paper document will be created if needed by the persons listed above.

Boards and Councils

Workers' Compensation Advisory Council

(612) 296-6490

The council advises the commissioner on workers' compensation, provides rulemaking oversight and submits its recommendations of proposed changes to the appropriate legislative committee. It consists of 12 voting members (six representing organized labor and six representing businesses), 10 of whom are appointed. The other two members are the presidents of the largest statewide Minnesota business organization and the largest statewide organized labor organization. The council also serves as the Rate Oversight Commission. The commission advises the Department of Commerce on the Minnesota Workers' Compensation Insurers Association's pure premium advisory rate filing.

Rehabilitation Review Panel

(612) 296-3970

This panel makes recommendations to the DLI commissioner on all matters related to vocational rehabilitation services provided to injured workers. The panel is composed of two members each representing employers, insurers, vocational rehabilitation providers and medical providers, one member representing chiropractors, and four members representing labor.

Medical Services Review Board

(612) 297-3970

This board offers advice to the DLI commissioner on all aspects of medical care related to workplace injuries and illnesses. It is composed of two chiropractors, one hospital administrator, one physical therapist, six physicians of various specialties, one employee representative, one employer/insurer representative and one general public representative.

Workers' Compensation Insurers' Task Force

(612) 296-6490

This advisory group is composed of workers' compensation insurance industry representatives and several self-insured representatives. Members are appointed to two-year terms by the assistant commissioner of the Workers' Compensation Division. The purpose of the task force is to provide a forum for DLI to provide information to the workers' compensation insurance industry on public policy and rules and statutes, and to solicit input, feedback and recommendations on Minnesota and DLI policy.

Workers' Compensation Special Compensation Fund Advisory Committee

(612) 296-2117

The committee provides advice and assistance to the DLI commissioner on fund administration, specifically maintaining the financial integrity of the fund; educating key stakeholder groups; and recommending strategies for identifying and addressing any operational needs of the fund.

Other Agencies and Organizations

Minnesota Workers' Compensation Reinsurance Association

(612) 229-1826

The Workers' Compensation Reinsurance Association (WCRA) is a non-profit organization created by the Minnesota Legislature to provide risk-sharing among all insurers and self-insurers for serious compensation losses. The WCRA is an integral part of the Minnesota workers' compensation system. By statute, all insurers and self-insurers participating in Minnesota's workers' compensation system must purchase reinsurance through the WCRA.

Minnesota Workers' Compensation Insurers Association, Inc.

(612) 897-1737

The Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) gathers and distributes data on insurance policies and insurance rates. Its purpose is to aid insurance companies and the Minnesota Department of Commerce in determining rates. The MWCIA is a private business licensed by Commerce.

Minnesota Department of Commerce

(612) 296-4026

The Department of Commerce regulates Minnesota's financial institutions, including insurance, banking, securities and real estate. The department licenses insurance agents and regulates self-insurance.

Office of Administrative Hearings

(612) 341-7600

The Office of Administrative Hearings was created as an independent state agency in 1975 to ensure a fair and impartial hearing process in state government, including workers' compensation cases.

Workers' Compensation Court of Appeals

(612) 296-6526

The Workers' Compensation Court of Appeals was established by the legislature as the statewide authority to decide all questions of law and fact in appeals from workers' compensation judges.

Minnesota Supreme Court

(612) 296-2581

The Minnesota Supreme Court is the highest court in the state. The court hears appeals from the Court of Appeals and the Workers' Compensation Court of Appeals, among others.

Board of Medical Practice

(612) 617-2130

The board protects the public from health care which falls below the minimum prevailing standards of care. It does so by licensing and disciplining physicians and acupuncturists, and registering and disciplining physician assistants, physical therapists, respiratory care practitioners, and athletic trainers.

Lawyers Professional Responsibility Board

(612) 296-3952 or 1 (800) 657-3601

This office was established by the Minnesota Supreme Court to investigate complaints of unethical conduct against any Minnesota lawyer.

Minnesota State Council on Disability

(612) 296-6785 or 1 (800) 945-8913

The council was created by the 1973 Legislature to provide technical assistance and to advise the governor, legislature, the public and service providers about the services, programs and legislation needed by disabled people.

Minnesota Department of Human Rights

(612) 296-5663 or 1 (800) 657-3704

Established in 1967, the department enforces and administers the Minnesota Human Rights Act, a law that protects people in the state from discrimination.

Minnesota Department of Economic Security

(612) 296-3644

The department furthers economic security by providing programs and services that foster economic independence and self-sufficiency through an integrated employment and training system. Reemployment benefits are funded and collected through this department.

Minnesota Safety Council, Inc.

(612) 291-9150

The Safety Council provides programs and services to reduce death, injury and loss from preventable causes, such as work and traffic accidents. The Safety Council offers training programs in occupational safety and health, holds an annual safety conference, and offers consulting services to members.

Midwest Center for Occupational Health and Safety

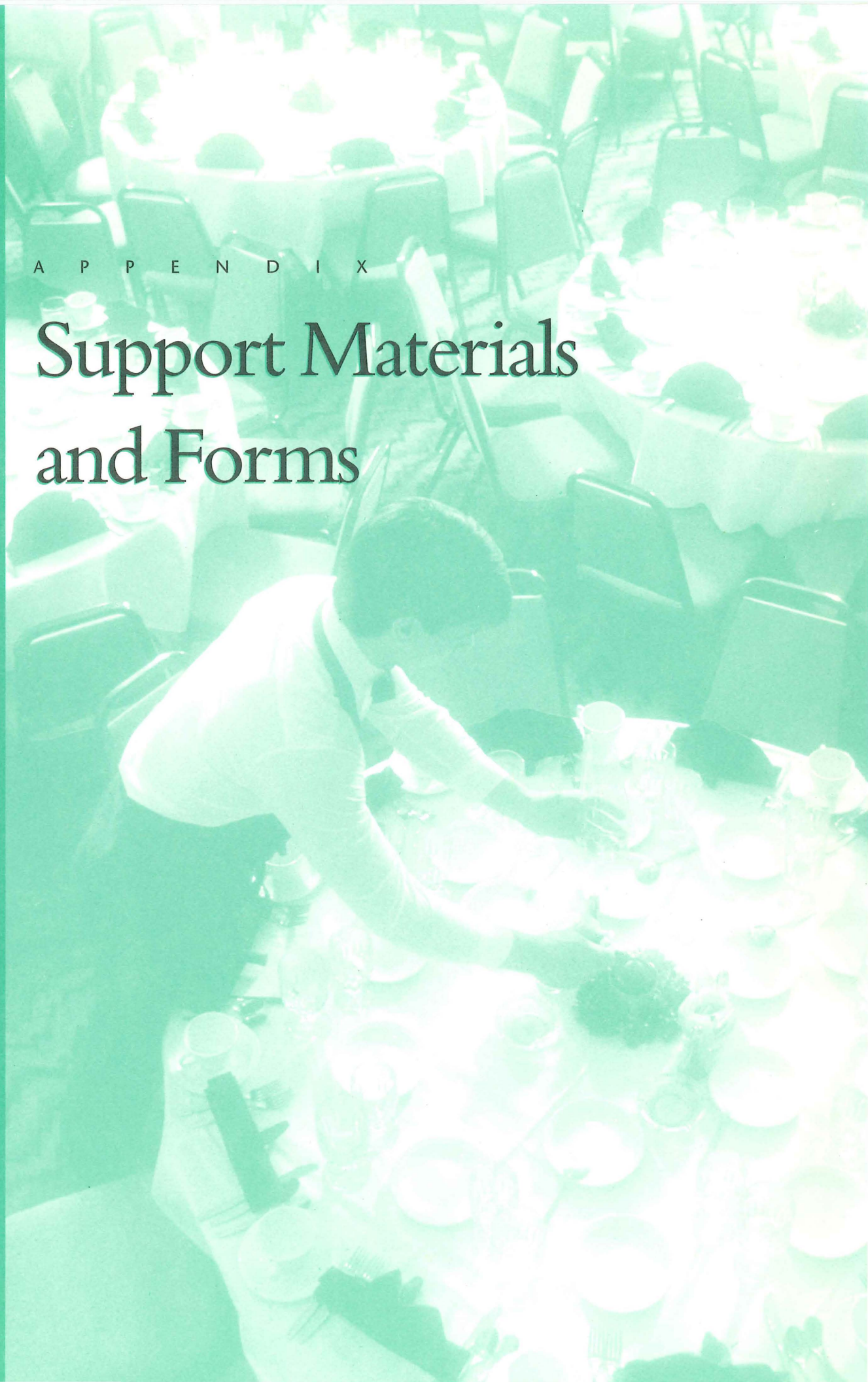
(612) 221-3992

Graduate training programs and continuing education courses in occupational safety and health are offered by the center. The center is designated an Educational Resource Center by the National Institute for Occupational Safety and Health. It is a consortium of regional academic institutions, including the University of Minnesota and the St. Paul-Ramsey Medical Center. In addition to classes offered throughout the year, an Occupational Health and Safety Institute is held in the late summer.

U.S. Department of Labor

(612) 370-3111 (in Minneapolis)

This federal government department administers a number of programs related to workplace issues, including the Family and Medical Leave Act, federal OSHA, the Bureau of Labor Statistics and workers' compensation systems for longshoremen, railroad workers, and federal government employees.

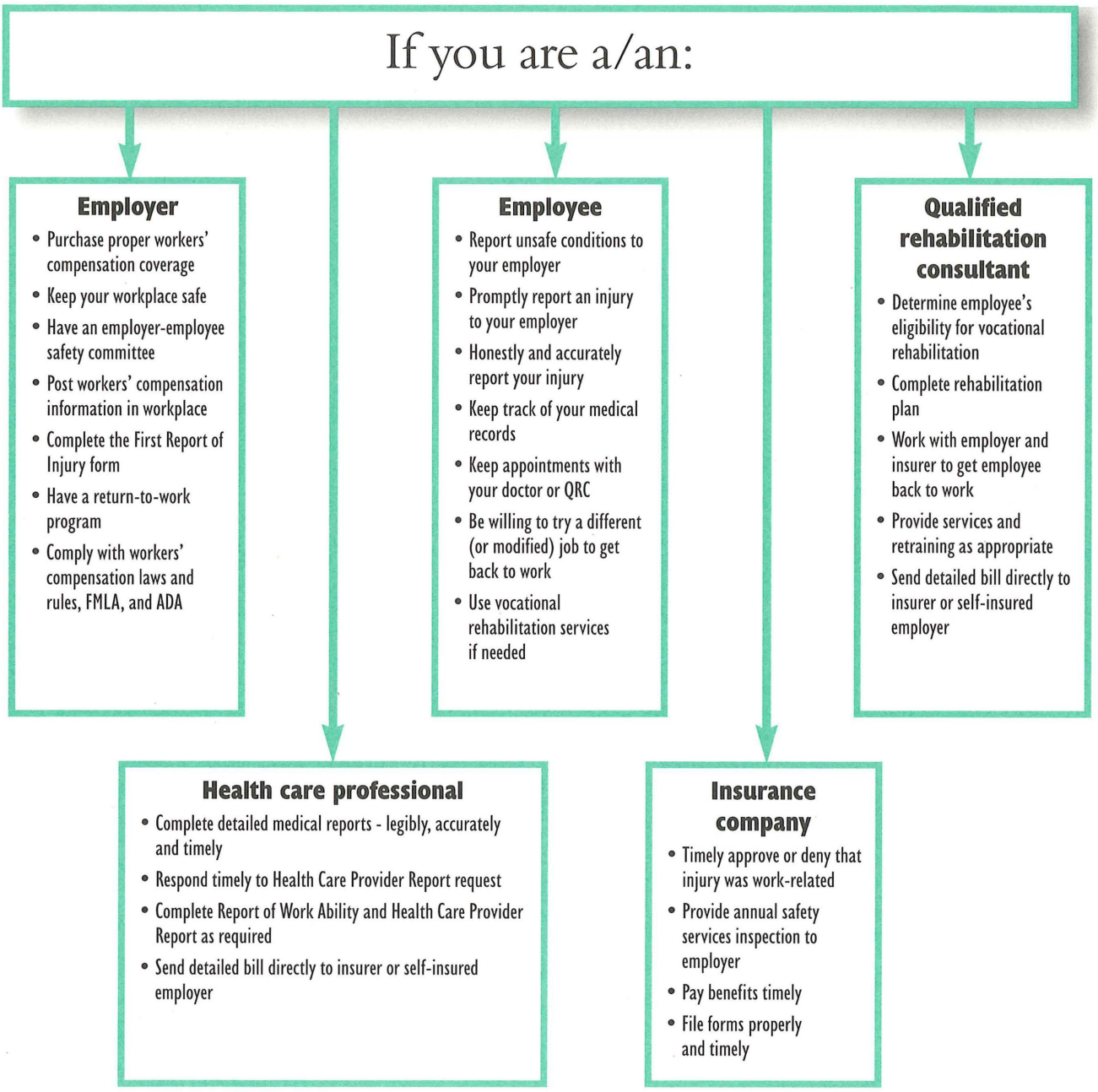


APPENDIX

Support Materials and Forms

A P P E N D I X

Your responsibilities in the workers' compensation system



Tables and Charts

Annual Adjustment of Benefits [1]

Date Effective	Percent
10/1/90	3.63
10/1/91	3.50
10/1/92	3.61
10/1/93	4.00 (capped by statute)
10/1/94	1.65
10/1/95	2.64
10/1/96	3.76

Minimum and Maximum Benefits [2]

Effective Date	Maximum	Minimum	Minimum
10/1/77	100 percent of SAWW	20 percent of SAWW OR	50 percent of SAWW or gross wage, whichever is less but in no case less than 20 percent of SAWW
10/1/90	$428.00	$85.60	$214.00
10/1/91	$443.00	$88.60	$221.50
10/1/92	105 percent of SAWW	20 percent of SAWW or the employee's actual weekly wage, whichever is less	
10/1/92	$481.95	$91.80	
10/1/93	$508.20	$96.80	
10/1/94	$516.60	$98.40	
10/1/95	Set by statute	Set by statute, the listed amount or the employee's actual weekly wage, whichever is less	
10/1/95 and after	$615.00	$104.00	

Note: SAWW defined on page 22.

Duration Limits

TTD Benefit Entitlement

Dates of Injury	Temporary Total Disability Benefits
1/1/84 through present	90 days after either service of MMI report or end of approved retraining, with some exceptions
10/1/95 through present	up to 104 weeks, if MMI report not served, unless retraining is approved, 90 days after either service of MMI report or end of approved retraining, with some exceptions

TPD Benefit Entitlement

Dates of Injury	Temporary Partial Disability Benefits
5/28/77 through 9/30/92	no cap
10/1/92 through present	cap of 225 weeks of actual payments, not to be paid out after 450 weeks after the injury

Certified Managed Care Organizations for Workers' Compensation

Not every certified managed care organization is available in each county. Call the Rehabilitation and Medical Affairs unit for plan availability.

1. Comprehensive Managed Care

3535 Blue Cross Road

P.O. Box 64560, Route #W101

St. Paul, MN 55164-0560

Office: (612) 456-5563 or 1 (800) 262-0828

Fax: (612) 456-1944

2. Preferred WorkCare

P.O. Box 1660

Minneapolis, MN 55440-1660

Office: (612) 372-3258 or 1 (800) 452-7289

Fax: (612) 623-1997

3. HealthPartners

8100 34th Ave. S.

P.O. Box 1309

Minneapolis, MN 55415

Office: (612) 883-5396 or 1 (800) 551-0859

Fax: (612) 883-5210

4. CorVel

1380 Energy Lane, Suite 205

St. Paul, MN 55108

Office: (612) 644-9117 or 1 (800) 874-2273

Fax: (612) 642-1488

5. HealthEast Care Inc., WorkDirect

University Park Medical Office Bldg.
1690 University Ave. W., Suite 370
St. Paul, MN 55104
Office: (612) 232-5085 or 1 (800) 513-3911
Fax: (612) 232-5069

6. Medica Work Choice

5601 Smetana Drive, P.O. Box 9310
Minneapolis, MN 55440-9310
Office: (612) 992-2022 or 1 (800) 259-6650
Fax: (612) 992-3330

7. Intracorp/Araz

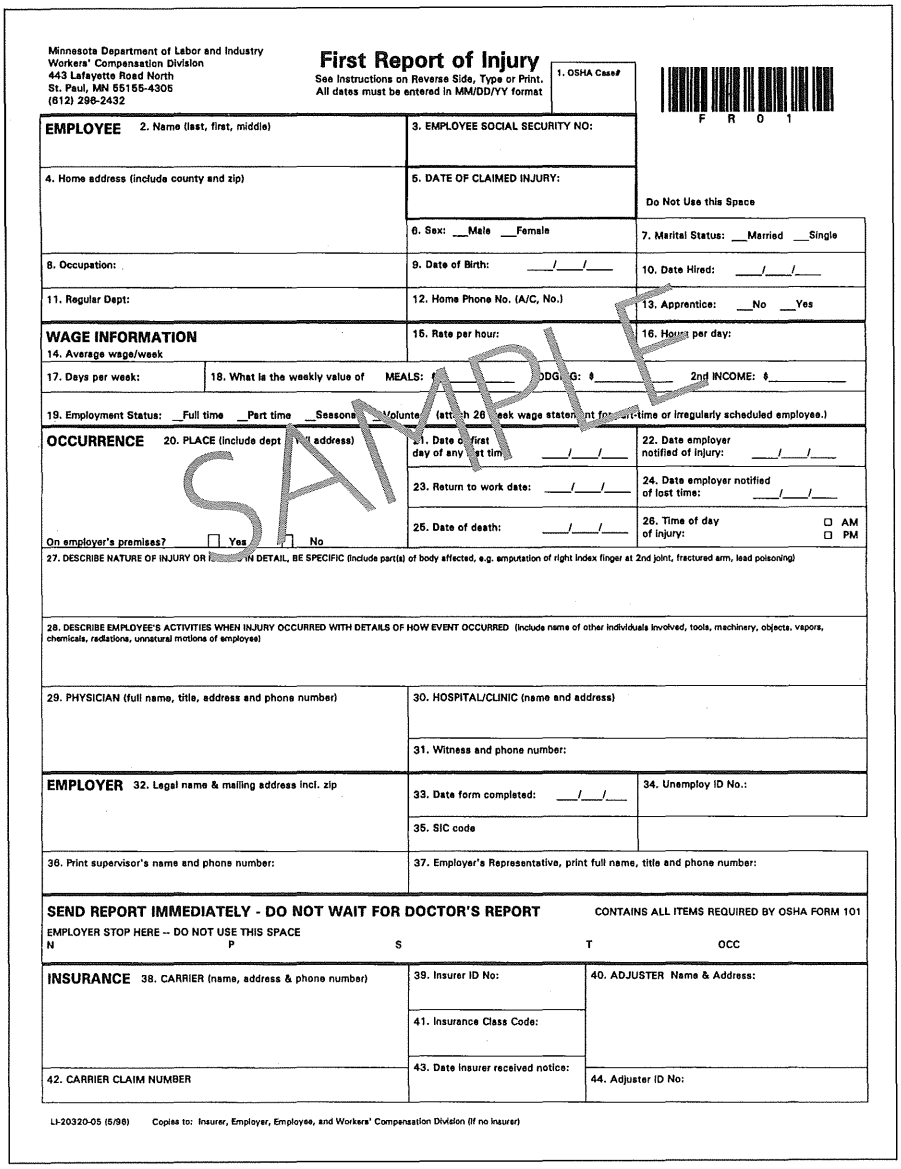
One Pierce Place, Suite 1000 West
Itasca, IL 60143
Office: 1 (800) 525-8546
Fax: (708) 775-0054

8. Minnesota Works

5075 Wayzata Blvd.
P.O. Box 26338
Minneapolis, MN 55426-0338
Office: (612) 797-7792 or 1 (800) 923-3323
Fax: (612) 595-0380

Forms

First Report of Injury



Minnesota Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St. Paul, MN 55155-4305
(612) 296-2432

First Report of Injury
See Instructions on Reverse Side, Type or Print.
All dates must be entered in MM/DD/YY format

1. OSHA Case#

F R 0 1

EMPLOYEE 2. Name (last, first, middle)

3. EMPLOYEE SOCIAL SECURITY NO:

4. Home address (include county and zip)

5. DATE OF CLAIMED INJURY:

Do Not Use this Space

6. Sex: __Male __Female

7. Marital Status: __Married __Single

8. Occupation:

9. Date of Birth: ___/___/___

10. Date Hired: ___/___/___

11. Regular Dept:

12. Home Phone No. (A/C, No.)

13. Apprentice: __No __Yes

WAGE INFORMATION
14. Average wage/week

15. Rate per hour:

16. Hours per day:

17. Days per week:

18. What is the weekly value of MEALS: $_____ LODGING: $_____ 2nd INCOME: $_____

19. Employment Status: __Full time __Part time __Seasonal __Volunteer (attach 26 week wage statement for part-time or irregularly scheduled employee.)

OCCURRENCE 20. PLACE (Include dept. and address)

21. Date of first day of any lost time: ___/___/___

22. Date employer notified of injury: ___/___/___

23. Return to work date: ___/___/___

24. Date employer notified of lost time: ___/___/___

25. Date of death: ___/___/___

26. Time of day of injury: ☐ AM ☐ PM

On employer's premises? ☐ Yes ☐ No

27. DESCRIBE NATURE OF INJURY OR ILLNESS IN DETAIL, BE SPECIFIC (Include part(s) of body affected, e.g. amputation of right index finger at 2nd joint, fractured arm, lead poisoning)

28. DESCRIBE EMPLOYEE'S ACTIVITIES WHEN INJURY OCCURRED WITH DETAILS OF HOW EVENT OCCURRED (Include name of other individuals involved, tools, machinery, objects, vapors, chemicals, radiations, unnatural motions of employee)

29. PHYSICIAN (full name, title, address and phone number)

30. HOSPITAL/CLINIC (name and address)

31. Witness and phone number:

EMPLOYER 32. Legal name & mailing address incl. zip

33. Date form completed: ___/___/___

34. Unemploy ID No.:

35. SIC code

36. Print supervisor's name and phone number:

37. Employer's Representative, print full name, title and phone number:

SEND REPORT IMMEDIATELY - DO NOT WAIT FOR DOCTOR'S REPORT CONTAINS ALL ITEMS REQUIRED BY OSHA FORM 101

EMPLOYER STOP HERE -- DO NOT USE THIS SPACE
N P S T OCC

INSURANCE 38. CARRIER (name, address & phone number)

39. Insurer ID No:

40. ADJUSTER Name & Address:

41. Insurance Class Code:

42. CARRIER CLAIM NUMBER

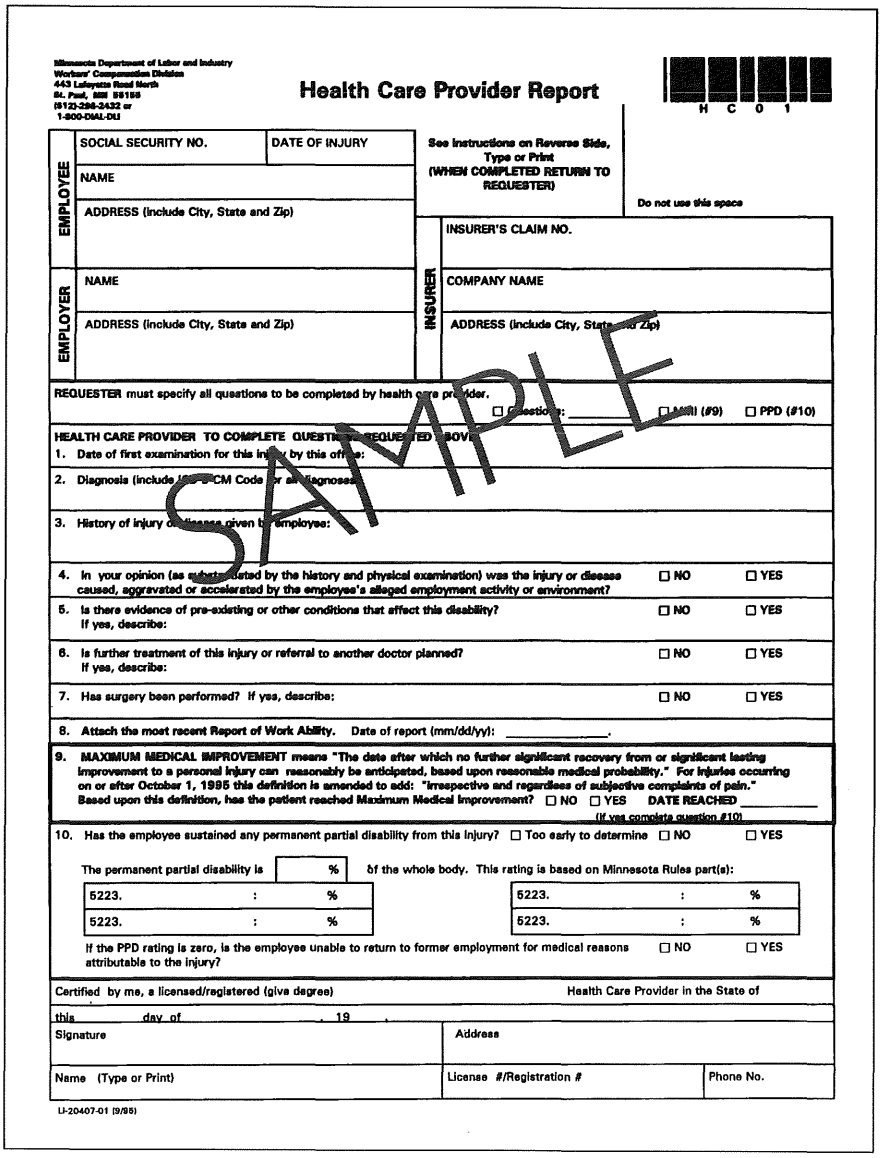
43. Date insurer received notice:

44. Adjuster ID No:

LI-20320-05 (5/96) Copies to: Insurer, Employer, Employee, and Workers' Compensation Division (if no insurer)

SAMPLE

Health Care Provider Report



Minnesota Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St. Paul, MN 55155
(612)-296-2432 or
1-800-DIAL-DLI

Health Care Provider Report

H C 0 1

EMPLOYEE		
	SOCIAL SECURITY NO.	DATE OF INJURY
	NAME	
	ADDRESS (Include City, State and Zip)	

See Instructions on Reverse Side, Type or Print (WHEN COMPLETED RETURN TO REQUESTER)

Do not use this space

EMPLOYER	
NAME	
ADDRESS (Include City, State and Zip)	

INSURER	
INSURER'S CLAIM NO.	
COMPANY NAME	
ADDRESS (Include City, State and Zip)	

SAMPLE

REQUESTER must specify all questions to be completed by health care provider. ☐ Questions: _____ ☐ MMI (#9) ☐ PPD (#10)

HEALTH CARE PROVIDER TO COMPLETE QUESTIONS REQUESTED ABOVE

1. Date of first examination for this injury by this office:
2. Diagnosis (include ICD-9-CM Code for all diagnoses):
3. History of injury or disease given by employee:
4. In your opinion (as substantiated by the history and physical examination) was the injury or disease caused, aggravated or accelerated by the employee's alleged employment activity or environment? ☐ NO ☐ YES
5. Is there evidence of pre-existing or other conditions that affect this disability? ☐ NO ☐ YES
   If yes, describe:
6. Is further treatment of this injury or referral to another doctor planned? ☐ NO ☐ YES
   If yes, describe:
7. Has surgery been performed? If yes, describe: ☐ NO ☐ YES
8. Attach the most recent Report of Work Ability. Date of report (mm/dd/yy): _____.
9. **MAXIMUM MEDICAL IMPROVEMENT** means "The date after which no further significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability." For injuries occurring on or after October 1, 1995 this definition is amended to add: "irrespective and regardless of subjective complaints of pain." Based upon this definition, has the patient reached Maximum Medical Improvement? ☐ NO ☐ YES DATE REACHED _____ (If yes complete question #10)
10. Has the employee sustained any permanent partial disability from this injury? ☐ Too early to determine ☐ NO ☐ YES

    The permanent partial disability is _____ % of the whole body. This rating is based on Minnesota Rules part(s):

5223.	:	%	5223.	:	%
5223.	:	%	5223.	:	%

    If the PPD rating is zero, is the employee unable to return to former employment for medical reasons attributable to the injury? ☐ NO ☐ YES

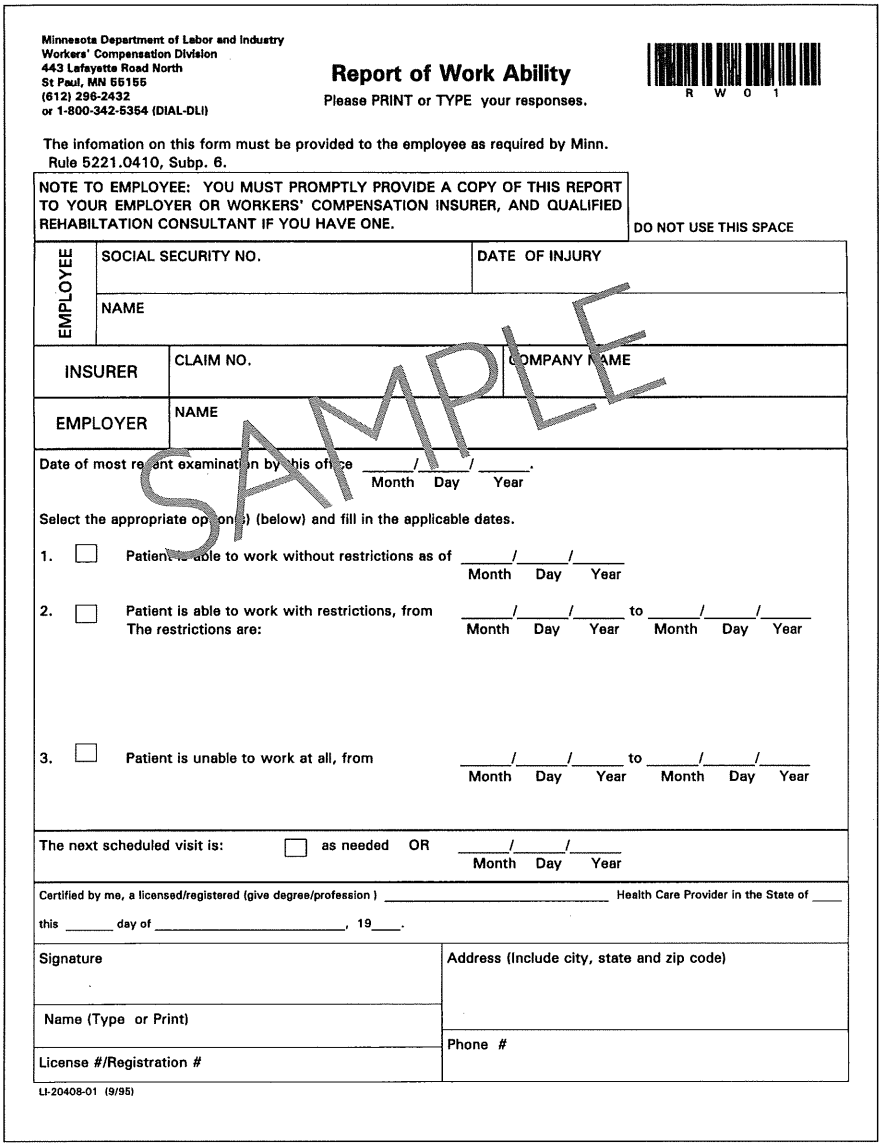
Certified by me, a licensed/registered (give degree) _____ Health Care Provider in the State of _____

this _____ day of _____, 19 _____.

Signature	Address	
Name (Type or Print)	License #/Registration #	Phone No.

LI-20407-01 (9/95)

Report of WorkAbility



Minnesota Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St Paul, MN 55155
(612) 296-2432
or 1-800-342-5354 (DIAL-DLI)

Report of Work Ability

Please PRINT or TYPE your responses.

R W 0 1

The infomation on this form must be provided to the employee as required by Minn. Rule 5221.0410, Subp. 6.

NOTE TO EMPLOYEE: YOU MUST PROMPTLY PROVIDE A COPY OF THIS REPORT TO YOUR EMPLOYER OR WORKERS' COMPENSATION INSURER, AND QUALIFIED REHABILTATION CONSULTANT IF YOU HAVE ONE.

DO NOT USE THIS SPACE

EMPLOYEE	SOCIAL SECURITY NO.	DATE OF INJURY
	NAME	
INSURER	CLAIM NO.	COMPANY NAME
EMPLOYER	NAME	

SAMPLE

Date of most recent examination by this office _____/_____/_____.
Month Day Year

Select the appropriate option(s) (below) and fill in the applicable dates.

1. ☐ Patient is able to work without restrictions as of _____/_____/_____
Month Day Year

2. ☐ Patient is able to work with restrictions, from _____/_____/_____ to _____/_____/_____
Month Day Year Month Day Year
The restrictions are:

3. ☐ Patient is unable to work at all, from _____/_____/_____ to _____/_____/_____
Month Day Year Month Day Year

The next scheduled visit is: ☐ as needed OR _____/_____/_____
Month Day Year

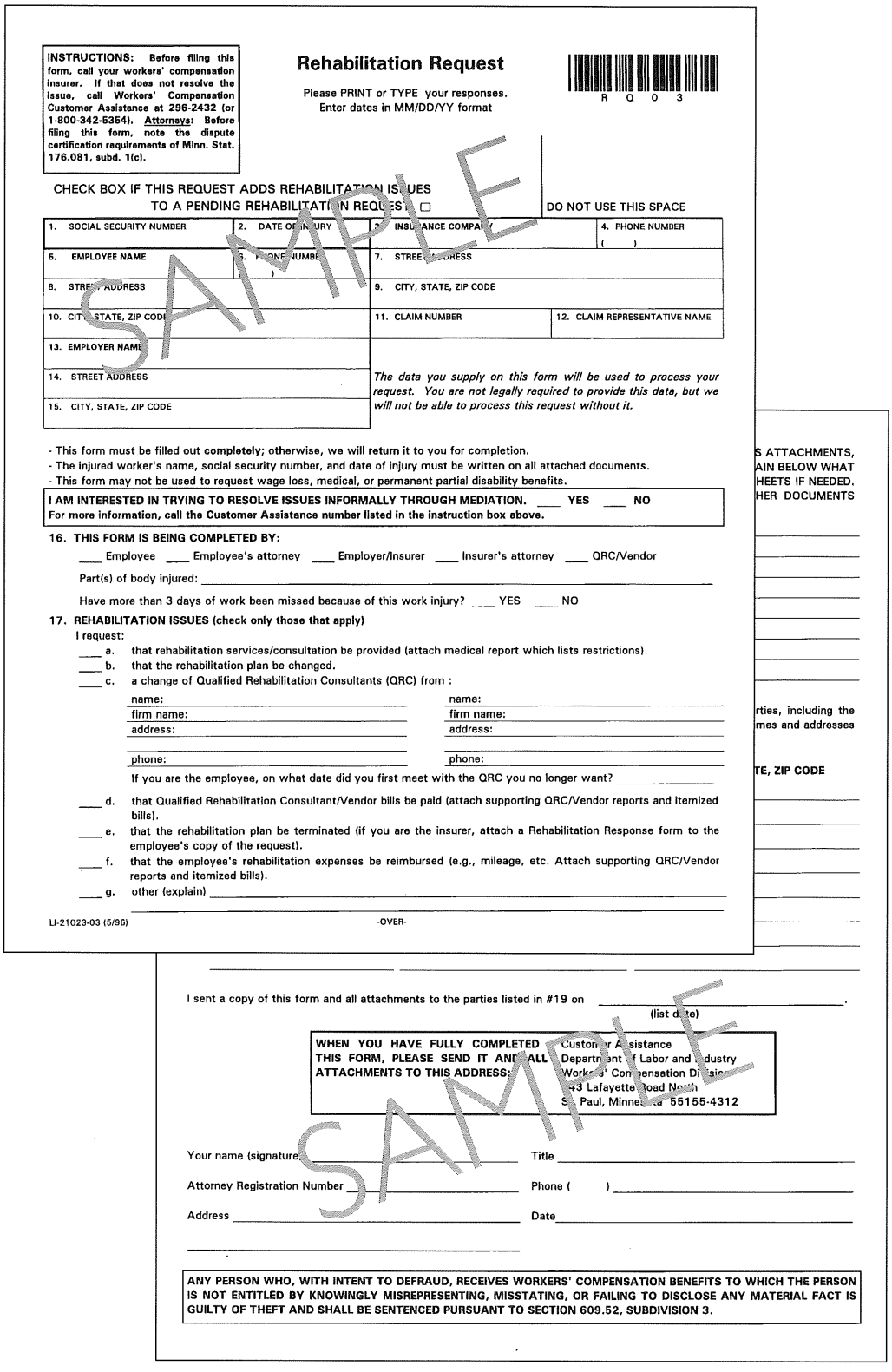
Certified by me, a licensed/registered (give degree/profession) _____ Health Care Provider in the State of ____

this _____ day of _____, 19____.

Signature	Address (Include city, state and zip code)
Name (Type or Print)	
License #/Registration #	Phone #

LI-20408-01 (9/95)

Rehabilitation Request



INSTRUCTIONS: Before filing this form, call your workers' compensation insurer. If that does not resolve the issue, call Workers' Compensation Customer Assistance at 296-2432 (or 1-800-342-5354). Attorneys: Before filing this form, note the dispute certification requirements of Minn. Stat. 176.081, subd. 1(c).

Rehabilitation Request

Please PRINT or TYPE your responses.
Enter dates in MM/DD/YY format

R Q 0 3

CHECK BOX IF THIS REQUEST ADDS REHABILITATION ISSUES TO A PENDING REHABILITATION REQUEST ☐

DO NOT USE THIS SPACE

1. SOCIAL SECURITY NUMBER	2. DATE OF INJURY	3. INSURANCE COMPANY	4. PHONE NUMBER ( )
5. EMPLOYEE NAME	6. PHONE NUMBER ( )	7. STREET ADDRESS	
8. STREET ADDRESS		9. CITY, STATE, ZIP CODE	
10. CITY, STATE, ZIP CODE		11. CLAIM NUMBER	12. CLAIM REPRESENTATIVE NAME
13. EMPLOYER NAME			
14. STREET ADDRESS		*The data you supply on this form will be used to process your request. You are not legally required to provide this data, but we will not be able to process this request without it.*	
15. CITY, STATE, ZIP CODE			

SAMPLE

- This form must be filled out **completely**; otherwise, we will **return** it to you for completion.
- The injured worker's name, social security number, and date of injury must be written on all attached documents.
- This form may not be used to request wage loss, medical, or permanent partial disability benefits.

I AM INTERESTED IN TRYING TO RESOLVE ISSUES INFORMALLY THROUGH MEDIATION. ___ **YES** ___ **NO**
For more information, call the Customer Assistance number listed in the instruction box above.

16. THIS FORM IS BEING COMPLETED BY:

___ Employee ___ Employee's attorney ___ Employer/Insurer ___ Insurer's attorney ___ QRC/Vendor

Part(s) of body injured: _____

Have more than 3 days of work been missed because of this work injury? ___ YES ___ NO

17. REHABILITATION ISSUES (check only those that apply)

I request:

___ a. that rehabilitation services/consultation be provided (attach medical report which lists restrictions).
___ b. that the rehabilitation plan be changed.
___ c. a change of Qualified Rehabilitation Consultants (QRC) from :

name: _____ name: _____
firm name: _____ firm name: _____
address: _____ address: _____
_____ _____
phone: _____ phone: _____

If you are the employee, on what date did you first meet with the QRC you no longer want? _____

___ d. that Qualified Rehabilitation Consultant/Vendor bills be paid (attach supporting QRC/Vendor reports and itemized bills).
___ e. that the rehabilitation plan be terminated (if you are the insurer, attach a Rehabilitation Response form to the employee's copy of the request).
___ f. that the employee's rehabilitation expenses be reimbursed (e.g., mileage, etc. Attach supporting QRC/Vendor reports and itemized bills).
___ g. other (explain) _____

LI-21023-03 (5/96) -OVER-

S ATTACHMENTS,
AIN BELOW WHAT
HEETS IF NEEDED.
HER DOCUMENTS

rties, including the
mes and addresses

TE, ZIP CODE

I sent a copy of this form and all attachments to the parties listed in #19 on _____ (list date).

WHEN YOU HAVE FULLY COMPLETED THIS FORM, PLEASE SEND IT AND ALL ATTACHMENTS TO THIS ADDRESS:
Customer Assistance
Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St. Paul, Minnesota 55155-4312

SAMPLE

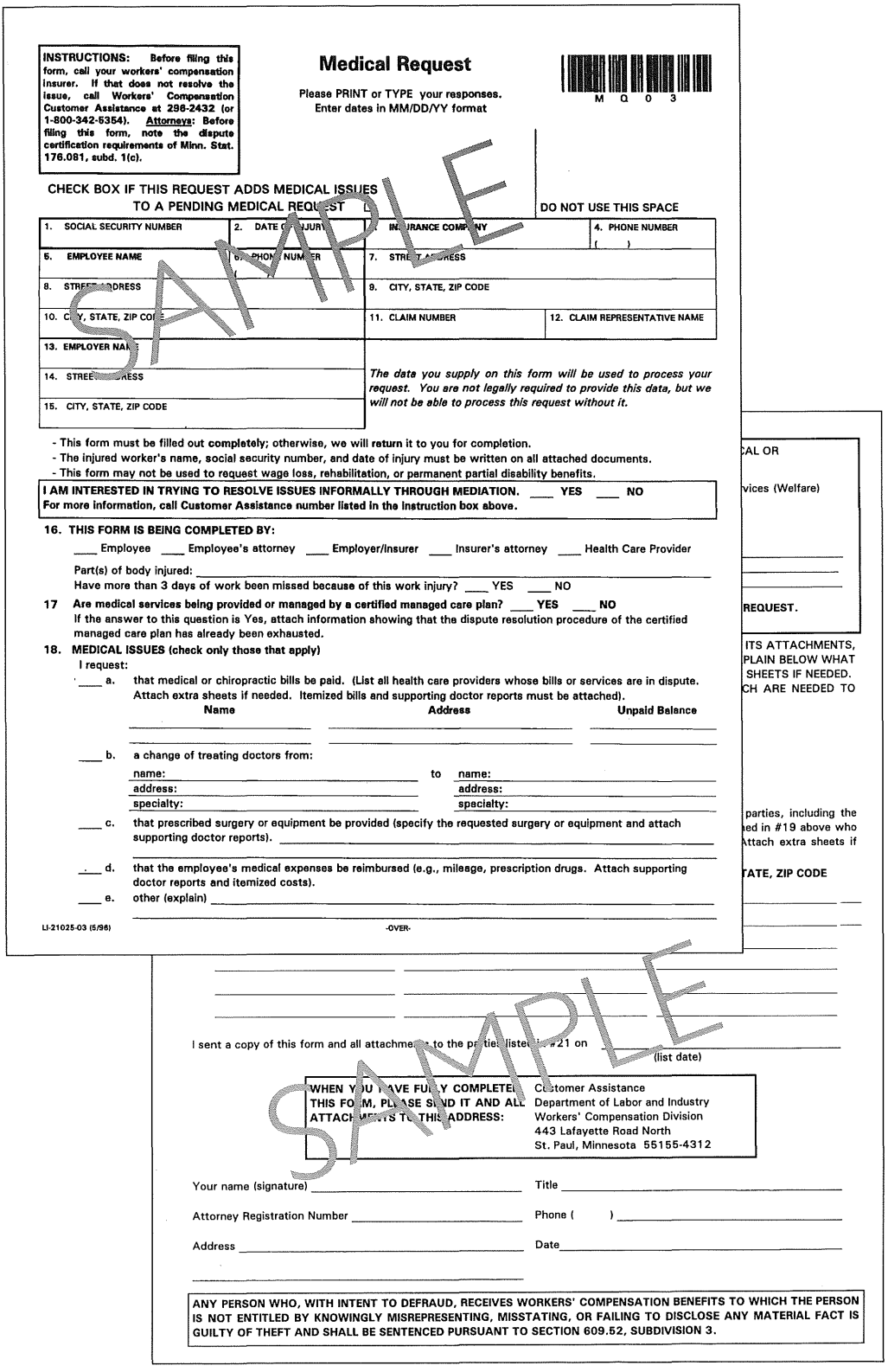
Your name (signature) _____ Title _____

Attorney Registration Number _____ Phone ( ) _____

Address _____ Date _____

ANY PERSON WHO, WITH INTENT TO DEFRAUD, RECEIVES WORKERS' COMPENSATION BENEFITS TO WHICH THE PERSON IS NOT ENTITLED BY KNOWINGLY MISREPRESENTING, MISSTATING, OR FAILING TO DISCLOSE ANY MATERIAL FACT IS GUILTY OF THEFT AND SHALL BE SENTENCED PURSUANT TO SECTION 609.52, SUBDIVISION 3.

Medical Request



INSTRUCTIONS: Before filing this form, call your workers' compensation insurer. If that does not resolve the issue, call Workers' Compensation Customer Assistance at 296-2432 (or 1-800-342-6354). Attorneys: Before filing this form, note the dispute certification requirements of Minn. Stat. 176.081, subd. 1(c).

Medical Request

Please PRINT or TYPE your responses.
Enter dates in MM/DD/YY format

M Q 0 3

CHECK BOX IF THIS REQUEST ADDS MEDICAL ISSUES TO A PENDING MEDICAL REQUEST

DO NOT USE THIS SPACE

1. SOCIAL SECURITY NUMBER	2. DATE OF INJURY	3. INSURANCE COMPANY	4. PHONE NUMBER ( )
5. EMPLOYEE NAME	6. PHONE NUMBER ( )	7. STREET ADDRESS	
8. STREET ADDRESS		9. CITY, STATE, ZIP CODE	
10. CITY, STATE, ZIP CODE		11. CLAIM NUMBER	12. CLAIM REPRESENTATIVE NAME
13. EMPLOYER NAME			
14. STREET ADDRESS		*The data you supply on this form will be used to process your request. You are not legally required to provide this data, but we will not be able to process this request without it.*	
15. CITY, STATE, ZIP CODE			

- This form must be filled out completely; otherwise, we will return it to you for completion.
- The injured worker's name, social security number, and date of injury must be written on all attached documents.
- This form may not be used to request wage loss, rehabilitation, or permanent partial disability benefits.

I AM INTERESTED IN TRYING TO RESOLVE ISSUES INFORMALLY THROUGH MEDIATION. ___ YES ___ NO
For more information, call Customer Assistance number listed in the instruction box above.

16. THIS FORM IS BEING COMPLETED BY:

___ Employee ___ Employee's attorney ___ Employer/Insurer ___ Insurer's attorney ___ Health Care Provider

Part(s) of body injured: _____

Have more than 3 days of work been missed because of this work injury? ___ YES ___ NO

17 **Are medical services being provided or managed by a certified managed care plan? ___ YES ___ NO**
If the answer to this question is Yes, attach information showing that the dispute resolution procedure of the certified managed care plan has already been exhausted.

18. MEDICAL ISSUES (check only those that apply)
I request:

___ a. that medical or chiropractic bills be paid. (List all health care providers whose bills or services are in dispute. Attach extra sheets if needed. Itemized bills and supporting doctor reports must be attached).

Name	Address	Unpaid Balance

___ b. a change of treating doctors from:

name:	to	name:	
address:		address:	
specialty:		specialty:	

___ c. that prescribed surgery or equipment be provided (specify the requested surgery or equipment and attach supporting doctor reports). _____

___ d. that the employee's medical expenses be reimbursed (e.g., mileage, prescription drugs. Attach supporting doctor reports and itemized costs).

___ e. other (explain) _____

LI-21025-03 (5/96) -OVER-

CAL OR

vices (Welfare)

REQUEST.

ITS ATTACHMENTS, PLAIN BELOW WHAT SHEETS IF NEEDED. CH ARE NEEDED TO

parties, including the ed in #19 above who Attach extra sheets if

TATE, ZIP CODE

I sent a copy of this form and all attachments to the parties listed in #21 on _____ (list date)

WHEN YOU HAVE FULLY COMPLETED THIS FORM, PLEASE SEND IT AND ALL ATTACHMENTS TO THIS ADDRESS:

Customer Assistance
Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St. Paul, Minnesota 55155-4312

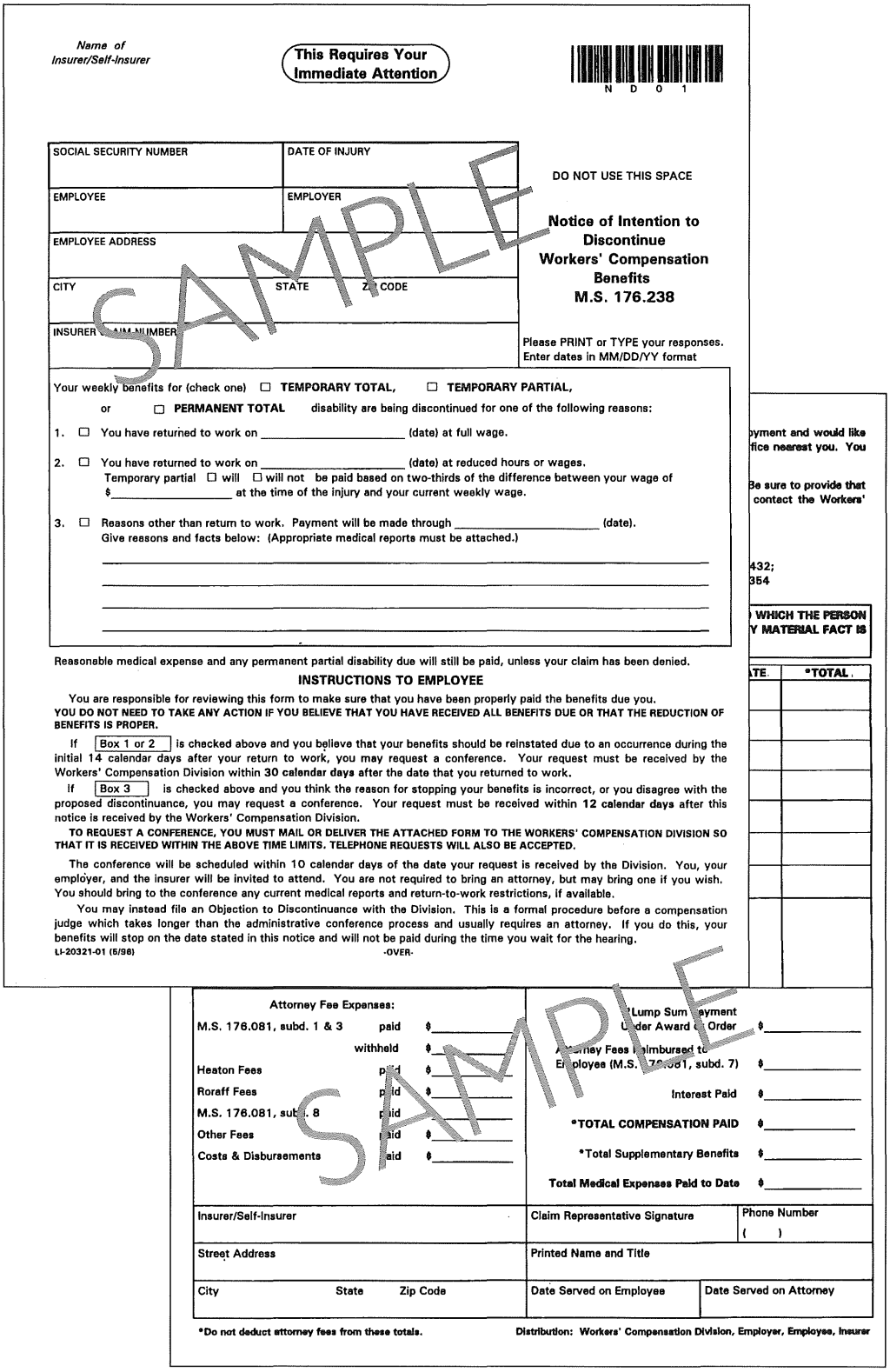
Your name (signature) _____ Title _____

Attorney Registration Number _____ Phone ( ) _____

Address _____ Date _____

ANY PERSON WHO, WITH INTENT TO DEFRAUD, RECEIVES WORKERS' COMPENSATION BENEFITS TO WHICH THE PERSON IS NOT ENTITLED BY KNOWINGLY MISREPRESENTING, MISSTATING, OR FAILING TO DISCLOSE ANY MATERIAL FACT IS GUILTY OF THEFT AND SHALL BE SENTENCED PURSUANT TO SECTION 609.52, SUBDIVISION 3.

Notice of Intention to Discontinue Benefits



Name of Insurer/Self-Insurer

This Requires Your Immediate Attention

N D 0 1

SOCIAL SECURITY NUMBER	DATE OF INJURY
EMPLOYEE	EMPLOYER
EMPLOYEE ADDRESS	
CITY STATE ZIP CODE	
INSURER CLAIM NUMBER	

DO NOT USE THIS SPACE

Notice of Intention to Discontinue Workers' Compensation Benefits M.S. 176.238

Please PRINT or TYPE your responses.
Enter dates in MM/DD/YY format

SAMPLE

Your weekly benefits for (check one) ☐ **TEMPORARY TOTAL,** ☐ **TEMPORARY PARTIAL,**
or ☐ **PERMANENT TOTAL** disability are being discontinued for one of the following reasons:

1. ☐ You have returned to work on _____ (date) at full wage.
2. ☐ You have returned to work on _____ (date) at reduced hours or wages.
   Temporary partial ☐ will ☐ will not be paid based on two-thirds of the difference between your wage of $_____ at the time of the injury and your current weekly wage.
3. ☐ Reasons other than return to work. Payment will be made through _____ (date).
   Give reasons and facts below: (Appropriate medical reports must be attached.)

Reasonable medical expense and any permanent partial disability due will still be paid, unless your claim has been denied.

INSTRUCTIONS TO EMPLOYEE

You are responsible for reviewing this form to make sure that you have been properly paid the benefits due you.
YOU DO NOT NEED TO TAKE ANY ACTION IF YOU BELIEVE THAT YOU HAVE RECEIVED ALL BENEFITS DUE OR THAT THE REDUCTION OF BENEFITS IS PROPER.

If Box 1 or 2 is checked above and you believe that your benefits should be reinstated due to an occurrence during the initial 14 calendar days after your return to work, you may request a conference. Your request must be received by the Workers' Compensation Division within **30 calendar days** after the date that you returned to work.

If Box 3 is checked above and you think the reason for stopping your benefits is incorrect, or you disagree with the proposed discontinuance, you may request a conference. Your request must be received within **12 calendar days** after this notice is received by the Workers' Compensation Division.

TO REQUEST A CONFERENCE, YOU MUST MAIL OR DELIVER THE ATTACHED FORM TO THE WORKERS' COMPENSATION DIVISION SO THAT IT IS RECEIVED WITHIN THE ABOVE TIME LIMITS. TELEPHONE REQUESTS WILL ALSO BE ACCEPTED.

The conference will be scheduled within 10 calendar days of the date your request is received by the Division. You, your employer, and the insurer will be invited to attend. You are not required to bring an attorney, but may bring one if you wish. You should bring to the conference any current medical reports and return-to-work restrictions, if available.

You may instead file an Objection to Discontinuance with the Division. This is a formal procedure before a compensation judge which takes longer than the administrative conference process and usually requires an attorney. If you do this, your benefits will stop on the date stated in this notice and will not be paid during the time you wait for the hearing.

LI-20321-01 (5/98) -OVER-

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Be sure to provide that
contact the Workers'

432;
354

WHICH THE PERSON
Y MATERIAL FACT IS

ATE.	*TOTAL

Attorney Fee Expenses:			Lump Sum ayment Under Award Order	$
M.S. 176.081, subd. 1 & 3	paid	$	Attorney Fees reimbursed to Employee (M.S. 176.081, subd. 7)	$
	withheld	$		
Heaton Fees	paid	$	Interest Paid	$
Roraff Fees	paid	$	*TOTAL COMPENSATION PAID	$
M.S. 176.081, subd. 8	paid	$	*Total Supplementary Benefits	$
Other Fees	paid	$	Total Medical Expenses Paid to Date	$
Costs & Disbursements	paid	$		

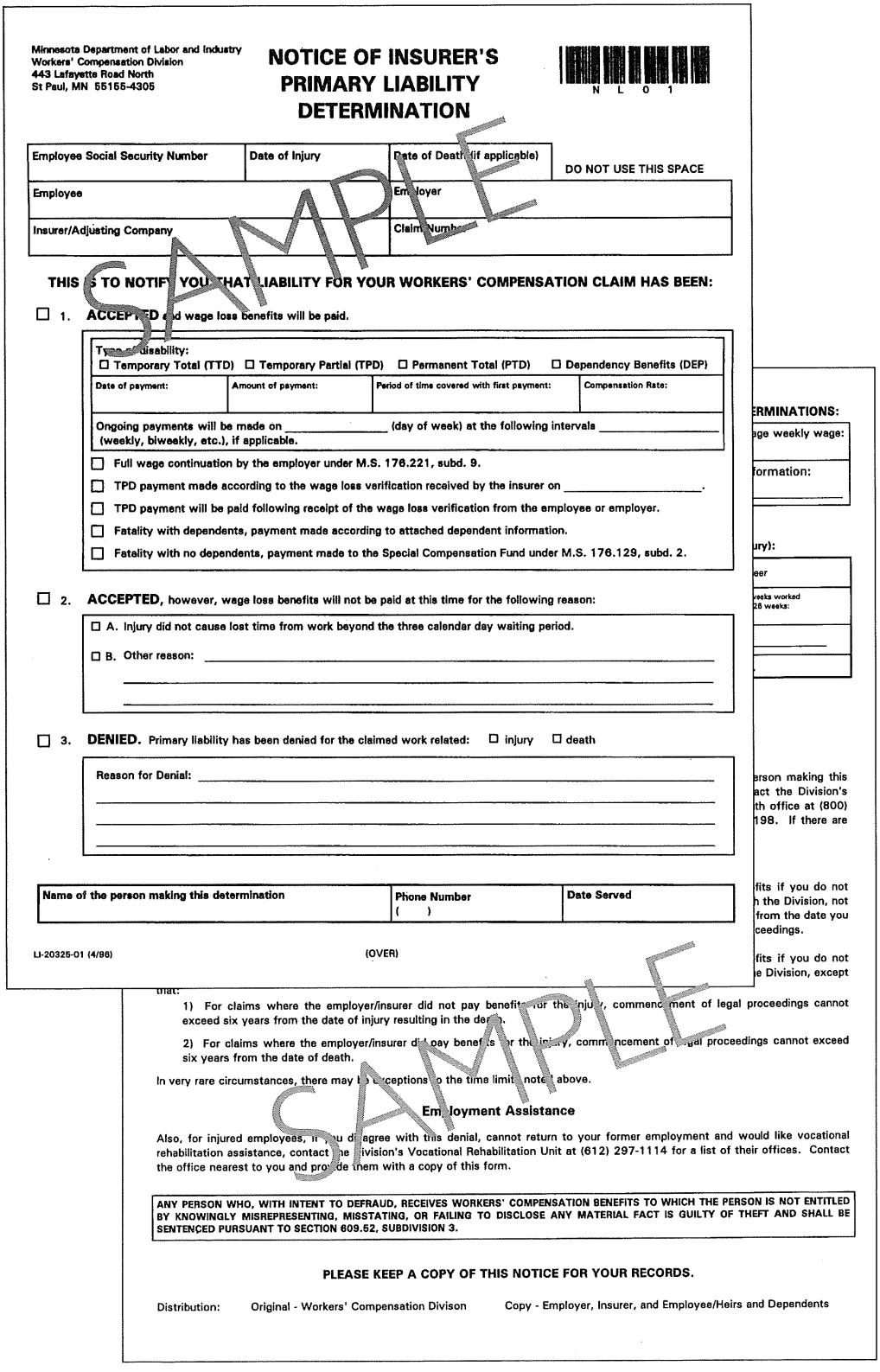
Insurer/Self-Insurer	Claim Representative Signature	Phone Number ( )
Street Address	Printed Name and Title	
City State Zip Code	Date Served on Employee	Date Served on Attorney

*Do not deduct attorney fees from these totals.

Distribution: Workers' Compensation Division, Employer, Employee, Insurer

SAMPLE

Notice of Insurer's Primary Liability Determination



Minnesota Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St Paul, MN 55155-4305

NOTICE OF INSURER'S PRIMARY LIABILITY DETERMINATION

N L 0 1

Employee Social Security Number	Date of Injury	Date of Death (if applicable)	DO NOT USE THIS SPACE
Employee		Employer	
Insurer/Adjusting Company		Claim Number	

SAMPLE

THIS IS TO NOTIFY YOU THAT LIABILITY FOR YOUR WORKERS' COMPENSATION CLAIM HAS BEEN:

☐ 1. **ACCEPTED** and wage loss benefits will be paid.

Type of disability:
☐ Temporary Total (TTD) ☐ Temporary Partial (TPD) ☐ Permanent Total (PTD) ☐ Dependency Benefits (DEP)

Date of payment:	Amount of payment:	Period of time covered with first payment:	Compensation Rate:

Ongoing payments will be made on _____ (day of week) at the following intervals _____ (weekly, biweekly, etc.), if applicable.

☐ Full wage continuation by the employer under M.S. 176.221, subd. 9.
☐ TPD payment made according to the wage loss verification received by the insurer on _____.
☐ TPD payment will be paid following receipt of the wage loss verification from the employee or employer.
☐ Fatality with dependents, payment made according to attached dependent information.
☐ Fatality with no dependents, payment made to the Special Compensation Fund under M.S. 176.129, subd. 2.

☐ 2. **ACCEPTED,** however, wage loss benefits will not be paid at this time for the following reason:

☐ A. Injury did not cause lost time from work beyond the three calendar day waiting period.
☐ B. Other reason: _____

☐ 3. **DENIED.** Primary liability has been denied for the claimed work related: ☐ injury ☐ death

Reason for Denial: _____

Name of the person making this determination	Phone Number ( )	Date Served

LI-20325-01 (4/96) (OVER)

ERMINATIONS:
age weekly wage:
formation:
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veeks worked
26 weeks:

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198. If there are

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that:

1) For claims where the employer/insurer did not pay benefits for the injury, commencement of legal proceedings cannot exceed six years from the date of injury resulting in the death.

2) For claims where the employer/insurer did pay benefits for the injury, commencement of legal proceedings cannot exceed six years from the date of death.

In very rare circumstances, there may be exceptions to the time limits noted above.

Employment Assistance

Also, for injured employees, if you disagree with this denial, cannot return to your former employment and would like vocational rehabilitation assistance, contact the Division's Vocational Rehabilitation Unit at (612) 297-1114 for a list of their offices. Contact the office nearest to you and provide them with a copy of this form.

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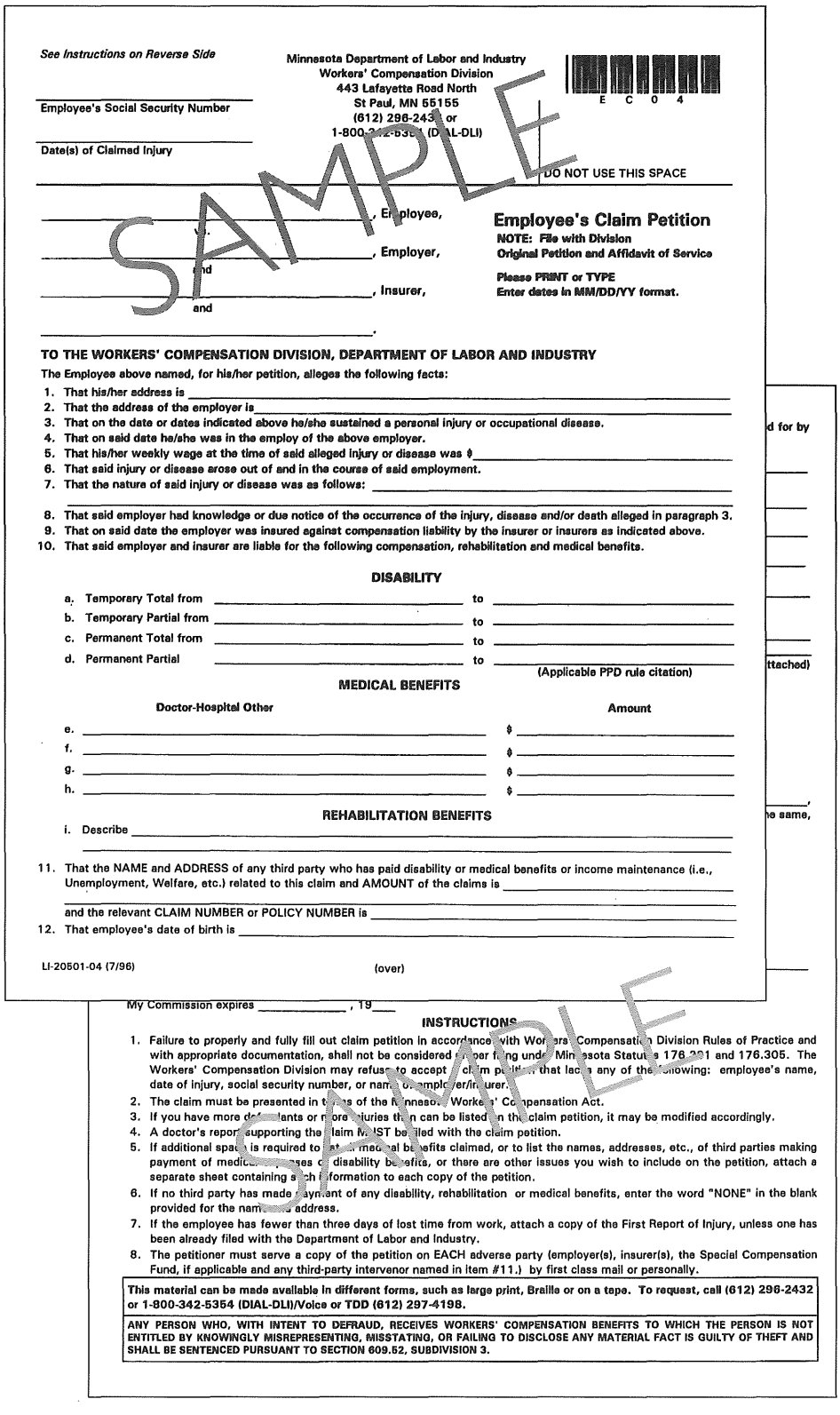
PLEASE KEEP A COPY OF THIS NOTICE FOR YOUR RECORDS.

Distribution: Original - Workers' Compensation Divison Copy - Employer, Insurer, and Employee/Heirs and Dependents

SAMPLE

Claim Petition



See Instructions on Reverse Side

Minnesota Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St Paul, MN 55155
(612) 296-243[illegible] or
1-800-342-53[illegible] (DIAL-DLI)

E C 0 4

Employee's Social Security Number

Date(s) of Injury

DO NOT USE THIS SPACE

_____, Employee,
v.
_____, Employer,
and
_____, Insurer,
and
_____.

Employee's Claim Petition
NOTE: File with Division
Original Petition and Affidavit of Service

Please PRINT or TYPE
Enter dates in MM/DD/YY format.

TO THE WORKERS' COMPENSATION DIVISION, DEPARTMENT OF LABOR AND INDUSTRY

The Employee above named, for his/her petition, alleges the following facts:

1. That his/her address is _____
2. That the address of the employer is _____
3. That on the date or dates indicated above he/she sustained a personal injury or occupational disease.
4. That on said date he/she was in the employ of the above employer.
5. That his/her weekly wage at the time of said alleged injury or disease was $_____
6. That said injury or disease arose out of and in the course of said employment.
7. That the nature of said injury or disease was as follows: _____
8. That said employer had knowledge or due notice of the occurrence of the injury, disease and/or death alleged in paragraph 3.
9. That on said date the employer was insured against compensation liability by the insurer or insurers as indicated above.
10. That said employer and insurer are liable for the following compensation, rehabilitation and medical benefits.

DISABILITY

a. Temporary Total from _____ to _____
b. Temporary Partial from _____ to _____
c. Permanent Total from _____ to _____
d. Permanent Partial _____ to _____ (Applicable PPD rule citation)

MEDICAL BENEFITS

	Doctor-Hospital Other	Amount
e.	_____	$ _____
f.	_____	$ _____
g.	_____	$ _____
h.	_____	$ _____

REHABILITATION BENEFITS

i. Describe _____

11. That the NAME and ADDRESS of any third party who has paid disability or medical benefits or income maintenance (i.e., Unemployment, Welfare, etc.) related to this claim and AMOUNT of the claims is _____
and the relevant CLAIM NUMBER or POLICY NUMBER is _____
12. That employee's date of birth is _____

LI-20501-04 (7/96) (over)

My Commission expires _____, 19___

INSTRUCTIONS

1. Failure to properly and fully fill out claim petition in accordance with Workers' Compensation Division Rules of Practice and with appropriate documentation, shall not be considered proper filing under Minnesota Statutes 176.291 and 176.305. The Workers' Compensation Division may refuse to accept claim petitions that lack any of the following: employee's name, date of injury, social security number, or name of employer/insurer.
2. The claim must be presented in terms of the Minnesota Workers' Compensation Act.
3. If you have more defendants or more injuries than can be listed on the claim petition, it may be modified accordingly.
4. A doctor's report supporting the claim MUST be filed with the claim petition.
5. If additional space is required to list medical benefits claimed, or to list the names, addresses, etc., of third parties making payment of medical expenses or disability benefits, or there are other issues you wish to include on the petition, attach a separate sheet containing such information to each copy of the petition.
6. If no third party has made payment of any disability, rehabilitation or medical benefits, enter the word "NONE" in the blank provided for the name and address.
7. If the employee has fewer than three days of lost time from work, attach a copy of the First Report of Injury, unless one has been already filed with the Department of Labor and Industry.
8. The petitioner must serve a copy of the petition on EACH adverse party (employer(s), insurer(s), the Special Compensation Fund, if applicable and any third-party intervenor named in Item #11.) by first class mail or personally.

This material can be made available in different forms, such as large print, Braille or on a tape. To request, call (612) 296-2432 or 1-800-342-5354 (DIAL-DLI)/Voice or TDD (612) 297-4198.

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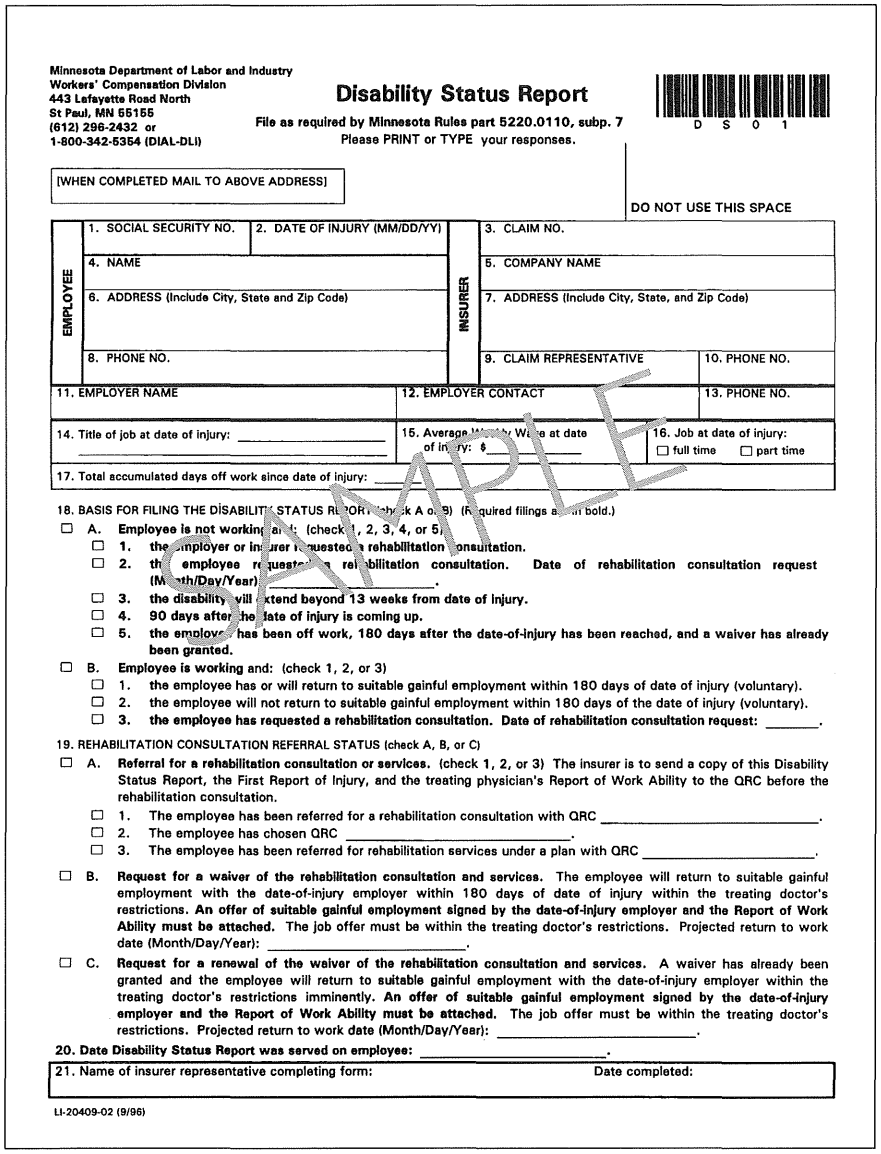
Disability Status Report



Minnesota Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road North
St Paul, MN 55155
(612) 296-2432 or
1-800-342-5354 (DIAL-DLI)

Disability Status Report

File as required by Minnesota Rules part 5220.0110, subp. 7
Please PRINT or TYPE your responses.

D S 0 1

[WHEN COMPLETED MAIL TO ABOVE ADDRESS]

DO NOT USE THIS SPACE

EMPLOYEE			INSURER		
1. SOCIAL SECURITY NO.	2. DATE OF INJURY (MM/DD/YY)		3. CLAIM NO.		
4. NAME			5. COMPANY NAME		
6. ADDRESS (Include City, State and Zip Code)			7. ADDRESS (Include City, State, and Zip Code)		
8. PHONE NO.			9. CLAIM REPRESENTATIVE	10. PHONE NO.	
11. EMPLOYER NAME		12. EMPLOYER CONTACT		13. PHONE NO.	
14. Title of job at date of injury: _____		15. Average Weekly Wage at date of injury: $_____		16. Job at date of injury: ☐ full time ☐ part time	
17. Total accumulated days off work since date of injury: _____					

18. BASIS FOR FILING THE DISABILITY STATUS REPORT (check A or B) (Required filings are in bold.)

☐ A. **Employee is not working** and: (check 1, 2, 3, 4, or 5)
- ☐ 1. **the employer or insurer requested a rehabilitation consultation.**
- ☐ 2. **the employee requested a rehabilitation consultation. Date of rehabilitation consultation request (Month/Day/Year): _____.**
- ☐ 3. **the disability will extend beyond 13 weeks from date of injury.**
- ☐ 4. **90 days after the date of injury is coming up.**
- ☐ 5. **the employee has been off work, 180 days after the date-of-injury has been reached, and a waiver has already been granted.**

☐ B. **Employee is working** and: (check 1, 2, or 3)
- ☐ 1. the employee has or will return to suitable gainful employment within 180 days of date of injury (voluntary).
- ☐ 2. the employee will not return to suitable gainful employment within 180 days of the date of injury (voluntary).
- ☐ 3. **the employee has requested a rehabilitation consultation. Date of rehabilitation consultation request: _____.**

19. REHABILITATION CONSULTATION REFERRAL STATUS (check A, B, or C)

☐ A. **Referral for a rehabilitation consultation or services.** (check 1, 2, or 3) The insurer is to send a copy of this Disability Status Report, the First Report of Injury, and the treating physician's Report of Work Ability to the QRC before the rehabilitation consultation.
- ☐ 1. The employee has been referred for a rehabilitation consultation with QRC _____.
- ☐ 2. The employee has chosen QRC _____.
- ☐ 3. The employee has been referred for rehabilitation services under a plan with QRC _____.

☐ B. **Request for a waiver of the rehabilitation consultation and services.** The employee will return to suitable gainful employment with the date-of-injury employer within 180 days of date of injury within the treating doctor's restrictions. **An offer of suitable gainful employment signed by the date-of-injury employer and the Report of Work Ability must be attached.** The job offer must be within the treating doctor's restrictions. Projected return to work date (Month/Day/Year): _____.

☐ C. **Request for a renewal of the waiver of the rehabilitation consultation and services.** A waiver has already been granted and the employee will return to suitable gainful employment with the date-of-injury employer within the treating doctor's restrictions imminently. **An offer of suitable gainful employment signed by the date-of-injury employer and the Report of Work Ability must be attached.** The job offer must be within the treating doctor's restrictions. Projected return to work date (Month/Day/Year): _____.

20. Date Disability Status Report was served on employee: _____.

21. Name of insurer representative completing form:	Date completed:

LI-20409-02 (9/96)

SAMPLE

Endnotes

Chapter 1: The Origins of Workers' Compensation

1. "Compendium on Workmen's Compensation," by C. Arthur Williams, Jr. and Peter S. Barth. National Commission on State Workmen's Compensation Laws, Washington, D.C.,1973
2. "The Origins of Workmen's Compensation in Minnesota," by Robert Ascher, Minnesota History, 1974

Chapter 3: Disability Benefits

1. Minn. Stat. §176.121
2. Minn. Stat. §176.101, subd. 8
3. Minn. Stat. §176.101, subd. 5 (1)
4. Minn. Stat. §176.101, subd. 5 (2) and Schulte v. C.H. Peterson Const. Co. 24 W.C.D. 290, 153 NW 2d 130 (1967)
5. Minn. Stat. §176.101, subd. 4
6. Minn. Stat. §176.101, subd. 2a and Minn. Rules Chapter 5223
7. Minn. Stat. §176.111, subd. 1-2
8. Minn. Stat. §176.111, subd. 6-8

Chapter 4: Medical Benefits

1. Minn. Stat. §176.138
2. Minn. Rules Chapter 5223
3. Minn. Rules Parts 5221.0410 s.2 and 6
4. Minn. Stat. §176.138 and Minn. Rules Part 5219.0300
5. Minn. Stat. §176.155
6. Minn. Stat. §176.83, subd. 5
7. Minn. Rules Parts 5221.6010 to 5221.8900
8. Minn. Stat. §176.1351
9. Minn. Rules Part 5218.0700

Chapter 5: Vocational Rehabilitation and Returning to Work

1. Minn. Rules Part 5220.0710, subp. 1
2. Minn. Rules Parts 5220.1801 to 5220.1806
3. Minn. Rules Part 5220.1900, subp. 9

Chapter 6: When the Parties Disagree

1. Minn. Stat. §176.081, subd. 9

Chapter 7: Insurance and Workplace Issues

1. Minn. Stat. §176.181
2. Minn. Stat. §176.181
3. Minn. Stat. §176.139
4. Minn. Stat. §176.041, subd. 1
5. Minn. Stat. §176.041, subd. 1 and §176.011, subd. 11a
6. Minn. Stat. §176.041, subd. 1, and Minn. Stat. §500.24, subd. 2
7. Minn. Stat. §176.041, subd. 1
8. Minn. Stat. §176.041, subd. 1 and §176.83, subd. 11
9. 42.U.S.C. 5011 et. seq.
10. Minn. Stat. §176.042
11. Minn. Stat. §176.181, subd. 2
12. Minn. Stat. §176.183
13. Minn. Stat. §176.181, subd. 3(a)
14. Minn. Stat. §176.181, subd. 3(b)
15. Minn. Stat. §176.184 and §176.181, subd. 8(b)
16. "Disability prevention and management and workers' compensation claims," by R. V. Habeck, M. J. Leahy, and H. A. Hunt. (1988) Report submitted to Bureau of Workers' Disability Compensation, Michigan Department of Labor, Kalamazoo, MI,: W.E. Upjohn Institute for Employer Research

Chapter 8: Managing the Workplace

1. Public Law 91-596
2. Minn. Stat. Chapter 182
3. Minn. Rules Chapter 5206
4. Minn. Stat. §182.653, subd. 8-10

Chapter 9: Related Laws

1. Minn. Stat. §268.08, subd. 3

Chapter 10: Fraud

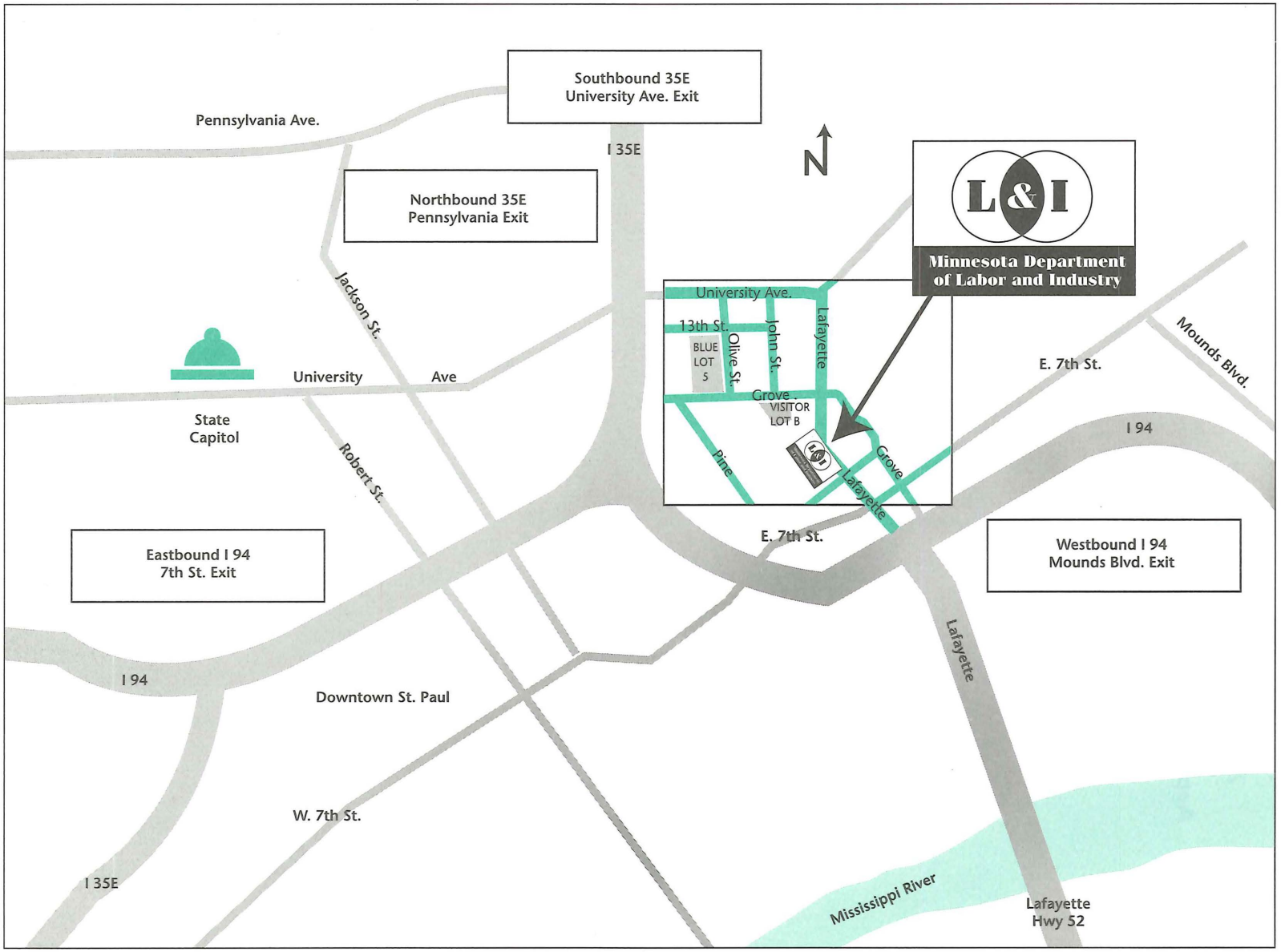
1. Minn. Stat. §175.16, subd. 2 and Minn. Stat. §176.178, subd. 1

Chapter 11: Service and Information

1. Minn. Stat. §176.231, subd. 8
2. Minn. Stat. §176.231, subd. 9

Appendix

1. Minn. Stat. §176.645
2. Minn. Stat. §176.101 and §176.111



Minnesota Department of Labor and Industry

443 Lafayette Road

St. Paul, MN 55155

(612) 296-6107

1-800-DIAL-DLI

TDD (612) 297-4198

Public Parking

Parking is available in Visitor Lot B located on Grove Street. If Visitor Lot B is full, please park in Blue Lot #5, west on Grove one block.

Visitors must register vehicles at the DLI reception desk on the first floor when signing in.

Vehicles not registered will be towed.