

House Research Act Summary

CHAPTER: 89

SESSION: 2011 Regular Session

TOPIC: Workers Compensation Advisory Council Recommendations

Date: June 3, 2011

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Overview

Proposes the recommendations of the Workers Compensation Advisory Council.

Section

- 1 Chief administrative law judge.** Technical change to reference Office of Administrative Hearings.
- 2 Administrative law judges and compensation judges.** Removes language that provided for the chief administrative law judge to establish a training system for workers compensation or administrative law judges to conduct hearings in areas other than that for which they were originally appointed and specifies that only compensation judges may conduct administrative conferences, hearings or other workers compensation proceedings within the jurisdiction of the Office of Administrative Hearings under chapter 176, unless specifically required under the Administrative Procedures Act.
- 3 Temporary administrative law judges.** Separates requirements for temporary administrative law judges from those for compensation judges. Compensation judges must be state employees except when all available regularly appointed compensation judges are disqualified from a specific case under the Code of Judicial Conduct. In such case, the chief administrative law judge may contract with a workers comp attorney or former workers comp judge to serve as a compensation judge for that particular case.
- 4 Hearings before administrative law judge.** Removes reference to an administrative law judge for the purposes of hearings under chapter 176.
- 5 Scope.** Removes reference to "commissioner's designee" and replaces it with reference to "compensation judge" for workers compensation determinations and medical disputes.

- 6 **Conference.** Adds compensation judges to administrative conference requirements.
- 7 **Decision.** Removes authority for commissioner's designee to issue written decisions and replaces it with authority for the commissioner or compensation judge, unless the matter is referred for other proceedings.
- 8 **Penalty.** Removes authority for commissioner's designee to assess a penalty and replaces it with authority for the commissioner or compensation judge.
- 9 **Request for hearing.** Removes reference to commissioner's designee in regard to decisions for which a formal hearing may be requested and replaces it with references to the commissioner or compensation judge. Also provides that when an administrative decision has been issued by a compensation judge, the formal hearing must be held before a compensation judge other than the one presiding over the administrative conference.
- 10 **Denial of primary liability.** Strikes statutory reference.
- 11 **Subsequent causation issues.** Adds compensation judge to the list of those who may make a subsequent causation determination subject to a de novo hearing. Under current law, only the commissioner may make a subsequent determination.
- 12 **Cost.** Specifies that costs of obtaining an architectural certification and supervision required as part of the remodeling of a disabled employee's primary residence is subject to the statutory cost limitations on the project.
- 13 **Certification.** Provides an exception to the requirement that an award for a remodeling, home purchase, or new construction project may be made only upon certification by a licensed architect to the Workers' Compensation Court of Appeals that the project is reasonably required to enable an employee with a disabling personal injury suffered in the course of employment to freely move into and throughout the residence and to otherwise accommodate the disability.
- The exception would not require an architect's certification if the project is:
- approved by the Council on Disability;
 - performed by a licensed residential building contractor or remodeler; and
 - approved by a certified building official or accessibility specialist who issues a written statement that the project is reasonably required to allow the employee to move freely into or throughout the residence and to otherwise accommodate the disability.
- 14 **Limitation.** Increases the project cost limitation from \$60,000 to \$75,000
- 15 **Expedited hearing before compensation judge.** Makes a reference change by eliminating reference to the commissioner's decision and replaces it with reference to an interim administrative decision. Also specifies that when a compensation judge issued the interim administrative decision, the de novo hearing must be held before a compensation judge other than the one presiding over the administrative conference.
- 16 **Hearings on petitions.** Requires the commissioner to refer all petitions involving issues over which the commissioner lacks jurisdiction to the Office of Administrative Hearings

within 10 days.

- 17 **Settlement and pretrial conferences; summary decision.** Gives the chief administrative law judge (rather than the commissioner) authority to assign a petition to a compensation judge and schedule a settlement conference before a compensation judge to be held not later than 180 days after the claim petition was filed, or 45 days after a petition to discontinue, objection to discontinuance, or request for formal hearing was filed. Under current law, the timeline limit is within 60 days of receiving the petition. Requires that parties must serve and file a pretrial statement no fewer than five days before the settlement conference. If settlement is not reached, the chief administrative law judge is directed to schedule a hearing within 90 days from the scheduled settlement conference, unless an expedited hearing is required. The hearing must be held before a compensation judge other than the one who conducted the settlement conference. The judge may conduct a pretrial conference to clarify issues and evidence. Cancellations and continuations of proceedings may be granted upon showing of good cause.

- 18 **Compensation judges; block system.** Provides for judges to be removed from a case when a party exercises a legal right to do so, the judge is incapacitated or is otherwise unable to hold a hearing; or assignment of a different judge is required under law or by the Minnesota Code of Judicial Conduct. Provides that the block system is the preferred, rather than principal, means of assigning cases.

- 19 **Continuances.** Provides that cancellation of settlement conferences shall be granted if all parties agree to the cancellation.

- 20 **Medical fee review; wholesale acquisition cost standard.** Allows the commissioner of labor and industry to replace the "average wholesale price" standard in rule with the "wholesale acquisition cost" standard. Increases the wholesale acquisition cost by a percentage necessary to establish maximum fees that are the same as maximum fees currently in place.

- 21 **Appropriation.** Provides a \$600,000 onetime appropriation from the special compensation fund to the commissioner of labor and industry for a case management and electronic filing system at the Office of Administrative Hearings. Funds are available only to the extent requested by the chief administrative law judge in the Office of Administrative Hearings. A review panel to review any case management and electronic filing system proposals must include a labor and a business representative.

- 22 **Revisor's instruction.** Directs the revisor to change the phrase "commissioner's decision" with "interim administrative decision."

- 23 **Effective date.** Provides that the bill is effective August 1, 2011, except provisions related to remodeling, purchase, or construction of a primary residence for a disabled worker are effective the day following final enactment.