

**SUMMARY OF 2011 AMENDMENTS TO THE  
MINNESOTA WORKERS' COMPENSATION ACT**

On May 27, 2011, Minnesota Governor Mark Dayton approved legislation making several significant amendments to the Minnesota Administrative Procedures Act (“APA”) and the Workers’ Compensation Act (“WCA”).

The **amendments to the APA**, which will impact workers’ compensation cases:

- Only compensation judges shall conduct proceedings within the jurisdiction of the Office of Administrative Hearings (OAH), unless the proceeding is required to be conducted under the Administrative Procedures Act.
- All compensation judges must be state employees. However, the chief administrative law judge may appoint a temporary judge (a workers’ compensation attorney or former judge) to hear a specific case only if all other judges are barred from hearing that case.

The **amendments to the WCA** include the following:

- When one judge issues an interim administrative decision, the expedited *de novo* hearing must be held before a different judge.
- Only the Commissioner of the Department of Labor and Industry or a judge can issue decisions in medical and rehabilitation disputes. The amendment deletes any reference to the “commissioner’s designee”.
- The commissioner or a judge may elect to order an administrative conference (whether it is requested or not), decide not to hold a conference, or refer the case to OAH for a settlement conference, pretrial conference or certify it for a hearing.
- The commissioner does not have authority to make determinations relating to medical or rehabilitation benefits when there is a genuine dispute over whether the injury initially arose out of and in the course of employment. The amendment removes the former exception in section 176.305, which gave a “presiding officer” discretion to issue a summary decision.
- If liability for an injury has initially been admitted or established and an issue subsequently arises regarding causation, the commissioner or judge may make the subsequent causation determination subject to a *de novo* hearing by a judge per 176.106 subd. 7.
- The commissioner shall, within ten days, refer all claim petitions involving issues over which the commissioner lacks jurisdiction to OAH. Previously the commissioner could refer the claim petition for a settlement conference, an administrative conference, or for a hearing at OAH.
- The chief judge, rather than the commissioner, is now required to promptly schedule a settlement conference before a judge. This is no longer discretionary.
- Settlement conferences were supposed to be scheduled within 60 days after receiving the petition, but now *shall* be held no later than 180 days after a claim petition is filed, or 45

days after a petition to discontinue, objection to discontinuance, or request for formal hearing is filed.

- The parties must now serve and file a pretrial statement no fewer than five days before *the settlement conference*. If settlement is not reached, the chief judge shall schedule a hearing to be held within 90 days from the settlement conference, unless an expedited hearing is required. The hearing must be held before a judge other than the one who conducted the settlement conference. The judge assigned to the hearing may choose to conduct a pretrial conference.
- The block system will now be the *preferred* means of assigning cases, rather than the principal means.
- Settlement conferences can now be cancelled if all parties agree.
- The portion of the fee schedule (MR 5221.4070) regulating pharmacy charges requires the commissioner to replace the “average whole price” standard with the “wholesale acquisition cost” standard.
- The legislature appropriated money from the special compensation fund, a sum not to exceed \$600,000, to implement a case management system and electronic filing system at OAH.
- **All of the above amendments are effective August 1, 2011.**

This legislation also amends remodeling or alteration projects under Minn. Stat. § 176.137.

- The limit for remodeling the employee’s residence increased from \$60,000 to \$75,000 per injury.
- The cost of obtaining architectural certification and supervision is included in the \$75,000 limit.
- Remodeling or alteration projects will not require an architect’s certification and supervision if the project is: (1) approved by the Council on Disability; (2) performed by a residential building contractor or a licensed residential remodeler licensed; and (3) approved by a certified building official or certified accessibility specialist who states in writing the proposed remodeling is reasonably required.

**The amendments to section 176.137 are effective May 28, 2011.**

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