August 17, 1999

Kathryn Berger, Attorney
Minnesota Department of Labor and Industry
443 Lafayette Road North
St. Paul, Minnesota 55155

RE: Review of Adopted Exempt Rules of the Minnesota Department of Labor and Industry Relating to Workers' Compensation; Independent Medical Examination Fees; Conversion Factor. Minn. R. Parts 5219.0500 and 5221.4020. OAH Docket No. 77-1900-12479-1

Dear Ms. Berger:

This is to inform you that the amendments to Minnesota Rule Parts 5219.0500 and 5221.4020 have been approved as to legality on August 17, 1999, under Minn. Stat. § 14.386, paragraph (a). The amended rule parts are exempt from the requirements of chapter 14 pursuant to Minn. Stat. § 176.136, subd. 1a.

Minnesota Statute section 176.136, subdivision 1a provides, in part, that:

> [T]he conversion factors must be adjusted annually on October 1 by no more than the percentage change computed under section 176.645 . . . The notices [in the State Register] of the adjusted conversion factors and additions, deletions, or changes to the relative value units and service codes is in lieu of the requirements of chapter 14. The commissioner shall follow the requirements of section 14.386, paragraph (a).

The conversion factors are codified in Minn. R. part 5221.4020, subp. 2. Pursuant to the requirements of Minn. Stat. §§ 176.136, subd. 1a, 176.645, and 176.011, subd. 20, the agency has amended this rule part to include the new conversion factor for dates of service from October 1, 1999, to September 30, 2000.

Minnesota Statute section 176.136, subd. 1c requires that the commissioner "adopt rules that reasonably limit amounts which may be charged for, or in connection with, independent or adverse medical examinations requested

by any party . . . .” Minn. R. 5219.0500, subp. 4 provides that the independent medical examination fees “must be adjusted by the percentage determined under Minnesota Statutes, section 176.645, in the same manner as the conversion factor of the relative value fee schedule is adjusted under Minnesota Statutes, section 176.136.” In its amendment of Minn. R. 5219.0500, subp. 4, the agency correctly adjusted the independent medical examination fees to reflect an increase by 6.22%.

For the reasons set forth above and based upon the entire record, the Administrative Law Judge agrees that Minn. R. Parts 5219.0500 and 5221.4020 should be amended. With the approval of the adoption of the rules, our office has closed this file and is returning the rule record to you so that your agency can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Our office will file three copies of the adopted rules with the Secretary of State. Your next step is to arrange for publication of the adopted exempt rule in the State Register as required by Minn. Stat. § 14.386 (a).

If you have any questions regarding this matter, please contact Catherine Anderson at 612/341-7666.

Sincerely,

George A. Beck
Administrative Law Judge
612/341-7601

Enclosures

cc: Office of the Attorney General
Legislative Coordinating Commission
Office of the Revisor of Statutes