

STATE OF MINNESOTA

IN SUPREME COURT

ADM-09-8011
(formerly C6-74-45550)

OFFICE OF
APPELLATE COURTS

MAY 03 2010

FILED

ORDER PROMULGATING AMENDMENTS
TO THE RULES OF PROCEDURE
FOR NO-FAULT ARBITRATION

The Standing Committee for Administration of No-Fault Arbitration has recommended certain amendments to the Rules of Procedure for No-Fault Arbitration; and

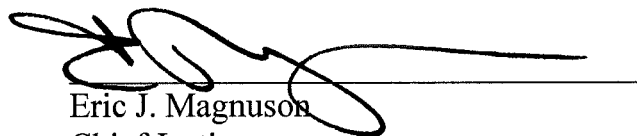
The court has considered the proposals and public comments received and is advised in the premises.

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of Procedure for No-Fault Arbitration be and the same are prescribed and promulgated to be effective on June 1, 2010.
2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date.
3. The inclusion of Standing Committee comments is made for convenience and does not reflect court approval of the comments.

Dated: May 3, 2010

BY THE COURT:


Eric J. Magnuson
Chief Justice

AMENDMENTS TO THE RULES OF PROCEDURE FOR NO-FAULT ARBITRATION

[Note: new material is indicated by underscoring, except committee comments, which are all new; deleted material is indicated by strikethrough.]

Rule 10. Qualification of Arbitrator and Disclosure Procedure

- a. Every member of the panel shall be a licensed attorney at law of this state or a retired attorney or judge in good standing. Effective January 1, 2004, requirements for qualification as an arbitrator shall be: (1) at least 5 years in practice in this state; (2) at least one-third of the attorney's practice is with auto insurance claims or, for an attorney not actively representing clients, at least one-third of an ADR practice is with motor vehicle claims or not-fault matters; (3) completion of an arbitrator training program approved by the No-Fault Standing Committee prior to appointment to the panel; (4) at least three CLE hours on no-fault issues within their reporting period; and (5) arbitrators will be required to recertify each year, confirming at the time of recertification that they continue to meet the above requirements.
- b. No person shall serve as an arbitrator in any arbitration in which he or she has a financial or personal conflict of interest, ~~whether actual or potential~~. Under procedures established by the Standing Committee and immediately following appointment to the panel, ~~each member~~a case, every arbitrator shall be required to disclose any circumstances likely to create a presumption or possibility of bias or conflict that may disqualify the person as a potential arbitrator. ~~Each member~~Every arbitrator shall supplement the disclosures as circumstances require. ~~The following facts, in and of themselves, do not create a presumption of bias; that an attorney or the attorney's firm represents auto accident claimants against insurance companies including the insurance company which is the respondent in the pending matter; that an attorney or an attorney's firm represents or has represented insurance companies.~~The fact that an arbitrator or the

arbitrator's firm represents automobile accident claimants against insurance companies or self-insureds, including the respondent, does not create a presumption of bias. It is a financial conflict of interest if, within the last year, the appointed arbitrator or the arbitrator's firm has been hired by the respondent to represent the respondent or respondent's insureds in a dispute for which respondent provides insurance coverage. It is a financial conflict of interest if the appointed arbitrator is aware of having received referrals within the last year from officers, employees or agents of any entity whose bills are in dispute in the arbitration or the arbitrator's firm has received such referrals and the arbitrator is aware of them.

c. If a ~~panel~~an arbitrator has been certified and has met the requirements of subdivision (a) for the past five years but he or she becomes ineligible for certification under Rule 10(a) because he or she has retired or there has been a change in his or her practice due to retirement or change in practice, the arbitrator may continue to seek annual certification for up to five years from the date of retirement or practice change if he or she satisfies the following requirements are satisfied:

1. ~~—The arbitrator completes and files an annual No-Fault Arbitrator Recertification form; and 2. In that form, the arbitrator~~ which certifies that he

1. He or she is an attorney licensed to practice law in Minnesota and is in good standing; and

2. He or she has retained current knowledge of the Minnesota No-Fault Act (Minn. Stat. §§ 65B.41-65B.71), Minnesota appellate court decisions interpreting the Act, the Minnesota No-Fault Arbitration Rules and the Arbitrators' Standards of Conduct; and

3. ~~The arbitrator certifies that he~~ He or she has attended CLE course(s) in the last year containing at least three credits relating to no-fault matters.

e.——The rules regarding bias and conflict of interest as set forth in subdivision ~~(a)~~(b) remain applicable to arbitrators who are recertified under this subdivision ~~(b)~~(c).

Committee Comment to Rule 10 Amendments

In recent years, there have been inconsistencies in district court rulings and in determinations by the Standing Committee as to what constitutes a conflict of interest for no-fault arbitrators. In response, the Standing Committee wishes to clarify what constitutes a conflict of interest for both respondents' and claimants' attorneys. The Committee recognizes that the Amendments will limit the number of arbitrators, especially in certain out state areas. But the Amendments are necessary to clarify the law and stem the tide of parties seeking removal of arbitrators in the district court. The Amendments also establish, for the first time, that a conflict exists if an arbitrator who is to rule on a disputed bill for a medical provider is aware that the provider has made referrals to the arbitrator within the last year.