

COMPACT

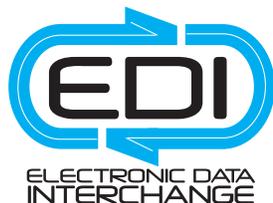
for workers' compensation professionals

November 2012

Minnesota Department of Labor and Industry

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Mandatory EDI/eFROI
implementation



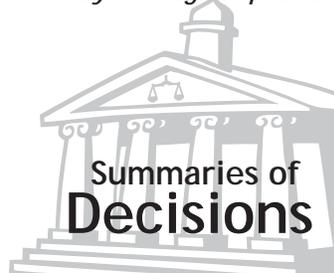
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Workers' compensation
coverage for family farms



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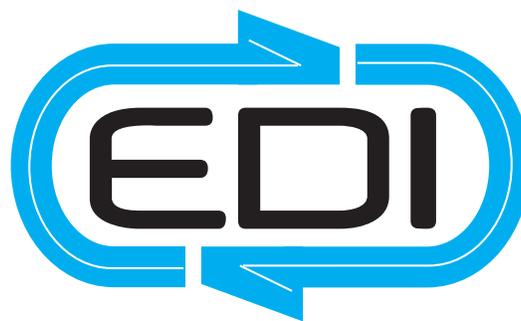
Court decisions:
July through September 2012



D-1

Mandatory EDI/eFROI implementation

As indicated in the Aug. 29, 2012 announcement, the Department of Labor and Industry (DLI) is moving toward implementing mandatory electronic filing of the First Report of Injury (FROI) form. Included below is the tentative timetable for the implementation. More information, including frequently asked questions, can be found on the DLI website at www.dli.mn.gov/WC/Edi.asp.



**ELECTRONIC DATA
INTERCHANGE**

Subscribe to the EDI trading
partners email list at
www.dli.mn.gov/EmailLists.asp

Aug. 29, 2012	Initial announcement of mandating electronic filing for First Report of Injury (FROI) form
Sept. 10, 2012	Freeze testing for new trading partners
Nov. 1, 2012	Notification to mandate electronic filing of FROI forms on Jan. 1, 2014
March 1, 2013	Begin testing EDI requirement changes specified in the implementation guide with current trading partners
May 1, 2013	Testing begins with new EDI trading partners on a voluntary basis
July 1, 2013	Testing of the eFROI Web portal, via the DLI website, begins on a voluntary basis
Oct. 1, 2013	Cut-off date to begin testing for all eFROI and EDI trading partners
Dec. 1, 2013	Completion date for testing of all eFROI and EDI trading partners
Jan. 1, 2014	Electronic filing of FROI forms for reporting entities will be required

Changes to the First Report of Injury form

To prepare for the anticipated implementation date of Jan. 1, 2014, DLI is making changes to the FROI form. The updated FROI form will continue to be a one-page form and its appearance is essentially the same as the current form. However, changes to the form are necessary because DLI is conforming to national standards for electronically filed FROI forms. To capture more of the data that is being received electronically, certain fields were removed and certain fields were added or amended.

Fields that have been removed from the current FROI form

- **Box 20** Weekly value of meals, lodging, second income
The instructions to the employer, located on the back of the form, have been updated to indicate that the employer is to include this information to the insurer on a separate sheet.
- **Boxes 33-35** Hospital/clinic name and address; ER visit; overnight in-patient
These fields have been replaced with the extent of medical treatment information that is received through EDI, ranging from none to future major medical anticipated.

Draft FROI form with highlighted proposed changes to various fields

MN Department of Labor and Industry Workers' Compensation Division PO Box 64221 St. Paul, MN 55164-0221 (651) 284-5032 or 1-800-342-5354 Fax: (651) 284-5731		First Report of Injury See Instructions on Reverse Side PRINT IN INK or TYPE ENTER DATES IN MM/DD/YYYY FORMAT		 FROI 1 DO NOT USE THIS SPACE	
1. EMPLOYEE SOCIAL SECURITY #		2. OSHA Case #		3. Time employee began work on date of injury <input type="checkbox"/> am <input type="checkbox"/> pm	
4. DATE OF CLAIMED INJURY		5. Time of injury <input type="checkbox"/> am <input type="checkbox"/> pm		6. Date of death # of dependents (if death is related to injury)	
7. EMPLOYEE Name (last, suffix, first, middle)			8. Gender <input type="checkbox"/> M <input type="checkbox"/> F		9. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Unmarried
10. Home Address		11. Home phone #		12. Date of birth	
City State Zip Code		14. Occupation		15. Regular department	
17. Average weekly wage		18. Rate per hour		19. Hours per day	
20. Days per week		Normal work schedule Sun - Sat		21. Employment Status <input type="checkbox"/> Full time <input type="checkbox"/> Part time <input type="checkbox"/> Seasonal <input type="checkbox"/> Volunteer	
22. Tell us how the injury occurred and what the employee was doing before the incident (give details). Examples: "Worker was driving lift truck with a pallet of boxes when the truck tipped, pinning worker's left leg under drive shaft." "Worker developed soreness in left wrist over time from daily computer key entry."					
How the Injury Occurred (22) has been expanded to allow for inclusion of all 500 characters allowed to be submitted via EDI.		EDI Reporter will supply a Wage, Wage Period Code, and No. of Days Worked per Week in Fields 17, 18 and 20 (e.g. \$500; Weekly; 5)		EDI Reporter can enter up to 5 witness names and numbers. The first will display on form, the remaining will print out on a second page.	
23. What was the injury or illness (include the parts of body)? Examples: chemical burn left hand, broken left leg, carpal tunnel syndrome in left wrist.			24. What tools, equipment, machines, objects, or substances were involved? Examples: chlorine, hand sprayer, pallet lift truck, computer keyboard.		
25. Did injury occur on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Indicate name and address of place of occurrence</i>		26. Date of first day of any lost time		27. Employer paid for lost time on day of injury (DOI) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No lost time on DOI	
28. Date employer notified of injury		29. Date employer notified of lost time		30. Return to work date	
31. RTW same employer? <input type="checkbox"/> Yes <input type="checkbox"/> No		32. RTW with restrictions? <input type="checkbox"/> Yes <input type="checkbox"/> No		33. Treating Physician (name)	
34. Extent of medical treatment (check all that apply) <input type="checkbox"/> None <input type="checkbox"/> Minor on-site by employer's medical staff <input type="checkbox"/> Minor clinic/hospital		35. Certified Managed Care Organization (if any) <input type="checkbox"/> Emergency room <input type="checkbox"/> Hospitalization more than 24 hours <input type="checkbox"/> Future major medical anticipated		36. EMPLOYER Legal name	
37. EMPLOYER DBA name (if different)		38. Mailing address		39. Employer FEIN	
40. Unemployment ID#		41. Employer's contact name and phone #		42. Physical address (if different)	
43. Witness (name and phone) - if more than 1 attach a separate sheet		44. NAICS code		45. Date form completed	
46. INSURER name		47. Insured legal name and FEIN		48. Policy # (including effective dates) or self-insured certificate #	
49. Insurer FEIN		50. Date insurer received notice		51. CLAIMS ADMIN COMPANY (CA) name (check one) <input type="checkbox"/> Insurer <input type="checkbox"/> TPA	
52. CA address		53. CA FEIN		54. CA claim #	
55. To be completed by the CA		Claim type code		Type of loss code	
Late reason code		Salary paid in lieu of comp?		Death result of injury?	
MN FROI (10/12) Employer: Send copies to Insurer (or Workers' Compensation Division if no insurer), employee, and employee's union (if applicable)					

Color	Description
Yellow	New fields or additional data included in fields based on data elements received via EDI
Orange	Boxes that have changed location on the form
Blue	Boxes for which there is no corresponding EDI element, but remain on the form for employer-to-insurer reporting purposes
Green	Box that has changed location and has no corresponding EDI element, but remains on the form for employer-to-insurer reporting purposes.

The instructions for completing the FROI form, located on the back of the form, have been updated to reflect the changes made to the various fields.

DLI is anticipating the implementation date for the new version of the FROI form will be July 1, 2013. Additional information will be provided when a more definitive implementation schedule is confirmed.

Questions, comments or concerns about the FROI form can be directed to the EDI/eFROI Implementation Team at dli.edi@state.mn.us.

REQUEST FOR COMMENTS

Possible amendments to rules governing workers' compensation rules of practice related to electronic filing of First Reports of Injury; Minnesota Rules, 5220.2510 to 5220.2960; Revisor's I.D. number: R-4134

Subject of rules

The Minnesota Department of Labor and Industry requests comments on its possible amendment to rules governing the required reporting of workers' compensation injuries. The department is considering rule amendments that will describe how and what information about a claimed workers' compensation injury is to be reported to the Workers' Compensation Division, including corrections and updates to information originally submitted, and penalties for failure to submit required information. The rules will reflect expanded use of new technology for electronic methods of reporting, including EDI (electronic data interchange) and Internet filing by Web portal. The information to be reported will also be updated consistent with the EDI Claims Release 3.0 standards developed by the International Association of Industrial Accident Boards and Commissions. Other related matters that come up could be included. Comment including the effects of utilizing the new technologies is sought.



Persons affected

The amendment to the rules would likely affect self-insured employers and workers' compensation insurers who are required to report injuries to the Department of Labor and Industry. Employees and employers may also be interested in the rule amendments.

Statutory authority

Minnesota Statutes, § 176.83, subd. 5a authorizes the commissioner to adopt rules necessary for reporting of workers' compensation injuries. Minnesota Statutes, § 176.83, subd.1 authorizes the commissioner to adopt, amend or repeal rules to implement the provisions of the workers' compensation law. Minnesota Statutes, § 176.231, subd. 5, authorizes the commissioner to prescribe forms for use in making the reports required by section 176.231. Minnesota Statutes, § 175.171 authorizes the Department of Labor and Industry to adopt rules related to its powers and duties, which includes providing electronic data interchange of public and nonpublic workers' compensation data.

Public comment

Interested persons or groups may submit comments or information on these possible rules in writing until further notice is published in the *State Register* that the department intends to adopt or to withdraw the rules. The department will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The department does not plan

to appoint an advisory committee to comment on the possible rules, but comment will be sought from the Workers' Compensation Insurers' Task Force. The Workers' Compensation Advisory Council will also have the opportunity to comment on the possible rules.

Rules Drafts

The department has not yet drafted the possible rules. If draft rules become available, they will be posted on the Department of Labor and Industry rule docket page for electronic submission of reports of injury at www.dli.mn.gov/RulemakingWC.asp.

Agency contact person

Written comments, questions, requests to receive a draft of the rules when it has been prepared and requests for more information about these possible rules should be directed to Kelli Peters at the Department of Labor and Industry, 443 Lafayette Road N., St. Paul, MN 55155, (651) 284-5006 or dli.rules@state.mn.us. TTY users may call (651) 297-4198.

Alternative format

Upon request, this information can be made available in an alternative format, such as large print, braille or audio. To make such a request, contact the agency contact person at the address or telephone number listed above.

Health care providers and payers: electronic billing, payment transactions

Health care providers and workers' compensation payers are required to exchange health care billing and payment transactions electronically, pursuant to Minnesota Statutes § 62J.536 and Minnesota Statutes § 176.135.

To facilitate compliance with these laws, the Minnesota Department of Labor and Industry (DLI) and the Minnesota Department of Health (MDH) are meeting with health care providers and others to identify issues that may impact their ability to fully comply with these laws and to aid in developing plans to achieve compliance.

If you would like to meet with DLI and MDH to discuss implementation of the electronic billing and payment transactions contact Lisa Wichterman at DLI at (651) 284-5173 or lisa.wichterman@state.mn.us.

The Minnesota Uniform Companion Guides for implementation of the electronic transactions and information about MDH enforcement are available online at www.health.state.mn.us/asa.

Specific requirements for electronic payment of workers' compensation bills are in Appendix C of the Health Care Claim Payment/Advice Companion Guide at www.health.state.mn.us/asa/835v5010atc060211clean.pdf.

Ask the ADR pro

DLI's Alternative Dispute Resolution unit answers frequently asked questions

Editor's note: The Alternative Dispute Resolution (ADR) unit at the Minnesota Department of Labor and Industry seeks early intervention in workers' compensation disputes through conference and mediation. It handles calls from the workers' compensation hotline and responds to questions from injured workers and their employers.

Q. Mediation seems to be gaining ground in many areas of the law. What is the current status of mediation in workers' compensation?

A. Like practitioners in other areas of the law, workers' compensation attorneys and claims professionals are recognizing the benefits of resolving disputes through mediation. It is often quicker, more predictable and less expensive than litigation. Parties have several options to choose from to suit their needs; mediation services are offered through private mediators, the Office of Administrative Hearings and through the Alternative Dispute Resolution (ADR) unit at the Department of Labor and Industry (DLI).

At DLI, mediation services are provided free of charge. Parties may select from a staff of more than a dozen mediators, all of whom are professionally trained in mediation and negotiation techniques. DLI mediators bring a wide range of experience to the mediation process, including backgrounds in litigation, nursing, vocational rehabilitation and claims management.

Q. As a claims manager, I'm seeing a lot more disputes involving medical treatment and charges. How is DLI's ADR unit responding to this trend?

A. Whether through its customer assistance telephone hotline, filing of Medical Request forms or requests for mediation, DLI's ADR unit has definitely been presented with the challenge of helping parties resolve more and more medical disputes. To meet this challenge, the staff is continually kept apprised of the most recent developments in the medical fee schedule, treatment parameters, case law and best practices in health care dispute resolution. ADR constantly assesses its dispute prevention and resolution processes to make sure each case is handled as efficiently as possible, depending on its unique set of circumstances.

For example, the unit was recently presented with a large number of cases involving the same medical bill reviewer and same provider. The cases all involved a similar defense being asserted by the bill reviewer. These cases were assigned to two mediators/arbitrators with special expertise in resolving such cases. The mediators/arbitrators worked closely with the disputing parties, ultimately leading these cases down a dispute resolution path best suited for fair and efficient resolution.

Do you have a question for DLI's ADR unit?

Contact ADR at (651) 284-5005, 1-800-342-5354 or dli.workcomp@state.mn.us if you have a question for DLI's ADR professionals. The question and answer may also be featured here at a later date.

CompFact

Trends in non-Minnesota residents receiving indemnity benefits

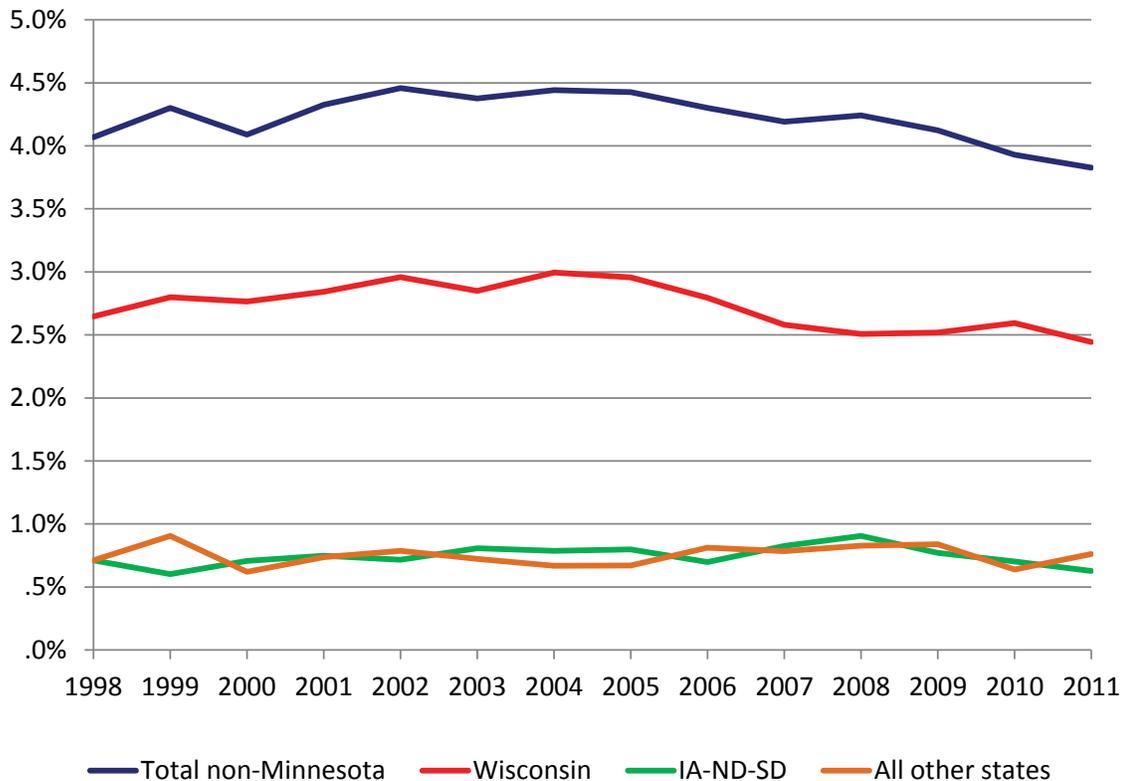
By Brian Zaidman, Research and Statistics

Minnesota's workers' compensation system covers workers in Minnesota, even those who are residents of other states. The figure below shows that the percentage of injured workers receiving indemnity benefits who live outside Minnesota has varied from a high of 4.5 percent in 2002 to a low of 3.8 percent in 2011. The percentage has been decreasing since 2005.

Wisconsin residents account for about two-thirds of all the non-Minnesotans receiving indemnity benefits, and currently account for nearly 2.4 percent of all injured workers. The percentage has decreased from a high of 3.0 percent of all indemnity claims in 2005.

The percentage of injured workers with indemnity claims from the other three neighboring states has varied around 0.7 percent of claims since at least 1998, and matches the total from all other states.

Percentage of indemnity claims from non-Minnesota residents, injury years 1998-2011



Change in copy costs takes effect January 2013

The Department of Labor and Industry recalculated current expenditures associated with Copy File Review copy costs. The new rate, effective Jan. 1, is \$0.55 a page.

Workers' compensation system cost near all-time low in 2011

By David Berry, Research and Statistics

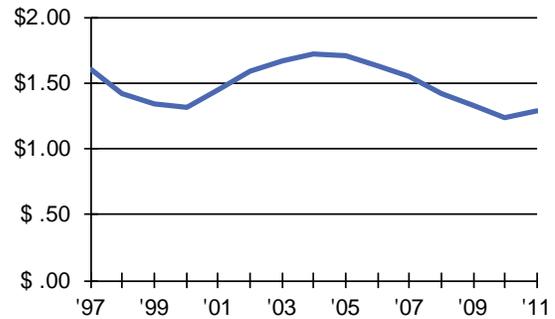
After peaking in 2004, Minnesota's workers' compensation costs declined through 2010 but turned slightly upward in 2011.

The overall cost of the system came to \$1.28 per \$100 of payroll in 2011, substantially down from the peak of \$1.72 reached in 2004. In keeping with a nationwide insurance pricing cycle, the 2011 figure reflects an upturn from the low-point of \$1.24 for 2010.¹

These figures reflect premiums paid by insured employers plus an estimate of costs for self-insured employers.

¹Regarding current pricing trends, see, for example, "Brokers: WC leads rate hardening trend," in Workers' Compensation Report, vol. 23, no. 12, May 29, 2012.

Workers' compensation system cost per \$100 of payroll, 1997-2011 [1]



	Cost per \$100 of payroll
1997	\$1.61
2000	1.31
2004	1.72
2007	1.55
2008	1.42
2009 [2]	1.32
2010 [2]	1.24
2011 [2]	1.28

1. Data from the National Association of Insurance Commissioners, Minnesota Workers' Compensation Insurers Association, Inc., Minnesota Assigned Risk Plan, Minnesota Workers' Compensation Reinsurance Association, Minnesota Department of Labor and Industry, and Minnesota Department of Employment and Economic Development. Includes insured and self-insured employers.
2. Subject to revision.

Workers' Compensation Advisory Council welcomes four new members

The Workers' Compensation Advisory Council (WCAC) has added four new members: Elaine Garry, People's Energy Cooperative; Russell Hess, Laborers District Council of Minnesota and North Dakota; Robert Ryan, United Steelworkers District 11; and Dawn Soleta, The Toro Company.

The council was created in 1992 by state statute as a permanent council to address issues and recommend legislation pertaining to workers' compensation. The WCAC consists of 12 voting members (six representing organized labor and six representing Minnesota businesses), 10 of which are appointed by the governor, the majority and minority leaders of the Senate, and by the speaker and minority leader of the House of Representatives. The other two members are the presidents of the largest statewide Minnesota business organization and the largest organized labor association. In addition, the majority and minority leaders of the Senate and the speaker and minority leader of the House of Representatives each appoint a caucus member as a liaison to the council. The WCAC chairperson is the commissioner of the department, Ken Peterson, and is a nonvoting member.



Learn more about the WCAC, including the meeting schedule, agendas and minutes on the DLI website at www.dli.mn.gov/Wcac.asp.

Workers' compensation coverage for farms

By Bill Boyer
Research and Statistics



A farm operation must provide workers' compensation insurance for its employees, unless it paid or was obligated to pay cash wages to farm laborers during the previous calendar-year less than a certain dollar amount. That threshold dollar amount depends on whether the farm operation maintains specified liability insurance.

If the farm operation has a farm liability insurance policy with \$300,000 total liability coverage and \$5,000 medical payment coverage for farm laborers,

then the farm operation is not required to maintain workers' compensation insurance if the total wages to farm laborers during the previous calendar year were less than the statewide average annual wage.¹ If the farm operation does not maintain the specified liability insurance, then the farm operation must maintain workers' compensation insurance unless the total wages to farm laborers during the previous calendar year were less than \$8,000.²

The chart below may be used to determine if the farm operation's wages to farm laborers (roughly payroll) during the previous calendar year are less than the statewide average annual wage for the year in which the farm liability policy is written.

Family farm coverage

Minnesota Statutes § 176.011, subd. 11a (a)(2)

Average annual wage under M.S. § 176.011 subd. 20	Services rendered (roughly payroll) year	Policy written year
\$40,203	Jan. 1-Dec. 31, 2005	Jan. 1-Dec. 31, 2006
\$40,636	Jan. 1-Dec. 31, 2006	Jan. 1-Dec. 31, 2007
\$41,996	Jan. 1-Dec. 31, 2007	Jan. 1-Dec. 31, 2008
\$44,154	Jan. 1-Dec. 31, 2008	Jan. 1-Dec. 31, 2009
\$45,618	Jan. 1-Dec. 31, 2009	Jan. 1-Dec. 31, 2010
\$45,095	Jan. 1-Dec. 31, 2010	Jan. 1-Dec. 31, 2011
\$46,572	Jan. 1-Dec. 31, 2011	Jan. 1-Dec. 31, 2012
\$47,616	Jan. 1-Dec. 31, 2012	Jan. 1-Dec. 31, 2013

¹The statewide average annual wage is received from the Department of Employment and Economic Development and is the number from which the statewide average weekly wage is derived.

²Farm laborer does not include machine hire and other persons specified in [Minnesota Statutes § 176.011, subds. 11 and 12](#). Other farm employees excluded from workers' compensation coverage in certain circumstances are described in [Minnesota Statutes § 176.041, subd. 1](#).

State's mandatory workplace posters simplified, translated, easier to print

The Minnesota Department of Labor and Industry (DLI) has redesigned four posters that employers are required to display in a physical location where employees can easily see them.

The free mandatory posters have been given a new consistent look, the text has been simplified and each poster is available in English, Hmong, Somali and Spanish. The free posters are now also provided in a standard size and can be easily printed individually or as a four-poster pack at www.dli.mn.gov/LS/Posters.asp.

The posters provide information about safety and health regulations, wage and overtime laws, age discrimination and retirement, and what an employee should do if he or she is injured at work. DLI also makes available a poster from the Minnesota Department of Employment and Economic Development explaining unemployment insurance benefits, as well as links to several federal government agencies that have mandatory poster requirements for employers.

Although the posters have a new look, the regulations explained within them have not changed, so employers are not required to replace their current poster set.

The posters can also be ordered at no cost from DLI by phone, U.S. mail, email or via an online form; ordering details are explained on www.dli.mn.gov/LS/Posters.asp.

The Minnesota Department of Labor and Industry works to ensure Minnesota's work and living environments are equitable, healthy and safe. The agency oversees the state's programs for apprenticeship, construction codes and licensing, occupational safety and health, wage and hour standards, and workers' compensation.

Age discrimination

— Know your rights —
under Minnesota laws prohibiting age discrimination

It is unlawful for an employer to:

- refuse to hire or employ
- reduce in grade or position or demote
- discharge or dismiss
- mandate retirement*

on the basis of age.

*For Minnesota employers with fewer than 20 employees there is not a prohibition against mandatory retirement at age 70 or older.

Employers terminating employees 65 or older because they can no longer meet the requirements of the job must give 30 days notice of intention to terminate.

This poster contains only a summary of Minnesota Statutes 181.81 and 363A. There are exceptions to this law.

Detailed information or assistance may be obtained by writing or calling the Minnesota Department of Labor and Industry.

Posting required by law.

Employees are entitled to ...

Small employees	Large employers*	Federally covered employees**
Aug. 1, 2005: \$5.25	Aug. 1, 2005: \$6.15	July 24, 2009: \$7.25

The state of Minnesota has set minimum wage (80¢) and some employers are covered by federal law. *A large employer is defined as any enterprise whose annual gross volume of sales or receipts are at least \$500,000. **A federally covered employer has an annual dollar volume of business of \$500,000 or engages in interstate commerce.

Training wage
Aug. 1, 2005: \$4.90
New employees under age 20 during their first consecutive 90 days of employment

Overtime
Time and one-half the regular rate

State-covered employees	Federally covered employees
After 48 hours	After 40 hours

Employee rights
An employer may not discharge, discipline, threaten, discriminate or penalize an employee regarding the employee's compensation, conditions, location or privileges of employment because:

- the employee, in good faith, reports a violation or suspected violation of any state or federal law to an employer, any government body or a law enforcement official.
- the employee is requested by a public body to participate in an investigation, hearing or inquiry; or
- the employee informs the employer he or she is refusing an order to perform an activity the employee knows violates any state or federal law.

The employee, within 15 days of termination, may request in writing the reason for termination. The employer must inform the employee, in writing, the truthful reason for termination within 10 days of the request.

Parental leave
Employers with 21 or more employees must allow employees to take up to six weeks unpaid leave for the birth or adoption of their child and to use accrued sick leave to attend to their sick children.

All employers must allow parents to take up to 16 unpaid hours a year to attend school-related activities or visit early childhood programs their children attend.

For more information about Minnesota wage and hour requirements, contact:
Department of Labor and Industry
Laurie Shanahan
443 Lafayette Road N.
St. Paul, MN 55155
(612) 294-6000
443D.LI@DLI.MN.GOV (1-800-542-4364)
info@minnesotadli.com
www.dli.mn.gov

Posting required by law.

Safety and Health on the Job

The Minnesota Legislature established the Department of Labor and Industry, Occupational Safety and Health Division, to work with employers and employees throughout the state to prevent serious occupational injuries. This is to be accomplished through a combination of research, education, regulation and enforcement.

Employees

- The Minnesota Occupational Safety and Health Act (Minnesota Statutes Chapter 152) requires that your employer provide you with a workplace free of known hazards that can cause death or serious injury. You also have other rights and responsibilities under the OSHA Act.
- You must follow all Minnesota OSHA (MNCOSH) standards and your employer's safety rules.
- You have the right to discuss your workplace safety and health concerns with your employer or with MNCOSH.
- You can file a complaint about safety and health hazards with MNCOSH and request an inspection to be conducted. You may request your name be withheld from your employer.
- You are free to refuse to work on a MNCOSH investigation inspecting your workplace.
- You have a right to refuse to perform a job or job duty if you believe the task or equipment will cause you or someone else definite risk of death or serious physical injury. However, you must perform any other task to safety and employer may assign you. You cannot simply leave the workplace.
- Your employer must provide you with your employee test medical records upon request.
- Employers and their agents, as permitted in accordance with MNCOSH, do not discriminate against you for exercising any of your rights under the OSHA Act. However, your employer can discipline you for not following its safety and health rules. If you feel your employer has discriminated against you regarding your OSHA Act rights, you must file a complaint with MNCOSH within 30 days.
- Employees and their agents, as permitted in accordance with MNCOSH, do not discriminate against you for exercising any of your rights under the OSHA Act. However, your employer can discipline you for not following its safety and health rules. If you feel your employer has discriminated against you regarding your OSHA Act rights, you must file a complaint with MNCOSH within 30 days.

Employers

- You must provide your employees with a safe and healthful work environment free from any recognized hazards that can cause injury or death and comply with all applicable MNCOSH standards. In addition, you must do the following:
 - You must allow MNCOSH investigators to conduct inspections, interview employees and review records.
 - You must provide all necessary personal protective equipment and training at the employer's expense.
 - You must report to MNCOSH within eight hours all accidents resulting in the death of an employee or the permanent incapacitation of three or more employees.
- You have the right to participate in riskmaking done by MNCOSH.
- You must develop an OSHA Workplace Accident and Injury Reduction (WAIR) program in writing if required under Minnesota Statutes 152.563, Subd. 3.
- You must post a copy of this poster on other MNCOSH documents before other notices to employees are posted.

Citations and penalties: Those employers found to have willfully or repeatedly violated a MNCOSH standard shall be assessed a fine of \$5,000 to \$70,000. If such a violation concerns an employee's safety, this amount is increased to a maximum of \$50,000. Serious and willful violations shall be assessed a penalty of up to \$7,000. If such a violation causes or contributes to the death of an employee, that amount increases to a minimum of \$25,000. A fine of no more than \$7,000 will be charged for a nonserious violation of the standard.

For more information on the law or workplace safety or health concerns, contact MNCOSH at:
Department of Labor and Industry
Occupational Safety and Health Division
443 Lafayette Road N.
St. Paul, MN 55155-4327
(612) 294-6000
1-877-475-2094 (1-877-475-6162)
www.dli.mn.gov/OSHA
www.osha-slc.gov

OSHA
DEPARTMENT OF LABOR & INDUSTRY

Posting required by law in a conspicuous location wherever the employer is engaged in business.

Workers' compensation

— If you are injured —

- Report any injury to your supervisor as soon as possible, no matter how minor it may appear. You may lose the right to workers' compensation benefits. If you do not make a timely report of the injury to your employer, the time limit may be as short as 14 days.
- Provide your employer with as much information as possible about your injury.
- Get any necessary medical treatment as soon as possible. If you are not covered by a certified managed care organization (CMCO), you may limit your choice of doctor. Your employer must notify you in writing if you are covered by a CMCO.
- Medical care for your work injury, so long as it is reasonable and necessary.
- Wage-loss benefits for part of your lost income.
- Compensation for permanent damage to or loss of function of a body part.
- Cooperate with all requests for information concerning your claim.
- The law allows the workers' compensation insurer to obtain medical information related to your work injury without your authorization, but they must send you written notification when they request this information.
- The insurer cannot obtain other medical records unless you give written authorization.
- Get written confirmation from your doctor about any authorization to be off work. The note should be as specific as possible.

Workers' compensation pays for —

- Voluntary rehabilitation services if you cannot return to your previous job or to your primary employer due to your work injury.
- Benefits to your spouse and/or dependent if you die as a result of a work injury.

— What the insurer must do —

- The insurer must investigate your claim promptly. If you have been disabled for more than three calendar days, the insurer must begin payment of benefits to send you a notice of liability within 14 days after your employer gives you a copy of work or lost wage because of your claimed injury.
- If the insurer accepts your claim for wage-loss benefits and you have been disabled for more than three calendar days, the insurer will notify you and must start paying wage-loss benefits within 14 days of the notice. The insurer must pay benefits on time. Wage-loss benefits are paid at the same amount as your work paycheck.
- If the insurer denies your claim for wage-loss benefits and you have been disabled for more than three calendar days, the insurer will send you a notice to you within 14 days. The notice must clearly state the facts and reasons why they believe your injury or illness did not result from your work or why the claimed wage-loss benefits are not related to your injury.
- If you disagree with the denial, talk with the insurance claims adjuster who is handling your claim. If you are not satisfied and still disagree with the denial, call the Minnesota Department of Labor and Industry's Workers' Compensation Hotline at 1-800-542-4364.

Collecting workers' compensation benefits you are not entitled to is theft. If you have reason to suspect someone is committing workers' compensation fraud, call 1-800-FRAGD MN (1-866-372-4366).

Insurer Name: _____
Policy Number: _____

For more information about workers' compensation or if you need assistance with a claim, contact:
Department of Labor and Industry
Workers' Compensation
443 Lafayette Road N.
St. Paul, MN 55155
(612) 294-6000
1-800-542-4364
info@minnesotadli.com
www.dli.mn.gov

Posting required by law in a conspicuous location wherever the employer is engaged in business.

State's fatal work-injuries decrease in 2011

A preliminary total of 60 fatal work-injuries were recorded in Minnesota in 2011, a decrease of 10 cases from the final count of 70 fatal work-injuries in 2010. The 2011 total is also below the average of 69 cases a year for 2006 through 2010. These and other workplace fatality statistics come from the annual Census of Fatal Occupational Injuries (CFOI), conducted by the Bureau of Labor Statistics, U.S. Department of Labor. Final 2011 data from the CFOI program will be released next spring.

The CFOI also provided the following statistics for Minnesota's workplace fatalities during 2011.

Industries

- Agriculture, forestry, fishing and hunting had the highest number of fatalities, with 19 cases, compared to 29 cases in 2010, which was also the highest number of fatalities. Occupations in this industry include farmers, fishermen, loggers and hunters. Among the fatalities during the past few years, the majority have been farmers and ranchers. Most of the fatalities were caused by either contact with objects and equipment or transportation incidents.
- Construction recorded the second-highest number of worker fatalities, with 16 cases, an increase from nine cases in 2010.

Types of incidents

- Contact with objects and equipment was the most frequent fatal work-injury event in 2011, with 19 fatalities. Most of these cases involved the worker being struck by an object or equipment.
- Transportation incidents accounted for 16 fatalities. Half of these fatalities occurred in the agriculture, forestry, fishing and hunting industry sector.
- There were 14 fatalities resulting from falls in 2011.
- Five fatalities were caused by violence, including three homicides, all by shooting.

Worker characteristics

- Men accounted for 57 of the 60 fatally injured workers in 2011.
- Workers age 55 and older accounted for 20 fatalities, with most of these fatalities in the agriculture, forestry, fishing and hunting industry division.
- Self-employed workers accounted for 25 fatalities, including 16 fatalities to workers in agriculture, forestry, fishing and hunting and five in construction. There were 24 fatalities of self-employed workers in 2010.

The Census of Fatal Occupational Injuries, part of the Bureau of Labor Statistics occupational safety and health statistics program, provides the most complete count of fatal work-injuries available. Workplace fatalities due to illnesses are not included.

The program uses diverse data sources to identify, verify and profile fatal work injuries. Information about each workplace fatality (occupation and other worker characteristics, equipment being used and circumstances of the event) is obtained by cross-referencing source documents, such as death certificates, workers' compensation records, and reports to federal and state agencies. This method assures counts are as complete and accurate as possible. The Minnesota Department of Labor and Industry collects the information about Minnesota's workplace fatalities for the CFOI.

Minnesota 2011 CFOI tables are available at www.dli.mn.gov/RS/StatFatal.asp. National data from the CFOI program is available at www.bls.gov/iif/oshcfoi1.htm.

Decoding encrypted email from the department



The Department of Labor and Industry (DLI) uses the state of Minnesota's encryption system for email. If you receive an encrypted email message, open the HTML attachment message_zdm.html through your standard Web browser.

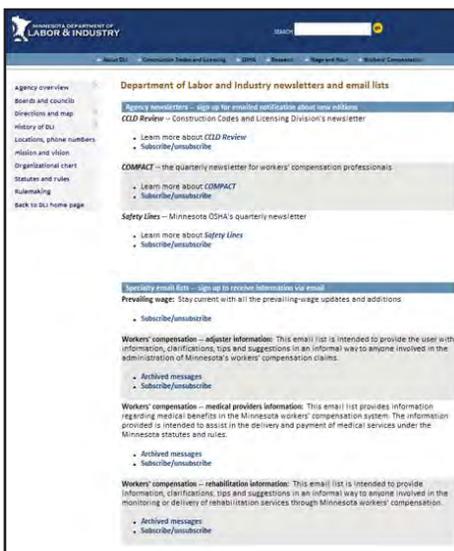
Click on "Read Message," which will direct you to the Microsoft Exchange Hosted Encryption website to unlock the encrypted message.

When you receive your first encrypted message via this system, you will be required to register through Microsoft Exchange Hosted Encryption by entering your name and choosing a password. After the initial registration, you will only be asked to authenticate yourself to view encrypted messages. Your password should work for all encrypted email you receive from DLI. If you forget your password, there is an easy-to-find link on the login page to reset your password.

Any documents DLI emails to you are encrypted if they are attached to an encrypted email message.

If you hit the "Reply" button after reading an encrypted email message from DLI, your reply to DLI and any documents you attach will also be encrypted. If you add a "cc," the person copied will need to follow the process described above to read your encrypted email message.

More resources from DLI: newsletters, email lists



Besides *COMPACT*, the Minnesota Department of Labor and Industry (DLI) offers three other quarterly publications: *Apprenticeship Works*, *CCLD Review* and *Safety Lines*.

- ***Apprenticeship Works*** is the newsletter from DLI's Apprenticeship unit. Its purpose is to inform the public of the purpose, plans and progress of the Apprenticeship unit. Learn more or subscribe at www.dli.mn.gov/Appr/Works.asp.
- ***CCLD Review*** is the newsletter from DLI's Construction Codes and Licensing Division. Its purpose is to promote safe, healthy work and living environments in Minnesota and to inform construction and code professionals about the purpose, plans and progress of the division. Learn more or subscribe at www.dli.mn.gov/CCLD/Review.asp.
- ***Safety Lines***, from Minnesota OSHA, promotes occupational safety and health, and informs readers of the purpose, plans and progress of Minnesota OSHA. Learn more or subscribe to the quarterly newsletter at www.dli.mn.gov/WC/SafetyLines.asp.

DLI also maintains five specialty email lists to which interested parties may subscribe: prevailing-wage information; workers' compensation adjuster information; workers' compensation EDI trading partners; workers' compensation medical providers information; and workers' compensation rehabilitation information.

Learn more about each of DLI's specialty email lists, subscribe or review previously sent messages at www.dli.mn.gov/EmailLists.asp.

Workers' Compensation Court of Appeals

July through September 2012

Case summaries published are
those prepared by the WCCA



Haniff vs. Wirsbo Co., July 2, 2012

Vacation of Award – Substantial Change in Condition

Where the employee claimed only an injury to his abdomen and low back at the time of the stipulation for settlement and made no claim for any cervical injury, the employee's cervical condition that was the basis for his petition to vacate was not a subject of dispute at the time of settlement and was not closed out by the stipulation making vacation of the award unnecessary.

Petition to vacate award on stipulation denied.

Bryant vs. Wal-Mart Stores, Inc., July 3, 2012

Causation – Substantial Evidence

Substantial evidence, including expert opinion, supported the compensation judge's decision that the employee had injured his cervical spine in an accident at work, notwithstanding the fact the early treatment records reference only left upper extremity complaints, not head or neck symptoms.

Affirmed.

Gunderson vs. Golden Living Center Delano, July 5, 2012

Causation – Substantial Evidence

Substantial evidence, including lay testimony, medical records and expert medical opinion, supported the compensation judge's finding of a Gillette injury and his award of benefits resulting from that injury.

Affirmed.

Tollefson vs. Rice County, July 6, 2012

Temporary Total Disability – Retirement

Where the employee received PERA pension benefits but also received rehabilitation assistance, attempted to return to work for the employer in a new position, conducted a job search, found part-time employment and testified that he needed to work to pay for health insurance, substantial evidence supports the compensation judge's finding that the employee did not permanently retire from the labor market.

Temporary Total Disability; Job Search

Where the employee had attempted to return to work for the employer in a light-duty capacity, conducted a job search on his own after being released to work with restrictions, found a part-time position and was receiving rehabilitation assistance, substantial evidence supports the compensation judge's finding that the employee conducted a reasonably diligent job search.

Affirmed.

Betcher vs. Modern Tool, Inc., July 11, 2012

Vacation of Award – Substantial Change in Condition

When the employee had additional surgeries and additional permanent partial disability since the settlement, his ability to work has apparently changed, and he submitted medical evidence establishing a connection between the work injury and his current condition, good cause had been shown to vacate.

Petition to vacate award on stipulation granted.

Ruiz Arroyo vs. Life Science Innovations, July 12, 2012

Temporary Total Disability – Substantial Evidence

Substantial evidence, in the form of a well-founded medical opinion and the credible testimony of the employee, supports the compensation judge's award of temporary total disability benefits.

Affirmed.

Jensen vs. Northern States Power, July 26, 2012

Stipulation for Settlement – Interpretation

Substantial evidence supported the compensation judge's decision that the employee had been prescribed Wellbutrin to treat depressive symptoms and that the drug was therefore not compensable pursuant to a stipulation for settlement that closed out claims for psychological or psychiatric treatment expenses.

Affirmed.

Bankston vs. Second Harvest Heartland, July 28, 2012

Maximum Medical Improvement – Substantial Evidence

Where expert medical opinion indicates that the employee was only at MMI for conservative care, a fusion surgery was recommended and the employee was planning to undergo the surgery, substantial evidence supports the compensation judge's finding that the employee was not at MMI.

Affirmed.

Deutz vs. Lone Wolf Logistics, Inc., Aug. 3, 2012

Vacation of Award – Newly Discovered Evidence

Where the petitioner did not submit documentation or evidence to support his petition to vacate an award on stipulation based on newly discovered evidence, the petition is denied.

Petition to vacate award on stipulation denied.

Strohecker vs. Mike's Auto Repair & Tire, L.L.C., Aug. 7, 2012

Evidence – Credibility

The compensation judge's finding that the employee sustained a work injury on Feb. 7, 2011, is affirmed where the compensation judge found the employee's testimony to be credible and based her determination on that testimony.

Affirmed.

Miantona vs. Sam's Club, Aug. 8, 2012

Causation – Substantial Evidence

Substantial evidence, including expert opinion, supported the compensation judge's decision that the employee sustained work-related injuries to his neck and left shoulder, as claimed, and that the employee's work-related low back injury did not resolve for six months, in accordance with the opinion of the employee's treating physician.

Affirmed.

Ware-Cox vs. First Student, Inc., Aug. 9, 2012

Causation – Substantial Evidence
Temporary Benefits – Substantial Evidence
Medical Treatment and Expense – Reasonable and Necessary

Substantial evidence, including expert medical opinion, the employee’s testimony and her medical records, supported the compensation judge’s decision that the employee sustained a work injury as claimed that contributed to her wage loss and need for medical treatment, including proposed surgery.

Permanent Partial Disability – Schedule

Substantial evidence did not support the compensation judge’s award of benefits for a 10 percent whole-body impairment where the medical records indicated the employee’s condition did not satisfy the criteria for that rating.

Affirmed in part as modified and reversed in part.

Cherry vs. Duinick Bros., Inc., Aug. 14, 2012

Causation – Substantial Evidence

Substantial evidence, including expert medical opinion, medical records and the employee’s testimony, provided substantial support for the compensation judge’s finding that the 2008 work injury was a substantial contributing cause of the employee’s current disability and wage loss.

Practice and Procedure – Adequacy of Findings

The compensation judge’s findings and memorandum adequately disclose the factual and legal basis for her decision and are sufficient under Minnesota Statutes § 176.371.

Affirmed.

Yennie vs. Benchmark Elecs., Inc., Aug. 16, 2012

Attorney Fees – Roraff Fees

Where there is no evidence in the record as to the medical benefits recovered for the employee, there is no basis for the compensation judge to conclude that a contingent fee is inadequate to compensate the attorney for representing the employee at the hearing, and therefore a Roraff fee is inappropriate.

Reversed.

Nord vs. Downtown Diner, Aug. 21, 2012

Appeals – Record

On appeal, this court is limited to examination of evidence submitted to and considered by the compensation judge. Medical articles on carpal tunnel syndrome, not submitted below but submitted with the respondents' brief, were accordingly not considered by the court.

Causation – Substantial Evidence

Substantial evidence, including adequately founded medical expert opinion, supported the compensation judge's findings that the employee did not have bilateral carpal tunnel syndrome and that the employee's work as a dishwasher and bus person for the employer was not a significant contributing factor to carpal tunnel syndrome.

Affirmed.

Lamme vs. Wal-Mart, Aug. 29, 2012

Practice and Procedure – Remand

Where the compensation judge inadvertently failed to address medical bills in dispute at the hearing, the matter is remanded for determination of the issues raised by the employee's medical request.

Remanded.

Trevino vs. Granite Falls Municipal Hospital and Manor, Aug. 29, 2012

Temporary Total Disability – Substantial Evidence

Job Offer – Refusal

Temporary Total Disability – Work Restrictions

Substantial evidence, including medical records and expert medical opinion, supported the finding that the employee was medically unable to perform the light-duty job offered by the employer Aug. 9, 2011, and the conclusion that her failure to accept that job was not a basis for the cessation of temporary total disability compensation pursuant to Minnesota Statutes §176.101, subd. 1(i).

Affirmed.

Wolters vs. Curry Sanitation, Inc., Sept. 11, 2012

Attorney Fees – Irwin Fees

The compensation judge did not err by denying an attorney fee claim for more than \$13,000 for medical expenses under the statutory 25/20 formula where an itemization of hours was not included with the statement of fees and where the employee's date of injury was before the 1995 amendments to Minnesota Statutes § 176.081 took effect.

Affirmed.

Vandenberg vs. Swanson & Youngdale, Inc., Sept. 18, 2012

Causation – Substantial Evidence
Causation – Occupational Disease
Evidence – Expert Medical Opinion

Substantial evidence, including adequately founded medical expert opinion, supported the compensation judge's findings that the employee sustained a work-related injury to his kidneys culminating on or about Dec. 8, 2009, as a result of exposure to paints, specialty coatings, solvents and chemicals in his occupation as an industrial and commercial painter; that he sustained an acute personal injury to his kidneys on April 30, 2010, as a result of exposure to epoxies and solvents used in his work duties, and that the employee was disabled by an occupational disease to his kidneys on April 30, 2010, arising out of his employment as a commercial and industrial painter.

Affirmed.

Cramer vs. United Parcel Service, Inc./UPS Freight, Sept. 20, 2012

Causation – Gillette Injury
Gillette Injury – Date of Injury

Substantial evidence, including the credible testimony of the employee and medical expert opinion, supported the compensation judge's findings that the employee sustained a Gillette injury in the nature of piriformis syndrome and focal sciatic neuritis culminating on Nov. 21, 2008, when the employee's complaints reached a level where he sought medical treatment on a regular basis.

Affirmed.

Peterson vs. Marshall, Manor Good Samaritan Center, Sept. 24, 2012

Causation – Substantial Evidence

Substantial evidence, primarily the employee's testimony and medical records, supported the compensation judge's decision authorizing surgery.

Affirmed.

PAR Inc. vs. Minnesota Department of Labor and Industry, Sept. 24, 2012

Rehabilitation

Where there was a stipulation that the owner of a rehabilitation firm could engage in vocational activity while he was not a qualified rehabilitation consultant (QRC) and that the owner could use the assets of the firm in his separate activities, it was error for the Rehabilitation Review Panel to conclude that all of the activities of the owner were to be attributed to the firm.

Rehabilitation

Rules Construed – Minnesota Rules 5220.0100, subp. 29

Where a vocational expert met with an employee and then met with the employee and his doctor to discuss the employee's medical care, it was error for the Rehabilitation Review Panel to conclude that these meetings were part of a program of rehabilitation services under Minnesota Rules 5220.0100, subp. 29.

Rehabilitation

Rules Construed – Minnesota Rules 5220.0100, subp. 29

Where a vocational expert met with an employee and her doctor as an agent of the employee's lawyer to obtain information for the lawyer's assessment of the case, it was error for the Rehabilitation Review Panel to conclude that the expert was providing a program of rehabilitation services under Minnesota Rules 5220.0100, subp. 29.

Rehabilitation

The rehabilitation rules found in chapter 5220 of Minnesota Rules do not apply to a non-QRC vocational expert who is not providing rehabilitation services.

Rehabilitation

Where the plain language of the rule, the common usage of the term and the testimony of a witness from the Department of Labor and Industry all demonstrate the prohibition against fee splitting is meant to apply to referrals between rehabilitation firms, it was error for the Rehabilitation Review Panel to conclude that the liquidated damages provision in a separation agreement was a violation of Minnesota Rules 5220.1805(G).

Reversed.

Minnesota Supreme Court

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Case summaries published are
those prepared by the WCCA



• *Karl L. Anderson v. Frontier Communications, A11-0834*

Decision of the Worker's Compensation Court of Appeals filed Aug. 10, 2012, reversed.

• *Roger A. Giersdorf v. A & M Construction, Inc., A11-1841*

Decision of the Workers' Compensation Court of Appeals filed Sept. 5, 2012, affirmed and remanded.