

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1396
DATE RECEIVED 9/18/87
REVIEW DATE 9/27/87
DUE DATE 10/2/87

APPROVED 10.2.87 myc
DISAPPROVED ✓
WITHDRAWN

Docket No. 05.0009.0488
ADOPTED W/O HEARING
EMERGENCY RULE

REVISOR APPROVED X
REVISOR DISAPPROVED
FIELD W/SEC.STATE 10/05
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)
✓ Notice to Solicit Outside Information/Opinion
11/26/87 Date published in State Register
yes Comments
~~Petition for Adoption of a Rule~~
✓ Board's Authorizing Resolution
✓ Proposed rule
yes Revisor's Certificate
✓ Notice of Intent to Adopt Rule
115B.34 Statutory Authority
yes Small Business Statement
yes Expenditure of public money statement
yes Signature
✓ Statement of Need and Reasonableness
no Small Business Statement
no Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
7/6/87 Date 30/25 days before adoption
✓ Publication in State Register
7/6/87 Date 30/25 days before adoption
✓ Resolution Adopting
✓ Findings of Fact, Conclusions & Order Adopting
9/14/87 Date
✓ Written requests, submissions or comments
✓ Declaration of attorney
Stephen Shakman Name of SAAG representing agency
✓ ~~Notice of Submission to Attorney General~~
~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : October 10, 1987

TO : VIRGINIA L. REINER
Executive Director
Hazardous Substance Injury Compensation Board

FROM : MARTHA CASSERLY
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Compensation for the Value of Household Labor Lost Due to Injury

The above-referenced rule has been approved as to its legality by the Attorney General on October 2, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:nah
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Hazardous Substance Injury Compensation Board

Adopted Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

Rules as Adopted

7190.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7190.0100 to 7190.0108 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Children.** "Children" means household members under the age of 18.

Subp. 4. **Claimant.** "Claimant" means a person whom the board determines has an eligible claim for personal injury.

Subp. 5. **Disability.** "Disability" means an impairment in the ability to produce goods and services necessary for the household to function.

Subp. 6. **Household.** "Household" means a single housekeeping unit. A household may consist of a single person or several persons, (usually) but not necessarily, related by blood or marriage.

vague?

Subp. 7. **Household labor.** "Household labor" means the production of goods and services necessary for the household to function, including marketing, recordkeeping, food preparation, house cleaning, house maintenance, yard care, clothing care, and physical and other care of household members.

Subp. 8. **Houseworker.** "Houseworker" means a person who performs household labor in a household.

Subp. 9. **Minimum wage.** "Minimum wage" means the amount set in United States Code, title 29, section 206.

Subp. 10. **Primary houseworker.** "Primary houseworker" means the person who contributes the majority of time spent in a household on household labor.

Approved by Revisor _____

Subp. 11. **Secondary houseworker.** "Secondary houseworker" means a person who contributes a significant amount of time but less than the majority of time spent in a household on household labor.

Subp. 12. **Teenage houseworker.** "Teenage houseworker" means a person from the ages of 12 to 17 who produces goods or services necessary for the household but is not primarily responsible for the household labor, and is a financially dependent household member.

7190.0101 HOUSEHOLD LABOR LOSSES ELIGIBLE FOR COMPENSATION.

Subpart 1. **Scope.** The board shall compensate a claimant for the value of past, current, and future household labor lost due to the claimant's injury or disease.

Subp. 2. **Past years.** The board shall calculate the number of eligible years of losses in the past beginning with the date on which the claimant's injury was diagnosed by a physician.

Subp. 3. **Future years.** The board shall calculate the number of eligible years of losses in the future using the claimant's average remaining lifetime as determined by United States Life Tables, Volume 43A Minnesota Statutes Annotated, which is incorporated by reference. This publication is available for loan or inspection through the Minitex interlibrary loan system.

7190.0102 FACTORS AFFECTING THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

In calculating the hours spent on household labor, the board shall consider whether the claimant:

A. is in a living arrangement with other persons;

B. is a primary, secondary, or teenage houseworker;

C. resides in a household where the primary houseworker is employed outside the household 15 or more hours per week; or

D. provides services and care for children, and, if so, the number and ages of the children.

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by Revisor _____

7190.0103 CALCULATION OF THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

Subpart 1. **Base hours.** The board shall determine the number of household labor hours contributed by the claimant by using part 7190.0108, schedule A or B.

Subp. 2. **Schedule A.** Schedule A applies to a claimant who lives in a household where the primary houseworker is not employed outside the household or employed less than 15 hours per week outside the household.

Subp. 3. **Schedule B.** Schedule B applies to a claimant who lives in a household where the primary houseworker is employed 15 or more hours per week outside the household.

Subp. 4. **Applicable living arrangement.** The board shall determine the hours eligible for compensation from the appropriate schedule as follows:

A. if the claimant is part of a married couple, or demonstrates the claimant is part of a married couple equivalent, the number of hours in the schedule for the claimant's houseworker role (primary or secondary houseworker, with or without children) is the number of hours eligible for compensation;

B. if the claimant is a single parent, the only adult in a household with children, the total of the hours for a primary and secondary houseworker is the number of hours eligible for compensation;

C. if the claimant lives alone, the number of hours for a primary houseworker is the number of hours eligible for compensation;

D. if the claimant lives with one or more other adults, the number of hours for a secondary houseworker in part 7190.0108, subpart 2, is the number of hours eligible for compensation; and

E. if the claimant is a teenage houseworker, the number of hours for a teenage houseworker is the number of hours eligible for compensation. When a teenage houseworker becomes 18 years old, the number of hours for a secondary houseworker is

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the number of hours eligible for compensation.

The board shall consider that children under the age of 12 produce no hours eligible for compensation.

Subp. 5. **Exception to schedule.** The board may determine the number of hours eligible for compensation without using a schedule when:

A. the claimant's living arrangement is not covered by the schedule;

B. the claimant provides evidence that the division of household labor in the claimant's household significantly deviates from the schedule's division; or

C. the claimant demonstrates that special circumstances in the claimant's household such as a disabled spouse, child, or parent significantly increase the total amount of hours spent on household labor.

Subp. 6. **Determination of yearly hours spent.** The board shall calculate the number of hours spent on household labor in any year by multiplying the schedule base value by 12. For partial years, the board shall calculate the actual number of months where household labor was lost and multiply the schedule base value by that number.

7190.0104 CALCULATION OF HOURLY WAGE FOR HOUSEHOLD LABOR.

Subpart 1. **Salary determination.** For each year in which the board calculates an adult claimant has hours eligible for compensation, the board shall determine the hourly wage for household labor using the state median monthly salary for janitors as determined in the annual salary survey conducted by the Department of Jobs and Training. For each future year, the board shall calculate the hourly wage using the current year's salary survey data.

Subp. 2. **Formula.** For each year in which a claimant has hours eligible for compensation, the board shall calculate the hourly wage using the following formula:

$$W = \frac{S}{173.33}$$

Where W = hourly wage for that year

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by Revisor _____

S = state median monthly salary for janitors for that year
173.33 = the number of hours in a work month

Subp. 3. **Teenage houseworker.** For each past year in which a teenage houseworker has eligible hours, the board shall use the minimum wage in that year as the hourly wage for household labor; for the current year and future years until the year the teenage houseworker becomes 18 years old the board shall use the current minimum wage.

7190.0105 DISABILITY.

For each past year in which the board calculates a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease impaired the claimant's ability to perform household labor. For the current year and future years in which a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease presently impairs the claimant's ability to perform household labor.

In making the determination of disability, the board shall consider the quality and quantity of household labor services the claimant:

A. can or could no longer perform;

B. performs or performed with assistance;

C. continues or continued to perform.

The board shall set a claimant's disability for any year at 100 percent, 75 percent, 50 percent, 25 percent, or zero.

7190.0106 CALCULATION OF LOSS IN HOUSEHOLD LABOR.

For each year in which the claimant has a loss in household labor, the board shall determine the claimant's loss using the following formula:

$V = H \times W \times D$

Where V = value of the household labor lost in that year
H = number of hours eligible for compensation in that year
W = hourly wage for household labor for that year
D = percent disabled in that year

7190.0107 PAYMENT OF COMPENSATION.

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Subpart 1. **Payment limit.** The total compensation the board shall pay to a claimant for household labor lost shall not exceed the limits in Minnesota Statutes, sections 115B.34, subdivision 1, and 115B.36.

Subp. 2. **Payment in lump sum.** The board will calculate the total lump sum amount of compensation to be paid to a claimant using the following formula:

A = P + C + F
Where A = award amount in current dollars
P = the sum of all past years' losses
C = the loss for the current year
F = the sum of all future years' losses, with each year discounted to current value according to Minnesota Statutes, section 604.07, subdivision 4, clauses (1) and (2)

Subp. 3. **Payment in installments.** When the board chooses to pay the award in installments, it shall adjust future payments by the cost of living rate for the current year as described in Minnesota Statutes, section 604.07, subdivision 4, clause (2).

Approved
by Revisor _____

7190.0108 PRIMARY EMPLOYMENT SCHEDULES.

Subpart 1. **Schedule A: Primary Houseworker Not Employed Outside Household or Employed Less Than 15 Hours Per Week.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25		S					P							
	25-39		S						P						
	40-54			S					P						
	55 & over				S			P							
1	Youngest Child														
	12-17		T		S					P					
	6-11			S						P					
	2-5				S					P					
	1					S					P				
	under 1					S					P				
2	12-17		T	S						P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
3	12-17		ST							P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
4	12-17		ST						P						
	6-11		T	S							P				
	2-5		T		S							P			
	1		T			S						P			
	under 1					ST								P	
5-6	6-11			T	S							P			
	2-5		T		S							P			
	1		T			S					P				
	under 1		T			S							P		
7-9	2-5		T		S							P			
	1						---n/a---								
	under 1		T			S									

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

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Subp. 2. **Schedule B: Primary Houseworker Employed 15 or More Hours Per Week Outside Household.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25			S			P								
	25-39			S			P								
	40-54		S				P								
	55 & over		S				P								
1	Youngest Child														
	12-17		T		S			P							
	6-11		S						P						
	2-5					S		P							
	1					S			P						
	under 1					S			P						
2	12-17		T	S				P							
	6-11		T	S				P							
	2-5		T			S			P						
	1					S			P						
	under 1					S					P				
3	12-17		T	S			P								
	6-11			ST					P						
	2-5			T		S					P				
	1					S					P				
	under 1					S				P					
4	12-17		S	T					P						
	6-11		TS					P							
	2-5														
	1														
	under 1														
5-6	6-11														
	2-5														
	1														
	under 1														
7-9	2-5														
	1														
	under 1														

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

Approved by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 5 - 1987

Joan Anderson Growe
Secretary of State

11:27 AM

APPROVED AS TO FORM AND LEGALITY
October 2 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

SEP 23 1988

Joan Anderson Growe
Secretary of State

2:00 pm

Subp. 2. **Membership.** Membership on the regional review committees shall include representation from:

A. facilities governed by parts 9525.2700 to 9525.2810;

B. parents or guardians of persons with mental retardation and related conditions;

C. other concerned citizens, none of whom is employed by or has a controlling interest in a facility governed by parts 9525.2700 to 9525.2810; and

D. the department.

Subp. 3. **Duties and responsibilities.** Regional committees shall:

A. meet at least quarterly to review the reports on use of time out, mechanical restraint, and manual restraint required by parts 9525.2750 and 9525.2770 and act on those reports according to procedures established by the commissioner;

B. meet or confer as necessary if a case manager requests the authorization required in part 9525.2740, subpart 2; and

C. act as directed by the commissioner to:

(1) review compliance with parts 9525.2700 to 9525.2810 and make recommendations to the commissioner;

(2) provide technical assistance in achieving compliance; and

(3) review statewide use of aversive and deprivation procedures in relationship to the use of less intrusive alternatives and to the use of psychotropic medication.

9525.2800 REPORTING POSSIBLE NONCOMPLIANCE.

If an individual has reason to believe that a facility governed by parts 9525.2700 to 9525.2810 is not in compliance with parts 9525.2700 to 9525.2810, the concern or complaint may be reported as described in items A and B. Reporting a concern or complaint under this part does not meet the requirements governing mandated reporting of maltreatment of minors under Minnesota Statutes, section 626.556, and rules adopted under that statute or mandated reporting of maltreatment of vulnerable adults under Minnesota Statutes, section 626.557 and parts 9555.8000 to 9555.8500.

A. Concerns or complaints about any facility governed by parts 9525.2700 to 9525.2810 may be reported to: The Commissioner, Department of Human Services, Centennial Office Building, 658 Cedar Street, Saint Paul, Minnesota 55155.

B. Concerns or complaints about intermediate care facilities for persons with mental retardation and related conditions in addition to being reported to the commissioner under item A may also be directed to: The Minnesota Department of Health, Office of Health Facility Complaints, 717 Delaware Street S.E., Minneapolis, Minnesota 55440.

9525.2810 PENALTY FOR NONCOMPLIANCE.

If a licensed facility governed by parts 9525.2700 to 9525.2810 does not comply with parts 9525.2700 to 9525.2810, the commissioner may take enforcement action pursuant to Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2.

OFFICIAL NOTICES

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Hazardous Substance Injury Compensation Board

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Compensation for the Value of Household Labor

Minnesota Statutes 1986, Sections 115B.25-115B.37 establish a Hazardous Substance Injury Compensation Fund ("Fund") to be administered by the Hazardous Substance Injury Compensation Board ("Board"). The Fund will provide compensation for certain

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

personal injuries and damage to property which may result from the release of hazardous substances into the environment.

Notice is hereby given that the Board is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing the value of household labor lost due to an injury or disease which is compensable by the Fund. The adoption of the rule is authorized by Minnesota Statutes, section 115B.34 which requires the Board to establish a schedule for compensation on the value of household labor.

The State Hazardous Substance Injury Compensation Board requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Virginia Reiner
Executive Director
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114

Oral statements will be received during regular office hours over the telephone at 612/642-0455 and in person at the above address.

All statements of information and opinions shall be accepted until February 25, 1987. Any written material received by the State Hazardous Substance Injury Compensation Board shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 13 January 1987

Virginia L. Reiner, Executive Director
Hazardous Substance Injury Compensation Board

Department of Human Services

Outside Opinion Sought Concerning Case Management Amendment to Adopted Rule Governing Administration of Community Social Services

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the Department in preparing an amendment to adopted administrative rule part 9550.0010 to 9550.0092 governing the administration of community social services. The amendment would specifically deal with the matter of giving the county of financial responsibility the authority and responsibility to provide case management services for clients placed in a county other than the county of financial responsibility. The amendment would also provide counties with specific options in the carrying out of this responsibility. Authority for this amendment is contained in Minnesota Statutes 256E.05, subd. 1.

All interested or affected persons or groups are invited to submit statements of information or comment orally to:

J. Philip Peterson
County Administration Section
Community Social Services Division
Department of Human Services
4th Floor—Centennial Office Building
658 Cedar
St. Paul, MN 55155
Telephone: (612) 296-3978

All statements of information and comment(s) shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

Department of Human Services Mental Retardation Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Revision of Minnesota Rules, Parts 9525.0210 to 9525.0430 Governing Residential Programs and Services for Mentally Retarded Persons

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the

Commission on the Economic Status of Women

85 State Office Building • Saint Paul, Minnesota 55155 • (612) 296-8590

House

Kathleen Blatz
Harriet McPherson
Sidney Pauly, Vice Chair
Pat Piper
Eileen Tompkins

Senate

Linda Berglin
Marilyn Lantry
Eric Petty
Ember Reichgott, Chair
Donald Storm

Staff

Aviva Breen, Executive Director
Lisa Cohen, Assistant Director
Cheryl Hoium, Assistant Director

RECEIVED

FEB 27 1987

HAZARDOUS SUBSTANCE
BOARD

February 24, 1987

Virginia Reiner
Executive Director
Hazardous Substance Injury Compensation Board
2700 University Avenue West #115
St. Paul, MN 55114

Dear Ms. Reiner:

Enclosed are some suggested methods of calculating the value of household work. These methods use 1986 wage figures. It is clear that a variety of combinations of activities can be valued depending on the individual situation.

I have also enclosed some references which were used in the preparation of the enclosed tables.

If I can provide further information, please feel free to call.

Sincerely,

Aviva Breen
Executive Director

Enc.

Value of Homemakers Time

Number of hours typically spent in household activities by homemakers in the upper midwest.*

Activities	Average hours/week for household with one child over age 1	Wage Rate (1986 $)***	Annual Value (1986 $)
1. Meal preparation & baking	8.4	6.20	2708.00
2. Meal Clean-up	3.8	3.77	2831.00
3. Laundry & clothing care	5.7	4.67	1384.00
4. Housecleaning	5.8	5.71	1722.00
5. Home gardening & maintenance	3.8	7.06	1395.00
6. Home decorating	1.0**	8.04	418.00
7. Shopping	5.3	11.30	3114.00
8. Child Care-physical	2.3	5.04	603.00
9. Child care-nonphysical/ Family counseling	6.4	4.54	1511.00
10. Chauffering	3.0**	7.91	1234.00
11. Financial management	3.1	6.72	1083.00
12. Gift making, reservations & other arrangements	1.0**	3.76	196.00
Totals:	49.6/week 2579.2/year	6.22(avg.)	$18199.00

Footnotes

*
Estimates from Reference 4 in Appendix D

**
Estimates from typical case studies. These activities are not included in Refererence 4.

***
Commercial wage rates for persons performing similar activities in the labor market as reported by state agencies in Minnesota and Wisconsin. For example: No. 1-the average of cooks and bakers wages is $6.20. No. 2-kitchen helpers earn $3.77. No. 7-purchasing agents earn $11.30.

NOTE VARIATIONS IN ESTIMATING THE ANNUAL VALUES OF HOUSEHOLD SERVICES:

The number of hours vary by the age and number of children but 50 hours/week is about average for fulltime homemakers. If the woman is employed in the labor force parttime (20-35hours/week) they still spend 40-46 hours/week doing housework. If they are employed fulltime in the labor force, they spend 30-35 hours/week doing housework.

THREE WAYS TO CALCULATE THE VALUE OF TIME IN HOUSEHOLD SERVICES

I. Use the commercial wages of specialists to replace the homemakers specific activities as illustrated in the table enclosed. In this case the annual value is $18,199

II. Multiply the total annual hours by the wage of a general housekeeper(about $7.50-$10.00/hour in the Minneapolis/St. Paul area in 1986). This would yield a higher value than the commercial specialist wages. (2579.2 x $8.00 = $20634).

III. Multiply the total annual hours by the woman's OWN wage rate. This is considered to be the most correct by economists. It is her opportunity cost

of time and should be used if she has been working in the paid labor force and has established a wage rate. For example: Wage = $10.00 (2579.2 x $10.00 = $25792).

To calculate the lifetime value of these annual values, the present value needs to be calculated based on the age of the women and her expected lifetime.

APPENDIX D

REFERENCES

1. American Council on Life Insurance, The Economic Value of a Housewife, Washington D.C., Pamphlet, 1983.

2. Chadeau, Ann, "Measuring Household Activities: Some International Comparisons," The Review of Income and Wealth, 31:3, Sept. 1985, p.237-253.

3. Edwards, Carolyn S. "Users Guide to USDA Estimates of the Cost of Raising a Child: Part II." Family Economics Review, Winter 1981, Washington D.C., U.S. Department of Agriculture, p. 19-32.

4. Family Time Use: An Eleven-State Urban/Rural Comparison, Virginia Agricultural Experiment Station, Blacksburg, VA, Bulletin VPI-2, December, 1981.

5. Murphy, Martin, "Comparative Estimates of the Value of Household Work in the United States for 1976," The Review of Income and Wealth, 28:1, March 1982, p. 29-43.

6. Peskin, Janice, "Measuring Household Production for the GNP," Family Economic Review, Special Issues: Household Production, U.S. Department of Agriculture, ARS, 1982(3), p. 16-25.

7. Szalai, Alexander (Ed.), The Use of Time, Paris:Mouton, 1974.

8. Vanak, Joann, "Time Spent in Household Work", Scientific American, December, 1974, p. 116-120.

9. Zick, Cathy and Keith Bryant, "Alternative Strategies for Pricing Home Work Time", Home Economics Journal, 12:2, December 1983, p. 133-144.

CERTIFICATE OF THE
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD
RESOLUTION ADOPTING THE RULE

I, Byron E. Starns, do hereby certify that I am a member and the chairperson of the Hazardous Substance Injury Compensation Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the board, duly and properly called and held on the 14th day of September, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to compensation for the value of household labor lost due to injury is approved and adopted, pursuant to authority vested in the Hazardous Substance Injury Compensation Board by Minnesota Statutes, section 115B.28. Virginia L. Reiner, the executive director of the board, is authorized to sign the findings of fact, conclusions and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general when such modification does not raise significant new legal issues and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of September, 1987.

Byron E. Starns

BYRON E. STARNS
Chairperson

Board Member

CERTIFICATE OF THE
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD
AUTHORIZING RESOLUTION

I, Byron E. Starns, do hereby certify that I am a member and the chairperson of the Hazardous Substance Injury Compensation Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Hazardous Substance Injury Compensation Board duly and properly called and held on the 8th day of June, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that Virginia L. Reiner, the executive director of the Hazardous Substance Injury Compensation Board, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Adopt a rule without a public hearing governing compensation for the value of household labor lost due to injury to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of June, 1987.

BYRON E. STARNS
Chairperson

Board Member

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

Rules as Proposed (all new material)

7190.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7190.0100 to 7190.0108 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Children.** "Children" means household members under the age of 18.

Subp. 4. **Claimant.** "Claimant" means a person whom the board determines has an eligible claim for personal injury.

Subp. 5. **Disability.** "Disability" means an impairment in the ability to produce goods and services necessary for the household to function.

Subp. 6. **Household.** "Household" means a single housekeeping unit. A household may consist of a single person or several persons, usually but not necessarily, related by blood or marriage.

Subp. 7. **Household labor.** "Household labor" means the production of goods and services necessary for the household to function, including marketing, recordkeeping, food preparation, house cleaning, house maintenance, yard care, clothing care, and physical and other care of household members.

Subp. 8. **Houseworker.** "Houseworker" means a person who performs household labor in a household.

Subp. 9. **Minimum wage.** "Minimum wage" means the amount set in United States Code, title 29, section 206.

Subp. 10. **Primary houseworker.** "Primary houseworker" means the person who contributes the majority of time spent in a household on household labor.

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Subp. 11. **Secondary houseworker.** "Secondary houseworker" means a person who contributes a significant amount of time but less than the majority of time spent in a household on household labor.

Subp. 12. **Teenage houseworker.** "Teenage houseworker" means a person from the ages of 12 to 17 who produces goods or services necessary for the household but is not primarily responsible for the household labor, and is a financially dependent household member.

7190.0101 HOUSEHOLD LABOR LOSSES ELIGIBLE FOR COMPENSATION.

Subpart 1. **Scope.** The board shall compensate a claimant for the value of past, current, and future household labor lost due to the claimant's injury or disease.

Subp. 2. **Past years.** The board shall calculate the number of eligible years of losses in the past beginning with the date on which the claimant's injury was diagnosed by a physician.

Subp. 3. **Future years.** The board shall calculate the number of eligible years of losses in the future using the claimant's average remaining lifetime as determined by United States Life Tables, Volume 43A Minnesota Statutes Annotated, which is incorporated by reference. This publication is available for loan or inspection through the Minitex interlibrary loan system.

7190.0102 FACTORS AFFECTING THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

In calculating the hours spent on household labor, the board shall consider whether the claimant:

A. is in a living arrangement with other persons;

B. is a primary, secondary, or teenage houseworker;

C. resides in a household where the primary houseworker is employed outside the household 15 or more hours per week; or

D. provides services and care for children, and, if so, the number and ages of the children.

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7190.0103 CALCULATION OF THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

Subpart 1. **Base hours.** The board shall determine the number of household labor hours contributed by the claimant by using part 7190.0108, schedule A or B.

Subp. 2. **Schedule A.** Schedule A applies to a claimant who lives in a household where the primary houseworker is not employed outside the household or employed less than 15 hours per week outside the household.

Subp. 3. **Schedule B.** Schedule B applies to a claimant who lives in a household where the primary houseworker is employed 15 or more hours per week outside the household.

Subp. 4. **Applicable living arrangement.** The board shall determine the hours eligible for compensation from the appropriate schedule as follows:

A. if the claimant is part of a married couple, or demonstrates the claimant is part of a married couple equivalent, the number of hours in the schedule for the claimant's houseworker role (primary or secondary houseworker, with or without children) is the number of hours eligible for compensation;

B. if the claimant is a single parent, the only adult in a household with children, the total of the hours for a primary and secondary houseworker is the number of hours eligible for compensation;

C. if the claimant lives alone, the number of hours for a primary houseworker is the number of hours eligible for compensation;

D. if the claimant lives with one or more other adults, the number of hours for a secondary houseworker in part 7190.0108, subpart 2, is the number of hours eligible for compensation; and

E. if the claimant is a teenage houseworker, the number of hours for a teenage houseworker is the number of hours eligible for compensation. When a teenage houseworker becomes 18 years old, the number of hours for a secondary houseworker is

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the number of hours eligible for compensation.

The board shall consider that children under the age of 12 produce no hours eligible for compensation.

Subp. 5. **Exception to schedule.** The board may determine the number of hours eligible for compensation without using a schedule when:

A. the claimant's living arrangement is not covered by the schedule;

B. the claimant provides evidence that the division of household labor in the claimant's household significantly deviates from the schedule's division; or

C. the claimant demonstrates that special circumstances in the claimant's household such as a disabled spouse, child, or parent significantly increase the total amount of hours spent on household labor.

Subp. 6. **Determination of yearly hours spent.** The board shall calculate the number of hours spent on household labor in any year by multiplying the schedule base value by 12. For partial years, the board shall calculate the actual number of months where household labor was lost and multiply the schedule base value by that number.

7190.0104 CALCULATION OF HOURLY WAGE FOR HOUSEHOLD LABOR.

Subpart 1. **Salary determination.** For each year in which the board calculates an adult claimant has hours eligible for compensation, the board shall determine the hourly wage for household labor using the state median monthly salary for janitors as determined in the annual salary survey conducted by the Department of Jobs and Training. For each future year, the board shall calculate the hourly wage using the current year's salary survey data.

Subp. 2. **Formula.** For each year in which a claimant has hours eligible for compensation, the board shall calculate the hourly wage using the following formula:

$$W = \frac{S}{173.33}$$

Where W = hourly wage for that year

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S = state median monthly salary for janitors for that year
173.33 = the number of hours in a work month

Subp. 3. **Teenage houseworker.** For each past year in which a teenage houseworker has eligible hours, the board shall use the minimum wage in that year as the hourly wage for household labor; for the current year and future years until the year the teenage houseworker becomes 18 years old the board shall use the current minimum wage.

7190.0105 DISABILITY.

For each past year in which the board calculates a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease impaired the claimant's ability to perform household labor. For the current year and future years in which a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease presently impairs the claimant's ability to perform household labor.

In making the determination of disability, the board shall consider the quality and quantity of household labor services the claimant:

A. can or could no longer perform;

B. performs or performed with assistance;

C. continues or continued to perform.

The board shall set a claimant's disability for any year at 100 percent, 75 percent, 50 percent, 25 percent, or zero.

7190.0106 CALCULATION OF LOSS IN HOUSEHOLD LABOR.

For each year in which the claimant has a loss in household labor, the board shall determine the claimant's loss using the following formula:

$V = H \times W \times D$

Where V = value of the household labor lost in that year
H = number of hours eligible for compensation in that year
W = hourly wage for household labor for that year
D = percent disabled in that year

7190.0107 PAYMENT OF COMPENSATION.

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Subpart 1. **Payment limit.** The total compensation the board shall pay to a claimant for household labor lost shall not exceed the limits in Minnesota Statutes, sections 115B.34, subdivision 1, and 115B.36.

Subp. 2. **Payment in lump sum.** The board will calculate the total lump sum amount of compensation to be paid to a claimant using the following formula:

A = P + C + F
Where A = award amount in current dollars
P = the sum of all past years' losses
C = the loss for the current year
F = the sum of all future years' losses, with each year discounted to current value according to Minnesota Statutes, section 604.07, subdivision 4, clauses (1) and (2)

Subp. 3. **Payment in installments.** When the board chooses to pay the award in installments, it shall adjust future payments by the cost of living rate for the current year as described in Minnesota Statutes, section 604.07, subdivision 4, clause (2).

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7190.0108 PRIMARY EMPLOYMENT SCHEDULES.

Subpart 1. **Schedule A: Primary Houseworker Not Employed Outside Household or Employed Less Than 15 Hours Per Week.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25		S					P							
	25-39		S						P						
	40-54			S					P						
	55 & over				S			P							
1	Youngest Child														
	12-17		T		S					P					
	6-11			S						P					
	2-5				S					P					
	1					S					P				
	under 1					S					P				
2	12-17		T	S						P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
3	12-17		ST							P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
4	12-17		ST						P						
	6-11		T	S							P				
	2-5		T		S							P			
	1		T			S						P			
	under 1					ST								P	
5-6	6-11			T	S							P			
	2-5		T		S							P			
	1		T			S					P				
	under 1		T			S							P		
7-9	2-5		T		S							P			
	1						---n/a---								
	under 1		T			S									P

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

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Subp. 2. **Schedule B: Primary Houseworker Employed 15 or More Hours Per Week Outside Household.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25			S			P								
	25-39			S			P								
	40-54		S				P								
	55 & over		S				P								
1	Youngest Child														
	12-17		T		S			P							
	6-11		S						P						
	2-5					S		P							
	1					S			P						
	under 1					S			P						
2	12-17		T	S				P							
	6-11		T	S				P							
	2-5		T			S			P						
	1					S			P						
	under 1					S					P				
3	12-17		T	S			P								
	6-11			ST					P						
	2-5			T		S					P				
	1					S					P				
	under 1					S				P					
4	12-17		S	T					P						
	6-11		TS					P							
	2-5														
	1														
	under 1														
5-6	6-11														
	2-5														
	1														
	under 1														
7-9	2-5														
	1														
	under 1														

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

AGENCY: Hazardous Substance Injury Compensation Board

MINNESOTA RULES: Chapter 7190

INCORPORATION BY REFERENCE: 7190.0101, subpart 3 - United States Life Tables, Volume 43A Minnesota Statutes Annotated

The attached rules are approved for publication in the State Register

David S. Niss /rmm

David S. Niss
Assistant Revisor

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

Notice of Proposed Adoption of a Rule Without a Public Hearing

Notice is hereby given that the State Hazardous Substance Injury Compensation Board proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.[1] The statutory authority to adopt the rule is Minnesota Statutes Section 115B.34, subdivision 1(e) (1986).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged.[2] Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request.[4] Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule[4]

addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Virginia L. Reiner
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114
612/642-0455

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request by writing or telephoning the Board's office at the address or telephone number listed above.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, have an impact on agricultural land or an impact on small businesses.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the executive director at the address listed above.

June 19, 1987
Date

Virginia L. Reiner
Virginia L. Reiner
Executive Director
Hazardous Substance Injury
Compensation Board

STATE OF MINNESOTA
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

In the Matter of the proposed permanent rules relating to compensation for the value of household labor lost due to injury.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Hazardous Substance Injury Compensation Board (Board) was created by the 1985 Legislature (Laws 1985, 1st special session, chapter 8) as part of revisions to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes, Chapter 115B. These revisions were codified as Minnesota Statutes Sections 115B.25-115B.37. The Board was established as a new state agency to administer a $2 million Hazardous Substance Injury Compensation Fund (Fund). The Board's primary responsibility is to investigate claims of certain types of property damage or personal injury caused by the release of hazardous substances into the environment, and to compensate eligible persons from the Fund for certain types of losses.

One of the losses that is compensable from the fund is the value of household labor lost due to the claimant's injury or disease.

To seek opinion on what the value of this loss might be, the Board published a Notice of Solicitation of Outside Information or Opinion Regarding Proposed Rule Governing Compensation for the Value of Household Labor in the State Register on January 26, 1987 (11 S.R. 1369). The Board received one comment letter in response to its notice.

The proposed rule establishes the procedure the Board will use in determining compensation for the value of household labor lost as a result of an eligible personal injury. The rule uses a schedule of hours derived from time studies on household labor. The rule considers variation in the hours due to the living arrangement in the household, the kinds of houseworkers in the household, the employment status of the primary houseworker, and the number and ages of children in the household.

Additionally, the rule considers the impact of the injury on the claimant's ability to perform household labor by establishing a disability analysis. It ties hourly wage value for household labor to the market based pay scale in Minnesota for janitors.

The rule also sets forth how the compensation shall be adjusted for payment in lump sums or in installments.

II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt a rule relating to household labor is set forth in Minnesota Statutes Section 115B.34, subdivision 1(e), which provides in relevant part:

> Losses compensable by the fund for personal injury are limited to:
>
> ...(e) the value of household labor lost due to the claimant's injury or disease, which must be determined in accordance with a schedule established by the board by rule, not to exceed $2,000 per month or $24,000 per year.

III. STATEMENT OF NEED

The need to adopt the proposed Minnesota Rules Parts 7190.0100 to 7190.0108 arises from the public's and claimant's right to know what information the Board will consider and how it will consider it in evaluating any award of compensation for the loss of household labor. The claimant needs to know how the Board determines compensation in order to make an informed decision about filing a claim with the Board and about accepting or rejecting an offer of compensation from the Board. The Board and staff need to clarify by rule the process of determining compensation so that fairness and consistency is maintained between claimant awards, and the award of payment can proceed quickly and efficiently, regardless of changes in the Board and staff.

IV. STATEMENT OF REASONABLENESS

The proposed rule is reasonable because it: 1) uses a recognized economic approach known as aggregate market replacement on an average basis, 2) eliminates difficulties with bias and lack of documentation by claimants, 3) promotes consistency and efficiency in handling claims, 4) recognizes the variety of houseworkers and households in Minnesota.

Part 7190.0100 Definitions

This proposed rule sets forth twelve definitions of words or phrases used in the rule. It is reasonable to define the terms in subparts 2 to 5, and subparts 8 to 12 to shorten the rule and clarify possible ambiguity.

The definition of household in subpart 6 is reasonable because it reflects demographic findings that 28% of households in Minnesota are non-family households, either one person living alone or two or more unrelated persons sharing living quarters.

Since the rule focuses on household labor, it is reasonable to define this term to establish the services for which compensation is eligible. The definition of household labor in subpart 7 is reasonable because it is specific enough to make household labor meaningful and measurable, yet general enough to apply across the spectrum of living arrangements.

Part 7190.0101 Household Labor Losses Eligible for Compensation

This proposed rule clarifies that the claimant is to receive compensation for losses that occurred in the past, are occurring presently and will occur in the future. This is reasonable because it is consistent with civil action remedies in court. It is reasonable to establish in the rule, the time frame for compensable losses. Subpart 2 initiates the time frame with the date of diagnosis of the injury by a physician. This is reasonable because this date is likely to be documented in records and therefore can be determined with reasonable

certainty, and medical verification of the disease is a requirement for an eligible injury. Subpart 3 establishes that the timeframe is defined by the life expectancy of the claimant as determined by the life tables in Minnesota Statutes Annotated. This is reasonable because it is consistent with damages law which assumes the period of loss is life expectancy. To define life expectancy in the tables in Minnesota Statutes Annotated is reasonable because this document is easily accessible in libraries in the state and this table, unlike many similar tables, considers the effect of gender on life expectancy.

7190.0102 Factors Affecting the Amount of Hours Spent on Household Labor

This proposed rule requires the Board to consider four factors about the claimant which can impact the number of hours spent on household labor. These factors are:

1) the claimant's living arrangement, i.e., the type of household in which the claimant resides. This is reasonable because the number and types of household members can affect the total amount of household labor necessary and the allocation of that labor.

2) the role of the claimant in that household, i.e., if the claimant is the primary person responsible for the household labor (primary houseworker), if the claimant assists with the household labor (secondary houseworker), or if the claimant is a teenage houseworker.

3) the employment status of the primary houseworker.

4) the number and ages of children in a household.

It is reasonable to include factors 2, 3, and 4 because time-use studies of 1400 families by William H. Gauger and Kathryn E. Walker of the Department of Consumer Economics and Housing, New York State College of Human Ecology, Cornell University, Ithaca, New York have shown that these three characteristics of the household make the most difference in the amount of time that all household members contribute to the household's operation. (The Dollar Value of Household Work, Information Bulletin 60 (revised 1980), Cornell Cooperative Extension Publication.)

Part 7190.0103 Calculation of the Amount of Hours Spent on Household Labor

This proposed rule describes how the Board will determine the number of hours of a claimant's contribution to household labor. The number of hours is determined from one of two schedules, distinguished by employment status of the primary houseworker.

The schedules are modified versions of the tables published by Gauger and Walker in The Dollar Value of Household Work. The number of base hours per month exhibited in each schedule is based on the actual average amount of time that was contributed to household labor in 1400 households studied by Gauger and Walker in upstate New York.

It is reasonable to use a schedule to determine the number of hours eligible for compensation because using the average, documented hours in the schedule eliminates bias by the claimant in estimating his/her contribution. Most frequently, no documentation will exist for the amount of time actually spent or likely to have been spent. Additionally, the claimant's injury may prevent an accurate estimate from being made of his/her contribution. Likewise the use of the schedule assures that claimants who are not able to articulate well or document their contribution or who lack the means to pay for replacement services for their labor are not undercompensated for the value of their loss.

The use of a schedule is also reasonable to increase administrative efficiency, assure consistency in awards, and avoid bias by the Board introduced by changes in staff or members.

It is reasonable to use the data from Gauger and Walker because, at present, it is the best available, most comprehensive study on the topic. Ideally, a Minnesota study should serve as the reference point; however, one of sufficient scope does not exist. The Gauger and Walker study analyzed time-use data from a 1967-68 survey of households. Originally published in 1973, the study was updated when data were spot-checked in 1977 to see what, if any, changes in time-use had occurred. The difference in total time spent in household labor by females was not statistically significant. A statistically significant increase

in time used by husbands in the area of non-physical care of children under school age detected in the 1977 data is reflected in the proposed rule schedules. The proposed rule thus reflects the best available, published data to date.

The proposed rule is also consistent with the comments provided by the Commission on the Economic Status of Women. The commission notes in its comments that "The number of hours vary by the age and number of children but 50 hours/week is about average for fulltime homemakers... If they are employed fulltime in the labor force, they spend 30-35 hours/week doing housework."

Assuming that the primary houseworker in the schedule is a woman (an assumption that is correct 98% of the time, according to the latest Lou Harris Study), schedule A for unemployed primary houseworker would estimate a range in hours of 38-90 hours per week and schedule B for employed primary houseworkers estimates 30-60 hours per week. Thus the schedule and the commission's estimates appear to be reasonably consistent.

A deficiency in the Gauger and Walker study is its focus on married couple families. Although the 1980 census still ranked married couple households as the most common living arrangement in Minnesota (62.1%), non-family households showed the greatest growth rate. Family households headed by one parent without a spouse account for 9.7% of all Minnesota households and one person households comprise 23.2% of all households. Persons

living with others constitute 5.0% of Minnesota households (Population Notes, January, 1983, Minnesota Department of Energy Planning and Development).

Given the reality of the census statistics on households in Minnesota, it is reasonable for the proposed rule to reflect Minnesota living arrangements. Subpart 4 describes how the Board will use the schedules in the four types of living arrangements prevalent in Minnesota.

For married couples or couples whose living arrangement provides the functional equivalent of marriage, the schedule value remains unchanged. This is reasonable because the Gauger and Walker study considered married couples.

For a claimant who is a single parent, the addition of the schedule hours for primary and secondary houseworker is reasonable because a single parent must perform all household labor tasks without assistance from another adult. There is no sharing of labor although the total number of hours that must be devoted to household labor remains the same.

For a claimant who lives alone it is reasonable to use the number of hours for a primary houseworker because a minimum number of hours is required for household labor regardless of the size of the household; however, no additional burden is posed by other members.

For a claimant that lives with other adults, it is reasonable to use the number of hours in schedule B for a secondary houseworker because where there is no familial, or emotional relationship, household labor is not likely to be a major responsibility for the claimant and more likely to be evenly distributed among household members.

Since not all claimants will be adults, it is reasonable to consider those children whose labor may be of sufficient duration and quality. These are teenage houseworkers. It is reasonable to value their labor at the minimum wage since teenagers cannot usually command as high wages as adults. It is also reasonable to provide how the Board will consider the hours once the teenage houseworker turns 18. It is reasonable to consider these hours as those of a secondary houseworker because adult status implies increased skill and competence. The inability to project the teenage houseworker's future living arrangement makes it unreasonable to assume other household roles.

It is reasonable not to consider contributions to household labor made by children under 12 since the quantity and quality of their work is erratic and difficult to evaluate. (W. Gauger, "Household Work: Can We Add It to the GNP?", Journal of Home Economics, vol 12, page 13, October, 1973.)

Subpart 5 of the proposed rule allows exceptions to using the schedules. It is reasonable to allow exceptions to address limitations in the schedules and to provide some flexibility.

The exceptions cover two basic situations: 1) where the Board must be able to go outside the schedules in order to compensate at all, and 2) where the Board must be able to go outside the schedules in order to adequately compensate.

The first exception, (A), illustrates the first category. When the claimant's situation is not covered at all, the Board may go outside the schedules. Examples include when schedules lack values for the claimant's household characteristics (e.g. married couple, primary houseworker employed, 4 children, youngest under 5) or when the living arrangement isn't covered (e.g. half-way house). It is reasonable to include this exception so that every claimant with compensable losses can have them assessed and receive compensation.

The second category of exceptions, (B) and (C), involves situations where the schedules and living arrangement rules cover the claimant's household characteristics but due to special circumstances the allocation of total hours is inadequate. When the claimant's household allocates the hours differently than the appropriate schedule, the claimant has the burden to prove that the household's division significantly deviates from the schedule's division. The Board, in its discretion, may adjust the allocation. An example of such a situation is a true equalitarian household in which the claimant can document all household labor is equally shared. It is reasonable to allow such an exception because the household is not average.

The exception in (C) allows special consideration of a claimant's household operating under special circumstances which significantly increase the household's total hours. If the claimant demonstrates that the special circumstances significantly increase the the household's total hours, the Board may, in its discretion, adjust the total hours. It is reasonable to allow this exception because the special circumstances invalidate the schedules' assumption of an average household.

Subpart 6 clarifies how the schedules will be used to calculate compensation for a year or partial year. It is reasonable to state this specifically since most claims involve both whole year and partial year awards.

Part 7190.0104 Calculation of Hourly Wage for Household Labor

Subpart 1 of this proposed rule requires the Board to use the monthly median salary of janitors in the state in determining an hourly wage for household labor. This is reasonable because under the aggregate replacement cost theory, the total amount of time spent on household labor is calculated and the hours are valued at a single wage rather than at different wage rates for different tasks. In theory, the wage is that of domestic worker because it reflects the "most likely mode of resorting to the market for the provision of the services in question." (Oli Hawrylyshyn, "The Value of Household Services: A Survey of Empirical Estimates," 22 Rev. of Income and Wealth, 101, 113 (1976).

In response to solicitation of outside opinion, the Legislative Commission on the Economic Status of Women provided comment that in 1986, housekeepers earned between $7.50 - $10.00/hour in the Minneapolis-St. Paul area. The figures were based on an informal sampling of private providers. Since this was an informal sampling, limited to the Twin Cities, the time period covered, the geographical range and the reproducibility of the data are inadequate for use by the Board in determining compensation. The wage range, however, was very helpful in choosing a substitute for the theoretical "domestic worker."

The Research and Statistics Office of the Department of Jobs and Training has conducted since the 1960's annual surveys of salaries paid to various classes of workers in the state. The results of the survey are published each year as the "Minnesota Salary Survey by Area." The salary survey describes a janitor as a person who "performs a variety of tasks in cleaning." Additionally, a janitor "may also provide minor maintenance services." The 1986 survey lists $1280 as the median monthly salary for a janitor or an hourly wage of $7.38. This falls at the lower end of the wage spectrum provided by the Legislative Commission on the Economic Status of Women.

Substituting a janitor's wage is reasonable because:

1) the salary survey has compiled many years of data on this job classification. The data reflect the actual rate paid for this labor in Minnesota because it is compiled by surveying

employers statewide. Thus the comprehensiveness of the survey, its statewide scope, and the long historical record make the classification reliable, easy to use, and reflective of changes in the market place.

2) The wage rate is easily available from the Department of Jobs and Training or through its annual publication which is given widespread distribution to libraries and employers in the state.

3) The salary range for janitors reflects the middle range of salaries paid to workers in other jobs with duties that encompass household labor. For example, compare a janitor's monthly median salary of $128Ø to that of a custodial worker who does routine light cleaning work - $867, a bookkeeper who keeps records of financial transactions of an establishment - $1276, a buyer/purchasing agent who locates sources and purchases supplies and equipment in volume - $196Ø, a licensed practical nurse who performs practical nursing work and administers simple medication and treatment - $1213, and a groundsperson who does routine manual work in the maintenance of lawns and grounds - $1732. Although the salary survey does not include child care workers, using the data from the Commission on the Economic Status of Women would estimate a monthly salary of $832.

It thus appears that although the class of janitor does not encompass all the skills and knowledge required in household labor, the average median monthly salary paid to janitors

approximates a middle value in the range of wages paid for these services. Therefore, it is reasonable to use the reported monthly median salary for janitors in the state to calculate a wage for household labor.

Subpart 2 reasonably clarifies that the median monthly salary reported in the salary survey is divided by the number of hours in a work month.

Subpart 3 of the proposed rule considers the possibility that a claimant may be a teenager, or have been a teenager, for some of the years eligible for compensation. For each past year in which the claimant was a teenager, the household labor hours are valued at the minimum wage for that year. For the current year and each future year until the claimant reaches 18, the hours are valued at the minimum wage for the current year. It is reasonable to value teenage hours at a lesser wage because the quality and quantity are not expected to be the same as adults.

Part 7190.0105 Disability

This proposed rule is reasonable because it recognizes that the inability to perform household labor varies with the nature and progress of the disease or injury. Since the impairment may range from total (unable to perform any household tasks) to slight (unable to perform some tasks or decreased overall efficiency) the rule allows the Board to rate disability over a range of five values that may be realistically evaluated (100%, 75%, 50% 25% or 0%). It is reasonable to establish this range of

five values because it removes arbitrariness and individual bias in assigning small increments in percentage ratings. It is also reasonable to further limit arbitrariness and individual bias by explicitly listing the factors that must be considered in the assignment of a disability percentage. The three areas that must be considered provide reasonable guideposts for evaluating disability because they require both objective (quantity of services) and subjective (quality of service) evaluation.

The proposed rule treats past years differently from current and future years. It is reasonable to have each past year evaluated separately because actual records will exist on the claimant's injuries, physical condition, hospitalization in those years. Current and future years are assigned a disability percentage based on the degree of impairment in the current year. This is reasonable because projecting into the future is speculative and reevaluating yearly is administratively prohibitive.

Part 7190.0106 Calculation of Loss in Household Labor

This proposed rule sets out the formula to be applied o each year of loss. This is reasonable to clarify for claimants, the Board and the public how the separately determined factors are used to provide a value for the loss in each eligible year.

Part 7190.0107 Payment of Compensation

Subpart 1 of this proposed rule clarifies that the award of compensation determined by the rule is subject to the limitations in the statute. It is reasonable to clarify that the claimant's household labor losses are required to be adjusted to these limits so that the claimant and the public understand an award may be less than the amount indicated by the formula.

The Board has discretion in how it pays claimants (Minn. Stat. section 115B.36). Since choice of payment method directly affects the valuation of future losses, it is reasonable to set out in rule how the Board will determine payments of awards.

The rule sets out a formula to determine the value of a claimant's losses in current dollars. Losses incurred in past years are not discounted. This is reasonable because they were valued at wages of the past years. The losses for the current year are valued at current year wages and not discounted either. Future losses are discounted.

When Board chooses to make a lump sum award, the Board must discount future losses to avoid overcompensation. The goal of discounting is to "award a sum of money which can, as capital, produce [the appropriate payment] by using both the interest it draws and . . . the capital sum itself so that at the end of the loss period neither principle nor interest is left remaining." (D. Dobbs, Handbook on the Law of Remedies Section 8.7, 1973.)

It is thus reasonable to discount each future year of loss back to current dollars to avoid overcompensation. The proposed rule provides that the same discount rate used under the 1986 Minnesota Tort Reform Act be used by the Board. This is reasonable because it is consistent with tort damages treatment, and the rates are readily available and updated yearly.

When the Board chooses to make payment in installments, future losses are not discounted since the claimant is not earning the interest. Each year's loss must be calculated and, depending on when the money is paid out, adjusted. For each year into the future, the amount must be increased by a cost of living factor. This is reasonable because future hours are valued at the current year's wage. Not to adjust for cost of living increases would result in undercompensation when the money is finally paid out.

For consistency, availability, and currentness, it is reasonable again to cite the 1986 Minnesota Tort Reform act.

IV. CONCLUSION

Based on the foregoing, the proposed rules for compensation on the value of household labor lost due to injury are both needed and reasonable.

June 19, 1987
Date

Virginia L. Reiner
Virginia L. Reiner
Executive Director

In the Matter of the Proposed Adoption of the Rule of the State Hazardous Substance Injury Compensation Board Relating to Household Labor Lost

AFFIDAVIT OF MAILING THE NOTICE OF PROPOSED ADOPTION OF A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA
COUNTY OF RAMSEY

Virginia Reinert, being first duly sworn deposes and says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Hazardous Substance Injury Compensation Board rulemaking mailing list, is accurate, complete, and current as of this 1st day of July, 1987.

That on the 1st day of July, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Proposed Adoption of a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Virginia L. Reinert
Signature

Subscribed and sworn to before me
this 1st day of July, 1987.

Arlayne J. Nelson
(Notary Public)

ARLAYNE J. NELSON
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES APRIL 13, 1993

RULES MAILING LIST

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Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

Rules as Proposed (all new material)

7190.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7190.0100 to 7190.0108 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Children.** "Children" means household members under the age of 18.

Subp. 4. **Claimant.** "Claimant" means a person whom the board determines has an eligible claim for personal injury.

Subp. 5. **Disability.** "Disability" means an impairment in the ability to produce goods and services necessary for the household to function.

Subp. 6. **Household.** "Household" means a single housekeeping unit. A household may consist of a single person or several persons, usually but not necessarily, related by blood or marriage.

Subp. 7. **Household labor.** "Household labor" means the production of goods and services necessary for the household to function, including marketing, recordkeeping, food preparation, house cleaning, house maintenance, yard care, clothing care, and physical and other care of household members.

Subp. 8. **Houseworker.** "Houseworker" means a person who performs household labor in a household.

Subp. 9. **Minimum wage.** "Minimum wage" means the amount set in United States Code, title 29, section 206.

Subp. 10. **Primary houseworker.** "Primary houseworker" means the person who contributes the majority of time spent in a household on household labor.

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Subp. 11. Secondary houseworker. "Secondary houseworker" means a person who contributes a significant amount of time but less than the majority of time spent in a household on household labor.

Subp. 12. Teenage houseworker. "Teenage houseworker" means a person from the ages of 12 to 17 who produces goods or services necessary for the household but is not primarily responsible for the household labor, and is a financially dependent household member.

7190.0101 HOUSEHOLD LABOR LOSSES ELIGIBLE FOR COMPENSATION.

Subpart 1. Scope. The board shall compensate a claimant for the value of past, current, and future household labor lost due to the claimant's injury or disease.

Subp. 2. Past years. The board shall calculate the number of eligible years of losses in the past beginning with the date on which the claimant's injury was diagnosed by a physician.

Subp. 3. Future years. The board shall calculate the number of eligible years of losses in the future using the claimant's average remaining lifetime as determined by United States Life Tables, Volume 43A Minnesota Statutes Annotated, which is incorporated by reference. This publication is available for loan or inspection through the Minitex interlibrary loan system.

7190.0102 FACTORS AFFECTING THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

In calculating the hours spent on household labor, the board shall consider whether the claimant:

A. is in a living arrangement with other persons;

B. is a primary, secondary, or teenage houseworker;

C. resides in a household where the primary houseworker is employed outside the household 15 or more hours per week; or

D. provides services and care for children, and, if so, the number and ages of the children.

Approved
by Revisor _____

7190.0103 CALCULATION OF THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

Subpart 1. **Base hours.** The board shall determine the number of household labor hours contributed by the claimant by using part 7190.0108, schedule A or B.

Subp. 2. **Schedule A.** Schedule A applies to a claimant who lives in a household where the primary houseworker is not employed outside the household or employed less than 15 hours per week outside the household.

Subp. 3. **Schedule B.** Schedule B applies to a claimant who lives in a household where the primary houseworker is employed 15 or more hours per week outside the household.

Subp. 4. **Applicable living arrangement.** The board shall determine the hours eligible for compensation from the appropriate schedule as follows:

A. if the claimant is part of a married couple, or demonstrates the claimant is part of a married couple equivalent, the number of hours in the schedule for the claimant's houseworker role (primary or secondary houseworker, with or without children) is the number of hours eligible for compensation;

B. if the claimant is a single parent, the only adult in a household with children, the total of the hours for a primary and secondary houseworker is the number of hours eligible for compensation;

C. if the claimant lives alone, the number of hours for a primary houseworker is the number of hours eligible for compensation;

D. if the claimant lives with one or more other adults, the number of hours for a secondary houseworker in part 7190.0108, subpart 2, is the number of hours eligible for compensation; and

E. if the claimant is a teenage houseworker, the number of hours for a teenage houseworker is the number of hours eligible for compensation. When a teenage houseworker becomes 18 years old, the number of hours for a secondary houseworker is

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the number of hours eligible for compensation.

The board shall consider that children under the age of 12 produce no hours eligible for compensation.

Subp. 5. **Exception to schedule.** The board may determine the number of hours eligible for compensation without using a schedule when:

A. the claimant's living arrangement is not covered by the schedule;

B. the claimant provides evidence that the division of household labor in the claimant's household significantly deviates from the schedule's division; or

C. the claimant demonstrates that special circumstances in the claimant's household such as a disabled spouse, child, or parent significantly increase the total amount of hours spent on household labor.

Subp. 6. **Determination of yearly hours spent.** The board shall calculate the number of hours spent on household labor in any year by multiplying the schedule base value by 12. For partial years, the board shall calculate the actual number of months where household labor was lost and multiply the schedule base value by that number.

7190.0104 CALCULATION OF HOURLY WAGE FOR HOUSEHOLD LABOR.

Subpart 1. **Salary determination.** For each year in which the board calculates an adult claimant has hours eligible for compensation, the board shall determine the hourly wage for household labor using the state median monthly salary for janitors as determined in the annual salary survey conducted by the Department of Jobs and Training. For each future year, the board shall calculate the hourly wage using the current year's salary survey data.

Subp. 2. **Formula.** For each year in which a claimant has hours eligible for compensation, the board shall calculate the hourly wage using the following formula:

$$W = \frac{S}{173.33}$$

Where W = hourly wage for that year

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S = state median monthly salary for janitors for that year
173.33 = the number of hours in a work month

Subp. 3. **Teenage houseworker.** For each past year in which a teenage houseworker has eligible hours, the board shall use the minimum wage in that year as the hourly wage for household labor; for the current year and future years until the year the teenage houseworker becomes 18 years old the board shall use the current minimum wage.

7190.0105 DISABILITY.

For each past year in which the board calculates a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease impaired the claimant's ability to perform household labor. For the current year and future years in which a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease presently impairs the claimant's ability to perform household labor.

In making the determination of disability, the board shall consider the quality and quantity of household labor services the claimant:

A. can or could no longer perform;

B. performs or performed with assistance;

C. continues or continued to perform.

The board shall set a claimant's disability for any year at 100 percent, 75 percent, 50 percent, 25 percent, or zero.

7190.0106 CALCULATION OF LOSS IN HOUSEHOLD LABOR.

For each year in which the claimant has a loss in household labor, the board shall determine the claimant's loss using the following formula:

$V = H \times W \times D$

Where V = value of the household labor lost in that year
H = number of hours eligible for compensation in that year
W = hourly wage for household labor for that year
D = percent disabled in that year

7190.0107 PAYMENT OF COMPENSATION.

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Subpart 1. Payment limit. The total compensation the board shall pay to a claimant for household labor lost shall not exceed the limits in Minnesota Statutes, sections 115B.34, subdivision 1, and 115B.36.

Subp. 2. Payment in lump sum. The board will calculate the total lump sum amount of compensation to be paid to a claimant using the following formula:

A = P + C + F
Where A = award amount in current dollars
P = the sum of all past years' losses
C = the loss for the current year
F = the sum of all future years' losses, with each year discounted to current value according to Minnesota Statutes, section 604.07, subdivision 4, clauses (1) and (2)

Subp. 3. Payment in installments. When the board chooses to pay the award in installments, it shall adjust future payments by the cost of living rate for the current year as described in Minnesota Statutes, section 604.07, subdivision 4, clause (2).

Approved
by Revisor _____

7190.0108 PRIMARY EMPLOYMENT SCHEDULES.

Subpart 1. **Schedule A: Primary Houseworker Not Employed Outside Household or Employed Less Than 15 Hours Per Week.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25		S					P							
	25-39		S						P						
	40-54			S					P						
	55 & over				S			P							
1	Youngest Child														
	12-17		T		S					P					
	6-11			S						P					
	2-5				S					P					
	1					S					P				
	under 1					S					P				
2	12-17		T	S						P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
3	12-17		ST							P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
4	12-17		ST						P						
	6-11		T	S							P				
	2-5		T		S							P			
	1		T			S						P			
	under 1					ST								P	
5-6	6-11			T	S							P			
	2-5		T		S							P			
	1		T			S					P				
	under 1		T			S							P		
7-9	2-5		T		S							P			
	1						---n/a---								
	under 1		T			S									P

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

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Subp. 2. **Schedule B: Primary Houseworker Employed 15 or More Hours Per Week Outside Household.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25			S			P								
	25-39			S			P								
	40-54		S				P								
	55 & over		S				P								
1	Youngest Child														
	12-17		T		S			P							
	6-11		S						P						
	2-5					S		P							
	1					S			P						
	under 1					S			P						
2	12-17		T	S				P							
	6-11		T	S				P							
	2-5		T			S			P						
	1					S			P						
	under 1					S					P				
3	12-17		T	S			P								
	6-11			ST					P						
	2-5			T		S					P				
	1					S					P				
	under 1					S				P					
4	12-17		S	T					P						
	6-11		TS					P							
	2-5														
	1														
	under 1														
5-6	6-11														
	2-5														
	1														
	under 1														
7-9	2-5														
	1														
	under 1														

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

Approved by Revisor _____

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

Notice of Proposed Adoption of a Rule Without a Public Hearing

Notice is hereby given that the State Hazardous Substance Injury Compensation Board proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes Section 115B.34, subdivision 1(e) (1986).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule

addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Virginia L. Reiner
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114
612/642-0455

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request by writing or telephoning the Board's office at the address or telephone number listed above.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, have an impact on agricultural land or an impact on small businesses.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the executive director at the address listed above.

June 19, 1987
Date

Virginia L. Reiner
Virginia L. Reiner
Executive Director
Hazardous Substance Injury
Compensation Board

Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury

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Comments or written requests for a public hearing must be submitted to:

Virginia L. Reiner
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114
612/642-0455

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

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Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, have an impact on agricultural land or an impact on small businesses.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the executive director at the address listed above.

Dated: 19 June 1987

Virginia L. Reiner, executive director
Hazardous Substance Injury Compensation Board

Rules as Proposed (all new material)

7190.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7190.0100 to 7190.0108 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Children.** "Children" means household members under the age of 18.

Subp. 4. **Claimant.** "Claimant" means a person whom the board determines has an eligible claim for personal injury.

Subp. 5. **Disability.** "Disability" means an impairment in the ability to produce goods and services necessary for the household to function.

Subp. 6. **Household.** "Household" means a single housekeeping unit. A household may consist of a single person or several persons, usually but not necessarily, related by blood or marriage.

Subp. 7. **Household labor.** "Household labor" means the production of goods and services necessary for the household to function, including marketing, recordkeeping, food preparation, house cleaning, house maintenance, yard care, clothing care, and physical and other care of household members.

Subp. 8. **Houseworker.** "Houseworker" means a person who performs household labor in a household.

Subp. 9. **Minimum wage.** "Minimum wage" means the amount set in United States Code, title 29, section 206.

Subp. 10. **Primary houseworker.** "Primary houseworker" means the person who contributes the majority of time spent in a household on household labor.

Subp. 11. **Secondary houseworker.** "Secondary houseworker" means a person who contributes a significant amount of time but less than the majority of time spent in a household on household labor.

Subp. 12. **Teenage houseworker.** "Teenage houseworker" means a person from the ages of 12 to 17 who produces goods or services necessary for the household but is not primarily responsible for the household labor, and is a financially dependent household member.

7190.0101 HOUSEHOLD LABOR LOSSES ELIGIBLE FOR COMPENSATION.

Subpart 1. **Scope.** The board shall compensate a claimant for the value of past, current, and future household labor lost due to the claimant's injury or disease.

Subp. 2. **Past years.** The board shall calculate the number of eligible years of losses in the past beginning with the date on which the claimant's injury was diagnosed by a physician.

Subp. 3. **Future years.** The board shall calculate the number of eligible years of losses in the future using the claimant's average remaining lifetime as determined by United States Life Tables, Volume 43A Minnesota Statutes Annotated, which is incorporated by reference. This publication is available for loan or inspection through the Minitex interlibrary loan system.

7190.0102 FACTORS AFFECTING THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

In calculating the hours spent on household labor, the board shall consider whether the claimant:

A. is in a living arrangement with other persons;

B. is a primary, secondary, or teenage houseworker;

C. resides in a household where the primary houseworker is employed outside the household 15 or more hours per week; or

D. provides services and care for children, and, if so, the number and ages of the children.

7190.0103 CALCULATION OF THE AMOUNT OF HOURS SPENT ON HOUSEHOLD LABOR.

Subpart 1. **Base hours.** The board shall determine the number of household labor hours contributed by the claimant by using part 7190.0108, schedule A or B.

Subp. 2. **Schedule A.** Schedule A applies to a claimant who lives in a household where the primary houseworker is not employed outside the household or employed less than 15 hours per week outside the household.

Subp. 3. **Schedule B.** Schedule B applies to a claimant who lives in a household where the primary houseworker is employed 15 or more hours per week outside the household.

Subp. 4. **Applicable living arrangement.** The board shall determine the hours eligible for compensation from the appropriate schedule as follows:

A. if the claimant is part of a married couple, or demonstrates the claimant is part of a married couple equivalent, the number of hours in the schedule for the claimant's houseworker role (primary or secondary houseworker, with or without children) is the number of hours eligible for compensation;

B. if the claimant is a single parent, the only adult in a household with children, the total of the hours for a primary and secondary houseworker is the number of hours eligible for compensation;

C. if the claimant lives alone, the number of hours for a primary houseworker is the number of hours eligible for compensation;

D. if the claimant lives with one or more other adults, the number of hours for a secondary houseworker in part 7190.0108, subpart 2, is the number of hours eligible ~~for~~ compensation; and

E. if the claimant is a teenage houseworker, the number of hours for a teenage houseworker is the number of hours eligible for compensation. When a teenage houseworker becomes 18 years old, the number of hours for a secondary houseworker is the number of hours eligible for compensation.

The board shall consider that children under the age of 12 produce no hours eligible for compensation.

Subp. 5. **Exception to schedule.** The board may determine the number of hours eligible for compensation without using a schedule when:

A. the claimant's living arrangement is not covered by the schedule;

B. the claimant provides evidence that the division of household labor in the claimant's household significantly deviates from the schedule's division; or

C. the claimant demonstrates that special circumstances in the claimant's household such as a disabled spouse, child, or parent significantly increase the total amount of hours spent on household labor.

Subp. 6. **Determination of yearly hours spent.** The board shall calculate the number of hours spent on household labor in any year by multiplying the schedule base value by 12. For partial years, the board shall calculate the actual number of months where household labor was lost and multiply the schedule base value by that number.

7190.0104 CALCULATION OF HOURLY WAGE FOR HOUSEHOLD LABOR.

Subpart 1. **Salary determination.** For each year in which the board calculates an adult claimant has hours eligible for compensation, the board shall determine the hourly wage for household labor using the state median monthly salary for janitors as determined in the annual salary survey conducted by the Department of Jobs and Training. For each future year, the board shall calculate the hourly wage using the current year's salary survey data.

Subp. 2. **Formula.** For each year in which a claimant has hours eligible for compensation, the board shall calculate the hourly wage using the following formula:

$$W = \frac{S}{173.33}$$

Where W = hourly wage for that year
S = state median monthly salary for janitors for that year
173.33 = the number of hours in a work month

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 3. **Teenage houseworker.** For each past year in which a teenage houseworker has eligible hours, the board shall use the minimum wage in that year as the hourly wage for household labor; for the current year and future years until the year the teenage houseworker becomes 18 years old the board shall use the current minimum wage.

7190.0105 DISABILITY.

For each past year in which the board calculates a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease impaired the claimant's ability to perform household labor. For the current year and future years in which a claimant has hours eligible for compensation, the board shall determine to what extent the claimant's injury or disease presently impairs the claimant's ability to perform household labor.

In making the determination of disability, the board shall consider the quality and quantity of household labor services the claimant:

A. can or could no longer perform;

B. performs or performed with assistance;

C. continues or continued to perform.

The board shall set a claimant's disability for any year at 100 percent, 75 percent, 50 percent, 25 percent, or zero.

7190.0106 CALCULATION OF LOSS IN HOUSEHOLD LABOR.

For each year in which the claimant has a loss in household labor, the board shall determine the claimant's loss using the following formula:

$V = H \times W \times D$

Where

V = value of the household labor lost in that year
H = number of hours eligible for compensation in that year
W = hourly wage for household labor for that year
D = percent disabled in that year

7190.0107 PAYMENT OF COMPENSATION.

Subpart 1. **Payment limit.** The total compensation the board shall pay to a claimant for household labor lost shall not exceed the limits in Minnesota Statutes, sections 115B.34, subdivision 1, and 115B.36.

Subp. 2. **Payment in lump sum.** The board will calculate the total lump sum amount of compensation to be paid to a claimant using the following formula:

$A = P + C + F$

Where

A = award amount in current dollars
P = the sum of all past years' losses
C = the loss for the current year
F = the sum of all future years' losses, with each year discounted to current value according to Minnesota Statutes, section 604.07, subdivision 4, clauses (1) and (2)

Subp. 3. **Payment in installments.** When the board chooses to pay the award in installments, it shall adjust future payments by the cost of living rate for the current year as described in Minnesota Statutes, section 604.07, subdivision 4, clause (2).

7190.0108 PRIMARY EMPLOYMENT SCHEDULES.

Subpart 1. **Schedule A: Primary Houseworker Not Employed Outside Household or Employed Less Than 15 Hours Per Week.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25		S					P							
	25-39		S						P						
	40-54			S					P						
	55 & over				S			P							
1	Youngest Child														
	12-17		T		S					P					
	6-11			S						P					
	2-5				S					P					
	1					S					P				
	under 1					S					P				
2	12-17		T	S						P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
3	12-17		ST							P					
	6-11		T	S						P					
	2-5		T		S						P				
	1					S						P			
	under 1					S							P		
4	12-17		ST						P						
	6-11		T	S							P				
	2-5		T		S							P			
	1		T			S						P			
	under 1					ST								P	
5-6	6-11			T	S							P			
	2-5		T		S							P			
	1		T			S					P				
	under 1		T			S							P		
7-9	2-5		T		S							P			
	1						---n/a---								
	under 1		T			S									P

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 2. **Schedule B: Primary Houseworker Employed 15 or More Hours Per Week Outside Household.**

Base Hours Spent in Household Labor Per Month

# Children in Family	Age in Years	15	30	45	60	90	120	150	180	210	240	270	300	330	360
0	Primary Houseworker														
	under 25			S			P								
	25-39			S			P								
	40-54		S				P								
	55 & over		S				P								
1	Youngest Child														
	12-17		T		S			P							
	6-11		S						P						
	2-5					S		P							
	1					S			P						
	under 1					S			P						
2	12-17		T	S				P							
	6-11		T	S				P							
	2-5		T			S			P						
	1					S			P						
	under 1					S					P				
3	12-17		T	S			P								
	6-11			ST					P						
	2-5			T		S					P				
	1					S					P				
	under 1					S				P					
4	12-17		S	T					P						
	6-11		TS					P							
	2-5														
	1														
	under 1														
5-6	6-11														
	2-5														
	1														
	under 1														
7-9	2-5														
	1														
	under 1														

P denotes primary houseworker
S denotes secondary houseworker
T denotes teenage houseworker

STATE OF MINNESOTA
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

In the Matter of the Proposed Adoption of the Rule of the State Hazardous Substance Injury Compensation Board Governing Compensation for the Value of Household Labor Lost Due to Injury

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Board's proposed adoption of the above-entitled rule was published in the State Register on July 6, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on July 1, 1987. The statement of need and reasonableness was prepared before the date of the notice of proposed adoption of a rule without a public hearing and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. One request for a public hearing on the rule was received by the agency.

No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Compensation for the Value of Household Labor Lost Due to Injury is adopted this 14th day of September, 1987, pursuant to authority vested in the Board by Minnesota Statutes, section 115B.28.

Virginia L. Reiner

VIRGINIA L. REINER
Executive Director

J.P. CONSULTING, INC.

P.O. BOX 3053
DULUTH, MN 55803-3053
218-722-2602

RECEIVED

JUL 20 1987

HAZARDOUS SUBSTANCE
BOARD

July 17, 1987

Virginia L. Reiner
Hazardous Substance Injury Compensation Board
2700 University Ave. West #115
St. Paul, MN 55114

Dear Ms. Reiner:

J.P. Consulting, Inc. requests that a hearing be held concerning Proposed Permanent Rules Relating to Compensation for the Value of Household Labor Lost Due to Injury.

Our area of concern is 7190.0100 DEFINITIONS, Subp. 7. **Household Labor.** "Household labor" means the production of goods and services necessary for the household to function, including marketing, recordkeeping, food preparation, house cleaning, house maintenance, yard care, clothing care, and physical and other care of household members. This subpart (Subp. 7.) uses the phrase "....physical and other care of household members" without specifically stating parenting. Parenting is far more valuable to the household, family and society than the skills delineated in Subpart 7.

Prior to your deadline, August 6, 1987, we will try to provide our comments on the proposed rules. If there is a hearing we would present substantiated proof of the value of parenting as part of household labor. It is possible that an additional definition would need to be added to DEFINITIONS. Changing the definitions would then change Factors Affecting the Amount of Hours Spent in Household Labor, 7190.0102; Calculation of Hourly Wage for Household Labor, 7190.0104; and Schedules A and B, 7190.0108.

Sincerely,

Jory Peterson

Jory H. Peterson
Vice-Presidents

In the Matter of the Adoption
of the Rule of the State
Hazardous Substance Injury
Compensation Board Governing
Compensation for the Value of
Household Labor Lost Due to Injury

DECLARATION OF
COUNSEL

I, Stephen Shakman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0488.

Stephen Shakman

STEPHEN SHAKMAN
Special Assistant Attorney General

Sept 14, 1987
Dated

Statutory Authority

115B.34 subd 1(e) 1976 — ok

c/n exceed 2,000/mo or 24/yr.

Notice of Intent ok

Rule: All new material

HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

2700 University Avenue W. #115 • St. Paul, MN 55114 • 612/642-0455

September 15, 1987

RECEIVED
ATTORNEY GENERAL'S OFFICE

SEP 18 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Mr. Miles:

RE: In the Matter of Proposed Rules Governing Compensation for the Value of Household Labor Lost Due to Injury

On September 14, 1987, the Hazardous Substance Injury Compensation Board adopted the above-captioned rules governing compensation for the value of household labor lost due to injury. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).
2. Findings of Fact, Conclusions, and Order Adopting Rules
3. Certificate of Resolution Adopting Rules.
4. Notice of Intent to Solicit Outside Opinion (11 S.R. 1369, January 26, 1987).
5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.
6. Certificate of Authorizing Resolution.
7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (12 S.R. 5, July 6, 1987).
8. Comments received during the comment period.
9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.
10. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

Sincerely,

Virginia L. Reiner

Virginia L. Reiner
Executive Director

VLR/jw

Enclosures