

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

[redacted]

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

April 15, 1992

Martha J. Casserly
Special Assistant Attorney General
Public Finance Division
Office of the Attorney General
525 Park, Suite 500
St. Paul, Minnesota 55103

Dear Ms. Casserly:

The Department of Public Safety hereby withdraws from consideration by the Office of the Attorney General the Rules of the Department Relating To Public Safety Officer Death Benefits.

Sincerely,

Thomas H. Frost
Commissioner

RECEIVED

APR 16 1992

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55101

MJC
5/6/92

RULE REVIEW CHECKLIST
RESUBMITTED RULE

File No. 1911 Docket No. 05 0007 0710

RESUBMISSION DATE 5-5-92
DATE DUE 5-19-92
APPROVED 5-8-92 mjc
DISAPPROVED
WITHDRAWM

ADOPTED W/O HEARING
EMERGENCY RULE
brought over to Revisors 5-6-92
REVISOR APPROVED 5/7/92
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

NO Does the revision raise significant new legal issues?

_____ Review date

✓ Rule as adopted (4 copies)

✓ Supplemental Findings of Fact, Conclusions & Order Adopting

NA Board's Supplemental Resolution Adopting

NA Notice of submission to Attorney General

NA Affidavit of Mailing Notice to Attorney General

Made changes to delete 30 day time limit for appeals.

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: May 11, 1992

TO: DAVE ORREN
208 DOT Building
Public Safety

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Public Safety Officer Death Benefits

The above-referenced rule has been approved as to its legality by the Attorney General on May 8, 1992.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:jj

cc: Jacquelyn E. Albright
William Brown, Chief Judge
MaryAnn Hruby

Department of Public Safety

Adopted Permanent Rules Relating to Public Safety Officer Death Benefits

Rules as Adopted

7521.0200 DETERMINATION OF CLAIMS.

Subpart 1. **Filing claim.** A claim for public safety officer death benefits under Minnesota Statutes, section 299A.44 must be on a form provided by the commissioner of public safety and must contain information relevant to the claimant's eligibility for benefits.

Certified copies of reports, certificates, and affidavits relevant to the claimant's eligibility for benefits must be filed with the claim form in order for the claim to be considered a complete claim.

A claim is considered to be filed upon receipt by the commissioner of a complete claim with the claim form signed by the claimant or the claimant's representative.

Subp. 2. **Investigation by commissioner.** When a complete claim is filed, the commissioner shall determine whether the claimant is eligible for benefits. The commissioner shall make the inquiries or investigation necessary to make the determination. The commissioner shall base the determination on the information provided on the complete claim and by the investigation of the claim.

Subp. 3. **Determination of eligibility.** On determining that the claimant is eligible for benefits, the commissioner shall initiate the payment procedure and inform the claimant. On determining that the claimant is not eligible for benefits, or that there is insufficient information on which to make a determination, the commissioner shall deny the claim and inform the claimant of the grounds for denial. <u>The commissioner shall also give notice of a claim denial to the deceased officer's former employer and to the deceased officer's labor</u>

Approved by Revisor MR

organization, if the claimant has consented in writing to the giving of this notice in the manner provided by Minnesota Statutes, section 13.05, subdivision 4, paragraph (d).

Subp. 4. **Request for reconsideration.** The claimant, within 30 days after receiving a notice of denial from the commissioner, may submit additional information to the commissioner and request a reconsideration of the claim. Upon receipt of the additional information, the commissioner shall reevaluate the claim in light of the new information and shall perform additional inquiries or investigation as necessary. The commissioner shall affirm, modify, or reverse the previous determination and shall notify the claimant of the determination and its basis.

Subp. 5. **Starting a contested case hearing.** A claimant may request a contested case hearing under Minnesota Statutes, chapter 14.

A claimant who has not requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner ~~no more than 30 days after the claimant receives the notice of denial~~.

A claimant who has requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner ~~no more than 30 days after the claimant receives the notice of denial upon reconsideration~~.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

May 8 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 11 1992

Joan Anderson Growe
Secretary of State

9:00 AM

PB

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT A PUBLIC HEARING

On April 1, 1992, the Department of Public Safety submitted the above-entitled rules to the Attorney General for review and approval pursuant to Minnesota Statutes, section 14.26. The Attorney General's Office expressed concerns about the statutory authority for limiting the time for claimants to submit a request for a contested case hearing in part 7521.0200, subpart 5. On April 15, 1992, the Department withdrew the rules from consideration in order to make the changes necessary to address the Attorney General's concerns.

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

1. Part 7521.0200, subpart 5, is amended as follows:

> Subp. 5. **Starting a contested case hearing.** A claimant may request a contested case hearing under Minnesota Statutes, chapter 14.
>
> A claimant who has not requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner ~~no more than 30 days after the claimant receives the notice of denial~~.
>
> A claimant who has requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner ~~no more than 30 days after the claimant receives the notice of denial upon reconsideration~~.

This change removes the time limit during which a claimant may request a contested case hearing. This change can only increase the ability of claimants to prevail if challenging a claim denial. Since potential claimants are the main group of persons with a direct interest in these rules and since the change is beneficial for potential claimants, it is unlikely that there would be any objections to this change by interested persons.

2. The above-change is not substantial in that the change does not affect classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed.

3. The above-change is not substantial in that the change does not introduce significant new subject matter which a reasonable person, on the basis of the proposed rules as originally noticed, would not have anticipated would occur during the rulemaking proceeding.

4. The above-change is not substantial in that the change does not make a major substantive change that was not raised by the proposed rules as originally noticed in such a way as to invite reaction.

5. The above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as the Rules of the State Department of Public Safety Relating To Public Safety Officer Death Benefits, in the form set out in the State Register on February 24, 1992, with the modifications as indicated in the Revisor's draft, file number 1946, dated 04/29/92, are adopted this 1ST day of May, 1992, pursuant to authority vested in me by Minnesota Statutes, section 299A.46.

Thomas H. Frost, Commissioner
Department of Public Safety

Rec 5-5-92

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

May 1, 1992

Ms. Patty Nolte
Legal Assistant
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, Minnesota 55103

Re: In The Matter Of The Adopted Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits.

Dear Ms. Nolte:

On May 1, 1992, the Minnesota Commissioner of Public Safety signed the Supplemental Findings of Fact, Conclusions, and Order Adopting Rules Without A Public Hearing for the above-captioned rules relating to public safety officer death benefits. Enclosed for your review are the documents required by Attorney General Rules, part 2010.1300. Note that the documents listed in paragraphs A through F of this letter are keyed to items A through F of part 2010.1300.

A. A copy of the Supplemental Findings Of Fact, Conclusions, And Order Adopting Rules.

B. No supplemental certificate of a resolution adopting the rules is enclosed because the Department of Public Safety is not a multi-member agency.

C. Four copies of the rules as adopted. The modifications to the proposed rules are reflected on the rules as adopted and are approved as to form by the Revisor of Statutes.

D. No notice of submission of the rules to the Attorney General is enclosed because no persons requested notification of the date of submission of the rules to the Attorney General.

E. No affidavit of mailing of notice of submission of the rules to the Attorney General is enclosed because no such notices were given.

F. No other documents are enclosed since no other documents are necessary to show that deficiencies have been remedied.

If you have any questions about the enclosed documents or if you wish to discuss anything about the rules with me, please contact me at 296-2631. After you complete your review, please send any correspondence regarding the rules to me, Dave Orren, at 208 Transportation Building.

Yours very truly,

Dave Orren

Dave Orren
Rules Coordinator

enclosures

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

April 1, 1992

lee 4-1-92

Ms. Patty Nolte
Legal Assistant
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, Minnesota 55103

Re: In The Matter Of The Adopted Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits.

Dear Ms. Nolte:

On April 1, 1992, the Minnesota Department of Public Safety adopted the above-captioned rules relating to public safety officer death benefits. Enclosed for your review are the documents required by Attorney General Rules, part 2010.0300. Note that the documents listed in paragraphs A through O of this letter are keyed to items A through O of part 2010.0300. Paragraphs P, Q, and R list documents which show compliance with certain statutory rulemaking mandates and which would be required under a discussion draft of possible Attorney General Rules changes enclosed with a memo from your office dated January 24, 1991.

A. No Notice of Solicitation of Outside Information or Opinions was published because the Department did not obtain information or opinions from sources outside the Department before publishing our Notice of Intent to Adopt.

B. No copy of a rulemaking petition is enclosed because no such petition was filed regarding these rules.

C. No certificate of an authorizing resolution or copy of a delegation of authority is enclosed because the Department of Public Safety is not a multi-member agency.

D. A copy of the proposed rules with a certificate of approval as to form by the Revisor of Statutes attached.

E. A copy of the Notice Of Intent To Adopt Rules Without A Public Hearing, as mailed.

F. The Statement Of Need And Reasonableness in support of the proposed rules.

G. A copy of the Affidavit Of Mailing The Notice Of Intent To Adopt Rules Without A Public Hearing. Also enclosed is a copy of the Affidavit Of Certificate Of Mailing List and a copy of the Affidavit Of Mailing Discretionary Notice Of Intent To Adopt Rules.

H. A photocopy of the Notice Of Intent To Adopt Rules Without A Public Hearing, as published in the State Register.

I. Four copies of the rules as adopted. The modifications to the proposed rules are reflected on the rules as adopted and are approved as to form by the Revisor of Statutes.

J. No certificate of a resolution adopting the rules is enclosed because the Department of Public Safety is not a multi-member agency.

K. A copy of the Findings Of Fact, Conclusions Of Law, And Order Adopting Rules.

L. Copies of all written requests, withdrawals of requests for a hearing, submissions, or comments on the rules received by the Department except for requests solely for copies of the rules or of the Statement Of Need And Reasonableness.

M. A copy of the Declaration Of Counsel signed by Special Assistant Attorney General Jacquelyn E. Albright.

N. No notice of submission of the rules to the Attorney General is enclosed because no persons requested notification of the date of submission of the rules to the Attorney General.

O. No affidavit of mailing of notice of submission of the rules to the Attorney General is enclosed because no such notices were given.

P. A copy of the Affidavit Of Mailing The Statement Of Need And Reasonableness To The Legislative Commission To Review Administrative Rules.

Q. No notice to the Chairs of the House Appropriations and Senate Finance Committees is enclosed because the rules do not establish or adjust fees.

R. These rules are discretionary, not mandatory, so there is no correspondence pursuant to Minnesota Statutes, section 14.12.

If you have any questions about the enclosed documents or if you wish to discuss anything about the rules with me, please contact me at 296-2631. After you complete your review, please send any correspondence regarding the rules to me, Dave Orren, at 208 Transportation Building.

Yours very truly,

Dave Orren

Dave Orren
Rules Coordinator

enclosures

(E)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits	**NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING**

(1) **NOTICE IS HEREBY GIVEN** that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, section 299A.46.

(2) All persons have 30 days, until 4:30 p.m., March 25, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. (4) 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 in writing. (6) Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed under Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to: Jean Rozeske, 210 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, 612-296-8158.

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

(11) A free copy of the rules is available upon request from Jean Rozeske at the address and telephone number listed above.

The Public Safety Officer's Benefit Account was created to provide death benefits to dependents of officers who are killed in the line of duty. In 1990, authority for administration of the fund was transferred from the Department of Employee Relations to the Department of Public Safety. After a year's experience administering the fund, the Department of Public Safety recognizes a need to adopt rules that establish requirements for filing a claim and time frames for appeal consistent with the Minnesota Administrative Procedure Act.

(12) A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Jean Rozeske at the address and telephone number listed above.

(14) In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses.

(13) Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules. Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of the rules will not impact agricultural land. Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

(9) If no hearing is required, upon adoption of the rules, the rules 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 rules, must submit the written request to Jean Rozeske at the address and telephone number listed above.

Feb 3, 1992
Date

Thomas H. Frost, Commissioner
Department of Public Safety

(G)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits	AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Dave Orren, being sworn says:

That on the fourteenth day of February, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules 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 Department of Public Safety rulemaking mailing list. The mailing list is attached.

Dave Orren
Dave Orren

Subscribed and sworn to before me this 14 day of February, 19 92.

Laura Nehl-Trueman
Notary Public

Laura Nehl-Trueman
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-4-96

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, section 299A.46.

All persons have 30 days, until 4:30 p.m., March 25, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the 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 in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed under Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Jean Rozeske, 210 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, 612-296-8158.

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

A free copy of the rules is available upon request from Jean Rozeske at the address and telephone number listed above.

The Public Safety Officer's Benefit Account was created to provide death benefits to dependents of officers who are killed in the line of duty. In 1990, authority for administration of the fund was transferred from the Department of Employee Relations to the Department of Public Safety. After a year's experience administering the fund, the Department of Public Safety recognizes a need to adopt rules that establish requirements for filing a claim and time frames for appeal consistent with the Minnesota Administrative Procedure Act.

A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Jean Rozeske at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses.

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules. Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of the rules will not impact agricultural land. Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

If no hearing is required, upon adoption of the rules, the rules 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 rules, must submit the written request to Jean Rozeske at the address and telephone number listed above.

Feb 3, 1992
Date

Thomas H. Frost, Commissioner
Department of Public Safety

Richard Neumeister
345 Wabasha Avenue #1008
St. Paul, MN 55102

Heartland Homes/Ret. Citizens
P.O. Box 214
Park Rapids, MN 56470

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Board of Directors
Hiawatha Children's Home
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Rochester, MN 55901

Board of Directors
Hiawatha Manor, Inc.
107 Fifth Ave. NE
Pipestone, MN 56164

Board of Directors
Home for Creative Living
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Windom, MN 56101

Hope Residence, Inc.
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Homeward Bound, Inc.
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New Hope, MN 55428

President
Interstate Power Co.
1000 Main St.
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Mt. Olivet Rolling Acres
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Excelsior, MN 55331

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President
MN Transport Service Association
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Mpls, MN 55416

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Pine River Group Home
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Pine River, MN 56474

Presbyterian Family Foundation
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Willmar, MN 56201

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Chisholm, MN 55719

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Hopkins, MN 55343

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Roseville, MN 55113

Residential Alternatives, Inc.
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Mpls, MN 55430

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Salmi Board & Lodging Home
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Aurora, MN 55705

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Park Island
Center City, MN 55012

Dev. Disabilities Pl. Office
State Planning Agency
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Moorhead, MN 56560

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Robert Carstenbrock
Police Chief
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Woodvale Homes, Inc.
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Austin, MN 55912

Woodvale Management Svcs.
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550 South Snelling, Suite 104
St. Paul, MN 55116

Selander and Reese
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Olivia, MN 56277

John C. DeMoss, Attorney
4749 Chicago Avenue So.
Minneapolis, MN 55407

Steve Thal
Rossini and Associates
5424 Shoreline Drive
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Mound, MN 55364

Brent Primus
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Minneapolis, MN 55401

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4816 West 102nd Street
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2277 Highway 36
Frontage Road, Suite 244
Roseville, MN 55113-3817

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Owatonna, MN 55060

Ed Simonet, III
P.O. Box 16
Stillwater, MN 55082

Attorney Thomas Manion
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Lanesboro, MN 55949

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Hopkins, MN 55343

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Barry M. Robinson
Burke and Hawkins
299 Coon Rapids Blvd, Suite 101
Coon Rapids, MN 55433

Tom Johnson
Johnson, McClay and Nelson
951 Grand Avenue
St. Paul, MN 55105

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City of Moorhead
P.O. Box 779
Moorhead, MN 56560

Steve Borud
Probation Office
Court House
Grand Marais, MN 55604

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Suite 200
Hopkins, MN 55343

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24 Dell Place
Minneapolis, MN 55403

Loran Magsan
33 4th Street N.W.
Osseo, MN 55369

Association of MN Counties
525 Park Street
Suite 300
St. Paul, MN 55103

Kurt Dedeter
700 Norwest Center
St. Cloud, MN 56301

Suzanne Brandon
108 Farmdale Road E.
Hopkins, MN 55343

William Pribbla
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Suite 120
Minnetonka, MN 55343

William Harper
Harper & Anderson Chartered
7200 80th Street South
Cottage Grove, MN 55016

Timothy Brausen
247 3rd Avenue South
Minneapolis, MN 55415

Herbert C. Kroon
P.O. Box 818
Mankato, MN 56002

Thomas Gmeinder
801 Selby Avenue
St. Paul, MN 55104

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits

AFFIDAVIT OF CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Joan Lundberg, being sworn says:

I hereby certify that the attached list is of persons and associations who have requested that their names be placed on the Department of Public Safety rulemaking mailing list, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, 14.22, or 14.30. I certify that this list is accurate, complete, and current as of the fourteenth day of February, 1992.

Joan Lundberg
Joan Lundberg

Subscribed and sworn to before me this 14th day of February, 19 92.

David E Orre
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

Richard Neumeister
345 Wabasha Avenue #1008
St. Paul, MN 55102

Heartland Homes/Ret. Citizens
P.O. Box 214
Park Rapids, MN 56470

Henry Hagen Residence
19845 Lillehei Drv.
Hastings, MN 55033

Board of Directors
Hiawatha Children's Home
1820 Valkyrie Drive NW
Rochester, MN 55901

Board of Directors
Hiawatha Manor, Inc.
107 Fifth Ave. NE
Pipestone, MN 56164

Board of Directors
Home for Creative Living
108 Ninth St.
Windom, MN 56101

Hope Residence, Inc.
Box 63
Waterville, MN 56096

Homeward Bound, Inc.
4741 Zealand Ave.
New Hope, MN 55428

President
Interstate Power Co.
1000 Main St.
Dubuque, IA 52001

Lakeview Home
Lincoln & W. Second Sts.
Sauk Centre, MN 56378

Maryanne V. Hruby
Executive Director
Leg. Comm./Review Admin. Rules
Room 55 State Office Bldg.
St. Paul, MN 55155

M.B.W. Company
513 Center Street
New Ulm, MN 56073-3101

Jean Dawson
Editor
MN Government Report
B-12, Press Room
State Capitol Bldg.

John G. Horner
MN Multi-Housing Assoc.
4740 Park Glen Road
Mpls, MN 55416

Moore's Haven, Inc.
3490 N. Victoria
St. Paul, MN 55126

Mt. Olivet Rolling Acres
7200 Rolling Acres Rd.
Excelsior, MN 55331

Abe Rosenthal
President
MN Transport Service Association
1821 University Ave. (N310)
St. Paul, MN 55104

Board of Directors
New Dawn, Inc.
Route 1, Box 14
Fulda, MN 56131-9402

Board of Directors
NorHavan Homes, Inc.
1394 Jackson St.
St. Paul, MN 55117

Board of Directors
Northeast House, Inc.
2821 S. Inglewood Ave.
Mpls, MN 55416

Board of Directors
Northeast Residence, Inc.
4680 Bald Eagle Ave.
White Bear Lake, MN 55110

G. V. Welk
Mgr./Regulatory Compl. & Svc
Northern States Power Co.
414 Nicollet Mall
Mpls, MN 55401

Board of Directors
Orvilla, Inc.
3430 Westcott Hills Dr.
Eagan, MN 55123

Phillips Leg. Serv. Inc.
459 Rice St.
St. Paul, MN 55103

Board of Directors
Phoenix Residence, Inc.
135 Colorado St. E.
St. Paul, MN 55107

Pine Ridge Homes, Inc.
915 18th St.
Cloquet, MN 55720

Pine River Group Home
Box 96
Pine River, MN 56474

Presbyterian Family Foundation
901 Service Drive
Willmar, MN 56201

Charles A. Kroeger
Executive Director
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

Ramsey Cnty. Commissioners
Courthouse
St. Paul, MN 55101

Board of Directors
Range Center, Inc.
1001 Eighth Ave. NW
Chisholm, MN 55719

Resa, Inc.
38 Seventh Ave. N.
Hopkins, MN 55343

Board of Directors
Residence, Inc.
945 Amble Road
Roseville, MN 55113

Residential Alternatives, Inc.
5449 Lyndale Ave. N
Mpls, MN 55430

Residential Svcs. of NE MN
2048 E. Eighth St.
Duluth, MN 55812

Board of Directors
Riverview Manor, Inc.
Box 215
Wanamingo, MN 55983

Juanita B. Luis
Corporate Law Dept.
St. Paul Companies, Inc.
385 Washington St.
St. Paul, MN 55101

Board of Directors
Salmi Board & Lodging Home
Route 1, Box 235
Aurora, MN 55705

South Center Manor, Inc.
Park Island
Center City, MN 55012

Dev. Disabilities Pl. Office
State Planning Agency
3rd Floor Centennial Bldg.
658 Cedar Street
St. Paul, MN 55155

Sur La Rue, Inc.
1386 Jackson St.
St. Paul, MN 55117

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City Editor
Minneapolis Tribune
425 Portland Ave.
Mpls, MN 55488

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Twin Town Treatment Center
1706 University Ave.
St. Paul, MN 55104

Robert A. Silvagni
University of Minnesota
319 15th Av SE, 200 Shops Bldg.
Mpls, MN 55455

Board of Directors
Valley Group Home
1332 Second Ave. No.
Moorhead, MN 56560

Board of Directors
Warner Care Homes
450 E. Third St.
Cokato, MN 55321

Willmar Nursing Home
P.O. Box 4990
Atwater, MN 56209

Windom CRF, Inc.
P.O. Box 123
Windom, MN 56101

Robert Carstenbrock
Police Chief
Winona City Hall
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Box 1047
Austin, MN 55912

Woodvale Management Svcs.
Box 1047
Austin, MN 55912

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Region Nine Dev. Commission
410 S. 5th St., PO Box 3367
Mankato, MN 56002-3367

H. LeRoy DeBoom
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Mpls, MN 55416

Kathie Davis
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Rodney Watkins
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Kathy R. Van Kleeck
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Arlington VA 22202

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Nichols, Stark, Kaster
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Mpls., MN 55402

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Minneapolis, MN 55402-1002

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St. Louis Park, MN 55426

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7368 Orchid Lane 202
Maple Grove, MN 55369

Tony Rosini
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Huer and Associates
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Selander and Reese
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Olivia, MN 56277

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Probation Office
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Osseo, MN 55369

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525 Park Street
Suite 300
St. Paul, MN 55103

Kurt Dedeter
700 Norwest Center
St. Cloud, MN 56301

Suzanne Brandon
108 Farmdale Road E.
Hopkins, MN 55343

William Pribbla
13100 Wayzato Boulevard
Suite 120
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William Harper
Harper & Anderson Chartered
7200 80th Street South
Cottage Grove, MN 55016

Timothy Brausen
247 3rd Avenue South
Minneapolis, MN 55415

Herbert C. Kroon
P.O. Box 818
Mankato, MN 56002

Thomas Gmeinder
801 Selby Avenue
St. Paul, MN 55104

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits	**AFFIDAVIT OF MAILING DISCRETIONARY NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING**

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Dave Orren, being sworn says:

That on the fourteenth day of February, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules 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 attached discretionary mailing list. This list is of persons and associations that have expressed, to the agency, interest in this rulemaking proceeding, and persons and associations as practical to improve the notification of all parties that might be interested in this rulemaking proceeding.

Dave Orren

Dave Orren

Subscribed and sworn
to before me this 14 day
of February, 1992.

Laura Nehl-Trueman
Notary Public

Laura Nehl-Trueman
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-4-96

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, section 299A.46.

All persons have 30 days, until 4:30 p.m., March 25, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the 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 in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed under Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Jean Rozeske, 210 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, 612-296-8158.

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

A free copy of the rules is available upon request from Jean Rozeske at the address and telephone number listed above.

The Public Safety Officer's Benefit Account was created to provide death benefits to dependents of officers who are killed in the line of duty. In 1990, authority for administration of the fund was transferred from the Department of Employee Relations to the Department of Public Safety. After a year's experience administering the fund, the Department of Public Safety recognizes a need to adopt rules that establish requirements for filing a claim and time frames for appeal consistent with the Minnesota Administrative Procedure Act.

A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Jean Rozeske at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses.

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules. Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of the rules will not impact agricultural land. Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

If no hearing is required, upon adoption of the rules, the rules 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 rules, must submit the written request to Jean Rozeske at the address and telephone number listed above.

Feb 3, 1992
Date

Thomas H. Frost, Commissioner
Department of Public Safety

Mr. Cliff Cherrier
American Correctional Officers' Assn.
Minnesota Chapter
Minnesota Correctional Facility-Shakopee
Box 7
Shakopee, MN 55379

Mr. Dennis Flaherty
Executive Director
Minnesota Police & Peace Officers
Association
525 Park St. - Suite 207
St. Paul, MN 55103

Mr. Holly Laak
Executive Director
Minnesota State Sheriffs' Association
P.O. Box 623
South St. Paul, MN 55075

Jerry Rue
Secretary-Treasurer
E.M.T.
P.O. Box 132
LeSueur, MN 56058

Mr. Jim Heim
Fire Instructors Association of Minnesota
107 Norton Street
Duluth, MN 55803

Dennis Erickson, President
Minnesota State Fire Chiefs' Association
Cottage Grove Fire Department
8641 - 80th Street So.
Cottage Grove, MN 55018

David Qualey
International Association of Arson
Investigators
Minnesota Chapter
1500 West Hwy 36
St. Paul, MN 55161

Jerry Rosendahl
Fire Marshal's Association of Minnesota
Owatonna Fire Department
107 W. Main Street
Owatonna, MN 55060

John Edinger, President
Minnesota State Fire Department Assn.
Box 488
Wadena, MN 56482

Craig Swanson, President
Minnesota Chiefs of Police Association
c/o Edina Police Department
4301 West 50th Street
Edina, MN 55424

Minnesota Board of Nursing
Suite 108
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0567

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

A copy of the proposed rules is attached to this notice. A Statement Of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Joyce M. Schowalter upon request.

Pursuant to *Minnesota Statutes* § 16A.128, subd. 2.a, a copy of the proposed rule was sent to the chairs of the House Appropriations Committee and the Senate Finance Committee prior to publication of this notice in the *State Register*. In addition, it is the position of the Board that *Minnesota Statutes* § 14.115 does not apply to the rules it promulgates. This position is explained in detail in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rules, the rules 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 rules must submit the written request to Joyce M. Schowalter.

Dated: 6 February 1992

Joyce M. Schowalter
Executive Director

Rules as Proposed

6310.3600 REGISTRATION FEES.

Subpart 1. **Amount.** The amount of fees shall be as follows:

A. registration renewal, ~~$32~~ $35 per registration period;

[For text of items B to H, see M.R.]

[For text of subp 2, see M.R.]

Department of Public Safety

Proposed Permanent Rules Relating to Public Safety Officer Death Benefits

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 299A.46.

All persons have 30 days, until 4:30 p.m., March 25, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the 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 in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed under *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Jean Rozeske, 210 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, 612-296-8158.

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

A free copy of the rules is available upon request from Jean Rozeske at the address and telephone number listed above.

The Public Safety Officer's Benefit Account was created to provide death benefits to dependents of officers who are killed in the line of duty. In 1990, authority for administration of the fund was transferred from the Department of Employee Relations to the Department of Public Safety. After a year's experience administering the fund, the Department of Public Safety recognizes a need to adopt rules that establish requirements for filing a claim and time frames for appeal consistent with the Minnesota Administrative Procedure Act.

A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Jean Rozeske at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses.

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules. *Minnesota Statutes*, section 14.11, subdivision 2, does not apply because adoption of the rules will not impact agricultural land. *Minnesota Statutes*, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

If no hearing is required, upon adoption of the rules, the rules 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 rules, must submit the written request to Jean Rozeske at the address and telephone number listed above.

Dated: 3 February 1992

Thomas H. Frost, Commissioner
Department of Public Safety

Rules as Proposed (all new material)

7521.0200 DETERMINATION OF CLAIMS.

Subpart 1. **Filing claim.** A claim for public safety officer death benefits under *Minnesota Statutes*, section 299A.44 must be on a form provided by the commissioner of public safety and must contain information relevant to the claimant's eligibility for benefits.

Certified copies of reports, certificates, and affidavits relevant to the claimant's eligibility for benefits must be filed with the claim form in order for the claim to be considered a complete claim.

A claim is considered to be filed upon receipt by the commissioner of a complete claim with the claim form signed by the claimant or the claimant's representative.

Subp. 2. **Investigation by commissioner.** When a complete claim is filed, the commissioner shall determine whether the claimant is eligible for benefits. The commissioner shall make the inquiries or investigation necessary to make the determination. The commissioner shall base the determination on the information provided on the complete claim and by the investigation of the claim.

Subp. 3. **Determination of eligibility.** On determining that the claimant is eligible for benefits, the commissioner shall initiate the payment procedure and inform the claimant. On determining that the claimant is not eligible for benefits, or that there is insufficient information on which to make a determination, the commissioner shall deny the claim and inform the claimant of the grounds for denial.

Subp. 4. **Request for reconsideration.** The claimant, within 30 days after receiving a notice of denial from the commissioner, may submit additional information to the commissioner and request a reconsideration of the claim. Upon receipt of the additional information, the commissioner shall reevaluate the claim in light of the new information and shall perform additional inquiries or investigation as necessary. The commissioner shall affirm, modify, or reverse the previous determination and shall notify the claimant of the determination and its basis.

Subp. 5. **Starting a contested case hearing.** A claimant may request a contested case hearing under *Minnesota Statutes*, chapter 14.

A claimant who has not requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial.

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.

A claimant who has requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial upon reconsideration.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Minnesota Pollution Control Agency

Adopted Permanent Rules Relating to Solid Waste Management Facility Permit Fees

The rules proposed and published at *State Register*, Volume 16, Number 14, pages 758-761, September 30, 1991 (16 SR 758), are adopted with the following modifications:

Rules as Adopted

7002.0420 DEFINITIONS.

Subp. 3. **On-site, one-time demolition debris land disposal facility.** "On-site, one-time demolition debris land disposal facility" means a site at which a property owner disposes of demolition debris from a single process of demolition on the landowner's property.

Subp. ~~3.~~ 4. **Permit modification.** "Permit modification" means a change in permit conditions that requires public comment and is subject to the procedures in parts 7001.0100 to 7001.0130. A request for a minor modification as defined in part 7001.0190, subpart 3, does not require a modification fee.

Subp. ~~4.~~ 5. **Permit reissuance.** "Permit reissuance" means the process by which an existing solid waste management facility permit is extended for an additional period in accordance with parts 7001.0040 to 7001.0140.

Subp. ~~5.~~ 6. **Permittee.** "Permittee" means the person or persons to whom the agency has issued a solid waste management facility permit.

7002.0430 PERMIT FEES SCHEDULE.

A person subject to parts 7002.0410 to 7002.0490 shall pay application, reissuance or modification, and annual fees based on the schedule in this part. These fees apply to all solid waste management facilities in operation during any part of the fiscal year. Persons shall pay the single set of fees that corresponds to their most costly solid waste management facility permit.

Facility Permit Type	Application Fee	Reissuance or Modification Fee	Annual Fee
Mixed Municipal Solid Waste Land Disposal Facility			
Annual Waste Receipts			
100,000+ cubic yards	$7,500	$5,000	$3,500
< 100,000 cubic yards	$5,250	$3,500	$2,750
Municipal Solid Waste Combustor Ash Fee Addition*	$1,875	$1,250	$1,250
Industrial Solid Waste Land Disposal Facility	$5,250	$3,500	$2,750
Demolition Debris Land Disposal Facility	$2,625	$1,750	$1,500
Compost Facility	$2,625	$1,750	$1,500
Refuse-Derived Fuel Processing Facility	$2,625	$1,750	$1,500
Recycling (Processing) Facility	$1,875	$1,250	$1,250
Transfer Facility	$1,875	$1,250	$1,250

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT A PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on February 24, 1992, and was sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22, on February 14, 1992. The Statement Of Need And Reasonableness was prepared before the Notice Of Intent To Adopt Rules was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public. A copy of the Statement Of Need And Reasonableness was sent to the Legislative Commission To Review Administrative Rules when it became available to the public.

All persons were given the opportunity to submit comments on the rules for 30 days after the Notice Of Intent To Adopt Rules was published. The Department received one comment and submission on the rules in response to the Notice Of Intent To Adopt Rules. The Department received zero requests for notice of submission to the Attorney General. The Department received zero requests for a public hearing.

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

1. Part 7521.0200, subpart 3, is amended by adding a sentence at the end of the subpart which states:

> The commissioner shall also give notice of a claim denial to the deceased officer's former employer and to the deceased officer's labor organization, if the claimant has consented in writing to the giving of this notice in the manner provided by Minnesota Statutes, section 13.05, subdivision 4, paragraph (d).

The impetus for this change was a comment dated March 11, 1992, from Thomas Jensen, Legal Counsel for the Minnesota Professional Fire Fighters. Mr. Jensen suggested that a notice of denial be sent not only to the claimant, but also "to the former employer of the deceased public safety officer and, if known, to any labor organization to which the deceased officer belonged at the time of his or her death." The reason for giving this additional notice is aptly put by Mr. Jensen in his letter, as follows:

> "The reason we are suggesting this language is that our experience has been that many claimants do not have

representatives when they file an initial benefit claim. We have found in several instances over the past year that unsuccessful claimants were not fully aware of their appeal rights and consequently did not consider an appeal until the allotted time had expired. In our view, the proposed language would go far toward rectifying this situation and help insure that claimants are fully advised of their rights under the statute and department rules."

The department agrees that it is beneficial for claimants to be fully aware of their rights. The amendment to the proposed rules can only help ensure this.

Under the change to the proposed rules, the claimant must consent in writing before the commissioner will give the notice of denial to the employer and labor union. This was done in anticipation of a statutory change that will classify claim information and the determination of benefits as private data under Minnesota Statutes, chapter 13. In order to disclose private data concerning the claimant to someone other than the claimant, the department has to get the claimant's express written permission. See Minnesota Statutes, section 13.05, subdivision 4, paragraph (d), for this requirement and the manner in which to provide consent.

2. The above-change is not substantial in that the change does not affect classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed.

3. The above-change is not substantial in that the change does not introduce significant new subject matter which a reasonable person, on the basis of the proposed rules as originally noticed, would not have anticipated would occur during the rulemaking proceeding.

4. The above-change is not substantial in that the change does not make a major substantive change that was not raised by the proposed rules as originally noticed in such a way as to invite reaction.

5. The above-captioned rules are needed and reasonable (8)

NOW, THEREFORE, IT IS ORDERED that the rules identified as the Rules of the State Department of Public Safety Relating To Public Safety Officer Death Benefits, in the form set out in the State Register on February 24, 1992, with the modifications as indicated in the Revisor's draft, file number 1946, dated 03/31/92, are adopted this 1st day of April, 1992, pursuant to authority vested in me by Minnesota Statutes, section 299A.46.

(9)

Thomas H. Frost, Commissioner
Department of Public Safety

(L)

Minnesota Professional Fire Fighters

670 Transfer Road
St. Paul, MN 55114
Telephone: 612-646-2123 FAX: 612-646-6310

March 11, 1992

Ms. Jean Rozeske
210 Transportation Building
395 John Ireland Blvd.
St. Paul, Minnesota 55155

Re: Proposed Rule 7521.0200 (Public Safety Officer Death Benefits).

Dear Ms. Rozeske:

The Minnesota Professional Fire Fighters (MPFF) is a labor organization which represents over 1600 career fire fighters in the state of Minnesota. I am writing on behalf of the MPFF to suggest consideration of a minor modification to the proposed language of Rule 7521.0200. This modification, if adopted, would not result in a substantial change in the proposed rule as noticed by the Department of Public Safety.

The final sentence of subpart 3 of the rule as proposed requires the commissioner to give notice to the claimant in the event a claim for death benefits is denied. We suggest that the following language be added to subpart 3:

> "The commissioner shall also give notice of a claim denial to the former employer of the deceased public safety officer and, if known, to any labor organization to which the deceased officer belonged at the time of his or her death."

The reason we are suggesting this language is that our experience has been that many claimants do not have representatives when they file an initial benefit claim. We have found in several instances over the past year that unsuccessful claimants were not fully aware of their appeal rights and consequently did not consider an appeal until the allotted time had expired. In our view, the proposed language would go far toward rectifying this situation and help insure that claimants are fully advised of their rights under the statute and department rules.

Thank you for your consideration of these views. Please feel free to contact me if I can be of any assistance to you.

Sincerely,

Thomas Jensen
Legal Counsel

c: Charles Kuhl

/cag
psob.jensen

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Adoption
Of Rules Of The State
Department Of Public Safety
Relating To Public Safety
Officer Death Benefits

DECLARATION
OF COUNSEL

I, Jacquelyn E. Albright, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General Billing purposes, the four-digit docket client code is

0710.

Jacquelyn E. Albright
Special Assistant Attorney General

Dated: 4/1/92

(P)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Public Safety Officer Death Benefits	AFFIDAVIT OF MAILING THE STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Dave Orren, being sworn says:

That on the fourteenth day of February, 1992, I mailed the Statement Of Need And Reasonableness for the above-captioned Rules to the Legislative Commission To Review Administrative Rules in compliance with Minnesota Statutes, sections 14.131 and 14.23. The mailing was done through the interoffice mail of the State of Minnesota.

Dave Orren
Dave Orren

Subscribed and sworn
to before me this 14 day
of February, 19 92.
Laura Nehl-Trueman
Notary Public

Laura Nehl-Trueman
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-4-96

MJC
4-6-92

RULE REVIEW CHECKLIST

File No. 1911
DATE RECEIVED 4-1-92
REVIEW DATE 4-10-92
DUE DATE 4-15-92
(DIS)APPROVED
WITHDRAWN 4.15.92

Docket No. 05 0009 0710
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 4-6-92
REVISOR (DIS)APPROVED 4-6-92
FILED W/SEC. OF STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)
Date published in State Register
Comments

Petition for Adoption of a Rule

Board's Authorizing Resolution
Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
299A.41 Statutory Authority
✓ Small Business Statement
Expenditure of public money statement
Feb 3, 1992 Signature

✓ Statement of Need and Reasonableness (if applicable)
Small Business Statement
Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Feb 14, 1992 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached

✓ Copy of rule or summary attached

✓ Publication in State Register
February 24, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
Effective date of law requiring rule (14.12) (both rules) amendments don't apply — not mandatory commissioner may
✓ end of comment period (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

Resolution Adopting
Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
April 1, 1992 Date

✓ Written Requests, Submissions or Comments

Declaration of Attorney
Jacquelyn Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Rules agl

(F)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In The Matter Of The Proposed Rules Of The Department Of Public Safety Relating To Public Safety Officer Death Benefits

STATEMENT OF NEED AND REASONABLENESS

Introduction

In 1973, the Minnesota legislature created the Public Safety Officer's Benefit Account in order to provide special financial assistance to dependents of officers who are killed in the line of duty. The intent of the legislature was to provide death benefits when officers are killed under conditions that are a result of the hazardous nature of their work.

The fund originally provided a lump sum payment of $25,000 to dependents. This amount was increased to $50,000 in 1975 and $100,000 in 1984.

From 1973 to 1984, authority for administration of the fund was assigned to the workers' compensation court of appeals. In 1984, this responsibility was transferred to the department of labor and industry; in 1987, it was transferred to the department of employee relations; and in 1990 it was transferred to the department of public safety. The transfer to public safety was made, at least partially, to disassociate the fund from its relationship with workers' compensation which provides benefits that are separate and unrelated to those of this fund.

After a year's experience administering the fund, the department of public safety recognizes a need to clarify the statute which governs the fund. The goal of the department in creating these rules is twofold:

1. Establish requirements for filing a claim.

2. Establish time frames for appeal consistent with the administrative procedure act.

Statutory Authority

Minnesota Statutes, section 299A.46, states: "The commissioner of public safety may adopt rules, including emergency rules, under chapter 14 to implement, coordinate, and administer sections 299A.41 through 299A.44."

Small Business Considerations

Minnesota Statutes, section 14.115, requires the Department of Public Safety to consider the effect on small businesses when it adopts rules. The Department has analyzed these rules and has concluded that the rules do not affect small business.

Fees Imposed By The Rules

Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

Fiscal Impact

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules.

Agricultural Land Impact

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

Other Statutory Requirements

Minnesota Statutes, sections 115.43, subdivision 1, 116.07, subdivision 6, and 144A.29, subdivision 4, do not apply to these rules.

Witnesses

If these rules go to a public hearing, it is anticipated that there will be no expert witnesses called to testify on behalf of the agency.

Rule-By-Rule Analysis

7521.0200 Determination of Claims. The transfer of responsibility for administration of the fund to the department of public safety resulted in the need for new procedures in regard to the application for benefits, the processing of claims, and the appeal of decisions. The rules previously governing this program (Minnesota Rules, part 5220.2940) were promulgated by the department of labor and industry and do not apply to the department of public safety. The five items in this part outline the new procedures which will be used.

Subpart 1. Persons making application for benefits under the Public Safety Officer Death Benefit program are required by the proposed rules to complete a prescribed form and provide a variety of substantiating information to the commissioner for consideration. This requirement is necessary so the commissioner can know the circumstances surrounding the death of the officer and the relationship and dependency of the claimant in order to determine eligibility. It is reasonable to require the claimant to provide this information because the claimant is the person most likely to have ready access to the information.

A completed and signed claim form must be received by the commissioner for a claim to be considered filed. Submittal of a completed claim form signed by the claimant or their representative is necessary in order to establish a formal record of and basis for a claimant's request. Because only the claimant can initiate a claim and provide the necessary information, it is reasonable to deem the claim filed only after receipt of a completed claim form by the commissioner.

Subpart 2. The proposed rules require the commissioner to perform a detailed investigation into the cause and nature of death and the relationship and dependency of claimants.

An investigation is necessary in order to verify the information submitted with the claim and to obtain all relevant information about the death of the officer and his or her relationship to dependents. This information is used by the commissioner in making a determination of eligibility for benefits. It is essential in order to assure that fair and consistent determinations are made.

It is reasonable that the commissioner conduct the investigation because the commissioner has the responsibility of certifying to the governor whether the claimant is eligible for benefits.

Subpart 3. Minnesota Statutes, section 299A.44, gives the commissioner of public safety the authority to make determinations of eligibility in regard to public safety officer death benefits.

It is necessary to have a means of processing approved claims so that claimants receive benefits on a timely basis. Subpart 3 requires the commissioner to initiate the payment procedure and inform the claimant. It is reasonable to require the commissioner to initiate the payment procedure because the commissioner is the only person who has authority under section 299A.44 to do so. The commissioner will be the first person to know whether the claimant is eligible for benefits. It is reasonable for the commissioner to notify the claimant so that the claimant knows of the determination as soon as possible.

Subpart 3 also requires the commissioner to deny the claim and inform the claimant of the grounds for denial when the commissioner determines that benefits are not payable. This requirement is necessary so that claimants know of the denial of a claim and how to challenge the denial. This requirement is also necessary as a means to finalize a claim. As stated above, it is reasonable to require the commissioner to deny the claim because the commissioner is the only person who has authority to do so. Also as stated above, it is reasonable to require the commissioner to notify the claimant upon making a determination so the claimant knows as soon as possible.

Subpart 4. Subpart 4 of the proposed rules outlines a claimant's right to request that the commissioner reconsider a claim within 30 days after receiving a denial. This provision was included in order to provide access to a second review by the commissioner should new or additional information be available after a determination is made.

It is necessary that a claimant have the opportunity to challenge a denial of benefits because Minnesota Statutes, section 299A.43, gives the claimant the right to a contested case hearing under the Minnesota administrative procedure act. Minnesota Statutes, section 14.59 allows for the informal disposition of a contested case.

Proposed subpart 4 is reasonable because it provides for a less complicated process of review than a contested case hearing. It also allows for a less combative arena for resolution of claims. Further, this provision is reasonable because it allows the claimant to submit additional information and the commissioner to correct any errors without going through the time and expense of a formal contested case hearing.

Subpart 4 requires that a request for reconsideration be submitted to the commissioner within 30 days of the notice of denial of benefits. It is necessary to limit the time to request reconsideration because it is important to make final decisions on claims within a timely manner. Thirty days is reasonable because it balances the needs of the claimant and the commissioner. The claimant needs to have sufficient time to consider the denial and decide whether to request reconsideration. The commissioner needs to address the request for reconsideration before the facts and issues of the claim have become stale.

Subpart 5. Minnesota Statutes, section 299A.43, gives the claimant the right to a contested case hearing, but it does not set out the procedures for requesting the hearing. It is, therefore, necessary to outline the procedures a claimant must use to request a contested case hearing. Subpart 5 requires the claimant to submit a written request to the commissioner in order to obtain a hearing. It is reasonable to require the claimant to initiate the process because the claimant decides whether to challenge a denial of benefits. Further, it is reasonable to require that the request be in writing so that there is a permanent record of the claimant's request and the basis for the request.

Subpart 5 requires that the request for a hearing be submitted to the commissioner within 30 days of the notice of denial upon reconsideration or within 30 days of the original notice of denial if no reconsideration is requested. It is necessary to limit the time to request a hearing because it is important to make final decisions on claims within a timely manner. Thirty days is reasonable because it balances the needs of the claimant and the commissioner. The claimant needs to have sufficient time to consider the denial and the decide whether to appeal. The commissioner needs to address the issues of the appeal before the facts and issues of the claim have become stale.

Conclusion

Based on the foregoing, the Department's proposed rules are both necessary and reasonable.

Feb 3, 1992
Date

Thomas H. Frost, Commissioner
Department of Public Safety

Department of Public Safety

Adopted Permanent Rules Relating to Public Safety Officer Death Benefits

Rules as Adopted

7521.0200 DETERMINATION OF CLAIMS.

Subpart 1. **Filing claim.** A claim for public safety officer death benefits under Minnesota Statutes, section 299A.44 must be on a form provided by the commissioner of public safety and must contain information relevant to the claimant's eligibility for benefits.

Certified copies of reports, certificates, and affidavits relevant to the claimant's eligibility for benefits must be filed with the claim form in order for the claim to be considered a complete claim.

A claim is considered to be filed upon receipt by the commissioner of a complete claim with the claim form signed by the claimant or the claimant's representative.

Subp. 2. **Investigation by commissioner.** When a complete claim is filed, the commissioner shall determine whether the claimant is eligible for benefits. The commissioner shall make the inquiries or investigation necessary to make the determination. The commissioner shall base the determination on the information provided on the complete claim and by the investigation of the claim.

Subp. 3. **Determination of eligibility.** On determining that the claimant is eligible for benefits, the commissioner shall initiate the payment procedure and inform the claimant. On determining that the claimant is not eligible for benefits, or that there is insufficient information on which to make a determination, the commissioner shall deny the claim and inform the claimant of the grounds for denial. <u>The commissioner shall also give notice of a claim denial to the deceased officer's former employer and to the deceased officer's labor</u>

Approved by Revisor

organization, if the claimant has consented in writing to the giving of this notice in the manner provided by Minnesota Statutes, section 13.05, subdivision 4, paragraph (d).

Subp. 4. **Request for reconsideration.** The claimant, within 30 days after receiving a notice of denial from the commissioner, may submit additional information to the commissioner and request a reconsideration of the claim. Upon receipt of the additional information, the commissioner shall reevaluate the claim in light of the new information and shall perform additional inquiries or investigation as necessary. The commissioner shall affirm, modify, or reverse the previous determination and shall notify the claimant of the determination and its basis.

Subp. 5. **Starting a contested case hearing.** A claimant may request a contested case hearing under Minnesota Statutes, chapter 14.

A claimant who has not requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial.

A claimant who has requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial upon reconsideration.

Approved
by Revisor _____

Stat Authority 299A.46

The commissioner of Public Safety may adopt rules including emergency rules under chapter 14 to implement, coordinate and administer sections 299A.41 to 299A.44

end of comment period - March 25, 1992

Rules 7521.0200 - subpart 1
what reports certificates affadavits
- should be more specific
what is a complete claim

sub 3 shouldn't the commissioner have to determine the claim when in a time period - there why do they deny the claim if there is insufficient information - I am uncertain what I have to submit from the rule anyway I am unsure what a complete claim is

Department of Public Safety

Adopted Permanent Rules Relating to Public Safety Officer Death Benefits

Rules as Adopted

7521.0200 DETERMINATION OF CLAIMS.

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Approved by Revisor

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Subp. 5. **Starting a contested case hearing.** A claimant may request a contested case hearing under Minnesota Statutes, chapter 14.

A claimant who has not requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial.

A claimant who has requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial upon reconsideration.

Approved
by Revisor _____

Department of Public Safety

Adopted Permanent Rules Relating to Public Safety Officer Death Benefits

Rules as Adopted

7521.0200 DETERMINATION OF CLAIMS.

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Approved by Revisor

organization, if the claimant has consented in writing to the giving of this notice in the manner provided by Minnesota Statutes, section 13.05, subdivision 4, paragraph (d).

Subp. 4. **Request for reconsideration.** The claimant, within 30 days after receiving a notice of denial from the commissioner, may submit additional information to the commissioner and request a reconsideration of the claim. Upon receipt of the additional information, the commissioner shall reevaluate the claim in light of the new information and shall perform additional inquiries or investigation as necessary. The commissioner shall affirm, modify, or reverse the previous determination and shall notify the claimant of the determination and its basis.

Subp. 5. **Starting a contested case hearing.** A claimant may request a contested case hearing under Minnesota Statutes, chapter 14.

A claimant who has not requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial.

A claimant who has requested reconsideration under subpart 4 shall submit a written request for a contested case hearing to the commissioner no more than 30 days after the claimant receives the notice of denial upon reconsideration.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Public Safety Officer Death Benefits

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7521

The attached rules are approved for filing
with the Secretary of State

Ron Ray

Ron Ray
Senior Assistant Revisor

Department of Public Safety

Proposed Permanent Rules Relating to Public Safety Officer Death Benefits

Rules as Proposed (all new material)

7521.0200 DETERMINATION OF CLAIMS.

Subpart 1. **Filing claim.** A claim for public safety officer death benefits under Minnesota Statutes, section 299A.44 must be on a form provided by the commissioner of public safety and must contain information relevant to the claimant's eligibility for benefits.

Certified copies of reports, certificates, and affidavits relevant to the claimant's eligibility for benefits must be filed with the claim form in order for the claim to be considered a complete claim.

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Subp. 4. **Request for reconsideration.** The claimant, within 30 days after receiving a notice of denial from the

Approved by Revisor

commissioner, may submit additional information to the commissioner and request a reconsideration of the claim. Upon receipt of the additional information, the commissioner shall reevaluate the claim in light of the new information and shall perform additional inquiries or investigation as necessary. The commissioner shall affirm, modify, or reverse the previous determination and shall notify the claimant of the determination and its basis.

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Public Safety Officer Death Benefits

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7521

The attached rules are approved for publication in the State Register

Ron Ray

Ron Ray
Senior Assistant Revisor