MINNESOTA CHIPPEWA TRIBE
OCCUPATIONAL INJURY BENEFIT ORDINANCE

02.10.000 FORWARD

There shall be an Occupational Injury Benefit Ordinance for all covered employees and workers of the Minnesota Chippewa Tribe. The Minnesota Chippewa Tribe, exercising its inherent sovereign authority, adopts this system, establishing a Tribal Occupational Injury Ordinance.

02.10.001 ACKNOWLEDGMENT OF PROGRAM AND NOTICE TO EMPLOYEES

1. All covered employees, workers and persons asserting a claim shall be conclusively presumed to have elected to take occupational injury benefits in accordance with the tenets, conditions and provisions of this program (including the schedule of benefits) by virtue of employment with the Minnesota Chippewa Tribe, exclusive of any other claims the employee may have with regards to the injury. All covered employees and/or persons asserting a claim for occupational injury benefits acknowledge that the Minnesota Chippewa Tribe is, in fact, a federally recognized Indian Tribe and for the purposes of occupational injury benefits, is exercising it inherent sovereign authority. This Tribal Occupational Injury Ordinance applies regardless of location of injury.

2. The Minnesota Chippewa Tribe shall be responsible for posting a notice of this program in a conspicuous location (See Supplement I).

3. A copy of this program will be made available to the employee or the employee’s representative upon request.

02.10.002 ADMINISTRATION OF PROGRAM

1. To provide medical treatment for injured workers and fair income benefits to injured workers and their dependents;

2. To provide an administrative system for the delivery of medical and financial benefits to injured workers;

3. To create a process whereby disputes over compensation can be resolved in a fair and unbiased manner; and

4. To restore the injured worker physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable.
02.10.003  DEFINITIONS

In this program, unless the context otherwise requires:

1. "ADMINISTRATOR" means the insurance company providing coverage or its designee, including any third party administrator.

2. "ADOPTION" means persons adopted by decree of a recognized Court of law.

3. "AVERAGE WEEKLY WAGE" means the average of the employee's wages earned during the twenty-six (26) calendar weeks preceding the date of injury, not including unreported tips and/or bonuses. Overtime is not to be considered in computing wages unless it is regular and frequent throughout the year. The twenty-six (26) weeks prior to the date of injury are presumed representative, regardless of the wages earned. In the event that an employee is employed for less than twenty-six (26) consecutive calendar weeks immediately preceding the date of injury, the average weekly wage shall be determined by multiplying the employee's daily wage by the number of days normally worked in the business of the employer. Daily wage is the actual daily wage of the employee in the employment engaged in at the date of the injury.

If the employee's work week is fewer than five days per week or if there is an irregular number of days worked per week, the total number of days that an employee actually performed any of the duties of employment in the last 26 weeks is to be divided by the number of weeks in which the employee actually performed such duties, multiplied by the employee's daily wage.

4. "BENEFIT(S)" means the findings or decision of the Administrator or designee regarding the amount of medical and lost time benefits due to an injured employee or the dependent of a deceased employee under the rules of the Tribal Occupational Injury Ordinance.

5. "CHILD" includes dependent biological child(ren) and dependent legally adopted child(ren), but does not include married child(ren).

6. "CLAIMANT(S)" means the injured covered employee, or in the event of death of the covered employee, dependents of the deceased.

7. "COURSE OF EMPLOYMENT" means the Minnesota Chippewa Tribe employment of the covered employee at the time the injury occurred. An injury must be directly related to their employment by the Minnesota Chippewa Tribe in order that a claim be payable. Claim for injuries that occur during social or recreational activities are not payable, unless the employee was paid for their attendance at the activity by the Minnesota Chippewa Tribe.

8. "COMPENSATION" means lost time wages while disabled or unable to work due to a work related injury. This also includes if the employer is unable to accommodate modified duty work within physical restrictions assigned by the treating physician.
9. “COVERED EMPLOYEE(S),” “EMPLOYEE(S)” AND “WORKER(S)” means:

a) Every person in the employment of the Minnesota Chippewa Tribe but does not include independent contractors or volunteers.

b) Excluded as not in the employ of the Minnesota Chippewa Tribe are consultants, independent contractors and all other persons not considered under common law to be employed by the Minnesota Chippewa Tribe unless a written contractual agreement between the Minnesota Chippewa Tribe and an entity provides for occupational injury benefits. In the event of such a contract, the contract shall be specific as to whom, when, where, and why this coverage is provided by the Minnesota Chippewa Tribe, and all third parties and/or covered employees shall agree to all terms, conditions and provisions of this program.

10. “EMPLOYER” under this ordinance refers to the Minnesota Chippewa Tribe, as well as any of its enterprises, subdivisions or other operations. The Minnesota Chippewa Tribe, a federally recognized Indian Tribe or any entity acting at all times pursuant to its Constitution and Bylaws in a governmental capacity.

11. “INJURY” means an injury directly related to their employment and includes occupational disease and death. Damage to or destruction of artificial member, dental appliances, teeth, hearing aids and eyeglasses, when a covered injury is sustained. Injury is defined in two categories: 1) traumatic and 2) cumulative. “TRAUMATIC” is defined as a sudden, specific incident. “CUMULATIVE” is defined as a repetitive motion injury occurring over a period of time. Where this plan contains conflicting references to injury and occupational disease, the references to occupational disease shall prevail.

12. “MAXIMUM MEDICAL IMPROVEMENT” means the date after which no significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability.

13. “NON-SCHEDULED INJURIES” mean injuries that result in permanent partial disability or permanent total disability which are not defined as scheduled member injuries.

14. “OCCUPATIONAL DISEASE” means a disease, which is directly related to the employment. A disease is not directly related to the employee’s employment if an employee would have been equally exposed to such a hazard outside of the employment.

15. “OCCUPATIONAL INJURY BENEFITS” include weekly benefits and medical benefits further defined as follows:

a) “MEDICAL” means medical expense and other expenses associated with medical treatment reasonably related to the work injury. Medical mileage expense will be paid at the rate of $.25 per mile.

b) “WEEKLY BENEFIT(S)” means 66 2/3 percent of the employee’s average weekly wage. In the case of temporary partial disability, the weekly benefit amount is 66 2/3 percent of the difference between the employee’s average gross weekly
earnings at the time of the injury and the employee's wages while temporarily working at the lesser paying job. The maximum weekly benefit payable is $750.00.

c) "TEMPORARY TOTAL DISABILITY BENEFITS" (TTD benefits) means the weekly benefit paid when an injury results in three (3) or more calendar days of disability with a two (2) week retroactive period.

d) "TEMPORARY PARTIAL DISABILITY BENEFITS" (TPD benefits) means the weekly benefits paid if the employee returns to work at a lesser paying job, because of the injury but before the employee reaches maximum medical improvement.

e) "PERMANENT PARTIAL DISABILITY BENEFITS" (PPD benefits) means the weekly benefits paid for the partial loss of a scheduled member or a non-scheduled member.

f) "PERMANENT TOTAL DISABILITY BENEFITS" (PTD benefits) means the weekly benefits paid for a non-scheduled injury when the job-related injury leaves an employee totally and permanently incapacitated. This means that the employee's physical disability causes the employee to be unable to secure anything more than sporadic employment resulting in an income of less than 90% of their average weekly wage at the time of injury.

g) "DEATH BENEFITS" means the weekly benefits paid to dependents as a result of any fatality of the employee as a direct result of their employment.

16. "SCHEDULED MEMBER INJURIES" mean injuries that result in permanent partial impairment to the shoulder, arm, hand, thumb, finger, hip, leg, foot, toes, eyes, or ears as defined in section 02.10.021.

17. "SPOUSE" means legally married.

18. "TRIBAL COURT" means the Minnesota Chippewa Tribe Court as established by the Tribal Executive Committee.

02.10.004 RIGHT TO OCCUPATIONAL INJURY BENEFITS

1. Every covered employee, or the employee's dependents in case of death, who sustains an injury directly related to their employment shall be entitled to receive benefits under this program.

2. Except in the case of acute medical emergencies, the Minnesota Chippewa Tribe has the right to select the employee's health care provider. The "Return To Work Recommendation Record" form (Form D) is required for ALL medical appointments. This form must be obtained prior to the appointment and returned to the Administrator in
an expeditious manner following each appointment.

3. The Administrator shall pay usual and customary expenses for necessary medical emergencies and/or authorized medical treatment reasonably related to the compensable injury.

02.10.005 EXCLUSIONS FROM COVERAGE

The following shall be excluded from coverage under this program:

1. No benefit of any nature shall be payable for injury and/or death resulting from self-inflicted injury or willful injury of another. If the injury follows repeated documented violations of work rules, it may be regarded as a self-inflicted injury. If the injury resulted from a documented violation of safety policies, determined after a thorough investigation by the Safety Director (if applicable), it may be regarded as a self-inflicted injury and therefore not compensable.

2. No benefit shall be payable for the death or permanent disability of an employee if the employee's death or permanent disability is caused by, aggravated or continued by, an unreasonable refusal or neglect to submit to or follow any competent or reasonable surgical treatment or medical aid or advice by a qualified health care provider.

3. No benefit shall be payable for injury where refusal or failure of the injured employee to obey written or verbal instructions by the employer, or failure or refusal to use a safety device or appliance furnished by the employer, which if obeyed or used, would have reasonably prevented or significantly reduced the likelihood of injury or death.

4. No benefit of any nature shall be payable for injury and/or death caused or contributed to by the employee's use of any illegal substance, including, but not limited to narcotics and hallucinogens, any gas or fumes taken or inhaled voluntarily, by voluntary poisoning, or abuse of any prescription medication.

5. No benefit shall be payable for any covered employee injured or killed while intoxicated regardless of whether or not the intoxicated condition was the proximate cause of the injury or death. Therefore, it is necessary only to prove that the covered employee was intoxicated at the time of the injury to deny benefits under this Tribal Occupational Injury Ordinance, but the burden to prove intoxication shall at all times rest with the employer.

6. No benefit shall be payable for psychological or mental injuries.

7. No benefit shall be payable if a covered employee suffers an injury at the place of employment outside the beginning and ending work time in which the employee receives wages.

8. An injury occurring to an employee while on the way to or from work is not within the
course of employment except when such travel is directly connected with the employee’s work. This exception will not apply if the employee deviates from a reasonably direct route of travel, or is not acting in the interest of the employer at the time of injury.

9. For traumatic injury: The claim shall be denied if there is no specific incident which caused the injury, and if the employee is not performing employment related duties.

10. For cumulative injury: The claim shall be denied if the employee fails to report a claim within thirty (30) days from the initial onset of pain or injury. The claim shall also be reduced for cumulative injury based on the employee’s length of employment. See section 02.10.027.

11. Compensation shall not be paid for any period during which the employee is incarcerated, regardless the nature of the penal institution in which the employee is incarcerated, and regardless the reasons for or period of such incarceration. Such incarceration shall not toll the running of any time period during which an employee is eligible for benefits.

12. Compensation shall not be paid for any period during which the employee:
   a. does not have authorization from the company’s physician provider to be off work;
   b. is terminated for misconduct, declines or quits work offered by the employer within the employee’s physical restrictions;
   c. fails to cooperate with reasonable medical or vocational rehabilitation; and or fails to make a diligent effort to find employment;
   d. fails to report any other employment or wages.

13. Non-Compliance: If the Administrator determines that there is an issue of non-compliance by the employee with authorized medical treatment, the Administrator will notify the employee in writing they have seven (7) days to contact them to resolve the non-compliant issue or the Occupational Injury Benefits will be denied from the date of the letter forward.

14. Documented evidence that the employee has failed to follow physician’s restrictions on two or more occasions, while either at work or outside the work place will result in a denial of future Occupational Injury Benefits.

15. Any employee who leaves the employment of a covered employer and who later seeks employment with the same employer or another covered employer shall declare in writing whether the employee is claiming any injury under this section from the prior employment. Failure to declare a claim of prior injury shall be deemed a claim of no injury and any subsequent injury under this section shall be determined in accordance
with section 02.10.027

16. Claims due to tobacco use or second-hand smoke in the workplace shall not be compensable.

17. Claims due to injuries caused by mold in the workplace shall not be compensable.

This section shall not be construed to require the employee to undergo unreasonably invasive medical procedures, nor to require the employer to provide vocational rehabilitation.

02.10.006 AGGRAVATION OF PRE-EXISTING INJURY

For the purpose of settlement for permanent partial or permanent total disability, the amount of the benefit for that disability as set forth in the schedule of benefits may be reduced or denied in its entirety by the Administrator for pre-existing disability, whether work related or not. Apportionment for prior medically documented disability ratings may be used in calculating any permanent partial or permanent total disability.

02.10.007 DISCLOSURE OF PRE-EXISTING DISABILITIES

1. If requested, all employees of the Minnesota Chippewa Tribe shall disclose any pre-existing physical or mental disorder or disability known to the employee that would prevent them from performing in a reasonable and safe manner the activities involved in the position applied for or in which they work. Following such request, failure by the employee to disclose, prior to commencement of employment, a physical condition which prevented the employee from safely performing the work for which the employee was hired and which was a substantial contributing factor to the injury shall exclude the employee from coverage under the provisions of this Tribal Occupational Injury Ordinance.

2. Any claim resulting from an employment related aggravation of a pre-existing condition which was not disclosed as required under this program may be declined by the Administrator under this program if the claimant had knowledge of the pre-existing condition and failed to disclose the pre-existing condition as required by subsection (1).

02.10.008 BENEFITS AS AN EXCLUSIVE REMEDY

The right to receive benefits pursuant to the provisions of this program for injuries sustained by a covered injured employee regardless where the injury occurred shall be the exclusive remedy against the Minnesota Chippewa Tribe, its agents, officials and employees.
02.10.009  CHOICE OF REMEDY AS WAIVER OF ALTERNATE REMEDY

1. An employee or the employee’s dependents or legal representative, who accepts occupational injury benefits, waives the right to exercise any other legal remedy.

2. An employee or the employees’ dependents or legal representative, who exercises any other legal remedy against an employee, agent, or official of the Minnesota Chippewa Tribe, waives any right to occupational injury benefits.

02.10.010  ACCESS TO MEDICAL RECORD AND MEDICAL REPORTS

1. An employee, by filing a claim under this program, waives any claim to doctor/patient privilege. The Authorization to Release Medical Records form (Form B) must accompany the First Report of Occupational Injury form (Form A).

2. The Minnesota Chippewa Tribe or the Administrator shall have the right to present specific questions required to evaluate the claim, and to request a full and complete report from the employee’s physician or surgeon or other medical worker at any time and in the form and detail as deemed necessary.

3. The employee shall provide the Minnesota Chippewa Tribe or the Administrator with Form B to obtain any medical information. Failure to execute a waiver or release for such medical information will result in an automatic denial of all benefits.

02.10.011  REPORT OF INJURY

1. No compensation shall be due under this Ordinance unless the employer has clear reason to know of the injury or the employee provides the employer with notice of the injury within thirty (30) days after the occurrence of the injury. A traumatic or cumulative injury or occupational disease is deemed to have occurred when the employee knows or has reason to know that the injury or disease is related to the employee’s work activities, or when the injury or disease causes the employee to be unable to work, whichever occurs first.

2. All incidents resulting in death must be reported to the Administrator within twenty-four (24) hours of the time of occurrence or knowledge of the alleged occurrence by the Minnesota Chippewa Tribe.

3. When an injury or occupational disease occurs, the employee or claimant must also file their claim with the Administrator within the time specified by Section 02.10.012.

4. Time limits shall be calculated using calendar days.

02.10.012  TIME LIMIT FOR FILING OF CLAIM

1. Traumatic and Cumulative injuries: No compensation benefits shall be paid or awarded
under this Ordinance unless the written claim for benefits is made within thirty (30) days from
the date of the claimed injury or onset of symptoms in the case of cumulative injury. Within thirty (30)
days of the date of the written notice of claim, the employee must seek treatment, or no benefits will be payable hereunder.

2. A claim for benefits will be precluded from being processed where more than one year has
elapsed from the date of last medical treatment for a covered injury or where more than one year has elapsed from
the date after the employee has reached maximum medical improvements, and the employee has not prosecuted the claim.

3. In the case of occupational disease, no compensation benefits shall be paid or awarded
under this Ordinance unless the employee or the employee’s dependents or representative file a claim within ninety (90) days from the date of discovery of the disease and its probable relationship to the employment, but in no event longer than ninety (90) days from the date employee terminates employment with the Minnesota Chippewa Tribe or ninety (90) days after the date of death, whichever occurs first.

02.10.013 FALSE STATEMENT OR REPRESENTATION TO OBTAIN BENEFITS
AND FORFEITURE

Any person who willfully makes a false statement or representation in order to obtain any
benefits under this program shall forfeit all rights to such benefits.

1. The employee shall repay such compensation that the employee is not entitled to
and is received because of clerical error, mistaken identity, innocent misrepresentation mistakenly acted upon, or any other circumstance of a similar nature and not induced by fraud.

   a. Recoupment may be made from any future payments due the employee on any
      workers benefit claim. Or if no future payments are due the employee a
      payment plan shall be arranged between the Administrator and employee.

   b. The Administrator or employer must make a claim for such repayment or
      recoupment within one year of when the compensation is paid or the
      repayment shall be barred.

   c. The Tribal Court may waive, at its discretion and in whole or in part, the
      amount of such timely claim where the recovery would be against equity and
      good conscience.

2. Whenever the payment of compensation to a worker has been induced by proven
fraud, the recipient shall repay any such compensation together with a penalty of fifty percent (50%) of the total of any such payments.
a. Recoupment may be made from any future payments due the worker on any worker benefit claim. Or if no future payments are due to the employee a payment plan shall be arranged between the Administrator and employee.

3. The Administrator or employer shall make a claim for repayment or recoupment within one year of discovery of the fraud.

02.10.014 MEDICAL EXAMINATION OF EMPLOYEE; PERIODIC INDEPENDENT MEDICAL EXAMINATIONS; EFFECT OF REFUSAL OR OBSTRUCTION OF EXAMINATION OR TREATMENT

1. An employee shall have only one treating health care provider at a time coordinating the employee’s medical care. All medical appointments must be approved and authorized by the employer, except in acute emergency situations. Any change in a health care provider must be approved by the Administrator prior to engagement of a new health care provider, except in emergency situations. Services rendered by a health care provider prior to such approval shall not be the responsibility of the employer and shall not be paid.

2. The Administrator may reduce or suspend the benefits of an employee whose actions interfere with or prolong the employee’s recovery, including where the employee fails to timely seek appropriate medical attention, or reports ongoing treatment by a treating physician when in fact such treatment is not occurring, or who fails or refuses to seek treatment with the employer’s approved medical providers. If an employee has two consecutive, unexcused scheduled appointments without authorization from the Administrator it could result in a suspension of all benefits.

3. An employee entitled to benefits shall submit to independent medical examinations at a place reasonably convenient for the employee, if and when requested by the Administrator.

4. The request for medical examination shall fix a time and place for such examination, having regard to the convenience of the employee, the employee’s physical condition and ability to attend. The employee may have a health care provider present at the examination if procured and paid for by the employee.

5. If the employee refuses to submit to the medical examination or obstructs the examination, the employee’s right to benefits shall be suspended until the examination has been made, and no benefits shall be payable during or for such period of refusal.

02.10.015 WAITING PERIOD

No weekly benefits shall be allowed under the provisions of this program for any injury or occupational disease injury, which results in a disability lasting less than three (3) consecutive
days. If the worker's disability lasts for more than fourteen (14) days following the date of the injury, weekly benefits shall be allowed from the date of disability. The date of injury is not considered as a “date of disability” to count towards the waiting period. An employee may not recover weekly benefits for the period of time that they are compensated by annual or sick leave, at the employee's option. Annual or sick leave time taken shall apply against the waiting period of weekly benefits. If the employee files for and receives short term or long term disability benefits through their employer for a worker benefit claim, the employee has waived their rights to recover compensation under the Ordinance.

02.10.016  TEMPORARY TOTAL DISABILITY (TTD)

1. Temporary Total Disability (TTD) benefits are payable until an injured employee returns to work, is medically capable of returning to employment substantially similar to employment in which the employee was engaged at the time of injury or until the date the employee reaches maximum medical improvement, as defined in 02.10.020, whichever occurs first. If the employer offers work within the employee’s restrictions and the employee refuses to accept the work, the employee shall not be paid TTD benefits during the period of refusal. TTD benefits will end on the date the physician releases an employee to full duty work, or in the case of modified duty work, the date the employer notifies the employee of work availability.

2. Where an employee is entitled to benefits under this section and death ensues from any cause unrelated to the injury for which benefits were paid, all unaccrued benefits shall cease and all liability of the Minnesota Chippewa Tribe shall terminate.

3. If an employee is terminated for a specific cause and the employer has documentation that they have light duty work available within the employee’s physical restrictions, the employee is not entitled to compensation under the Occupational Injury Benefits.

02.10.017  TEMPORARY PARTIAL DISABILITY (TPD)

1. Temporary Partial Disability (TPD) benefits are payable when the employee returns to work at a lesser paying job, because of the injury. TPD benefits are payable pursuant to the following:

   a) If the employer offers the employee work within the employee’s restrictions, the employee shall accept the work and be paid temporary partial benefits based strictly on wage loss. If the employee refuses to accept the work, the employee shall not be paid TPD benefits during the period of the refusal.

   b) If work is not offered by the Minnesota Chippewa Tribe and the employee elects to perform work with a different employer, the employee shall be paid TPD benefits.

2. As long as the employer allows the employee to make up any missed time for medical appointments, TPD benefits will not be paid for any missed time for those medical
appointments.

3. Where an employee is entitled to benefits under this section and death ensues from any cause unrelated to the injury for which benefits were paid, all unaccrued benefits shall cease and all liability of the Minnesota Chippewa Tribe shall terminate.

02.10.018  PERMANENT PARTIAL DISABILITY (PPD)

1. When an injury results in a permanent disability, the employee may be entitled Permanent Partial Disability (PPD) benefits based upon the degree of permanent disability. Benefits begin at the termination of TTD or TPD benefits. If all of the weeks have accrued at the time of the payment, a lump sum payment will be issued. If the weeks have not accrued, the benefits will be paid out weekly until all weeks owed are exhausted. There are two types of permanent partial disability benefits:

   a) Scheduled member disabilities - An employee’s entitlement to PPD benefits when a scheduled member is involved is based on functional impairment as assigned by a health care provider. The schedule shown in 02.10.021 represents the number of weeks of benefits payable for one hundred percent (100%) loss, or loss of use, of the body member. If the PPD rating is less than one hundred percent (100%), the percentage rating is multiplied by the number of weeks shown in the schedule of benefits to determine the PPD benefits payable.

   b) Non-scheduled member disabilities - An employee’s entitlement to PPD benefits when a scheduled member is involved is based on functional impairment as assigned by a health care provider. The number of weeks for a body as a whole are four hundred (400).

2. Where an employee is entitled to benefits under this section and death ensues from any cause unrelated to the injury for which benefits were paid, all unaccrued benefits shall cease and all liability of the Minnesota Chippewa Tribe shall terminate.

02.10.019  PERMANENT TOTAL DISABILITY (PTD)

1. Permanent Total Disability (PTD) must be demonstrated by objective medical evidence. PTD applies only to non-scheduled injuries and the factors set forth in 02.10.018 are used to determine if an employee is entitled to PTD benefits.

2. Where an employee is entitled to benefits under this section and death ensues from any cause unrelated to the injury for which benefits were paid, all unaccrued benefits shall cease and all liability of the <CUST.INS.NAME> shall terminate.

3. PTD benefits could cease or be reduced once the employee is eligible for and receiving Social Security Income (SSI).
02.10.020  MAXIMUM MEDICAL IMPROVEMENT AND RATING; TERMINATION OF BENEFITS

When an injured or disabled employee's physical condition reaches the point after which no significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability, the following procedures will be applicable:

1. The employee is considered to have reached maximum medical improvement and the employee’s condition shall then be considered stationary and ratable.

2. On claims where compensation has been paid, the employee shall be notified in writing by the Administrator that the employee's condition is stationary and ratable. If the physician assigns a permanent partial disability rating as a result of the injury, the notice shall also include whether a functional impairment rating has been assigned to the injury and the amount that the Administrator determines is due under 02.10.021. This notice is referred to as the notice of maximum medical improvement.

3. The Administrator shall make the initial permanent partial disability payment within thirty (30) days of service of notice of maximum medical improvement unless the Administrator disputes the rating. If such a dispute exists, the Administrator shall notify the employee in writing regarding this.

4. The employee may request an appeal of a notice of maximum medical improvement under the procedure for disputed claims in 02.10.023.

02.10.021  SCHEDULE OF BENEFITS

1. Scheduled Member Injuries:

   1. SHOULDER                         250 weeks

   2. ARM
      a) 2/3 of arm between shoulder & elbow 250 weeks

   3. HAND Total                       190 weeks

   4. THUMB
      a) Total                           60 weeks
      b) More than one phalange           60 weeks
      c) At distal phalange               30 weeks

   5. INDEX FINGER
      a) Including metacarpal             35 weeks
      b) More than one phalange           35 weeks
      c) At distal phalange               17.5 weeks
6. SECOND FINGER
   a) Including metacarpal 30 weeks
   b) More than one phalange 30 weeks
   c) At distal phalange 15 weeks

7. THIRD FINGER
   a) Including metacarpal 25 weeks
   b) More than one phalange 25 weeks
   c) At distal phalange 12.5 weeks

8. FOURTH FINGER
   a) Including metacarpal 20 weeks
   b) More than one phalange 20 weeks
   c) At distal phalange 10 weeks

9. HIP

10. LEG
    a) 2/3 of leg between hip & knee 220 weeks

11. FOOT
    a) At ankle 150 weeks

12. GREAT TOE
    a) Including metatarsal 40 weeks
    b) Loss of more than one phalange 40 weeks
    c) Loss of one phalange 20 weeks

13. OTHER TOES
    c) Including metatarsal 15 weeks
    b) Loss of more than one phalange 15 weeks
    c) Loss of one phalange 7.5 weeks

14. ONE EYE
    a) Total Blindness 140 weeks
    b) With other eye lost prior to injury 200 weeks

15. EARS
    a) Total deafness, one ear 50 weeks
    b) Total deafness, both ears 175 weeks

16. FOR LOSS OF BOTH SHOULDERS, OR BOTH ARMS, OR BOTH HANDS, OR BOTH FEET, OR BOTH LEGS, OR BOTH HIPS, OR BOTH EYES, OR ANY TWO THEREOF, CAUSED BY A SINGLE INJURY 400 weeks
If any portion of the PPD rating is attributable to a preexisting condition, whether previously rated or not, the employee shall receive PPD benefits only for that portion of the permanent injury attributable solely to the work injury.

2. Non-Scheduled Injuries / Industrial Disability shall be paid on the basis of four hundred (400) weeks. Permanent total disability benefits for non-scheduled injuries are payable as long as the employee remains permanently totally disabled or until age sixty-five (65) whichever occurs first.

3. Permanent partial disability ratings are to be secured from a qualified health care provider in accordance with the American Medical Association (AMA) guidelines or other nationally recognized rating method.

4. Once the Administrator has obtained a permanent partial disability rating the employee may obtain a permanent partial disability rating from a qualified health care provider of the employee’s choice at the Tribe’s expense, subject only to the approval of the fee by the Administrator. This opinion must be scheduled within thirty (30) days from the employee’s notice of maximum medical improvement. Once the rating is received from the employee’s physician of choice, if there is a difference between the two ratings, then the rating average will be taken. This will be the final rating.

02.10.022 COMPENSATION FOR DEATH

If an injury sustained by a worker results in the worker’s death within two (2) years following the injury, benefits shall be paid in the amount and to the dependents (as defined in 02.10.022.2a,2b). (Death resulting from occupational disease shall be brought within the time limit of 02.10.012 (3)):

1. If there are no eligible dependents, benefits shall be limited to the burial expenses, not to exceed $5,000, and the expenses provided for medical and hospital services for the deceased, together with any accrued benefits up to the time of death, and shall be payable to the estate of the deceased.

2. If there are eligible dependents, death benefits are payable equally on a monthly basis as follows:

   a) The surviving spouse if living with the deceased employee at the time of deceased employee’s death, until remarriage or until age sixty-five (65), whichever occurs first.

   b) An unmarried child under eighteen (18) years of age; or an unmarried child under twenty-five (25) years of age who is wholly dependent on the deceased employee and is enrolled as a full-time student in an accredited educational institution; or an unmarried child who is physically or
mentally incapable of self support and wholly dependent on the deceased employee until age twenty-five (25).

4. **Death Benefit:**

   a) *Death benefits* are limited to a maximum of $750.00 per week.

   b) Burial Expense not to exceed $5,000.

   c) If the number of eligible dependents changes, *benefits* will be redistributed equitably to the remaining eligible dependents.

**02.10.023 PROCEDURES FOR DISPUTED CLAIMS**

1. In the event of any dispute over payment, denial or termination of *benefits* payable under this program, the *claimant* shall have the right to appeal the disputed claim as follows:

   a) *Claimant* must request reconsideration by the *Administrator*. The reconsideration request must be made in writing, specifying what action is in dispute, why the *claimant* disagrees with the *Administrator*’s action and the desired result. Any additional supporting documentation or evidence to be considered must be submitted by the *claimant* with the reconsideration request unless an extension of time to submit such evidence is specifically requested in the reconsideration request. The request for reconsideration must be filed within thirty (30) calendar days of the date of the *Administrator*’s adverse action or decision. A reconsideration request is deemed filed upon mailing by regular or certified mail. Failure to request reconsideration within the above time period shall be deemed a waiver of any further rights of appeal herein.

   b) Upon denial of the reconsideration request or an adverse decision of the reconsideration request, the *claimant* may request a hearing before the Tribal Court. The hearing request must be made in writing and shall contain a plain, concise statement of the disputed action of the *Administrator*, the date of the action and the *claimant*’s reasons for appeal. Any issues not raised in the request for hearing application by either party are deemed waived. Any new supporting documentation or evidence to be considered must be submitted by the *claimant* with the hearing request unless an extension of time to do so is specifically requested in the hearing request. A request for hearing must be filed by mail or hand-delivered within fourteen (14) calendar days of the date of the *Administrator*’s adverse decision to the Tribal Court. A hearing request is deemed filed upon mailing by regular or certified mail. Failure to request a hearing within the above time period shall be deemed a waiver of any further right of appeal herein.

2. The burden of proof, throughout the above appeal process, rests on the covered *worker* to
prove that the worker sustained an injury which is directly related to the employment and that the employee is entitled to the benefits claimed under this program.

3. A claimant may be represented in an appeal by any person. Attorney fees shall be limited to twenty-five percent (25%) of the first $2,000 of increased benefit and twenty percent (20%) percent of the remaining increased benefit obtained by a claimant or the maximum fee of $4,500. "Increased benefit" means any benefits above those provided by the original decision of the Administrator. It is the claimant's responsibility to pay the representative.

4. Hearing procedures before the Tribal Court:

   a) Upon filing of a request for hearing before the Tribal Court, a copy of the hearing request and all supporting evidence submitted by the employee shall be sent by the Minnesota Chippewa Tribe Executive Director to the Administrator within fourteen (14) calendar days of receipt of the hearing request. The Administrator, as the adverse party in this proceeding, shall have fourteen (14) calendar days to file a written response with the Tribal Court, with a copy to the employee. Any issues not raised at the time of hearing by either party are deemed waived.

   b) A claimant or the claimant's representative shall have the right, in all matters presented before the Minnesota Chippewa Tribe, to cross-examine all witnesses and to review all evidence of any nature, as may relate to the matter under consideration. However, attorney fees are limited as provided in 02.10.023(3).

   c) The Minnesota Chippewa Tribe, the Administrator and the claimant shall have the right to cross-examine all witnesses and to perform such discovery activity as may be deemed necessary to fully explore all aspects surrounding the occurrence and injury.

   d) The Tribal Court shall apply the rules of evidence and rules of procedure in such a manner that is best calculated to ascertain the substantial rights of the parties and to carry out the spirit of the Minnesota Chippewa Tribe Tribal Occupational Injury Ordinance. Either party may request development of further medical evidence. The Administrator has the right to designate an examining medical expert at the Administrator’s expense. Failure of the employee to comply with any reasonable request for examination will result in dismissal of the employee’s appeal with prejudice.

5. A full and complete record shall be kept of all proceedings held before the Tribal Court for investigation, appeals, or the taking of testimony by an electronic recording means. A party may request the proceeding be reported by a certified stenographer at the requesting party’s expense.

6. The Tribal Court shall convene as necessary, but in no event will an employee be deprived of a hearing for more than forty-five (45) days after the Tribal Court’s receipt of written hearing request, unless a request for extension of time has been filed by a party.
7. All parties shall have the right to request a continuance of the hearing after it has first convened for the purpose of further developing evidence.

8. A written decision will be issued by the Tribal Court within ninety (90) days of the hearing, which will become final and binding on the parties.

9. During the pendency of the appeal, claimant shall continue to receive all benefits approved by the Administrator in its original written decision, but shall not receive any new benefits claimed in the appeal. Payments made to claimant during the pendency of an appeal shall not be recouped or recovered by the Administrator or the Minnesota Chippewa Tribe.

10. Any award agreed to by the claimant for benefits under this program shall constitute a full and final settlement and all benefits shall cease upon settlement, except where the award provides for other than a lump sum settlement. If other than a lump sum settlement, the terms of the award agreement shall apply.

02.10.024  EXPERTS

1. The employee may engage the services of medical or vocational experts for purposes of a disputed claim, at the employee's cost, which is not reimbursable regardless of the ultimate outcome of the dispute. The opinions of such experts will be considered in a disputed case, notwithstanding the lack of authorization under this system.

02.10.025  LIABILITY OF THIRD PERSON TO INJURED EMPLOYEE; SUBROGATION POWERS

1. If a covered employee entitled to benefits under this system is injured or killed by the negligence or wrongful actions of another person(s) not in the employ of the Minnesota Chippewa Tribe, such injured employee, or dependents in the event of death, may pursue a remedy against such other person while receiving benefits under this system. If the employee entitled to benefits under this system or dependents do not pursue a remedy against such other person by instituting an action within one year after the cause of action accrues, the claim against such other person shall be deemed assigned to the Tribal Occupational Injury Ordinance. Such a claim so assigned may be prosecuted or compromised by the Administrator for benefits paid. Acceptance of benefits under this Ordinance constitutes an assignment of the employee's rights to the employer to the extent of benefits paid or payable.

2. If employee or dependents proceed against such other person, occupational injury benefits shall be paid as provided in this program and the Tribal Occupational Injury Ordinance shall have a lien on the amount recovered from such other person to the extent occupational injury benefits were owed or paid. Compromise of any claim by the covered employee or the employee's dependents at an amount less than the weekly benefits owed or paid shall be made only with written approval of the Administrator of the Tribal Occupational Injury Ordinance.
3. The Administrator of the Tribal Occupational Injury Ordinance shall have the right of subrogation for the amount of occupational injury benefits paid under this program, upon the resolution of a claim or completion of a settlement with the claimant.

02.10.026 SCHEDULE OF BENEFITS PAYABLE FOR CUMULATIVE OR REPETITIVE ARM INJURY, INCLUDING CARPAL TUNNEL SYNDROME

Benefits for cumulative or repetitive arm injury, including carpal tunnel syndrome will be reduced if the worker has been employed (based on date of hire) for a limited time as follows:

1. Workers are not eligible for compensation when employed full-time for a period up to 4 months.

2. Workers receive twenty-five percent (25%) of eligible compensation for a claim made while employed full-time for a period of 4-8 months.

3. Workers receive fifty percent (50%) of eligible compensation for a claim made while employed full-time for a period of 8-12 months.

4. Workers receive seventy-five percent (75%) of eligible compensation for a claim made while employed full-time for a period of 12-18 months.

5. Workers are eligible for full compensation for a claim made after being employed full-time more than 18 months.

6. The time frames, which are provided above, should be lengthened appropriately for workers who are employed on a part-time basis.
SUPPLEMENT I (See 02.10.001)

NOTICE TO EMPLOYEES

YOUR EMPLOYER IS INSURED UNDER THE MINNESOTA CHIPPEWA TRIBE TRIBAL OCCUPATIONAL INJURY ORDINANCE

If you have an injury or occupational disease arising out of and in the course of your employment with the Tribe, you may be entitled to benefits as provided by the Minnesota Chippewa Tribe Tribal Occupational Injury Ordinance.

NOTIFY YOUR SUPERVISOR IMMEDIATELY OF ANY INJURIES, NO MATTER HOW SLIGHT.

If you fail to do so, you may lose your benefits under the Tribal Occupational Injury Ordinance. In no event shall benefits be paid to an employee who failed to notify their employer within thirty (30) days after sustaining such work related injury.

Your exclusive remedy for any such work related injury or disease is through the Minnesota Chippewa Tribe Tribal Occupational Injury Ordinance. The State Workers Compensation Commissioner will not accept a claim from you as you are employed by a sovereign Indian Nation which has exclusive jurisdiction over this Tribal Occupational Injury Ordinance.