# RULES GOVERNING PRACTICE
# BEFORE THE
# ILLINOIS WORKERS' COMPENSATION COMMISSION

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# CHAPTER II: ILLINOIS WORKERS' COMPENSATION COMMISSION
# PART 7010
# ACCIDENT REPORTING

Section
7010.10 Time limitations

AUTHORITY: Implementing Section 6(b) of the Workers' Compensation Act (820 ILCS 305.6(b)) and authorized by Section 16 of the Workers' Occupational Diseases Act (820 ILCS 310/41).

SOURCE: Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency rule at 6 Ill. Reg. 5820, effective May 1, 1982 for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 1, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 1241; emergency amendment at 10 Ill. Reg. 4011, effective February 14, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 12958, effective July 22, 1986.

## Section 7010.10 Time Limitations

Every employer within the provisions of the Illinois Workers' Compensation Act (Ill. Rev. Stat. 1985, ch. 48, par. 138.6(b)) and the Illinois Workers' Occupational Diseases Act (Ill. Rev. Stat. 1985, ch. 48, par. 172.41) shall report all fatal accidental injuries to the Industrial Commission immediately; and, between the 15th and 25th day of each month shall report to the Industrial Commission all non-fatal accidental injuries resulting in the loss of more than three scheduled work days. All reports are to be filed on forms furnished by the Commission.

(Source: Amended at 10 Ill. Reg. 12958, effective July 22, 1986)

# PART 7020
# PRE-ARBITRATION

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AUTHORITY: Implementing and authorized by Sections 16 and 19 of the Workers' Compensation Act [820 ILCS 305/16 and 19].

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 49, p. 244, effective December 7, 1978; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 4 Ill. Reg. 26, p. 59, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 41, p. 171, effective September 25, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 5530, effective May 12, 1981; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 1, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2345; emergency amendment 8 Ill. Reg. 5986, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 16238, effective October 15, 1985; emergency amendment at 9 Ill. Reg. 19129, effective November 20, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8096, effective May 5, 1986; amended at 15 Ill. Reg. 8221, effective May 17, 1991; amended at 17 Ill. Reg. 2206, effective February 16, 1993; amended at 20 Ill. Reg. 3842, effective February 15, 1996.

## Section 7020.10 Docketing and Numbering of Cases

a) All cases brought before the Illinois Industrial Commission shall be docketed, time-stamped and given a letter and number corresponding to either the Workers' Compensation Act (Ill. Rev. Stat. 1989, ch. 48, pars. 138.1 et seq.) or Occupational Diseases Act (Ill. Rev. Stat. 1989, ch. 48, pars. 172.36 et seq.) under which benefits are claimed and the year of filing. All subsequent pleadings or correspondence should refer to this letter and number.

b) All documents filed with the Industrial Commission including, but not limited to, Applications for Adjustment of Claim, Attorneys' Appearances, Motions and Petitions for Review, shall be served on all parties and shall have a certificate of service setting forth the time and manner of such service. A copy of all correspondence addressed to the Commission with respect to a pending matter shall be sent to all parties at the time it is sent to the Commission; all such correspondence shall list the parties to whom copies have been sent.

c) The Industrial Commission shall file and time stamp all documents presented for filing Monday through Friday 8:30 a.m. to 5:00 p.m., except legal holidays.

(Source: Amended at 15 Ill. Reg. 8221, effective May 17, 1991)

Section 7020.20 Application for Adjustment of Claim

a) Applications for Adjustment of Claim with a certificate setting forth the date of service shall be filed in triplicate on an appropriate form provided by the Commission. The filing party shall serve one copy of the Application which has been filed on all opposing parties.

b) An Application for Adjustment of Claim must be limited to one accident or claim. After an Application has been filed with the Commission, any other Applications for Adjustment of Claim covering that accident, but naming a different employer, shall be assigned the same docket number as the original Application. Nothing herein shall bar the filing of an Amended Application for Adjustment of Claim.

c) Applications for Adjustment of Claim should be completed in full and must provide a description of how the accident occurred, the part of the body injured, the geographical location of the accident for purposes of establishing venue, and a description of how notice of the accident was given or acquired by the Respondent.

d) Once an Application for Adjustment of Claim is filed, the Illinois Industrial Commission shall send the information on the Application on a Notice of Hearing to the opposing party at the address supplied by the filing party. If the Notice is returned to the Industrial Commission because the filing party has supplied the wrong address for the opposing party, the Industrial Commission shall so inform the filing party. The filing party has the obligation of providing the Industrial Commission with the proper address so Notice can be sent to the opposing party.

e) Applications for Adjustment of Claim may be amended prior to a hearing on the merits by filing an Amended Application for Adjustment of Claim under the letter and number given the original Application for Adjustment of Claim. The Amended Application for Adjustment of Claim must be clearly labeled "Amended" and must have attached to it proof that filing party has served a copy of the Amended Application for Adjustment of Claim on the opposing party in the manner set forth in Section 7020.70.

(Source: Amended at 15 Ill. Reg. 8221, effective May 17, 1991)

Section 7020.30 Memorandum of Names and Addresses for Service of Notice and Attorneys' Appearance

a) Each party, upon instituting or responding to any proceedings before the Commission, shall file with the Commission his address, or the names and addresses of any agent upon whom notices shall be served either personally or by regular mail, addressed to such party or agent at the last address so filed with the Commission.

b) An Appearance, on forms provided by the Commission, shall be filed by any attorney or law firm representing any party in any proceedings before the Commission. No party or insurance carrier may file an Appearance on behalf of an attorney or law firm. No attorney or law firm will be recognized in any case before the Commission unless he or they have duly entered their written Appearance. When an Appearance has been duly filed by a law firm, any attorney member of that firm may appear and be recognized by the Commission. Appearances filed by Petitioner's attorney shall be accompanied by an "Attorney Representation Agreement," on a form prescribed by the Commission, completely filled out and signed by Petitioner and attorney.

c) Once an Appearance has been filed, Leave to Withdraw can only be had upon written order of the Commission or a duly designated Arbitrator thereof following appropriate notice to the client and the opposing side. Substitution of Counsel may be had by filing with the Commission and serving on the opposing party a notification of the substitution, signed by the attorney of record, the substituted attorney and the client.

(Source: Amended at 15 Ill. Reg. 8221, effective May 17, 1991)

Section 7020.40 Who May Appear—Unauthorized Practice

a) Only attorneys licensed to practice in the State of Illinois may appear on behalf of parties to litigation before the Industrial Commission. This specifically includes presentation of Settlement Contracts and Lump Sum Petitions. Attorneys licensed to practice in states other than Illinois may appear with leave of the Commission.

b) For routine matters such as agreed continuances or other agreed ministerial acts, persons other than licensed attorneys shall be permitted to appear on behalf of a party at the status call.

(Source: Amended at 15 Ill. Reg. 8221, effective May 17, 1991)

Section 7020.50 Hearing: Place; Notice: Change of Venue

a) Except to the extent modified by Section 7020.80 in reference to proceedings under Section 19(b-1) of the Workers' Compensation Act (Ill. Rev. Stat. 1989, ch. 48, par. 138.19(b-1)), the following provisions shall apply:

b) Upon receipt of an Application for Adjustment of Claim the Commission shall fix a place for hearing and a date for initial status before an Arbitrator of the Commission in accordance with the applicable Act. The place designated shall be a hearing site located in or nearest geographically to the vicinity in which the alleged accident or exposure occurred. Where the accident occurred outside the state of Illinois and the applicant resides in Illinois, the case shall be set at the hearing site geographically nearest to where the applicant resides. Where the accident occurs outside of Illinois and the applicant resides outside of Illinois then the case shall be set at hearing site most convenient to the parties. Designation of a hearing site other than as provided above may be had upon showing to the Commission of extreme hardship worked upon a party or parties by the designated site, or by agreement of the parties.

Section 7020.60 Continuances on Arbitration, Notices, Monthly Status Calls, Voluntary Dismissal

a) Continuances on Arbitration; Notices
Written notices will be sent to the parties for the initial status call setting on arbitration only. Thereafter, cases will be continued for 3 month intervals, or at other intervals upon notice by the Commission, until the case has been on file at the Industrial Commission for 3 years, has been set for trial pursuant to Section 7030.20, or otherwise disposed of. The parties must obtain any continued status call dates from the Industrial Commission records.

b) Monthly Status Calls

1) Each Arbitrator, subject to his or her availability, shall hold a monthly status call of cases which appear on the Arbitrator's docket that month.
   A) In Cook County, each Arbitrator's monthly status call shall be held at 2:00 p.m. on a date and place designated by the Commission.
   B) In areas outside of Cook County, each Arbitrator's monthly status call shall be held at 9:00 a.m. on a date and place designated by the Commission.

2) The monthly status call shall be conducted by the Arbitrator as follows:
   A) Cases shall be called in the order that they appear on the monthly status call.
   B) Cases will be continued in accordance with subsection (a) above unless a request for a trial date is made in accordance with Section 7030.20. A request for a trial date may be made in a case which does not appear on the monthly status call if:
      i) a Petition under Section 19(b) of the Act has been filed in accordance with Section 7020.80(a);
      ii) death benefits under Section 7 of the Act or permanent total disability benefits under Section 8 of the Act are claimed; or
      iii) special circumstances exist which in the opinion of the Arbitrator would warrant advancing the case for trial. The moving party must set forth in his motion the basis of the claimed special circumstance.

      Motions for trial dates under subsections (b)(2)(B)(i), (ii) and (iii) above shall be presented at the conclusion of the status call.
   C) Cases on file 3 or more years.
      i) In all cases which have been on file at the Industrial Commission for three years or more, the parties or their attorneys must be present at each status call on which the case appears. The case will be set for trial unless a written request has been made to continue the case for good cause. Such request shall be made part of the case file. The written request must be received by the Arbitrator at least fifteen days in advance of the status call date and contain proof of service showing that the request for a continuance was served on all other parties to the case and/or their attorneys. Any objection to a continuance in such case must be received by the Arbitrator at least seven days prior to the status call date and contain a similar proof of service. The Arbitrator shall rule on such requests for continuances or objections thereto at the status call. The parties must appear at the status call even if there is no objection to the continuance.

ii) Failure of the Petitioner or the Petitioner's attorney to request or answer a request for a continuance in accordance with subsection (b)(2)(C)(i) above and to appear at the monthly status call on which the case appears shall result in the case being dismissed for want of prosecution, except upon a showing of good cause.

iii) Where the Arbitrator has set the matter for trial, the case shall proceed on the date set by the Arbitrator.

D) Section 19(b-1) pretrials, motions, pro se settlement contracts

i) In Cook County, each Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act beginning at 8:45 a.m. on the monthly status call date. The Arbitrator shall hear other motions at the conclusion of the monthly status call. Pro se settlements may be presented on the morning of any monthly status call or on days designated by the Arbitrator.

ii) In all areas outside of Cook County, the Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act, and hear other motions, at the conclusion of the monthly status call. Pro se settlement contracts may be presented at the conclusion of any monthly status call or on days designated by the Arbitrator.

c) Voluntary Dismissals

1) Any party may voluntarily dismiss his or her claim or any petition or motion filed on his or her behalf upon motion signed by the party, if unrepresented, or his or her attorney of record.

2) A party may file a motion to dismiss his or her claim or any petition or motion filed on his or her behalf without the signature of his attorney of record. The moving party must serve said motion on his or her attorney and the opposing party, in the manner set forth in Section 7020.20(a), and set the motion for hearing as set forth in Section 7020.70. In such cases, there shall be no disposition of the claim on its merits prior to the disposition of said motion.

(Source: Amended at 20 Ill. Reg. 3842, effective February 15, 1996)

Section 7020.70 Motion Practice, General

a) Form of Motions

All motions, except motions made during an Arbitration or Review hearing, motions for a continuance of cases in the regular review call, and petitions filed under Section 19(h) and/or Section 8(a), must be accompanied by an Industrial Commission form entitled Notice of Motion and Order and must be served on the Arbitrator or Commissioner and all other parties in accordance with subsection b). All such motions must set forth the date on which the moving party will appear before the Arbitrator or Commissioner and present the motion and must include the type of motion and nature of the relief sought.

1) Motions on Arbitration

A) Motions requesting a trial date will be heard during the status call in accordance with Section

7020.60(b)(2).

B) All other motions will be heard in accordance with Section 7020.60(b)(2)(D). Each arbitrator will hear all motions, other than motions requesting a date certain for trial, on any case assigned to the Arbitrator, even if it does not appear on the status call.

2) Commissioners' Review Calls
Each Commissioner will hear motions at the hearing location on the days designated by the Commission.

b) Notice; Service of Papers; Proof of Service; and Waiver of Notice.

1)

A) For all motions except Petitions for Immediate Hearing and motions requesting a date for trial, notices of motion shall be in writing and shall be served upon the Arbitrator or Commissioner and the attorney of record of all other parties or, where any other party is not represented by counsel, upon the party himself, by personal or office delivery or by mailing of a copy of the notice with copies of the supporting papers. Such service, if by personal or office delivery, shall be effected 3 days preceding the day of the status call set forth in the notice, exclusive of any intervening Saturday, Sunday or legal holiday. If service is had by mail, then the envelope enclosing a copy of the notice and supporting papers shall be deposited in the post office or post office box at least 5 days before the motion is to be heard, exclusive of any intervening Saturday, Sunday or legal holiday.

B) Motions for an immediate hearing under Section 19(b) of the Act and motions requesting a date for trial shall be served on the Arbitrator and on all other parties 15 days preceding the status call day set forth in the notice.

C) Proof of service of notices or other papers shall be affixed:

i) in any case by written acceptance of service;

ii) in case of service by delivery, by affidavit of the person delivering or leaving the papers, and,

iii) in case of service by mail, by affidavit of the person depositing the papers in the mail, which affidavit shall state the time and place of mailing, the complete address which appeared on the envelope and the fact that proper postage was prepaid.

D) Where the opposite party has not appeared within time fixed by rule, or has appeared, but failed to designate a place for service, service may be directed to his last known business or residence address.

2) Parties may waive the requirements of notice, service and proof of service. Moreover, in the case of any motion, the hearing officer retains the power to enlarge or reduce the time of notice prescribed in paragraph (b)(1)(A) of this part.

c) Who Shall Hear Motions

1) When a cause is pending on the arbitration call, all motions and settlement contracts, except where expressly otherwise provided in the Rules of the Commission, shall be heard by the Arbitrator to whom the case has been assigned. If said Arbitrator is unavailable, the Commission may assign the motion or settlement contract to another Arbitrator for disposition.

2) When a cause is pending on review, but not yet assigned to a specific Commissioner, all motions shall be assigned to a sitting Commissioner. Once the cause has been assigned to a particular Commissioner for hearing, that Commissioner shall hear all motions relative to the case.

(Source: Amended at 15 Ill. Reg. 8221, effective May 17, 1991)

Section 7020.80 Petitions for Immediate Hearing

a) Petition for Immediate Hearing Under Section 19(b)

1) Petition alleging that
   A) he is unable to work because of a disability compensable under Workers' Compensation Act or Workers' Occupational Diseases Act, and
   B) he is not receiving temporary total disability or medical benefits to which he is entitled, may file a Petition for Immediate Hearing, as provided for in Section 19(b) of the Workers' Compensation Act, on an appropriate form provided by the Commission. Said Petition shall set forth:
      i) a description of the attempts by parties or counsel to resolve the dispute requiring an immediate hearing, including the name of the representative of the opposing party with whom the Petitioner or his attorney has conferred, the date of the conference, and the result of the conference;
      ii) a statement that a signed physician's report of recent date relating to the employee's current inability to work, or a description of such other evidence of temporary total disability as is appropriate under the circumstances, has been delivered to the Respondent.
   C) A response to said Petition shall be filed on an appropriate form provided by the Commission within 15 days of service of Petition for Immediate Hearing. Failure to respond timely or in good faith may result in the assessment of the attorneys' fees under Section 16 of the Workers' Compensation Act. The Petition for Immediate Hearing shall be filed and heard in accordance with Section 7020.70.

2) The Arbitrator to whom the case is assigned shall attempt to resolve the matter informally. If the matter cannot be resolved at that time, and the Arbitrator determines the Petitioner is not receiving temporary total disability or medical benefits, said Arbitrator shall order the case to formal hearing on a date certain as soon as possible.

b) Petition for Immediate Hearing under Section 19(b-1)

1) Filing Petition for Emergency Hearing under Section 19(b-1)
   An employee alleging that:

A) he is unable to work because of disability compensable under the Workers' Compensation Act or Workers' Occupational Diseases Act, and
B) he is not receiving temporary total disability and/or medical, surgical, or hospital benefits to which he is entitled under Section 8(a) or 8(b) of the Workers' Compensation Act, may file a Petition for Immediate Hearing before an Arbitrator as provided for in Section 19(b-1) of the Workers' Compensation Act, on an appropriate form provided by the Commission.

Such petition must comply with all requirements of the Workers' Compensation Act.

2) Section 19(b-1) Proceedings before Arbitrators: Pre-trial Conferences
   A) The Arbitrator will hold a pre-trial conference within 20 days after the Petition for Emergency Hearing is filed. If the venue is outside of Cook County the pre-trial conference will be held at either the regularly scheduled hearing site or at another hearing site for the same Arbitrator available within that time period and located as close as practical to the original hearing site. Notice of pre-trial conference will be sent by the Commission to all parties of record.
   B) Any challenges to the sufficiency of the Section 19(b-1) Petition will be heard at the pre-trial conference.
   C) If the Section 19(b-1) Petition is found by the Arbitrator to be insufficient, the Arbitrator will allow the Petitioner 5 business days to cure all insufficiencies and all time limits under the statute are tolled until the Arbitrator has determined that the amended Petition is sufficient. During the aforementioned time period the amended Section 19(b-1) Petition with proof of service to opposing party shall be filed with the Commission. If the insufficiencies are not cured within the time limit, the Section 19(b-1) Petition will be dismissed without prejudice by the Arbitrator and notices of the dismissal will be sent by the Industrial Commission to all parties of record.
   D) If within the time period provided above the insufficiencies are cured and the parties have not received from the Commission notices of dismissal of the Section 19(b-1) Petition, the Respondent shall have 15 days from receipt of the amended Section 19(b-1) Petition to respond thereto.

3) Section 19(b-1) Hearing, Decisions, and Transcripts
   A) Hearings
      i) If at the pre-trial conference the Arbitrator finds the Section 19(b-1) Petition to be sufficient he will set the case to be tried within 15 days at either the regularly scheduled hearing site or at another hearing site for the same Arbitrator available within that time period and located as closely as practical to original hearing site.
      ii) If the Section 19(b-1) Petition is insufficient, the Arbitrator will set the case to be tried within 35 days of the pre-trial conference at either the regularly scheduled hearing site for the same Arbitrator or at another hearing site for the same Arbitrator available within the time period and located as closely as practical to the original hearing site. If within the time period provided in subsection (b)(2)(A)(iii) above, the insufficiencies are cured and the parties have not received from the Commission notices of dismissal of the Section 19(b-1) Petition, the trial will be held as scheduled.
      iii) Proofs are to be closed within 45 days after a Section 19(b-1) Petition, or an amended Petition curing any insufficiencies as provided above is filed, unless for good cause the

Arbitrator extends the time for closing proofs for an additional period of periods not to exceed a total extension period of 30 days. Good cause is defined as, but not limited to; additional medical records needed and taking of depositional evidence.

B) Arbitrator Decision

The Arbitrator's decision is to be filed with the Commission within 25 days after proofs are closed. The Arbitrator's decision shall contain the final cost of the arbitration transcript, or the estimated cost of the transcript if the final cost is not available at the time the Arbitrator's decision is issued.

i) At the beginning of each hearing at which a record is made the Arbitrator will state the following rule for the record: Upon the closing of proofs, at the request of any party, the Arbitrator shall order the Court Reporter to prepare an original transcript of this hearing, to be authenticated by the Arbitrator for use by the Commission in the event it is required for further proceedings including any proceedings for a review of the Arbitrator's decision. The parties may order copies of the transcript of today's hearing at the close of the hearing, to be charged at the rate provided in Section 16 of the Workers' Compensation Act for copies of transcript. Each party shall pay the cost of its copy. If a Petition for Review is filed, the appealing party shall pay the cost of the original transcript. If no Petition for Review is filed, the parties shall pay the cost of the original transcript, such cost to be divided equally among the parties. At the close of each day's hearing on Arbitration, the Court Reporter shall provide an estimate of the cost of preparing the transcript. The estimated cost of the transcript may not be the final cost of the transcript for which a party is liable. If the party orders the transcript at a later time, it is unlikely it will be received in sufficient time for use in preparation of the party's statement of exception(s) and supporting brief, or a response thereto, in the event either party files a petition for review of the Arbitrator's decision. If the original is not on file, in the event a transcript is ordered it will be prepared as an original and the party will be charged at a rate provided for in Section 16 of the Workers' Compensation Act. The Commission will not consider the unavailability of the transcript good cause for the failure to file a timely statement of exception(s) and supporting brief, or a response thereto.

ii) Where the transcript of proceedings has been ordered pursuant to subsection (b)(3)(C)(i) above, the transcript authenticated by the Arbitrator and copy of the statement of the final cost of the preparation of the transcript shall be filed by the Court Reporter at the Commission within 25 days after proofs are closed. Where the transcript of proceedings is ordered at the time a Petition for Review is filed, the transcript shall be authenticated and filed pursuant to Section 7020.80(b)(4)(A)(iii).

4) Section 19(b-1) Proceedings before the Commission

A) Perfecting a Review

A Petition for Review must be filed in duplicate at the Commission within the time provided by Section 19 of the Workers' Compensation Act. The Petition must contain or be accompanied by the following:

i) A Certificate of Service on the opposing party by personal service or certified mail;

ii) A certification that payment for the transcript in the amount set forth in the Arbitrator's Decision has been made to the Court Reporter. The Petition shall be accompanied by a copy of the check or money order sent to the Court Reporter. Where the amount paid is an estimate, the balance of the cost, if any, shall be paid upon receipt of the statement from the Court Reporter setting forth the final cost of the transcript. An order entered pursuant to Section 20 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.20) may be submitted for payment of the transcript;

iii) An order for the transcript of proceedings at Arbitration, where said transcript was not ordered at Arbitration. The transcript of proceedings authenticated by the Arbitrator shall be filed by the Court Reporter at the Commission within 25 days of the filing of the Petition for Review.

iv) A statement of Appellant's specific exception(s) to the Arbitrator's Decision; attachment of the statement of exception(s) and supporting brief required by sub-section (4)(B) below will satisfy this requirement.

B) Statement of Exception(s) and Supporting Brief

i) Any party filing a Petition for Review with the Commission shall file a statement of exception(s) and supporting brief with attached proof of service within 15 days of the filing of the Petition for Review. The Appellee may elect to file a response thereto, in which case the response must be filed and served on the opposing party within 15 days from the last day allowed for the filing of the Appellant's statement of exception(s) and supporting brief. Each party filing a statement of exception(s) and/or additions and supporting brief or response thereto shall file three (3) copies. Such statement of exception(s) and/or additions and supporting brief, or response thereto shall be written or printed on one side of no more than twenty (20) 8 1/2" x 11" sheets of paper and shall follow the format set forth in 50 Ill. Adm Code 7040.70(a). Failure of any appellant or petitioning party to file timely a statement of exception(s) and supporting brief may result in denial of oral argument.

ii) Timely filing shall be shown by: the date file stamped on the document at the time of receipt by the Commission at its office in Chicago, Illinois; a legible postmark date at least two (2) calendar days prior to and exclusive of the date on which such document was due to be filed in accordance with this rule, applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its office in Chicago, Illinois, or the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the document was received by the Commission at its offices in Chicago, Illinois, showing a date of mailing which is not less than two (2) calendar days prior to and exclusive of the date on which document was due to be filed. If the date required for filing or mailing falls on a Saturday, Sunday, or holiday, the time for filing or mailing shall be the next date which is not a Saturday, Sunday or holiday.

C) Hearing on Review and Oral Arguments

No hearing on Review will be held by the Commission. Immediately after the Petition for Review has been filed it will be assigned to a Commissioner who will promptly schedule the case for oral argument before a panel of three Commissioners as provided in Section 19(e) of the Act.

D) The Commission shall file its decision no more than 90 days after the filing of the Petition for Review, and not later than 180 days from the filing of the Petition under Section 19(b-1), whichever is sooner.

5) Service in Section 19(b-1) Proceedings
All service required pursuant to this rule must be by personal service or certified mail with return receipt. After initial service to the employer, service shall be made on the employer's attorney or designated representative.

(Source: Amended at 17 Ill. Reg. 2206, eff. Feb. 16, 1993)

Section 7020.90 Petitions to Reinstate

a) Where a cause has been dismissed from the arbitration call for want of prosecution, the parties shall have 60 days from receipt of the dismissal order to file a petition for reinstatement of the cause onto the arbitration call. Notices of dismissal shall be sent to the parties.

b) Petitions to Reinstate must be in writing. The petition shall set forth the reason the cause was dismissed and the grounds relied upon for reinstatement. The petition must also set forth the date on which Petitioner will appear before the Arbitrator to present his petition. A copy of the petition must be served on the other side at the time of filing with the Commission in accordance with the requirements of Section 7020.70.

c) Petitions to Reinstate shall be docketed, and assigned to and heard by the same Arbitrator to whom the cause was originally assigned. Both parties must appear at the time and place set for hearing. Parties will be permitted to present evidence in support of, or in opposition to, the petition. The Arbitrator shall apply standards of fairness and equity in ruling on the Petition to Reinstate and shall consider the grounds relied on by Petitioner, the objections of Respondent and the precedents set forth in Commission decisions.

d) A cause shall be reinstated upon stipulation of the parties filed with the Commission, which will docket the stipulation.

(Source: Amended at 6 Ill. Reg. 11909, effective September 20, 1982)

Section 7020.100 Medical Examinations

a) Notice of Medical Examination
The petitioner need not present himself for any examination requested by the respondent unless the name and address of the examining physician and surgeon is furnished the petitioner in writing at the time the request for such examination is made.

b) Cost to Petitioner
The costs and expenses incurred by the petitioner as a result of submitting to an examination

requested by the respondent shall be reimbursed him in the manner and amount provided in Section 12 of the applicable act.

c) Impartial Medical Examination

1) The Commission may order an impartial medical examination pursuant to section 19(c) of the Act. The Secretary of the Commission shall notify the Illinois State Medical Society in writing that an impartial medical examination has been ordered by the Commission and shall state the name and address of the person to be examined, the nature of the disputed condition and the type of medical specialist required. The Illinois State Medical Society shall select an impartial physician and arrange the time and place of the examination and shall notify the secretary of the Commission. The Secretary shall notify the parties and the impartial examining physician of time and place of the examination.

2) The impartial examining physician shall examine the Petitioner named in the order and shall transmit his signed report to the Secretary and the attorneys for the parties within 20 days of the examination. At the same time the physician shall return to the Secretary all the records and the data listed in the order and a statement for fees.

3) Either party may request the testimony of the impartial examining doctor. The doctor shall be subject to cross-examination by each party. If the testimony of the physician is requested, the impartial medical physician shall not be subpoenaed. The parties shall notify the Secretary of the request for testimony and the Secretary shall notify the physician and all parties of when and where the physician is to testify. The Commission may order the testimony of the physician by deposition only.

4) Attorneys are to avoid direct contact with the impartial examining physician.

(Source: Rule 2(10) (now Section 7020.100) renumbered from rule 2(9) at 6 Ill. 11909, effective September 20, 1982)

# PART 7030
# ARBITRATION

Section
7030.10 Arbitration Assignments
7030.20 Setting a Case for Trial
7030.30 Disqualification of Commissioners and Arbitrators
7030.40 Request for Hearing
7030.50 Subpoena Practice
7030.60 Depositions
7030.70 Rules of Evidence
7030.80 Briefs, Arbitrators' Decisions
7030.90 Opening and/or Closing Statements
7030.100 Voluntary Arbitration

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16] and of the Workers' Occupational Diseases Act [820 ILCS 310/19 and 16] .

SOURCE: Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency amendment at 5 Ill. Reg. 8547, effective August 3, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 7, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2514; amended at 9 Ill. Reg. 19722, effective December 6, 1985; emergency amendment at 14 Ill. Reg. 4913, effective March 9, 1990, for a maximum of 150 days; emergency expired August 6, 1990; amended at 14 Ill. Reg. 13141, effective August 1, 1990; amended at 15 Ill. Reg. 8214, effective May 17, 1991; amended at 20 Ill. Reg. 4053, effective February 15, 1996.

## Section 7030.10 Arbitration Assignments

a) In cases arising in Cook County, cases shall be assigned at the time of the First Notice of Hearing to Arbitrators on a random basis by a computer program. All cases filed prior to January 1, 1982, which have not been assigned to an Arbitrator for hearing or settlement shall be assigned to Arbitrators using a random assignment system established at the direction of the Commission to facilitate assignment of all such cases to an Arbitrator in an equitable and efficient manner.

b) In cases arising outside Cook County, cases shall be assigned to an Arbitrator depending on the place of accident. Each Arbitrator outside Cook County shall be given a zone or geographical territory; all claims based on accidents occurring within such zones shall be assigned to that Arbitrator.

c) All assignments on arbitration are final except as otherwise provided in Sections 7030.30 and 7070.40, or where consolidation with a previously filed case is required.

d) In the event a Petitioner has an Application for Adjustment of Claim pending and files one or more Applications for Adjustment of Claim against the same Respondent, or against different Respondents alleging accidental injuries to the same part of the body subsequent cases shall on motion of any party be assigned to the case filed first. If a case is dismissed or otherwise closed and the Petitioner files an Application for Adjustment of Claim relating to the same accident, the case will be assigned to the Arbitrator assigned to the first case filed involving that accident. Where more than one Petitioner files a claim against the same Respondent relating to the same accident, the cases may be consolidated before the Arbitrator assigned to the case first filed upon motion of any party, if such consolidation would promote consistency and efficiency of administration. All disputes involving reassignment shall be heard by the Chairman or a Commissioner designated by the Chairman.

(Source: Amended at 20 Ill. Reg. 3820, effective February 15, 1996)

Section 7030.20 Setting a Case for Trial

a) A written request for a date certain for trial may be made at the monthly status call on which the case appears. A request for a trial date in a case which does not appear on the monthly status call may only be made in accordance with Section 7020.60(b)(2)(B).

b) If the parties by agreement request a trial date, the Arbitrator will assign a specific date and time for trial. A pre-trial conference may be held by the Arbitrator. Either party may request a pre-trial conference prior to the start of trial.

c) If there is no agreement:

1) Any party may file a motion requesting a date certain for trial. The motion must be accompanied by a form provided by the Industrial Commission called a Request for Hearing, which sets forth the moving party's claims on each issue.

2) A Respondent may file a motion requesting a date certain for trial if Respondent claims that:
   A) Respondent has not received in the prior 6 months any bills or other evidence that Petitioner is under medical care or undergoing physical or vocational rehabilitation related to the alleged accidental injuries, and
   B) Respondent has evidence establishing that Petitioner has not been entitled for the prior 6 months to temporary total disability benefits as a result of the alleged accidental injuries, and such benefits have not been paid for that period.

3) The motions for trial dates shall be filed and heard pursuant to Section 7020.70 and Section 7020.60. If the Arbitrator determines that proper and timely fifteen (15) days notice was given of the motion for trial date to the opposing party, opposing party was provided with a completed Request for Hearing, said case appears on the monthly status call on the date the motion is heard, or if the case is not on the status call, the Arbitrator has determined that the case falls within the exceptions in Section 7020.60(b)(2)(B), and that the matter shall proceed to trial, the Arbitrator shall set the matter for trial on a date certain. If any party fails without good cause to appear, the

Arbitrator will hear the motion for trial date ex parte, and if the Arbitrator determines the matter is ready for trial will set a trial date convenient to the Arbitrator and the party that appeared. The party that appeared shall notify the opposing party of the trial date.

d) On each trial day each party or, if represented, the party's attorney of record must appear before the Arbitrator between 8:45 a.m. and 9:15 a.m. during which time the Arbitrator shall establish the order in which cases shall proceed that day. The Arbitrator may give priority to cases in which a Petition under Section 19(b) or 19(b-1) of the Act has been filed, death benefits under Section 7 of the Act or permanent total disability benefits under Section 8 of the Act are claimed or other cases in which special circumstances exist which in the opinion of the Arbitrator warrant granting priority to the case in the trial order. Request for Hearing forms must be completed, signed and submitted to the Arbitrator prior to the beginning of the hearing in the case.

e) Failure of the Petitioner to appear before 9:15 a.m. may bar the case from being heard that day or may result in dismissal of the claim. Failure of the Respondent to appear may result in an ex parte hearing on the merits of the claim.

f) On each trial day the Arbitrator shall begin hearing cases at 9:30 a.m. Any party who requests a date certain for trial must be prepared, absent good cause shown, to proceed to trial. On the trial day parties may report the case settled or request a continuance on a form provided by the Industrial Commission. If the moving party does not respond when the case is called for trial by the Arbitrator, the case may be placed at the end of the trial order.

g) Bifurcated hearings are discouraged and will be allowed only for good cause. Examples of good cause include, but are not limited to, where the number or location of witnesses make it impossible to conclude the hearing in one day or the testimony of a witness must be taken prior to a deposition. All cases, except those which are heard under Section 19(b-1) of the Act, must be concluded within 3 months after the first hearing date or the Arbitrator will close proofs, absent good cause shown, and render a decision.

(Source: Amended at 20 Ill. Reg. 4053, effective February 15, 1996).

Section 7030.30 Disqualification of Commissioners and Arbitrators

a) No Arbitrator or Commissioner financially or otherwise interested in the outcome of any litigation, or any question connected therewith, shall participate in any manner in the adjudication of said cause, including the hearing of settlement contracts for lump sum petitions.

b) Examples of instances where disqualification by an Arbitrator or Commissioner should occur include, but are not limited to the following:

1) he or she has personal knowledge of disputed evidentiary facts concerning the proceedings;

2) he or she served as an attorney in the matter in controversy;

3) he or she is a material witness concerning the matter;

4) he or she was, within the preceding two years, associated in the practice of law with any law firm or attorney currently representing any party in the controversy;

5) he or she was, within the preceding two years, employed by any party to the proceeding or any insurance carrier, service or adjustment company, medical or rehabilitation provider, labor organization or investigative service involved in the claim;

6) he or she or his or her spouse, or a person within the third degree of relationship (pursuant to the civil law system) to either of them, or the spouse of such person:
   A) is a party to the proceeding, or an officer, director or trustee of a party;
   B) is acting as an attorney in the proceeding;
   C) is known by the Arbitrator or Commissioner to have a substantial financial interest in the subject matter in controversy;
   D) is to the Arbitrator's or Commissioner's knowledge likely to be a material witness in the proceeding;

7) he or she negotiated for employment with a party, a party's attorney or insurance carrier or service or adjustment company, in a matter in which the Arbitrator or Commissioner is presiding or participating in an adjudicative capacity.

c) Remittal of Disqualification
An Arbitrator or Commissioner disqualified under subsections (b)(5), (b)(6) or (b)(7) above, may disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and attorneys, independently of the Arbitrator's or Commissioner's participation, all agree in writing that the Arbitrator's or Commissioner's interest is immaterial, the Arbitrator or Commissioner may participate in the proceeding. The agreement signed by all parties and all attorneys shall be made a part of the record of the proceeding.

d) Reassignment

1) Cases on Arbitration
   A) Where an Arbitrator withdraws from a case and the venue of said case arises in Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator chosen randomly from all the Arbitrators in Cook County.
   B) Where an Arbitrator withdraws from a case and the venue of said case arises outside Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator in the nearest contiguous geographical territory.

2) Cases on Review
When a Commissioner withdraws from a case, it shall be the duty of the Commissioner to notify

the Industrial Commission, whose function it shall be to transfer the case to a Commissioner, representative of the same statutorily designated class, sitting on a panel other than that on which the withdrawing Commissioner sits.

(Source: Amended at 20 Ill. Reg. 3820, effective February 15, 1996)

Section 7030.40 Request for Hearing

Before a case proceeds to trial on arbitration, the parties (or their counsel) shall complete and sign a form provided by the Industrial Commission called Request for Hearing. However, in the event a party (or his counsel) shall fail or refuse to complete and sign the document, the Arbitrator, in his discretion, may allow the case to be heard and may impose upon such party whatever sanctions permitted by law the circumstances may warrant. The completed Request for Hearing form, signed by the parties (or their counsel), shall be filed with the Arbitrator as the stipulation of the parties and a settlement of the questions in dispute in the case.

Section 7030.50 Subpoena Practice

a) Issuance

A blank form of subpoena for the attendance of witnesses or the production of documents will be furnished by the Secretary of the Commission upon request of the parties or their attorneys.

b) Use

Unless otherwise agreed by the parties, witnesses or documents may only be subpoenaed to appear or be produced at the time and place set for hearing of the cause.

c) Service

Personal service of the subpoena is required and payment of Statutory fee and travel expense must accompany the service.

d)

1) Upon failure of any person, firm or organization to obey a subpoena of the Illinois Industrial Commission, a party seeking enforcement of the subpoena, or his attorney, shall prepare an application to the Circuit Court of the county in which the hearing or claim is pending requesting enforcement of the subpoena pursuant to Section 16 of the Illinois Workers' Compensation Act and shall present, file and serve on opposing party said application together with the original subpoena and proof of service to the Arbitrator or Commissioner designated to hear the said claim, or if no Arbitrator or Commission has been designated, then to the Chairman of the Commission.

2) A hearing pursuant to Section 7020.70 shall be held at which the Commissioner or Arbitrator to whom the application is presented shall determine if the subpoena requested relevant information, and was properly issued and served and if the application is proper in form. If the said Commissioner or Arbitrator shall so find, then, he or she shall sign the application. The party seeking enforcement of the subpoena, or his attorney, may then file and prosecute the application in the Circuit Court.

Section 7030.60 Depositions

a) Evidence depositions of any witness may be taken, before hearing, only upon stipulation of the parties or upon order, called a dedimus potestatem in Section 16 of the Act, issued by the Arbitrator or Commissioner to whom the case has been assigned upon application of either party. Evidence depositions of any witness may be taken after the hearing begins only upon order of the Arbitrator or Commissioner, for good cause shown. Except as provided in subsection (f) below, such application shall be in writing and shall contain the following:

1) The reasons for the issuance of the dedimus potestatem clearly and concisely stated.

2) The date upon which the dedimus should be issued and the name and address of the party to whom the dedimus is to be directed.

3) The names and addresses of the witnesses whose depositions are sought to be taken.

4) A statement as to whether the depositions are to be taken by oral or written interrogatories. Such written application shall be made either upon a printed form prescribed and furnished by the Commission or in a similar document prepared by the party applying for the dedimus.

b) The time for taking depositions pursuant to the issuance of the dedimus potestatem shall be on a date set not less than ten (10) days after the issuance of such dedimus potestatem.

c) Notice and Objection

1) Except as provided in subsection (f) below, no dedimus potestatem shall be issued unless a copy of the application, together with all documents required by this rule to be attached to said application, has been served on the opposing party and proof of service of such copy made as provided in 50 Ill. Adm. Code 7020(a), Pre Arbitration.

2) The opposing party may, within five (5) days after the receipt of the copy of the application, file written objections to the issuance of the dedimus potestatem. The Commission shall rule on such objections before the issuance of the dedimus potestatem.

d) Except as provided in subsection (f) below, notice of the issuance of the dedimus potestatem shall be given in sufficient time so that the receipt of such copy of the dedimus potestatem shall not be less

than ten (10) days before the date set for the taking of the deposition. If the deposition is to be taken by written interrogatories, such interrogatories shall be filed in triplicate with the application for dedimus potestatem and a copy of such interrogatories shall be attached to the copy of the dedimus potestatem mailed to each party. If cross-interrogatories are desired, the same shall be filed with the Commission, not more than five (5) days after the receipt of the written interrogatories, and the party filing same shall mail a copy thereof within the same period of time to the applicant for dedimus potestatem.

e) No dedimus potestatem shall be issued to take the depositions of any medical witnesses:
   A) where the party applying for the dedimus potestatem has refused or failed to comply with the provisions of Section 12 of the Act, and
   B) unless he shall have served the other side with a signed report of such medical witness--other than a treating physician--giving his findings and conclusions.

f) Exceptions

   1) Provided, however, where it is shown that by complying with the time requirements prescribed herein, the party seeking the dedimus may be deprived of the evidence sought to be obtained by the deposition, that the Arbitrator or Commissioner to whom a case has been assigned for hearing may, in his discretion:
      A) on notice and hearing before trial waive or reduce such requirements, or
      B) permit a party to present an oral application of a dedimus potestatem immediately before or during trial and, after due consideration of such application and any objections thereto that may be orally raised by the opposite party, rule upon the application.

   2) Where a dedimus potestatem is issued upon such oral application, the hearing officer shall allow the parties reasonable time to complete the deposition and submit the transcript thereof before closing proofs in the case.

g) When any party takes an evidence deposition, said deposition shall be filed and become part of the record as an exhibit of the party who applied for the dedimus to take the deposition, unless the parties agree otherwise.

h) All objections to questions propounded or answers adduced in the evidence deposition shall be fully explained on the record of said deposition. It shall be the duty of the hearing officer to note his ruling on each objection in the margin of the transcript of said deposition or at a hearing on the record.

(Source: Amended at 20 Ill. Reg. 4053, effective February 15, 1996)

Section 7030.70 Rules of Evidence

a) The Illinois common law rules of evidence and the Illinois Evidence Act [820 ILCS 305] shall apply in all proceedings had before the Industrial Commission, either upon arbitration or review, except to the extent they conflict with the Workers' Compensation Act, the Workers' Occupational Diseases

Act [820 ILCS 310], or the Rules Governing Practice Before the Industrial Commission.

b) Exhibits offered in evidence, whether admitted or rejected, shall be retained by the assigned Arbitrator or Commissioner until a decision is issued in the matter. Exhibits may not be removed by the parties. Once a final decision is rendered exhibits shall be retained by the Industrial Commission pursuant to the requirements of Section 17 of the Workers' Compensation Act [820 ILCS 305/17].

(Source: Amended at 20 Ill. Reg. 4053, effective February 15, 1996)

Section 7030.80 Briefs, Arbitrators' Decisions

a) At the close of proofs, the Arbitrator may require that each party file a proposed decision or a brief within 14 days. The proposed decision or brief must set forth all issues in dispute and the party's position on each issue. The proposed decision or brief must be served on the Arbitrator and all other parties and contain proof of service. The proposed decision shall be written in the same manner and form as that which is required under subsection (b).

b) After the closing of proofs the Arbitrator will issue a written decision which shall include:

1) the Commission number of the case, the names of the parties, and the name of the county in which the case was heard;

2) the issues agreed to and in dispute;

3) the Arbitrator's findings of fact and conclusions of law separately stated, upon each contested issue;

4) applicable orders resulting from the findings of fact and conclusions of law;

5) a statement of the requirements for filing a decision pursuant to 50 Ill. Adm. Code 7040.10(a) and (b);

6) where applicable, a statement of the rate of interest due under Section 19(n) of The Workers' Compensation Act, (Ill. Rev. Stat. 1989, ch. 48, par. 138.19(n)).

(Source: Amended at 15 Ill. Reg. 8214, effective May 17, 1991)

Section 7030.90 Opening and/or Closing Statements

A brief opening and/or closing statement may be made of record at the arbitration hearing.

Section 7030.100 Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

a) Selection of Arbitrators to Hear Cases Under Voluntary Arbitration

1) The Workers' Compensation Advisory Board shall compile a list of not less than seven (7) certified arbitrators, each of whom shall be approved by at least seven (7) of the nine (9) members of the Advisory Board, to conduct hearings. The Advisory Board shall submit such list to the Chairman of the Industrial Commission (the Chairman).

2) Within thirty (30) days of submission of the list by the Workers' Compensation Advisory Board, the Chairman shall select five (5) arbitrators from the list to conduct hearings. The Chairman shall publish the selections within fifteen (15) days.

3) If a vacancy occurs among the arbitrators selected by the Chairman to conduct hearings, the Chairman shall select an arbitrator from the list chosen by the Workers' Compensation Advisory Board to fill that vacancy. At any time the list contains less than seven (7) names of current certified arbitrators, the Chairman shall request that the Advisory Board provide a list of additional certified arbitrators from which to make selections.

b) Request for Voluntary Arbitration

1) After filing an application for adjustment of claim but prior to the hearing on arbitration, the parties may voluntarily agree to submit the application for decision by an arbitrator from a list of five (5) arbitrators selected by the Chairman to hear cases under this Section. If the parties cannot agree on an arbitrator from the list of five (5) arbitrators, they may, by agreement, select an arbitrator from the American Arbitration Association.

2) Only applications for adjustment of claim which involve a dispute over temporary total disability, permanent partial disability or medical expenses may be submitted for decision by an arbitrator under this Section.

3) The agreement of the parties to submit the case to voluntary arbitration shall be in writing and shall be filed with the Commission. The written agreement shall be on a form provided by the Commission. The form shall contain the following:
   A) a statement indicating the voluntary nature of the proceedings, the waiver of certain rights by the parties and the statement in subsection (c)(2) to be read by the arbitrator at the beginning of the hearing.
   B) a certification by the arbitrator and any party not represented by an attorney that the statement in subsection (c)(2) was made on the record by the arbitrator at the beginning of the hearing and the party elected to proceed without counsel.

4) When an agreement to submit a case for decision by an arbitrator under this Section has been filed with the Commission, the application shall be assigned to the call of the arbitrator chosen by the

parties to conduct the hearing. In cases in which the parties agree to select an arbitrator of the American Arbitration Association, the Commission shall notify the parties of the time and place of the hearing.

c) Conduct of Hearings

1) The arbitrator conducting the hearing shall advise the parties on the record at the beginning of the hearing of their rights under Section 19(p) of the Workers' Compensation Act or 19(m) of the Workers' Occupational Diseases Act and of the voluntary nature of the proceedings.

2) In all cases in which any party is not represented by an attorney, the following statement shall be made on the record by the arbitrator at the beginning of the hearing:

Voluntary arbitration under Section 19(p) or 19(m) requires an understanding of the Workers' Compensation Act or Workers' Occupational Diseases Act as well as the laws of evidence and trial procedure. You are entitled to be represented by an attorney if you so desire. The arbitrator's decision under this procedure is conclusive on all findings of fact and your rights of appeal to the Courts are strictly limited to questions of law.

3) The Rules Governing Practice Before the Industrial Commission (50 Ill. Adm. Code: Chapter II) shall apply to hearings in cases submitted for decision by an arbitrator under Section 19(p) of the Workers' Compensation Act or 19(m) of the Workers' Occupational Diseases Act, except when inconsistent with this Section or Section 19(p) of the Workers' Compensation Act or Section 19(m) of the Workers' Occupational Diseases Act.

d) The Commission shall pay reasonable costs for services of an arbitrator of the American Arbitration Association.

(Source: Added at 14 Ill. Reg. 13141, effective August 1, 1990)

# PART 7040
# REVIEW

Section
7040.10 Perfecting a Review
7040.20 Assignment of Reviews
7040.30 Review Hearing Dates and Places
7040.40 Conduct of Review Hearings
7040.50 Remanding Orders
7040.60 Continuances for Oral Argument(s) and Extension(s) of Time for Filing Statements of Exception(s) and/or Addition(s) and Supporting Briefs and Abstracts
7040.70 Statements of Exception(s) and/or Addition(s) and Supporting Briefs and Abstracts
7040.80 Commission Decision on Review

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/19 and16).

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 22, p. 90, effective May 25, 1978; amended at 6 Ill. Reg. 8040, effective July 1, 1982; emergency amendment at 6 Ill. Reg. 15307, effective December 7, 1982, for a maximum of 150 days; codified at 7 Ill. Reg. 2345; amended at 8 Ill. Reg. 4499, effective March 28, 1984; amended at 9 Ill. Reg. 13744, effective August 21, 1985; amended at 9 Ill. Reg. 16249, effective October 15, 1985; emergency amendment at 9 Ill. Reg. 19133, effective November 20, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8100, effective May 5, 1986; emergency amendment at 14 Ill. Reg. 4940, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13173, effective August 1, 1990.

## Section 7040.10 Perfecting a Review

a) Time for Filing

1) Petitions for review of an arbitration decision shall be filed in duplicate with the Commission within the time provided by statute.

2) The Petition for Review shall contain a statement of the petitioning party's specific exceptions to the Decision of the Arbitrator.

b) Order of Arbitration Transcript

1) Stenographic reports of proceedings before the Industrial Commission shall be furnished the parties only upon written order filed with the Commission.

2) For purposes of perfecting a review, an arbitration transcript must be ordered within the time fixed by statute. The estimated cost of the transcript of proceedings may be obtained from the Industrial Commission, and the party requesting such transcript shall deposit a sum of money covering the

estimated cost before the reporter shall be required to complete the transcript. An order entered pursuant to Section 20 of the Workers' Compensation Act (the Act) (Ill. Rev. Stat. 1989, ch. 48, par. 138.20) may be submitted for said monetary deposits.

c) Notice of Additional Evidence
Parties desiring to introduce additional evidence shall, not less than five (5) days before the date of the hearing on review, give the opposite party a notice apprising him of the fact that additional evidence will be submitted and the nature thereof, at which time a copy of such notice shall also be filed with the Industrial Commission.

d) Authentication of Transcript

1) For purposes of perfecting a review, the transcript of arbitration proceedings shall be authenticated in the manner provided by statute (Ill. Rev. Stat. 1989, ch. 48, par. 138.19(b) and 172.54(b)), and presented to the Commission prior to or at the time set for hearing on review.

2) In cases in which the first hearing of record before the Arbitrator is commenced after December 18, 1989, the transcript of Arbitration proceedings shall be authenticated in the manner provided by statute, and presented to the Commission prior to or at a designated time and place set by the Commission as the Return Date on Review. The Return Date on Review shall be limited to the filing of the authenticated transcript.
   A) The Commission shall notify the parties at least thirty (30) days prior to the time set for the Return Date on Review.
   B) The reviewing party may elect to submit the authenticated transcript in person or by mail to the Review Department of the Commission at its offices in Chicago on or before the Return Date on Review. The authenticated transcript shall be accompanied by a cover letter indicating the case caption, case number, assigned Commissioner and Return Date on Review. Timely filing by mail shall be shown by a legible postmark date at least two (2) calendar days prior to and exclusive of the Return Date on Review, applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its offices in Chicago, Illinois, or the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the document was received by the Commission at its offices in Chicago, Illinois, showing a date of mailing which is not less than two (2) calendar days prior to and exclusive of the Return Date on Review.

3) In cases in which Section 19(b-1) Petitions have been filed, the transcript shall be authenticated and presented in accordance with Section 7020.80(b)(3)(C).

(Source: Amended at 14 Ill. Reg. 13173, effective August 1, 1990)

Section 7040.20 Assignment of Reviews

a) Reviews shall be assigned to individual Commissioners for hearing in the following manner:

b) At the conclusion of every work week, the transcript clerk shall deliver to the review clerk a list of the arbitration transcript completed during that week. The transcript shall be in numerical order according to the Commission docket number of each case. No information other than the transcript name and number shall appear on the list.

c) Upon receipt of the list of arbitration transcripts completed that week, the review clerk will cause those cases to be randomly assigned to a Commissioner by a computer program for Cook County cases. Cases outside Cook County shall be assigned to that particular territory.

d) Assignments shall be final except upon disqualification of a Commissioner as provided in Arbitration (50 Ill. Adm. Code 7030.30)

(Source: Amended at 10 Ill. Reg. 8100, effective May 5, 1986)

Section 7040.30 Review Hearing: Date and Place

The Commission shall give written notice to the parties of the date and place set for the initial hearing on review at least ten (10) days prior to the time fixed for hearing. Review shall be set at a place reasonably convenient to the parties.

(Source: 4(3) (now Section 7040.30) renumbered from Rule 4(4) at 6 Ill. Reg. 8040, effective July 1, 1982)

Section 7040.40 Conduct of Review Hearing

a) All cases on review under Section 19(b) of the Act in which the first hearing of record before the Arbitrator was commenced on or before December 18, 1989, shall proceed as follows:

   1) Order of Proof
      The reviewing party, or the party whose review is filed first, shall have the right to open and close the evidence.

   2) Limitation of Evidence
      Evidence may be adduced on review if the evidence:
      A) relates to the condition of the Petitioner since the time of the arbitration hearing; or
      B) relates to matters that occurred or conditions that developed after the arbitration hearing; or
      C) was not introduced at the arbitration hearing for good cause.

b) In all cases on review under Section 19(b) of the Act in which the first hearing of record before the Arbitrator is commenced after December 18, 1989, no additional evidence shall be introduced by the parties before the Commission.

c) Special Findings

1) Either party may request in writing that the Commission make special findings upon any written question or questions of law or fact (not to exceed five (5) in number) submitted to it concerning issues raised by the review. Said interrogatories shall be filed at least five (5) days prior to the Oral Argument or five (5) days after completion of the review hearing, whichever is later.

2) In all cases referred to in subsection (b) above, said interrogatories shall be filed at least five (5) days prior to the Oral Argument or five (5) days after the filing of the transcript, whichever is later.

3) A copy of the interrogatories must be served on the other side with appropriate proof of service.

(Source: Amended at 14 Ill. Reg. 13173, effective August 1, 1990)

Section 7040.50 Remanding Orders

Upon receipt of a remanding order from a reviewing court, the Commission shall docket same and set for hearing in the same manner as petitions for review, except that where practical the cause shall be assigned to the original hearing Commissioner.

(Source: Rule 4(5) (now Section 7040.50) renumbered from Rule 4(6) at 6 Ill. Reg. 8040, effective July 1, 1982)

Section 7040.60 Continuances for Oral Arguments and Extension(s) of Time for Filing Statements of Exception(s) and/or Addition(s) and Supporting Briefs and Abstracts

Parties are expected to make their oral arguments at the time and date set by the Commission. No continuances of an oral argument or extension of time for filing Statements of Exception(s) and/or Addition(s) and Supporting Briefs and Abstracts or other documents shall be granted except by order of the Commission for good cause shown.

(Source: Amended at 9 Ill. Reg. 16249, effective October 15, 1985)

Section 7040.70 Statements of Exception(s) and/or Addition(s) and Supporting Briefs and Abstracts

a) Except in cases where Section 19(b-1) Petitions have been filed, each party filing a petition for review of the Arbitrator's decision, or other proceedings such as under Sections 19(h) or 8(a) in which the right to oral arguments has been granted, or in which written statements of the parties have been ordered by the Commission, shall file its statement of exception(s) and/or addition(s) and supporting brief setting forth:

1) the identity of the party filing;

2) the names of the parties and the Commission's number of the cases;

3) the name of the Commissioner to whom the case has been assigned on Review;

4) the date, if any, scheduled for oral argument;

5) the name of the Arbitrator who rendered the decision or entered the order most recently prior to the filing of the party's petition;

6) the Arbitrator's findings, to include, whenever applicable:
   A) date of accident and/or (last) exposure found or alleged;
   B) the number of weeks of temporary total disability compensation awarded, and the amount of compensation paid;
   C) the dollar amount of medical expenses awarded;
   D) the nature of the disability and/or disfigurement and the number of weeks for disfigurement or the percentage of loss for permanent partial disability or specific loss, if any, awarded, or the fact of any award of benefits by reason of death or permanent total disability;
   E) the dollar amount of any awards, or other findings, under Sections 4(i), 8(f), 19(k), and Section 19(l), of the Act, if any,

7) appellant's statement of exception(s) and/or addition(s) to the Arbitrator's decision to include:
   A) separate headings identifying each issue asserted as an exception or addition;
   B) statements of particular evidence in the record pertaining to each such issue, together with citation of any legal authorities, including, Commission decisions which support the position of that issue.

b) three (3) copies of the appellant's statement of exception(s) and/or addition(s) and the supporting brief shall be filed with the Commission and served on all parties not later than thirty (30) days from the date of closing of proofs on Review if no transcript of the hearing on Review is to be prepared, or thirty (30) days from the date of notice of mailing or transmittal of the transcript of evidence on Review whenever such a transcript is to be prepared. The appellee may submit a response, in which case he must file three (3) copies of the response with the Commission and serve copies thereof on all parties within fifteen (15) days from the last day allowed for the filing of appellant's statements of exception(s) and/or addition(s) and supporting brief. Such a statement of exception(s) and/or addition(s) and supporting brief, and any response thereto, shall be written or printed on one side of no more than twenty (20) 81/2" x 11" sheets of paper, and shall include a certificate of the date and manner of service of copies on all other parties.

c) In addition to the statement of exception(s) and/or addition(s) and supporting brief required in the above paragraph depending on the size of the case and complexity of the issues involved, the reviewing Commissioner may order that an abstract of the record be filed with the Commission and served on all parties by each appealing party not later than thirty (30) days from the date of closing of proofs on Review or thirty (30) days from the date of notice of mailing or transmittal of the transcript of evidence on Review and each responding party shall have fifteen (15) days from the last day allowed for the filing of the opposing appellant's supporting brief within which to file a supplemental or corrected abstract. Appellant's reply, if filed, shall be limited to the matter raised in the

supplemental or corrected abstract and response and shall be filed within ten (10) days after the date for filing of the appellee's abstract.

d) All documents filed under this Section shall bear the caption of the case, including the Commission case number, and shall include the name of the Commissioner to whom the case has been assigned for the Review proceedings, together with the date set for oral argument, when applicable, directly under the case number in the caption. Documents filed pursuant to this Section will not be considered to have met the requirements for filing if they do not comply with the requirements of subsection (e). The Commission will only consider, and oral arguments will be limited to, the issues raised in both the Review proceedings stipulation form or its equivalent for proceedings such as those under Section 19(h) and (f) of the Act and in the party's statement of exception(s) and/or addition(s) and supporting brief, and to those in any complying response thereto. Failure of any appellant or petitioning party to file timely any statement of exception(s) and/or addition(s) and supporting brief as required by this Section, including an abstract when required under subsection (c) of this Section, shall constitute waiver of the right to oral argument by that party and an election not to advise the Commission of any reason to change the Arbitrator's decision or to grant the petition; and in any case in which no appealing party has filed a statement of exception(s) and/or addition(s) and supporting brief together with any abstract required by this Section, neither party will be entitled to an oral argument before the Commission.

e) Timely filing shall be shown by:

1) the date file stamped on the document at the time of receipt by the Commission at its office in Chicago, Illinois;

2) a legible postmark date at least two (2) calendar days prior to and exclusive of the date on which such document was due to be filed in accordance with this rule, applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its offices in Chicago, Illinois, or the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the document was received by the Commission at its offices in Chicago, Illinois, showing a date of mailing which is not less than two (2) calendar days prior to and exclusive of the date on which such document was due to be filed. If the date required for filing or mailing falls on a Saturday, Sunday, or holiday, the time for filing or mailing shall be the next date which is not a Saturday, Sunday or holiday.

f) In all cases on review under Section 19(b) of the Act in which the first hearing of record before the arbitrator is commenced after December 18, 1989, three (3) copies of the appellant's statement of exception(s) and/or addition(s) and supporting brief shall be filed with the Commission and served on all parties not later than thirty (30) days from the Return Date on Review. The appellee may submit a response, in which case he must file three (3) copies of the response with the Commission and serve copies thereof on all parties within fifteen (15) days from the last day allowed for the filing of appellant's statement of exception(s) and/or addition(s) and supporting brief. Such a statement of exception(s) and/or addition(s) and supporting brief, and any response thereto, shall be written or

printed on one side of no more than twenty (20) 8 1/2" x 11" sheets of paper, and shall include a certificate of the date and manner of service of copies on all other parties.

1) The requirement set forth in subsections (a), (d) and (e) above are applicable to subsection (f).

2) Subsection (c) above is applicable with the addition that in any case assigned to the Special Panel in which an Abstract of the Record has not been filed by January 1, 1990, or in any case remaining before the permanent panel of Commissioners, the Special Panel or, any reviewing Commissioner of the permanent panels may, by written notice to the parties, request the party appealing first to file an Abstract of the Record within thirty (30) days of the notice. The other party may file a supplemental Abstract within fifteen (15) days of the receipt of the original Abstract.

(Source: Amended at 14 Ill. Reg. 13173, effective August 1, 1990)

Section 7040.80 Commission Decision on Review

In all cases where at or before the closing of proofs on Review a party has filed a written request for a full written decision pursuant to section 19(e) of the Workers' Compensation Act (Ill. Rev. Stat 1983, ch. 48, par. 138.19(e)), Commission will issue a decision, which shall include:

a) the Commission's number of the case and the names of the parties, and the name of the county in which the case was heard on arbitration;

b) the Arbitrator's findings as relevant to the issues on Review, including, if relevant:

1) the date or dates of accident, exposure, of last exposure;

2) the number of weeks for which temporary total disability compensation was awarded, if any;

3) the dollar amount of medical expenses awarded, if any;

4) the nature and number of weeks, in case of disfigurement, or percentages, in case of partial losses of use, awarded with respect to disfigurement and permanent partial disability, the nature and the number of weeks awarded with respect to any specific losses under Section 8(e), if any, or the fact that benefits were awarded on account of death or permanent total disability;

5) findings under section 4(i), section 8(j), section 16, section 19(k), or section 19(l) of the Act, if applicable;

c) the identity (ies) of the party (ies) who has (or have) filed a Petition for Review, or other proceedings as under section 19(h), section 8(a), or section 8(f), and a statement of the issue to be decided on Review;

d) the Commission's findings of fact and conclusions of law upon each claim of exceptions or for

additions to the Arbitrators decision including a statement of the particular evidence in the record upon which the findings and conclusions are based;

e) applicable orders resulting from the findings of fact and conclusions of law;

f) a statement of the conditions, if any, for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 7060.

(Source: Added at 9 Ill. Reg. 13744, effective August 21, 1985)

# PART 7050
# ORAL ARGUMENTS

Section
7050.10 Right to Oral Argument
7050.20 Time Allotted
7050.30 Section 19(h) Petitions
7050.40 Petitioner's Presence at Oral Argument

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/19 and 16).

SOURCE: Filed and effective March 1, 1977; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2348.

## Section 7050.10 Right to Oral Argument

Upon the request of either party no later than the conclusion of the review hearing, a cause shall be set down for oral argument before not less than a majority of the members of the Commission.
(Source: Amended at 6 Ill. Reg. 8040, effective July 1, 1982).

## Section 7050.20 Time Allotted

Oral Argument on all cases where Nature and Extent of injury is the sole issue shall be limited to five (5) minutes for each side. Oral argument shall be limited to ten (10) minutes for each side inclusive of rebuttal time on all other cases and those cases where a total permanent disability or death award has been entered regardless of the number of issues involved.

## Section 7050.30 Section 19(h) Petitions

Oral argument may be had on hearings under Section 19(h) of the Workers' Compensation Act in the same manner as provided in Section 7050.20.

## Section 7050.40 Petitioner's Presence at Oral Argument

The petitioner, at his own request, or at the request of the hearing commissioner, shall present himself for examination at the time set for oral argument. In the event that neither the petitioner nor the hearing commissioner request the presence of the petitioner, the respondent may request his presence, subject to the discretion of the hearing commissioner, and if such presence is ordered by the hearing commissioner, the respondent shall pay in advance of the time fixed for said oral argument sufficient monies to defray the necessary expense of travel by the most convenient means to and from the place of examination and reimbursement for any loss of wages caused because of loss of working time as provided under Section 12 of the Workers' Compensation Act relative to physical examinations.

# PART 7060
# JUDICIAL REVIEW

Section
7060.10 Certification of Record: Conditions

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/19 and 16).

SOURCE: Filed and effective March 1, 1977; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 1242; amended at 9 Ill. Reg. 2496, effective February 11, 1985; expedited correction at 19 Ill. Reg. 292, effective February 11, 1985.

## Section 7060.10 Certification of Record: Conditions

a) Cost of Record
Judicial review of Commission decisions is had by summons as provided in the Workers' Compensation Act (Ill. Rev. Stat. 1991 ch. 48, par. 138.19) [820 ILCS 305/19]. In its decision on review, the Commission shall determine the amount of the probable cost of the record to be filed as a return to the summons. Upon payment of this amount, the Commission shall furnish the reviewing party a certified receipt.

b) Amount of Bond
In its decision on review, pursuant to Section 19(f)(2) of the Act, the Commission, or any member thereof, shall fix the amount of bond, if any, required to be filed by the appealing party as a return to the summons. Bond shall be set at an amount equal to $100 over the total unpaid amount of the award rendered by the Commission on review subject to a maximum of $75,000.

(Source: Expedited correction at 19 Ill. Reg. 292, effective February 11, 1995)

# PART 7070
# SETTLEMENT CONTRACTS AND LUMP SUM PETITIONS

Section
7070.10 Settlement Contracts
7070.20 Agreed Petitions for Lump Sum Settlement
7070.30 Contested Petitions for Lump Sum Settlement
7070.40 Action by Commission

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/19 and 16).

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 49, p. 244, effective December 7, 1978; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency rule at 4 Ill. Reg. 41, p. 171, effective September 25, 1980 for a maximum of 150 days; amended at 5 Ill. Reg. 4580, effective April 13, 1981; emergency rule at 5 Ill. Reg. 8547, effective August 12, 1981 for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2349.

## Section 7070.10 Settlement Contracts

a) Filing Requirements

1) Settlement Contracts shall be filed in quadruplicate on a form provided by the Commission and docketed. Where an application is pending, the contracts must bear the docket number of the application. Where no application has been filed, the contracts shall be given an original number and letter in the same manner as an application. In cases involving payment into the Second Injury Fund, one (1) additional copy shall be filed for record purposes. In addition, a stamped envelope must be submitted addressed to each person who is to receive copies of the approved contract by mail.

2) Settlement Contracts shall be accompanied by "Attorney Representation Agreement" on a form prescribed by the Commission and completely filled out and signed by Petitioner and attorney, if such contract has not been previously filed.

b) Contents
Settlement Contracts forms shall be completed in full and accompanied by an appropriate signed physician's report concerning the nature and extent and probable duration of the disability resulting from the alleged accident.

1) In cases of injury to an eye, the report shall state the prognosis with regard to the uninjured eye as well as the injured eye.

2) In cases involving claim for death benefits, the report shall refer to the medical cause of death. In addition, in death cases, photostatic copies of the death certificate, and, where applicable, marriage

certificate of the decedent and birth certificates of any minor children of the decedent, shall accompany the Settlement Contracts. In addition, the Petitioner shall file a written explanation of how the dependents of the decedent will be supported following the approval of the appropriateness of the settlement.

3) If a Petitioner has not returned to gainful employment at the time of the settlement due to disability caused by the accident, the Petitioner shall file a written explanation of how the Petitioner and his dependents will be cared for during the length of the disability, and any other information relevant to determining the appropriateness of the settlement.

c) Assignment

1) Settlement Contracts submitted by a Respondent and Petitioner represented by an attorney, wherein the Petitioner waives his right to have a settlement approved by an Arbitrator or a Commissioner shall be approved by the Industrial Commission without the necessity of review by an Arbitrator or Commissioner if and only if the Petitioner's attorney submits a written statement that:
   A) The Petitioner is not under medical care or undergoing physical or vocational rehabilitation;
   B) The Petitioner has returned to gainful employment for 60 days or more prior to the date of the settlement; and
   C) The injury did not result in a disability listed in Attorney's Fees (50 Ill. Adm. Code 7080.10 (a)).

2) Settlement Contracts on cases originating in Cook County, which have not previously been assigned to an Arbitrator or Commission. Settlement Contracts on cases originating outside of Cook County may be filed with the Arbitrator to whom the case is assigned or with the Commissioner who reviews cases from the territory in which the accident occurred. Settlement Contracts on cases which have been previously assigned to a Commissioner for review, shall be assigned to said Arbitrator or Commissioner.

3) If a Petitioner is not represented by an attorney, a different assignment procedure may be established from time to time by directive of the Commission for the benefit of such Petitioners. An attorney may file a motion requesting an immediate hearing on a settlement for good cause. If the motion is granted, the settlement will be assigned in the same manner as settlements of non-represented Petitioners.

d) Appearance of Petitioner
If both parties are represented by an attorney, the Arbitrator or Commissioner to whom the Settlement Contract has been assigned may approve or reject the Settlement Contract solely on the basis of information in the Settlement and the medical and other reports required to be submitted pursuant to Subsection (B) of this Part. Prior to rejection of a Settlement Contract in such a case, the Arbitrator or Commissioner shall give the parties an opportunity to be heard.

(Source: Amended at 5 Ill. Reg. 4580, effective April 13, 1981)

Section 7070.20 Agreed Petitions for Lump Sum Settlement

a) All of the requirements set forth in Section 7070.10 shall have equal applicability to agreed Petitions for Lump Sum Settlement.

b) In all cases, but particularly those involving either minor Petitioners or minor beneficiaries, the Commission reserves the right to elicit evidence concerning the use to which the proceeds of the settlement are to be put pursuant to Section 9 of the Act.

c) Where commutation is requested, the Commission reserves the sole right to compute the allowable commutation and enter the net amount ordered paid by the Respondent.

(Source: Amended at 6 Ill. Reg. 8040, effective July 1, 1982)

Section 7070.30 Contested Petitions for Lump Sum Settlement

Contested Lump Sum Settlement Petitions shall be docketed and set for hearing in the same manner as Petitions for Review.

Section 7070.40 Action by Commission

a) Upon presentation of Settlement Contracts or Petitions for Lump Sum Settlement, the Commission shall, after hearing or otherwise, either "approve" or "reject" the Contract or Petition for Lump Sum Settlement. If rejected, the Settlement Contract or the Petition for Lump Settlement shall remain in the Commission file to accompany the application filed, or any to be filed, for the accidental injuries alleged in the Contract or Petition, until the case is assigned to an Arbitrator for hearing. At that time the Rejected Settlement Contract shall be removed from the file and kept in a separate file until a final award has been entered by the Commission. In no event shall that case be assigned to any Arbitrator who has previously rejected a Settlement Contract presented in that case.

b) Where a Settlement Contract has been rejected by an Arbitrator and the venue of said case lies outside Cook County, it shall be the duty of the Arbitrator to return said file to the Industrial Commission, whose function it shall be to transfer the said case to a new Arbitrator in the nearest contiguous geographical territory, and the Industrial Commission shall notify all parties of the time, place and date pertinent thereto.

c) Where a Settlement Contract has been rejected by an Arbitrator and the venue of said case lies in Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator chosen randomly from all Arbitrators located in Cook County.

(Source: Rule 7(4) (now Section 7070.40) renumbered from Rule 7(5) and amended at 6 Ill. Reg. 8040, effective July 1, 1982)

# PART 7080
# ATTORNEY'S FEES

Section
7080.10 Petition For Fees
7080.20 Payment of Proceeds of Litigation

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/19 and 16).

SOURCE: Filed and effective March 1, 1977; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2350.

## Section 7080.10 Petition For Fees

a)

1) Whether a dispute has arisen between a Petitioner and his attorney or former attorney concerning the amount of payment of fees for services rendered or reimbursement of costs incurred in the prosecution of a claim, or a claim is made for fees in excess of the fees provided in Section 16(a) of the Workers' Compensation Act for extraordinary services, either the Petitioner or his attorney or former attorney may file with the Commission a Petition to Fix Fees which shall set forth the facts surrounding the dispute and the relief requested.

2) On receipt of said Petition, the Commission shall set the matter down for hearing after giving at least ten (10) days notice to parties and all the attorneys for Petitioner. After hearing, the Commission may enter an order dismissing the Petition or an award granting relief.

b) The Commission may also enter an award setting partial attorney's fees for an attorney who has withdrawn based on the reasonable value of services rendered and the actual time expended. This award shall be taken into consideration in fixing the final attorney's fees in the matter so that in no event shall the total of all attorney's fees awarded to all attorneys exceed that allowable under Section 16(a) of the Workers' Compensation Act.

(Source: Amended at 6 Ill. Reg. 8040, effective July 1, 1982)

## Section 7080.20 Payment of Proceeds of Litigation

Unless otherwise directed by the petitioner or the Commission, the respondent, its agent or insurance carrier, shall deliver the first payment of accrued compensation following an award or settlement to the offices of the attorney of record for the petitioner. Unless otherwise directed by the petitioner or the Commission, all subsequent payments of an award shall be delivered to the petitioner.

# PART 7090
# DISCIPLINING OF ATTORNEYS; AGENTS

Section
7090.10 Disciplining of Attorneys: Procedure
7090.20 Disciplining of Agents: Procedure

AUTHORITY: Implementing Section 19 and authorized by Section 19 of the Workers' Compensation Act (820 ILCS 305/19 and 16).

SOURCE: Filed and effective March 1, 1977; codified at 7 Ill. Reg. 1243.

## Section 7090.10 Disciplining of Attorneys: Procedure

a) Where a verified, written allegation of improper, unethical or contemptuous conduct is made against an attorney, relating to practice before the Commission, by a party to pending litigation or any officer of the Commission, the Commission may hold a hearing to determine the truth or falsity of the allegations.

b) The attorney whose conduct is challenged shall be entitled to reasonable notice of the time and place of such hearing and the charges against him. He shall have the right to be present at the hearing and to adduce any evidence in his defense. He shall have the right to cross-examine and the right to use of the subpoena power of the Commission. A complete transcript shall be made of the hearing.

c) If, at the conclusion of the hearing, the Commission finds that the attorney has acted improperly, unethically, or contemptuously, the Commission may take appropriate disciplinary action against the attorney, not inconsistent with the Illinois Supreme Court's jurisdiction over professional conduct of attorneys or the provisions of the Workers' Compensation Act. Such appropriate action shall specifically include the filing of a complaint against the attorney by the Commission, together with the transcript of the hearing, with the appropriate agency designated by the Illinois Supreme Court.

## Section 7090.20 Disciplining of Agents: Procedure

a) Whenever the Commission finds that an insurer, self-insurer, claims service, other association, or their agents, is practicing a policy of unfairness toward the claimant in the handling and processing of claims under the Workers' Compensation or Occupational Diseases Acts, the Commission may issue a rule to show cause why such carrier or agent should not be suspended from writing insurance or processing workers' compensation claims within the state.

b) The recipient of such a part to show cause shall be entitled to be informed of the charges against it, and to have an evidentiary hearing on the merits of the charges. The recipient shall have the right to be present, to call witnesses, and adduce other pertinent evidence.

c) After a full hearing, the Commission may invoke appropriate sanctions against the recipient as authorized by statute, specifically including citation to the Attorney General for misdemeanor, or certification to the Director of Insurance for suspension of license.

# PART 7100
# INSURANCE REGULATIONS

Section
7100.10 Insurance Forms
7100.20 Employer Coverage: Policy (Repealed)
7100.30 Policy Information Page
7100.40 Issuance of Binder Certificate (Repealed)
7100.50 Termination of Insurance
7100.70 Requirements For Approval as a Self-insurer
7100.80 Self-insurers to File Statements and Reports
7100.85 Administration of Claims Against Securities, Indemnity or Bonds of Self-insurers
7100.90 Administration of Claims Against Group Self-insurer's Insolvency Fund
7100.95 Employers Liability Fund
7100.100 Insurance Coverage: Compliance

AUTHORITY: Implementing Section 4 of the Workers' Compensation Act [820 ILCS 305/4], Section 4 of the Workers' Occupational Diseases Act [820 ILCS 310/4] and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/16] and Section 16 of the Workers' Occupational Diseases Act [820 ILCS 310/16] .

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 8910, effective August 24, 1981; codified at 7 Ill. Reg. 2345; emergency amendment at 8 Ill. Reg. 15976, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3705, effective March 12, 1985; emergency amendment at 10 Ill. Reg. 6003, effective April 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 15615, effective September 10, 1986; emergency amendment at 14 Ill. Reg. 4920, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13149, effective August 1, 1990; amended at 15 Ill. Reg. 16969, effective November 12, 1991; amended at 20 Ill. Reg. 3826, effective February 15, 1996.

## Section 7100.10 Insurance Forms

Where the Commission or an agent designated by the Commission (herein referred to as the National Council on Compensation Insurance) has prescribed submission of a policy information page according to Section 7100.30, no other document will be accepted for filing with the Commission or the National Council on Compensation Insurance.

(Source: Amended at 10 Ill. Reg. 15615, effective September 10, 1986)

## Section 7100.20 Employer Coverage: Policy (Repealed)

(Source: Repealed at 10 Ill. Reg. 15615, effective September 10, 1986)

Section 7100.30 Policy Information Page

a) Every insurer, upon issuance of an insurance policy must within ten (10) days file a policy information page with the National Council on Compensation Insurance showing the location(s) and character of the business operation(s), the date effective, and the policy number. The Policy information page must be counter-signed by a duly authorized agent of the insurance company.

b) A policy information page shall be required where a previous policy information page has been filed and the coverage has been extended, renewed or otherwise continued by the same insurance carrier.

(Source: Amended at 10 Ill. Reg. 15615, effective September 10, 1986)

Section 7100.40 Issuance of Binder Certificate (Repealed)

(Source: Repealed at 10 Ill. Reg. 15615, effective September 10, 1986)

Section 7100.50 Termination of Insurance

No termination notice of policy shall be accepted by the Commission or National Council on Compensation Insurance unless filed on a form prescribed and furnished by the Commission or National Council on Compensation Insurance. Such notice shall provide the following information: carrier name; National Council on Compensation Insurance carrier code; Insured's name and address; federal identification number; the number, effective date, and expiration date of the policy; reason for termination/cancellation; and reinstatement date, if applicable.

(Source: Amended at 10 Ill. Reg. 15615, effective September 10, 1986)

Section 7100.70 Requirements for Approval as a Self-insurer

a) Application

1) Initial Application

A) Any private employer under the Workers' Compensation Act [820 ILCS 305] (the Act) and/or the Workers' Occupational Diseases Act [820 ILCS 310] who shall desire to be approved as a self-insurer shall file with the Commission an application for approval on a form prescribed by the Commission and a current financial statement. A private employer does not include group self-insured employers under Section 4(a) of the Workers' Compensation Act or Section 4(a) of the Workers' Occupational Diseases Act or the State of Illinois, any political subdivision of the state, unit of local government or school district, or any other public authorities or quasi-governmental bodies including any subunits of the foregoing entities. (Section 4a-2(c) of the Act)

B) The application and current financial statement shall be signed and sworn to by the president or vice-president and secretary or assistant secretary of the employer if it be a corporation, or by all of the partners, if it be copartnership, or by the owner if it be neither a copartnership nor a corporation. (Section 4(a)(1) of the Act)

C) In the event the employer does not have a current audited financial statement, the employer must submit a current financial statement which has been prepared by an outside accounting firm.

D) Each controlled employer or subsidiary requesting approval as a self-insurer shall provide the current financial statement of the parent corporation(s) or each of its controlling person(s) designated by the Commission.

   i) A subsidiary means any entity in which another company, directly or indirectly, owns, controls or holds, with the power to vote a majority (more than 50 percent) of the outstanding voting securities of the company.

   ii) Controlled employer means a not-for-profit corporation with respect to which an individual or another entity has the right either to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation, or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation.

   iii) Controlling person means an individual or entity which has the right to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation; or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation.

E) All initial applications and financial statements shall be submitted at least 60 days prior to the requested effective date of self-insurance. (Section 4(a)(1) of the Act)

F) All initial applications must include evidence of current Workers' Compensation insurance coverage which shall be maintained until final approval as a self-insurer is granted.

G) Each private employer applying for self-insurance shall indicate how it will service its self-insurance program. The employer shall provide adequate facilities for the investigation, administration and payment of claims or shall contract with a service company possessing such personnel and facilities to provide such services. In determining whether facilities are adequate for the investigation, administration and payment of claims, the following shall be considered:

   i) whether there is personnel experienced in the adjudication of workers' compensation claims;

   ii) whether there is a reporting system for workers' compensation claims;

   iii) whether the reporting system is automated and the frequency of reports generated by the system; and

   iv) the response system to claims filing.

   If the employer has contracted with a service company for the administration of claims, a copy of the contract shall be submitted with the initial application.

2) Renewal Application
   A) Each private self-insurer shall, upon notice from the Commission, file annually an application to continue the self-insurance privilege. The renewal application shall be on a form prescribed by the Commission and shall be accompanied by a current financial statement as described in subsection (a)(1)(C). The renewal application and current financial statement shall be signed and sworn to in accordance with subsection (a)(1)(B) above. Each subsidiary or controlled employer requesting approval as a self-insurer shall provide the current financial statement of its parent corporation(s) or controlling person(s) designated by the Commission.
   B) The self-insurer shall indicate any change in how it will service its self-insurance program. If the employer has contracted with a service company for the administration of claims, a copy of the current contract shall be submitted with the renewal application.

b) Application Fee

1) Each private employer applying for self-insurance and each private self-insurer applying for renewal (continuation) of the self-insurance privilege shall pay a non-refundable application fee of $500.00 which shall be deposited upon receipt by the Commission into the Self-insurers Administration Fund. (Section 4a-4(a) of the Act)

2) Where the applicant is a corporation, an application fee shall be required of each corporation and each and every corporate subsidiary. (Section 4a-4(a) of the Act) Where the applicant is a not-for-profit corporation employer, an application fee shall be required for each and every controlling person and each and every employer applying for the self-insurance privilege or the renewal of the self-insurance privilege.

3) The application fee shall be paid by check or money order made payable to the Self-insurers Administration Fund.

c) Review of Application

1) Within 45 days of receipt of an initial application or an application to renew the self-insurance privilege, the Self-insurer's Advisory Board (the Board) shall review or see to the review of the application and submit its recommendations for disposition to the chairman of the Commission (the Chairman). (Section 4(j) of the Act)

2) The review of the application shall include, but not be limited to, consideration of the earned points on the financial ratios set forth below:
   A) Earned Points on Financial Ratios

i) Current Assets to Current Liabilities

2 : 1 = 6 points
1.75 : 1 = 5 points
1.6 : 1 = 4 points
1.4 : 1 = 3 points
1.25 : 1 = 2 points
1.1 : 1 = 1 points
1 : 1 = 0 points

(A negative ratio, one in which current assets are less than current liabilities, may be considered a reason to reject a new application).

ii) Capital & Retained Earnings (Net of Treasury Stock) to Sales (Less Discounts)

20% = 6 points
17.5% = 5 points
13.5% = 4 points
10% = 3 points
8.5% = 2 points
7% = 1 points
5% = 0 points

iii) Capital & Retained Earnings to Long Term Debt

2 : 1 = 6 points
1.75 : 1 = 5 points
1.6 : 1 = 4 points
1.4 : 1 = 3 points
1.25 : 1 = 2 points
1.11 : 1 = 1 points
1 : 1 = 0 points

B) An employer who earns a total of 18 points in the three financial ratios in subsections (c)(2)(A)(i-iii) above in each year of the most current three years' audited financial statements and has been self-insured for a minimum of three consecutive years shall be deemed to have satisfied the Commission of its financial strength to meet its workers' compensation obligations without the necessity of furnishing security, indemnity or bond or making some other provision satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below.

C) A total of 9 to 18 points earned in the three financial ratios in subsections (c)(2)(A)(i-iii) above shall create a rebuttable presumption that the employer's application should be approved conditional upon the furnishing of appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below.

D) The Board may recommend for approval applicants who earn less than 9 points in the financial ratios of subsections (c)(2)(A)(i-iii) if the employer's application and financial statement, together with appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below, demonstrate the

ability of the employer to meet its obligations under the Workers' Compensation Act and Workers' Occupational Diseases Act.

3) Security
Where an applicant is required to furnish security, indemnity or a bond or provide some other means satisfactory to the Commission to guarantee payment of its workers' compensation obligation, the furnishing of such security, indemnity or bond or other provision shall be a condition precedent to the approval of the initial or renewal application for self-insurance. The Chairman may also require that the applicant further secure payment of liabilities under the Workers' Compensation Act and Workers' Occupational Diseases Act by obtaining a policy of excess liability or catastrophe insurance on such form as may be required by the Commission.

A) Security Determination

i) The amount of the security shall be based upon, but not be limited to, such criteria as the employer's financial strength, the amount of aggregate excess insurance, and demonstrated loss experience.

ii) An employer's financial strength shall be determined by applying the financial ratio summarization below. The financial ratio summarization is based upon the total number of earned points as calculated by applying the financial ratios in subsection (c)(2)(A). A financial factor (percentage) is assigned to the financial ratio summarization. The applicable financial factor is applied in determining the amount of security in subsections (c)(3)(B) and (C) below.

Financial Ratio Summarization

| Financial Factor | | Earned Points |
|---|---|---|
| 16 - 18 points | = | 35% |
| 14 - 15 points | = | 40% |
| 12 - 13 points | = | 60% |
| 9 - 11 points | = | 70% |

B) Security/Loss Fund Determination

i) Where the employer submits audited financial statements, the security requirement shall be determined by using the highest amount of security obtained after applying the following formulas:

RESERVE FORMULA

Total outstanding loss reserves are multiplied by the applicable trending factor. In the event that an employer's losses are affected by growth or size of the entity, the losses will be equalized. The following formula is then applied:

total outstanding loss reserves (loss fund) x applicable trending factor x applicable financial factor = security.

PAID LOSS FORMULA

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. However, in the event that an employer's losses are affected by

growth or size of the entity, the losses will be equalized. The following formula is then applied:

average yearly paid loss (loss fund) x applicable trending factor x applicable financial factor = security.

ii) If the employer submits financial statements which are not audited, the security requirements shall be determined by using the highest amount of security obtained after applying the following formulas:

RESERVE FORMULA

total outstanding loss reserves (loss fund) x applicable trending factor x 125% = security.

PAID LOSS FORMULA

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. The following formula is then applied:

average yearly paid loss (loss fund) x applicable trending factor x 125% = security

iii) Where the employer has aggregate excess insurance coverage, security may be based on the aggregate excess loss fund x applicable financial factor (percentage) assigned to the financial ratio summarization in subsection (c)(3)(A)(ii). If the employer submits financial statements which are not audited, the security shall be in an amount equal to the full aggregate excess loss fund multiplied by 125%.

iv) If the employer self-administers its workers' compensation claims program, or if the claims administration contract with an outside administrator does not include service of claims on an incurred basis, a factor of 120% is applied to the formulas used in subsections (c)(3)(B)(i), (ii) and iii above, to cover the contingent claims cost in the event of insolvency.

v) All trending factors used in this subsection are adopted by resolution of the Board and are available from the Board or the Commission upon request. Trending factors are determined by reviewing the rates of inflation for self-insurance, including claim payments, both medical and indemnity, and costs of claim administration. The trending factor shall be determined after consultation with a Fellow of the Casualty Actuarial Society.

C) The security requirement for self-insurers, who upon initial or renewal application, earn less than 9 points after applying the financial ratios in subsection (c)(2)(A), shall be determined as a percentage of the loss fund size as follows:

| Points Scored | Loss Fund Size | Percentage of Loss Fund |
|---|---|---|
| 6 - 8.9 | 0 - 250,000 | 130 |
| | 250,001 - 500,000 | 120 |
| | 500,001 - 1,000,000 | 110 |
| | 1,000,001+ | 100 |
| 3 - 5.9 | 0 - 250,000 | 150 |
| *29068 | 250,001 - 500,000 | 130 |
| | 500,001 - 1,000,000 | 120 |
| | 1,000,001+ | 110 |
| 0 - 2.9 | 0 - 250,000 | 200 |
| | 250,001 - 500,000 | 175 |
| | 500,001 - 1,000,000 | 150 |
| | 1,000,001+ | 130 |

If the percentage of loss fund referred to above is less than 125% and the employer has submitted unaudited financial statements, the percentage of loss fund used will be 125%. In addition, if the employer self administers its workers' compensation claims program or if the claims administration contract with an outside administrator does not include service of claims on an incurred basis, a factor of 120% is applied to cover the contingent claims cost in the event of insolvency.

D) No surety bond may be terminated unless the Chairman has received written notice of such prospective termination at least 60 days prior to the termination date.

E) Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. Such cash or bonds shall be deposited in escrow with any State or national bank or trust company having trust authority in the State of Illinois. (Section 4(b) of the Act) All escrow agreements shall be on a form provided by the Commission. Securities used to fund an escrow account shall have at all times a market value at least equal to the security requirement determined by the Chairman.

F) Alternative and additional means satisfactory to the Commission for securing the payment of workers' compensation obligations include but shall not be limited to a letter of credit approved by the Chairman. All letters of credit must be on a form prescribed by the Commission.

G) As an alternative to posting security, the Chairman will consider allowing an employer who qualifies for self insurance to provide an indemnification agreement which is unlimited in amount to the Self-insurers Security Fund for payments and expenses the fund incurs as a result of the failure of the employer to make workers' compensation payments as they become due under the Acts. The indemnitor must be an insurance company, not related to or affiliated with the self-insured employer, that is authorized to do business in this State. The Chairman reserves the right to make a determination as to the acceptability of the indemnitor and the content of the agreement.

4) Guarantee Agreement
A subsidiary or a controlled employer shall obtain a guarantee agreement executed by the parent company or controlling person(s) designated by the Commission. Pursuant to said agreement, the parent company or the controlling person(s) shall guarantee that the obligations of the subsidiary or the controlled employer under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall be paid. The guarantee agreement shall be submitted on a form prescribed by the Commission. Whenever a guarantor under such an agreement ceases to be a parent company, or controlling person(s) with respect to the subsidiary or controlled employer whose obligations it has guaranteed, the former parent company and subsidiary or controlling person(s) and controlled employer shall notify the Commission immediately. Notwithstanding any other provisions of this rule, if the Board determines that a controlled person or subsidiary is controlled by an alien controlling person or parent company or is a utility, the Chairman may, in his or her discretion, waive the requirement that the controlled employer or subsidiary provide a guarantee agreement; provided, that the controlled employer or subsidiary or utility shall furnish to the Commission security in an amount to be determined by the same methods used when an unaudited financial statement has been provided pursuant to subsection (c)(3)(B)(ii). "Alien controlling person or parent company" means a controlling person or parent company created or organized under the laws of a jurisdiction other than the United States of America or any political subdivision thereof.

d) Decision

Within 45 days after receipt of an initial application or application to renew (continue) the self-insurance privilege, the Board shall advise the Chairman of its recommendations regarding the disposition of that initial or renewal application. If the Chairman disagrees with any of the Board's recommendations, the Chairman shall, within 30 days after receipt of the Board's recommendations, notify the Board of the reasons in support of the decision. The Chairman shall also promptly notify the employer of the decision within 15 days after receipt of the recommendation of the Board. (Section 4(j) of the Act)

1) Approval
   A) The Chairman shall notify the applicant in writing that it has been approved as a self-insurer. Approval may be conditioned upon the furnishing of appropriate and adequate security. The notice shall set forth the requirements to be met, including, but not limited to, the furnishing of security and the basis therefor, obtaining appropriate excess liability or catastrophe insurance, and submission of an appropriate claims administration and loss control program.
   B) Within 60 days after receipt of the notice described in subsection (d)(1)(A), the conditionally approved employer shall comply with all of the requirements of conditional approval as stated in the notice. The Chairman shall then issue a certificate of approval as a self-insurer. The effective date of self-insurance shall be set forth in the certificate of approval.
   C) Failure of the conditionally approved employer to comply with all requirements of conditional approval within 60 days after receipt of the notice in subsection (d)(1)(A) or to file a request for reconsideration pursuant to subsection (f) below shall cause the Chairman to issue an order denying the request for approval as a self-insurer. Such order shall be subject to review pursuant to subsection (h) below. Nothing herein shall bar the employer from reapplying for

approval as a self-insurer.

2) Denial
   A) The Chairman shall notify the employer in writing that the employer's initial or renewal application and financial statement do not warrant approval of the self-insurance privilege. The notice shall set forth the reasons why the employer's application for approval as a self-insurer should be denied.
   B) Failure of the employer to file a request for reconsideration pursuant to subsection (f) below shall cause the Chairman to issue an order denying the request for approval as a self-insurer. Such order shall be subject to review pursuant to subsection (h) below.
   C) When the Chairman denies an application for renewal of the self-insurance privilege, nothing herein shall bar an employer from reapplying for approval as a self-insurer. Such re-application shall be considered an initial application and must qualify under subsection (c)(2).

e) Additional Information

1) The Chairman may at any time, on his own initiative or at the request of the Board, require a self-insurer to file additional information related to the self insurers' ability to adequately secure payment of its financial obligations under the Workers' Compensation Act and Workers' Occupational Diseases Act. Such information shall include, but not be limited to, information related to the employer's financial condition, the employer's ability to provide an adequate claims administration, loss control, or safety program, and to provide adequate excess insurance coverage.

2) Upon review of the additional information, if the Chairman finds, after consultation with the Board, that the security furnished by the self-insurer should be adjusted or that the self-insurance privilege should be terminated, the Chairman shall notify the employer of any change in the security requirement or of his intent to terminate the self-insurance privilege and the reasons therefor. The notice shall set forth a time and place of hearing on the matter, within 30 days after the date of the notice. The Chairman shall notify the employer of the decision in writing after the hearing date. Such decisions shall be subject to review pursuant to subsection (h) below.

3) Failure of a self-insurer to comply with a request for additional information, without good cause, may cause the Chairman to initiate proceedings to terminate the self-insurance privilege.

f) Petition for Reconsideration

1) Within 21 days after receipt of a notice of conditional approval or a notice that the employer's initial or renewal application does not warrant approval of the self-insurance privilege, the employer may file a petition for reconsideration of the Chairman's determination.

2) The petition for reconsideration shall be made in writing and must state the reasons why the Chairman should reconsider the decision.

3) The petition shall be accompanied by any documents which support the employer's position, and, if applicable, any information not previously considered. Such information may include, but is not limited to, evidence of an improving financial condition which was not available to the Board when the application was reviewed.

4) Request for Hearing
   A) The employer may request a hearing on the petition for reconsideration. The request for hearing must be filed with the request for reconsideration.
   B) Upon the filing of a timely petition for reconsideration and request for hearing as defined in subsection (f)(1) above, the Chairman shall issue a notice which sets forth a place and time of hearing within 30 days after the date of the notice.
   C) Hearings on the petition for reconsideration shall be conducted in accordance with subsection (g) below.
   D) In the absence of a request for hearing, the Chairman may consider all matters at issue from the petition for reconsideration and accompanying documentation.

5) The Chairman shall issue an order notifying the employer of his final decision and the reasons therefor. Such order shall be subject to review pursuant to subsection (h) below.

g) Conduct of Hearings

1) All hearings under this Section shall be conducted by the Chairman or Commissioner designated by the Chairman.

2) All hearings shall be conducted in accordance with the requirements of Article 10 of the Administrative Procedure Act [5 ILCS 100/Art. 10] .

3) At the hearing, the employer shall have the right to respond and to call witnesses, cross-examine witnesses and present evidence.

4) *The Commission, or any member thereof, shall have the power to administer oaths, to subpoena and examine witnesses and issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issues of denial or termination of the self-insurance privilege or adjustment of the security.* [820 ILCS 305/16]

5) The Illinois common law rules of evidence and Article VIII of the Code of Civil Procedure [35 ILCS 5/Art. VIII] shall apply at the hearing.

h) Appeal
All orders made by the Chairman under Section 4(j) of the Act shall be subject to review in the same manner and within the same time as provided by subsection (f) of Section 19 of the Act for review of awards and decisions of the Commission. (Section 4(j) of the Act)

(Source: Amended at 20 Ill. Reg. 3826, effective February 15, 1996)

Section 7100.80 Self-insurers to File Statements and Reports

All employers who are or hereafter become self-insurers in compliance with these rules, and the requirements of the Workers' Compensation Act and/or Workers' Occupational Disease Act shall file such statements and reports and give such information as the Industrial Commission may from time to time require and demand or deem necessary to satisfy the Commission as to the securing of the payment of compensation provided for in the Acts.

Section 7100.85 Administration of Claims Against Securities, Indemnity or Bonds of Self-Insurers

a) Determination of Self-insurer's Insolvent Condition

Whenever:

1) Any self-insured employer who is unable to pay compensation under the Workers' Compensation Act (Ill. Rev. Stat. ch. 48, pars. 138.7(f), 8 (a), 8(b), 8(c), 8(d)1, 8(d)2, 8(e), 8(f), 19(b) and 19(h) and Workers' Occupational Diseases Act, (Ill. Rev. Stat. 1983, ch. 48, pars. 172.42(7), 172.7(a)-(f) has filed a written notice of such inability with the Industrial Commission; or

2) Any person who has filed an Application for Adjustment of claim against a self-insured employer gives written notice to the Industrial Commission which the Commission determines has raised a question with respect to that employer's ability to pay compensation under the Workers' Compensation Act and Workers' Occupational Diseases Act; or

3) It is established that a court of competent jurisdiction has determined or is conducting proceedings to determine that a self-insured employer is unable to pay compensation under the Workers' Compensation Act and Workers' Occupational Diseases Act; or

4) Any self-insurer has filed for or is the subject of any proceeding under the federal Bankruptcy Reform act of 1978; or is a party whether plaintiff of defendant in any proceeding in which a receiver, liquidator, custodian, rehabilitator, sequestrator or trustee or similar officer for such self-insurer or its property has been appointed;

b) The Industrial Commission on its own motion or on the motion of any other party shall hold a hearing to determine the ability of the self-insurer to pay compensation under the Act of the existence and status of any proceeding or proceedings referenced above. *The Commission or any member thereof shall have the power to administer oaths, to subpoena and examine witnesses, and to issue subpoena duces tecum requiring the production of such books, papers, records, or documents as may be evidence to determine such issues.* (Ill. Rev. Stat. 1983, ch. 48, par. 138.16).

c) Duty to Notify
A self-insured employer which is claiming it is unable to pay compensation under the Workers' Compensation Act and Workers' Occupational Diseases Act, which is a party to a bankruptcy

proceeding described in subparagraph (a)(4) above, or which is the subject of an order set forth in subparagraph (a)(3) or (4) above, shall file written notice of such fact with the Industrial Commission within 10 days of the occurrence of such event.

d) Stay
Upon notification of any of the events in 50 Ill. Adm. Code 7100.85(a)(1)(4) the Industrial Commission shall on its own motion stay all proceedings before the Industrial Commission involving said self-insured employer for no less than 60 days.

e) Transfer of Securities, Indemnity of Bond to the Commission

1) The Industrial Commission will issue notification within 20 days after a hearing that the self-insured employer is unable to pay compensation due under the Workers' Compensation Act and Workers' Occupational Diseases Act, or has filed for or is the subject of any bankruptcy proceeding set forth in subparagraph (a)(4) above, or is the subject of an order under subparagraph (a)(3) or (4) above, any holder of any securities, indemnity or bonds furnished by such employer guaranteeing the payment of compensation under the Workers' Compensation Act and Workers' Occupational Diseases Act, shall notify the Industrial Commission in writing whether or not it is willing to and able to administer such funds. Unless the holder has provided written notification to the Commission within such 20 days period that it is able and willing to administer the funds, such holder shall immediately deliver all such securities, indemnity or bonds to the Industrial Commission; otherwise the Industrial Commission shall order such delivery; or refer the matter to the Attorney General's Office for litigation to collect or recover all such securities, indemnity or bonds.

2) Upon receipt of the securities, indemnity or bonds the Commission shall deposit the proceeds of the said securities, indemnity or bonds with any state or national bank or trust company having trust authority in the State of Illinois which has been ranked in the upper 10% in the Annual Report submitted by the State of Illinois Commissioner of Banks and Trust Companies and which has the lowest fees for administration of escrow funds. Deposits in said bank or trust company shall be in the form of negotiable United States government bonds of negotiable general obligation bonds of the State of Illinois. The said bank or trust company shall administer the funds and upon the order of the Commission shall distribute the funds. The administration fees for said bank or trust company shall be payable only from the interest accrued on said proceeds from time of deposit.

f) Filing Periods for Claims Against Securities, Indemnity or bonds

1) If the bankruptcy proceedings set forth in subparagraph (a)(4) above have been commenced or the order under subparagraph (a)(3) or (4) above has been entered prior to September 17, 1984, any claim against the securities, indemnity or bonds with respect to a case for which an Application for Adjustment of Claim not already been filed pursuant to 50 Ill. Adm. Code 7020.20 must be filed on or before September 17, 1984.

2) If the bankruptcy proceedings set forth in subparagraph (a)(4) above have been commenced or the order under subparagraph (a)(3) or (4) above has been entered on or after September 17, 1984, any claim with respect to a case for which an Application for Adjustment of Claim has not already been filed pursuant to 50 Ill. Adm. Code 7020.20 must be filed on or before 12 months after the date of the commencement of such proceedings or the entry of such order.

g) Distribution of Securities, Indemnity or Bonds

1) Upon determination by the Commission of the extent of the Self-insured's Liability under the Act in all cases for which Applications for Adjustment of Claims or settlement contract petitions have been filed or for which claims are pending against the securities, indemnity or bonds, the Commission shall hold a hearing to determine the proceeds of the securities, indemnity or bonds. Notice of this hearing will be by mail at least 15 business days prior to the hearing and shall be given to all parties including the holders of the securities, indemnity or bonds.

2) If, after a hearing pursuant to paragraph (1) above, the Commission has determined that the proceeds of the securities, indemnity or bonds are sufficient to pay all claim against such assets in full, it shall order the holder or the depositary bank or trust company to make payment to the parties entitled thereto who have perfected claims against such assets, in accordance with the terms of awards or settlements which the Commission has entered or approved.

3) If the Commission determines that the proceeds of securities, indemnity or bonds are not sufficient to pay all claims in full, then such claims which are for compensation for death and for temporary and total permanent disability and claims for medical expenses shall, as a class, be payable prior to payment of any other claims, and if the proceeds of securities, indemnity or bonds are not sufficient to pay all claims within said class in full, then payment of such claims will be pro rated on the basis of the amount of each claim in proportion to the amount of the securities, indemnity and bonds available for distribution.

4) After all claims within the class have been paid in full, if any amount from the proceeds of securities, indemnity or bonds remains for distribution, then payments of all other claims will be pro rated on the basis of the amount of each such claim in proportion to the amount of the remainder of the securities, indemnity or bonds.

5) If after all such claims are paid in full there exists any surplus securities, indemnity or bond amounts, the Commission shall order said amounts returned to the employer, bond company, or other party with legal right to such monies.

(Source: Added at 9 Ill. Reg. 3705, effective March 12, 1985)

Section 7100.90 Administration of Claims Against Group Self-insurer's Insolvency Fund

Upon the written notification of any party in interest or on its own motion, the Commission shall hold a hearing or hearings to determine whether the following events have occurred:

a) *the Director of Insurance has determined that compensation and medical services provided under the Workers' Compensation Act and Workers' Occupational Act may be unpaid by reason of the default of an insolvent group self-insurer; (Ill. Rev. Stat. 1983, ch. 48, pars. 138.4(a)(6)).*

b) the penal sum of the surety bond, indemnity or securities, if any, has been exhausted;

c) the assessment of individual employer member of the group self-insurer in default has been exhausted; and if so, amounts of compensation and medical services which remains unpaid from time to time to persons who have filed Application for Adjustment of Claims pursuant to 50 Ill. Adm. Code 7020.20 and settlements against the insolvent group self-insurer. Upon the determination by the Commission of the extent of the insolvent group self-insurer's outstanding liability under the Workers' Compensation Act and Workers' Occupational Diseases Act the Commission shall order the necessary payments be made from the Group Self-insurer's Insolvency Fund.

(Source: Added at 9 Ill. Reg. 3705, effective March 12, 1985)

Section 7100.95 Administration of Claims Against the Self-insured Employers Liability Fund

a) Upon the determination of any party in interest or on its own motion, the Commission shall hold a hearing or hearings to determine whether the following events have occurred:

   1) the Commission pursuant to 50 Ill. Adm. Code 7100.85(a)(1)-(4) has held a hearing and has determined that the self insured employer is unable to pay compensation and medical expenses provided under the Workers' Compensation Act;

   2) penal sum of the surety bond, indemnity or securities have been exhausted;

   3) *judgment have been rendered against the self-insured employer in accordance with Section 19(g) on or after the effective date of this Section, December 16, 1983;*

   4) *execution has been levied against the self-insured employer and has been returned unsatisfied in whole or in part;* and if so, the amounts of compensation and medical expenses which remain unpaid from time to time to persons who have filed unsatisfied judgments against the insolvent self-insured employer. Upon the determination by the Commission of the extent of the insolvent self-insured employer's outstanding liability, the Commission shall issue an initial order of assessment within 30 days against each employer who has been granted authority to self insure under section 4(a) of the Workers' Compensation Act which will be paid into the Self-insured Employers Liability Fund. The order shall provide for a sum sufficient to secure estimated payments of compensation, medical expenses and administrative charges of the fund for a period of one year following the date of the order, and

b) When it is determined by the Commission that compensation due and owing will extend beyond one year the Commission shall issue an order for further assessment of each self-insured employer payable within 30 days in order to secure payment of compensation, medical expenses and administrative

charges from the Self-insured Employers Liability Fund.

(Source: Added at 9 Ill. Reg. 3705, effective March 12, 1985)

Section 7100.100 Insurance Coverage: Compliance

a) Employers to Insure Payment of Compensation
Any employer who shall come within the provisions of Section 3 of the Workers' Compensation Act (the Act) (Ill. Rev. Stat. 1989, ch. 48, par. 138.3) or any employer who shall elect to provide and pay the compensation provided for in the Workers' Compensation Act and the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1989, ch. 48, par. 172.36 et seq.) shall insure payment of such compensation pursuant to Section 4(a) of the Act and Section 4(a) of the Workers' Occupational Diseases Act by obtaining approval by the Industrial Commission to operate as a self-insurer or by insuring its entire liability to pay such compensation in some insurance carrier authorized, licensed, or permitted to do such insurance business in Illinois.

b) Failure to Insure Payment of Compensation Liability--Penalty

1) *The Commission may assess a civil penalty of up to five hundred dollars ($500.00) per day for each day of:*
   A) *the knowing and wilful failure or refusal after December 18, 1989 of an employer to comply with any of the provisions of Section 4(a) of the act; or*
   B) *failure or refusal after December 18, 1989 of an employer, service or adjustment company, or an insurance carrier to comply with any order of the Industrial Commission pursuant to Section 4(c) of the Act and Section 4(c) of the Workers' Occupational Disease Act disqualifying it to operate as a self-insurer and requiring it to insure its liability with an insurance carrier.* (Ill. Rev. Stat. 1989, ch. 48, pars. 138.4(d) and 172.39(d).)

2) Penalties by the Commission may be assessed after reasonable notice and hearing in accordance with subsection (d).

c) Notice of Non-Compliance

1) The Industrial Commission shall give Notice of Non-compliance to the employer at the employer's last known address or to the representative thereof. The notice shall be accompanied by a certificate of service by the Industrial Commission on the employer setting forth the time and manner of service.

2) The Notice of Non-compliance shall be a written statement setting forth, but not limited to, the following information:
   A) the name and address of the employer;
   B) a statement of the section of the statute alleged to be violated, the periods of non-compliance and the penalty which may be imposed;

C) a statement that the employer must submit evidence of compliance or otherwise respond within thirty (30) days of the date of receipt of the notice. Examples of evidence of compliance are:
   i) a copy of the policy information page as required to be filed under Section 7100.30 which indicates coverage for the periods of alleged non-compliance;
   ii) a self-insurance certificate of approval covering the periods of alleged non-compliance.
D) a statement that failure to respond to the Notice of Non-compliance within the prescribed time period shall cause the Commission to set this matter for hearing in accordance with subsection (d).

3) Informal Conference
   A) When a Notice of Non-compliance has been sent, the Commission shall, at the request of the employer or its attorney, or may on its own initiative, schedule the matter for an informal conference at which a designated representative of the Commission shall meet with the employer in an attempt to resolve the matter.
   B) A request by the employer or its attorney for an informal conference must be received by the Commission within fifteen (15) days of the receipt of the Notice of Non-compliance.
   C) The Commission shall send written notice to the employer or its attorney at least seven (7) days prior to the scheduled conference.
   D) The conference shall be held at a site designated by the Commission.
   E) If the matter cannot be resolved at the conference, the Commission shall set the matter for hearing in accordance with subsection (d).

d) Hearings

1) Notice of Hearing; Locations
   A) A matter under this Section is commenced by the Industrial Commission by service of a Notice of Hearing upon the employer at least thirty (30) days prior to the time fixed for hearing. Service of the Notice shall be by United States registered or certified mail addressed to the employer at the last known address or to the representative thereof.
   B) the Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:
      i) the name and address of the employer;
      ii) the time, date and place of hearing;
      iii) the name of the Commissioner;
      iv) a statement of the section of the statute alleged to be violated, periods of non-compliance and the penalty which may be imposed; and
      v) a statement that failure to appear at the hearing where no continuance has been obtained prior to the hearing shall constitute a default and shall result in a finding that there has been a knowing and wilful failure of the employer to insure his liability to pay compensation in accordance with Section 4(a) of the Act or to comply with an order of the Commission under Section 4(c) and an assessment of penalties under Section 4(d) of the Act.
   C) The hearing shall be set at a site designated by the assigned Commissioner.

2) Assignment
   A) In all cases where the employer is principally located in Cook County, a matter to be scheduled for hearing under this Section shall be randomly assigned to a Commissioner.
   B) In all other cases, a matter to be scheduled for hearing under this Section shall be assigned to the Commissioner who serves that territory within which the employer is principally located.

3) Conduct of Hearings
   A) At the hearing a representative of the Commission shall have the opportunity to introduce evidence, to call and examine witnesses and to cross examine witnesses. The employer or its attorney shall be given the opportunity to show that there has been compliance with Section 4(a) or an order of the Commission under Section 4(c) or show cause why compliance has not been accomplished. The employer or its attorney shall have the opportunity to introduce evidence, to call and examine witnesses, and to cross-examine witnesses. The representative of the Commission shall have the right of rebuttal.
   B) *The Commission or any member thereof shall have the power to administer oaths, to subpoena and examine witnesses, and to issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issue of non-compliance.* (Section 16 of the Act.)
   C) The Illinois common law rules of evidence and Article VIII of the Code of Civil Procedure (Ill. Rev. Stat., 1989, ch. 110, par. 8-101 et seq.) shall apply except to the extent they conflict with the Workers' Compensation Act, the Workers' Occupational Diseases Act, or the Rules Governing Practice Before the Industrial Commission (50 Ill. Adm. Code: Chapter II).
   D) A certification from an employee of the National Council on Compensation Insurance stating that no policy information page has been filed in accordance with Section 7100.30 shall be deemed prima facie evidence of that fact.
   E) A certification from an employee of the Commission stating that an employer has not been approved as a self-insurer shall be deemed prima facie evidence of that fact.

e) Decision

The Commission, after the hearing is concluded, shall issue a decision which shall include:

1) the findings of the Commission;

2) where applicable, the dates of failure to insure and the amount of penalty assessed for each day;

3) the payment procedures as provided in subsection (f); and

4) a statement of the conditions for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 7060.

f) Payment Procedures

Where the Commission assesses a penalty against an employer in accordance with Section 4(d) of the

Workers' Compensation Act or Workers' Occupational Diseases Act, payment shall be made according to the following procedure:

1) payment of the penalty shall be made by certified check or money order made payable to the State of Illinois;

2) payment shall be mailed or presented within thirty (30) days of the final order of the Commission or the order of the court on review after final adjudication to:

Illinois Industrial Commission Fiscal Office
100 West Randolph Street Suite 8-328
Chicago, Illinois 60601
312/814-6625

(Source: Added at 14 Ill. Reg. 13149, effective August 1, 1990)

TITLE 50: INSURANCE
CHAPTER II: ILLINOIS WORKERS' COMPENSATION COMMISSION

PART 7110
MISCELLANEOUS

Section

7110.5 Definitions
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7110.90 Illinois Workers' Compensation Commission Medical Fee Schedule

EMERGENCY

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 5533, effective May 12, 1981; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2352; emergency amendment at 14 Ill. Reg. 4929, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13161, effective August 1, 1990; emergency amendment at 30 Ill. Reg. 1912, effective February 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11743, effective June 22, 2006; amended at 33 Ill. Reg. 2850, effective February 1, 2009; emergency amendment at 34 Ill. Reg. ___, effective ___, for a maximum of 150 days.

Section 7110.10 Vocational Rehabilitation

a) The employer or his representative, in consultation with the injured employee and, if represented, with his or her representative, shall prepare a written assessment of the course of medical care, and, if appropriate, rehabilitation required to return the injured worker to employment when it can be reasonably determined that the injured worker will, as a result of the injury, be unable to resume the regular duties in which engaged at the time of injury, or when the period of total incapacity for work exceeds 120 continuous days, whichever first occurs.

b) The assessment shall address the necessity for a plan or program which may include medical and vocational evaluation, modified or limited duty, and/or retraining, as necessary.

c) At least every 4 months thereafter, provided the injured employee was and has remained totally incapacitated for work, or until the matter is terminated by order or award of the Commission or by written agreement of the parties approved by the Commission, the employer or his or her representative in consultation with the employee, and if represented, with his or her representative shall:

   1) if the most recent previous assessment concluded that no plan or program was then necessary, prepare a written review of the continued appropriateness of that conclusion; or

   2) if a plan or program had been developed, prepare a written review of the continued appropriateness of that plan or program, and make in writing any necessary modifications.

d) A copy of each written assessment, plan or program, review and modification shall be provided to the employee and/or his or her representative at the time of preparation, and an additional copy shall be retained in the file of the employer and, if insured, in the file of the insurance carrier, to be made available for review by the Commission on its request until the matter is terminated by order or award of the Commission or by written agreement of the parties approved by the Commission.

e) The rehabilitation plan shall be prepared on a form furnished by the Commission.

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

Section 7110.20 Petitions under Sections 19(h), 8(a), and 7(a) of the Act

Petitions filed under Section 19(h) of the Act, alleging change in disability, or Section 8(a), asking reimbursement of medical expenses, or Section 7(a), seeking modification of a death award, shall be docketed and assigned for hearing in the same manner as a petition for review, except that where practical the cause shall be assigned to the original hearing commissioner.

Section 7110.30 Commission Meetings: Minutes

The Commission shall keep a record of the minutes of all its duly convened meetings, exclusive of deliberations on cases pending before the Commission. The minutes shall be open to the public for inspection.

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

Section 7110.40 Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment

Petitions to suspend compensation, as provided in Section 19(d) of the Act, shall be docketed and set for hearing as soon as possible, except that, if an emergency is alleged in the petition, it shall immediately be set for hearing. All petitions shall give the nature of the injury and the treatment required. Reasonable notice of the time and place of hearing shall be served upon the injured party either personally or by registered mail.

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

Section 7110.50 Petitions under Section 19(o) of the Act

a) A petition filed under Section 19(o) of the Act alleging that the insurer made payments in a case that was not compensable shall provide the following information:

   1) name and address of the employer;

   2) name and address of the employee;

   3) name and address of the insurance carrier;

   4) date of the alleged accident giving rise to the petition;

   5) benefits paid by the insurance carrier and the dates of the payment;

   6) whether Application for Adjustment of Claim was filed with the Commission and the Commission number assigned to the application;

   7) a brief statement of the basis for the insured's claim that the case was not compensable.

b) Consideration of a Section 19(o) Petition

   1) The Commission, on receipt of the 19-o petition, shall docket the petition and forward a copy of the petition to the insurance carrier and the attorney of record, together with notice of a hearing date not less than 30 days nor more than 60 days from the date the petition is filed.

2) The insurance carrier may answer the 19-o petition by filing with the Commission and serving the employer with a copy of its answer within 30 days after receipt of the petition. The answer shall bear the same heading as the 19-o petition and shall respond to the allegations on a paragraph-by-paragraph basis.

3) The 19-o matter shall, on the hearing date, be assigned to an Arbitrator in the same manner as an arbitrated case. The Arbitrator shall then hold an informal hearing with the employer and the insurance company in an attempt to resolve the dispute or narrow the issues. If the dispute cannot be resolved at the informal hearing, the Arbitrator shall file a written statement of the issues to be resolved by a Commissioner and the positions of each party. If possible, the statement should be agreed to by each party. The matter will then be assigned for hearing before a Commissioner in the same manner as reviews are assigned.

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

Section 7110.60 Distribution of Industrial Commission Handbook

An employer, upon receiving notice of an accident reportable pursuant to Section 6(b) of the Act, shall deliver the Commission Handbook to the injured employee, or determine that the employee has the handbook. An employer, individually or by his or her agent, service company or insurance carrier shall indicate, upon filing a first report of injury as provided in Section 6(b) of the Act, that a copy of the handbook has been delivered to the injured employee.

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

Section 7110.70 Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care

a) When an employee becomes unable to work due to an accidental or occupational disease arising out of or in the course of his or her employment, or alleges that he or she is unable to work, the employer, individually or by his or her agent, service company or insurance carrier, shall, within 14 calendar days after notification or knowledge of such inability or alleged inability to work:

1) begin payment of temporary total compensation, if any is then due; or

2) if the employer denies liability for payment of temporary total compensation for whatever reason, provide the employee with a written explanation of the basis for the denial; or

3) if the employer has insufficient information to determine its liability for payment of temporary total compensation, advise the employee in writing of the information needed to make that determination and provide in a written explanation why the requested information is necessary.

b) When an employer begins payment of temporary total compensation and later terminates or suspends further payment before an employee in fact has returned to work, the employer shall provide the

employee with a written explanation of the basis for the termination or suspension of further payment no later than the date of the last payment of temporary total compensation.

c) When an employer takes the position that it has insufficient medical information to determine its liability for the initial payment of temporary total compensation, or the continuation of such payment, the employer shall have the initial responsibility to promptly seek the desired information from those providers of medical, hospital and surgical services of which the employer has knowledge. The employee shall have the responsibility to provide or execute authorizations for release of medical information as the employer may reasonably request from time to time, and the employer shall promptly provide the employee or his or her representative, upon request, with copies of the complete medical records and reports it obtains with the authorizations.

d) When an employer denies liability for payment of the cost of all or a part of an employee's medical care, or initially accepts liability but subsequently declines further responsibility for providing or paying for all or a part of such care (for any reason including but not limited to the necessity or propriety of the care, or continuing care, or the unreasonableness of the cost of care), the employer shall promptly notify the employee with a written explanation of the basis for the denial of liability or further responsibility.

e) Failure by either party to comply with the provisions of subsection (a), (b), (c) or (d) of this Section, without good and just cause, shall be considered by the Commission or an Arbitrator when adjudicating a petition for additional compensation pursuant to Section 19(l) of the Act, or a petition for assessment of attorneys' fees and costs pursuant to Section 16 of the Act.

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

Section 7110.80 Rate Adjustment Fund and Second Injury Fund Contributions: Compliance

a) Employers Required to Make Payments to Rate Adjustment Fund and Second Injury Fund

Any employer who shall come within the provisions of Section 3 of the Act or any employer who shall elect to provide and pay the compensation provided for in the Act and the Workers' Occupational Diseases Act [820 ILCS 310] shall pay into the Rate Adjustment Fund and the Second Injury Fund in accordance with the provisions of Section 7(f) of the Act.

b) Penalties

1) *If the Commission finds, after reasonable notice and hearing* in accordance with subsection (e), *that an employer or insurance carrier on behalf of the employer has wilfully and knowingly failed to pay any obligations accruing after December 18, 1989 into the Rate Adjustment Fund or the Second Injury Fund as required by Section 7(f) of the Act or if such payments are not made within the time periods prescribed by Section 7(f) of the Act, the employer shall, in addition to such payments, pay a penalty of 20% of the amount required to be paid or $2,500, whichever is greater, for each year or part thereof of such failure to pay.* (Section 7(f) of the Act)

2) Obligations accruing prior to December 18, 1989:
   A) *Any obligations of an employer or insurance carrier to the Rate Adjustment Fund or the Second Injury Fund accruing prior to December 18, 1989 shall be paid in full by such employer within 5 years of December 18, 1989, with at least one-fifth of such obligation to be paid during each year following December 18, 1989.* (Section 7(f) of the Act)
      i) Such obligations shall be paid pursuant to an agreement signed by the employer or by the insurance carrier on behalf of the insured employer.
      ii) The agreement shall include the amount of the obligation and the date each payment is due.
   B) *If the Commission finds, after reasonable notice and hearing* in accordance with subsection (e)*, that an employer or insurance carrier has failed to make timely payments of any obligation accruing in subsection (b)(2)(A), the employer shall, in addition to all other payments required, be liable for a penalty equal to 20% of the overdue obligation or $2,500, whichever is greater, for each year or part thereof, that the obligation is overdue.* (Section 7(f) of the Act)

3) *The Commission may for good cause shown waive all or part of any penalty assessed.* The decisions of the Commission under Section 7(f) of the Act shall serve as precedents in determining good cause.

c) Verification of amounts paid by employers into the Rate Adjustment Fund and Second Injury Fund.

1) *The Chairman shall* by May 1 of each year *furnish to the Director of the Illinois Department of Insurance a list of the amounts paid into the Second Injury Fund and the Rate Adjustment Fund by each insurance company on behalf of their insured employers. The Director shall verify to the Chairman* on or before September 1 of each year *that the amounts paid by each insurance company are accurate as best the Director can determine from the records available to the Director.*

2) *The Chairman shall verify that the amounts paid by each self-insurer are accurate as best as the Chairman can determine from records available to the Chairman*. (Section 7(f) of the Act) The Chairman may, upon written notice, require that each self-insurer provide the following:
   A) *Information* on forms provided by the Commission *concerning the total compensation payments made upon which contributions to the Rate Adjustment Fund and Second Injury Fund are predicated, and*
   B) *Any additional information establishing that payments have been made into the Rate Adjustment Fund and the Second Injury Fund.* (Section 7(f) of the Act) Such additional information shall include, but not be limited to, cancelled checks or other proof of payment.

3) Any information requested under subsection (c)(2) shall be provided to the Commission by the self-insurer within 30 days after the date of the notice.

d) Notice of Deficiency -- Informal Conference

1) Notice of Deficiency
   A) When the records of the Commission or the Department of Insurance show that a deficiency exists regarding payment into the Rate Adjustment Fund or the Second Injury Fund, the Commission shall give notice of the deficiency to the insurance carrier or the self-insured employer. Service of the Notice of Deficiency shall be by United States registered or certified mail, addressed to the insurance company or the self-insured employer at the last known address, or to a representative thereof, and to the State Treasurer as ex-officio Custodian of the Rate Adjustment Fund and the Second Injury Fund.
   B) The Notice of Deficiency shall be a written statement setting forth, but not limited to, the following information:
      i) the name and address of the insurance carrier, or the self-insured employer or representative;
      ii) a statement of the statute alleged to be violated, the dates of non-payment or underpayment, the amount of deficiency and the penalty that may be imposed;
      iii) a statement that the self-insured employer or insurance carrier must cure the deficiency or otherwise respond in writing within 30 days after the receipt of the Notice;
      iv) a statement that the failure to respond to a Notice of Deficiency within the prescribed time period shall cause the Commission to set the matter for hearing in accordance with subsection (e).

2) Informal Conference
   A) When a Notice of Deficiency has been sent, the Commission may, at the request of the self-insured employer or insurance carrier, or on its own initiative, schedule the matter for an informal conference at which a designated representative of the Commission shall meet with the self-insured employer or the insurance carrier in an attempt to resolve the matter. An informal conference will not be scheduled when the self-insured employer or the insurance carrier cures the deficiency within 30 days of receipt after the Notice of Deficiency.
   B) A request by the self-insured employer or the insurance carrier for an informal conference shall be included in the response to the Notice of Deficiency.
   C) The Commission shall send written notice of the time and place of the conference to the self-insured employer or the insurance carrier and State Treasurer as ex-officio Custodian of the Rate Adjustment Fund and the Second Injury Fund at least 15 days prior to the scheduled conference.
   D) The conference shall be held at a site designated by the Commission.
   E) If the matter cannot be resolved at the conference, the Commission shall set the matter for hearing in accordance with subsection (e).

e) Hearings

1) Notice of Hearing; Locations
   A) Any matter under this Section is commenced by the Commission by service of a Notice of Hearing upon the insurance carrier or self-insured employer, and the State Treasurer as ex-officio Custodian of the Rate Adjustment Fund and the Second Injury Fund. Notice of Hearing shall be given at least 30 days prior to the time fixed for hearing. Service of the

Notice of Hearing shall be by United States registered or certified mail, addressed to the insurance carrier or the self-insured employer at the last known address, or to a representative thereof, and to the State Treasurer as ex-officio Custodian of the Rate Adjustment Fund and the Second Injury Fund.

B) The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:
   i) the name and address of the insurance carrier or self-insured employer;
   ii) the time, date and place of hearing;
   iii) the name of the hearing Commissioner;
   iv) a statement of the statute alleged to be violated and the penalty that may be imposed;
   v) a statement of the amount of the deficiency and the dates of non-payment or underpayment;
   vi) a statement that failure to appear at the hearing, where no continuance has been obtained from the Commissioner prior to the hearing, shall constitute a default and will result in a finding that there has been a wilful and knowing failure to comply with Section 7(f) of the Act, and an assessment of penalties.

C) The hearing shall be set at a site designated by the assigned Commissioner.

2) Assignment
   A) In cases in which the employer is principally located in Cook County, a matter to be scheduled for hearing under this Section shall be randomly assigned to a Commissioner.
   B) In all other cases, a matter to be scheduled for hearing under this Section shall be assigned to a Commissioner who serves the territory within which the employer is principally located.

3) Conduct of Hearings
   A) A representative of the Commission shall have the opportunity to introduce evidence, to call and examine witnesses and to cross-examine witnesses. The records of the Commission and the Department of Insurance regarding deficiency in payment shall be considered prima facie evidence of failure to comply with Section 7(f) of the Act.
   B) At the hearing, the insurance carrier or self-insured employer, or its attorney, shall be given the opportunity to rebut the evidence of deficiency.
   C) Any party, including the State Treasurer as ex-officio Custodian of the Rate Adjustment Fund and the Second Injury Fund, shall have the right to introduce evidence, to call and examine witnesses and to cross-examine witnesses. The representative of the Commission shall have the right of rebuttal.
   D) *The Commission, or any member thereof, shall have the power to administer oaths, to subpoena and examine witnesses and to issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issue* of non-compliance. (Section 16 of the Act)
   E) The Illinois common law rules of evidence and Article VIII of the Code of Civil Procedure [735 ILCS 5/Art. VIII] shall apply at the hearing except to the extent they conflict with the Act, the Workers' Occupational Diseases Act and the Rules Governing Practice Before the Illinois Workers' Compensation Commission (50 Ill. Adm. Code Ch. II).

f) Decision

The Commission, after the hearing is concluded, shall issue a decision in accordance with Section 7(f) of the Act, which shall include:

1) the findings of the Commission;

2) where applicable, the amount of the penalty assessed and the basis for the amount;

3) the payment procedures as provided in subsection (g);

4) a statement of the conditions for a judicial review of the Commission decision in accordance with the requirement of 50 Ill. Adm. Code 7060.

g) Payment Procedure

When the Commission assesses a penalty against an employer in accordance with Section 7(f) of the Act, payment shall be made according to the following procedure:

1) payment of the penalty shall be made by certified check or money order made payable to the State of Illinois.

2) payment shall be mailed or presented within 30 days after the final order of the Commission or the order of the court on review after final adjudication to:

Illinois Workers' Compensation Commission
Fiscal Office
100 West Randolph Street
Suite 8-328
Chicago, Illinois 60601
312/814-6625

(Source: Amended at 30 Ill. Reg. 11743, effective June 22, 2006)

**Section 7110.90 Illinois Workers' Compensation Commission Medical Fee Schedule**
EMERGENCY

a) In accordance with Sections 8(a), 8.2 and 16 of the Workers' Compensation Act [820 ILCS 305/8(a), 8.2 and 16] (the Act), the Illinois Workers' Compensation Commission Medical Fee Schedule, including payment rates, instructions, guidelines, and payment guides and policies regarding application of the schedule, is adopted as a fee schedule to be used in setting the maximum allowable payment for a medical procedure, treatment or service covered under the Act. The fee schedule is published on the Internet at no charge to the user via a link from the Commission's website at www.iwcc.il.gov. The fee schedule may be examined at any of the offices of the Illinois Workers' Compensation Commission.

b) The payment rates for procedures, services or treatments in the fee schedule were established in accordance with Section 8.2 of the Act by determining 90% of the 80th percentile of charges utilizing health care provider and hospital charges from August 1, 2002 through August 1, 2004. The charges were adjusted by the Consumer Price Index-U for the period August 1, 2004 through September 30, 2005. The payment rates in the fee schedule are designated by geozip (geographic area in which all zip codes have the same first 3 digits).

c) The fee schedule applies to any medical procedure, treatment or service covered by the Act and rendered on or after February 1, 2006, regardless of the date of injury.

d) Under the fee schedule, the employer pays the lesser of the rate set forth in the schedule or the provider's actual charge. If an employer or insurance carrier contracts with a provider for the purpose of providing services under the Act, the rate negotiated in the contract shall prevail.

e) Whenever the fee schedule does not set a specific fee for a procedure, treatment or service in the schedule, the amount of reimbursement shall be at 76% of actual charge, except where this Section provides that the following revenue codes/category descriptions (codes/categories that identify a specific accommodation or ancillary charge on a UB-04/CMS1450 or CMS1500 uniform billing form used for hospital or facility-based billing) are to be carved out from the total charge and reimbursed separately (pass through charges). The carve-out revenue codes (categories) are: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices) and 0636 (drugs requiring detailed coding). Implants within the carve-out revenue codes/categories or implants otherwise identified by any individual or grouped revenue codes/categories are to be reimbursed at 25% above the net manufacturer’s invoice price less rebates, plus actual reasonable and customary shipping charges. Non-implantable devices or

supplies within the aforementioned carve-out revenue codes/categories shall be reimbursed at 65% of actual charge (the provider's normal rates under its standard chargemaster). A standard chargemaster is the provider's list of charges for procedures, services and supplies used to bill payers in a consistent manner. All implant charges are to be paid at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with the implant, submitted by a provider on a separate claim form, submitted by a distributor, or is submitted by the manufacturer of the implant.

f) Reimbursement under the fee schedule for a procedure, treatment or service, as designated by the geozip where the treatment occurred, shall be based on the place of service.

g) Out-of-State Treatment

1) If the procedure, treatment or service is rendered outside the state of Illinois, the amount of reimbursement shall be the greater of 76% of actual charge or the amount set forth in a workers' compensation medical fee schedule adopted by the state in which the procedure, treatment or service is rendered, if such a schedule has been adopted. Charges for a procedure, treatment or service outside the State shall be subject to the instructions, guidelines, and payment guides and policies in this fee schedule.

2) Where the charges are for facility fees (ambulatory surgical treatment center, ambulatory surgical treatment facility, hospital inpatient (standard and trauma), and hospital outpatient services), revenue code/category items as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual and reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be reimbursed at 65% of the provider's normal rates under its standard chargemaster as defined in subsection (e).

h) The fee schedule includes the following service categories:

1) Ambulatory Surgical Treatment Center (ASTC)

A) This schedule applies to licensed ambulatory surgical treatment centers as defined by the Illinois Department of Public Health (77 Ill. Adm. Code 205.110) or ambulatory surgical treatment facilities accredited by one of the following organizations; American Association for the Accreditation of Ambulatory Surgical Facilities (AAAASF), Joint Commission on Healthcare Organizations (JCAHO), or Accreditation Association for Ambulatory Health Care (AAAHC)

B) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago Illinois 60610, 2006, no later dates or editions.

C) This schedule provides the maximum fee schedule amount for surgical services administered in an ASTC or accredited ambulatory surgical treatment facility setting for codes 10021 through 69990. The schedule is a partial global reimbursement schedule in that all charges rendered during the operative session are subject to a single fee schedule amount, except as provided in subsections (h)(1)(D) and (h)(1)(F).

D) Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be reimbursed at 65% of the provider's normal rates under its standard chargemaster as defined in subsection (e).

E) All professional services performed in an ASTC setting are subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).

F) This schedule does not apply to the professional or technical components of radiology and pathology and laboratory services performed in an ASTC setting. Charges for these services must be submitted on a separate claim form and shall be subject to the professional services schedule in subsection (h)(8).

G) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.

2) Anesthesia

A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois, 60610, 2006, no later dates or editions, and the Relative Value Guide, American Society of Anesthesiologists, 520 North Northwest Highway, Park Ridge, Illinois 60068-2573, 2006, no later dates or editions.

B) This schedule was established utilizing health care provider charges from August 1, 2002 through August 1, 2004 from which a conversion factor was established. The maximum fee schedule reimbursement amount is determined by multiplying the conversion factor set forth in the schedule by the sum of all units according to guidelines set forth in the Relative Value Guide as follows:

i) Base Value +Time Units + Modifying Units = Total Units
Total Units x Conversion Factor = Total Fee

ii) Physical status modifying units may be added to the basic value and time units and, in addition, units may be added for qualifying circumstances (extraordinary circumstances) in accordance with the Relative Value Guide.

C) Special coding situations, such as those involving multiple procedures, additional procedures, unusual monitoring, prolonged physician services, postoperative pain management, monitored (stand-by) anesthesia, invasive anesthesia and chronic pain management services, require application of the fee schedule in a manner consistent with the Relative Value Guide.

D) Anesthesia time begins when an anesthesiologist or certified registered nurse anesthetist (CRNA) physically starts to prepare the patient for the induction of anesthesia in the operating room (or its equivalent) and ends when the anesthesiologist is no longer in constant attendance (when the patient is safely put under postoperative supervision).

3) Dental
All procedures, treatments and services are reimbursed at 76% of actual charge unless services are billed under the HCPCS Level II schedule in subsection (h)(5) or professional fee schedule in subsection (h)(8).

4) Emergency Room

A) This schedule applies to any department or facility of a hospital, licensed by the Illinois Department of Public Health pursuant to the Hospital Licensing Act [210 ILCS 85] that:

i) operates as an emergency room or emergency department, whether situated on or off the main hospital campus; and
ii) is held out to the public as providing care for emergency medical conditions without requiring an appointment, or has provided at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis during the previous calendar year.

B) All procedures, treatments and services subject to this schedule are reimbursed at 76% of actual charge.

C) Radiology, pathology and laboratory and physical medicine and rehabilitation services performed in an emergency room shall be reimbursed in accordance with the radiology schedule in subsection (h)(7)(C), the pathology and laboratory schedule in subsection (h)(7)(D) and the physical medicine and rehabilitation schedule in subsection (h)(7)(E).

D) Emergency room facility charges, and professional services delivered in an emergency room facility billed by the facility using the facility's tax identification number, shall be subject to the emergency room facility schedule and are not subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8). Health care professionals who perform services in an emergency room facility and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8) and are not covered under emergency room facility schedule.

5) HCPCS (Healthcare Common Procedure Coding System) Level II The use of this schedule is in accordance with the HCPCS Level II, U. S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2006, no later dates or editions. Level II of the HCPCS is a standardized coding system used to identify products and services not included in the Current Procedural Terminology codes.

6) Hospital Inpatient: Standard and Trauma

A) The use of these schedules is in accordance with the Diagnosis-Related Group (DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 405 (2005), no later dates or editions. A DRG is a diagnosis-related group code that groups patients into homogeneous classifications that demonstrate similar length-of-stay patterns and use of hospital resources. The DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).

B) No later than June 30, 2009, the use of these schedules will be in accordance with the Medicare Severity Diagnosis Related Group (MS-DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 411 (2007), no later dates or editions. An MS-DRG is a diagnosis related group code that groups patients based on the severity of a patient's condition and resource consumption. The MS-DRG determines the

maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).

C) Inpatient care shall be defined as when a patient is admitted to a hospital where services include, but are not limited to, bed and board, nursing services, diagnostic or therapeutic services, and medical or surgical services.

D) Inpatient hospital bills are subject to the hospital inpatient standard schedule. Inpatient hospital bills from trauma centers designated as Level I and Level II trauma centers by the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 515.2030 and 515.2040 and that contain an admission type of "5" on a UB-04/CMS 1450 FL 14 (uniform billing form used by hospitals; FL 14 is the form locator number that indicates where the codes are to be listed on the UB-04/CMS 1450 form) are subject to the hospital inpatient trauma schedule.

E) Hospital providers must identify the DRG code on each bill (UB-04/CMS 1450 claim form). The DRG assignment should be made in a manner consistent with the grouping practices used by the hospital when billing both government and private carriers.

F) Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be reimbursed at 65% of the provider's normal rates under its standard chargemaster as defined in subsection (e).

G) In the case of cost outliers (extraordinary treatment in which the bill for an inpatient stay is at least two times the fee schedule amount for the assigned DRG after pass-through revenue code charges referred to in subsection (h)(6)(F) have been deducted), the maximum reimbursement amount will be the assigned DRG fee schedule amount plus 76% of the charges that exceed that DRG amount. Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be reimbursed at 65% of the provider's normal rates under its standard chargemaster as defined in subsection (e).

H) Charges for professional services performed in conjunction with charges for other services associated with the hospitalization and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and

Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge in addition to the amount listed in this schedule for the assigned code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).

7) Hospital Outpatient

A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.

B) This schedule includes radiology, pathology and laboratory, and physical medicine and rehabilitation as well as surgical services performed in a hospital outpatient setting that were not performed during an emergency room encounter or inpatient hospital admission. The radiology, pathology and laboratory, and physical medicine and rehabilitation schedules shall be applied to the number of units billed on the UB-04.

C) Radiology

i) This schedule provides the maximum fee schedule amount for radiology services performed in a hospital outpatient setting for codes 70010 through 79999. The schedule applies to the technical component of radiology services that are billed in conjunction with revenue codes 320 through 359, 400 through 409 and 610 through 619.

ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).

iii) Professional radiology services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge. Radiologists or radiology groups who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.

D) Pathology and Laboratory

i) This schedule provides the maximum fee schedule amount for pathology and laboratory services performed in a hospital outpatient setting for codes 80048 through 89356. This schedule applies to the technical

component of pathology and laboratory services that are billed in conjunction with revenue codes 300 through 319.

ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).

iii) Professional pathology and laboratory services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge. Pathologists who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.

E) Physical Medicine and Rehabilitation

i) This schedule provides the maximum fee schedule amount for physical therapy services performed in a hospital outpatient setting for codes 97001 through 97799. This schedule applies to all physical and occupational therapy services that are billed in conjunction with revenue codes 420 through 439.

ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).

iii) All physical medicine and rehabilitation services provided in a hospital outpatient setting are subject to this schedule.

F) Hospital Outpatient Surgical Facility (HOSF)

i) This schedule provides a global maximum fee schedule amount for surgical services performed in a hospital outpatient setting for codes 10021 through 69990. All services performed in an operative session shall be reimbursed at a single fee schedule amount, except as provided in subsection (h)(7)(F)(ii). The single fee schedule amount shall represent the maximum amount payable for the total charges on a claim form that represents the total charges derived from all line items/revenue codes contained in the form. Except for the carve-out revenue codes listed in subsection (h)(7)(F)(ii), this fee schedule shall not be applied on a line item basis.

ii) Revenue code items/categories as defined in subsection (e) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be reimbursed at 65% of the provider's normal rates under its standard chargemaster as defined in subsection (e).

iii) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.

iv) In the case of cost outliers (extraordinary treatment in which the bill for hospital outpatient facility surgical charges is at least two times the fee schedule amount for the assigned code after pass-through revenue code charges referred to in subsection (h)(7)(F)(ii) have been deducted) the maximum reimbursement amount will be the assigned code fee schedule amount plus 76% of the charges that exceed the code amount. Revenue code items/categories as defined in subsection (e) and referred to in subsection (h)(7)(F)(ii) are carved out and associated pass through charges to be deducted from the total charge and reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges for implants. Charges for non-implantable items billed under the revenue codes identified in subsection (e) above shall be reimbursed at 65% of the provider's normal rates under its standard chargemaster as defined in subsection (e).

v) Surgical services performed in the emergency room (revenue codes 450 through 459) are not subject to this schedule and shall be subject to the emergency room facility schedule in subsection (h)(4).

vi) Charges for professional services performed in conjunction with charges for other services associated with the surgery and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge in addition to the amount listed in this schedule for the assigned surgical code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in

subsection (h)(5) or the professional services schedule in subsection (h)(8).

8) Professional Services

A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, 2006, no later dates or editions.

B) Services in this schedule include evaluation and management, surgery, physician, medicine, radiology, pathology and laboratory, chiropractic, physical therapy, and any other services covered under the Current Procedural Terminology.

C) Reimbursement for services under this schedule shall be in accordance with the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

D) Surgery services under this schedule shall be reimbursed in accordance with the Payment Guide to Global Days, Multiple Procedures, Bilateral Surgeries, Assistant Surgeons, Co-Surgeons, and Team Surgery in Section 8B of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

E) Medicine services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8E of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

F) Pathology and laboratory services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8D of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

G) Radiology services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8C of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

9) Rehabilitation Hospitals

A) This schedule applies to inpatient rehabilitation hospitals that are freestanding.

B) This schedule reimburses a rehabilitation hospital one per diem rate per day, on the basis of the assigned primary diagnosis code. The single per diem rate shall reimburse the rehabilitation hospital for all services provided in the course of a day.

C) The use of this schedule is in accordance with The International Classification of Diseases, Ninth Revision, Clinical Modification, (ICD-9-CM), Volume 2, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2007, no later dates or editions.

i) The fee schedule requires that services be reported with the HCPCS Level II or Current Procedural Terminology codes that most comprehensively describe the services performed. Proprietary bundling edits more restrictive than the National Correct Coding Policy Manual in Comprehensive Code Sequence for Part B Medicare Carriers, Version 12.0, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, 2006, no later dates or editions, are prohibited. Bundling edits is the process of reporting codes so that they most comprehensively describe the services performed.

j) An allied health care professional, such as a certified registered nurse anesthetist (CRNA), physician assistant (PA) or nurse practitioner (NP), is to be reimbursed at the same rate as other health care professionals when the allied health care professional is performing, coding and billing for the same services as other health care professionals.

k) Charges of an independently operated diagnostic testing facility shall be subject to the professional services and HCPCS Level II fee schedules where applicable. An independent diagnostic testing facility is an entity independent of a hospital or physician's office, whether a fixed location, a mobile entity, or an individual nonphysician practitioner, in which diagnostic tests are performed by licensed or certified nonphysician personnel under appropriate physician supervision.

l) No later than September 30, 2006 and each year thereafter, the Commission shall make an automatic adjustment to the maximum payment for a procedure, treatment or service in effect in January of that year. The Commission shall increase or decrease the maximum payment by the percentage change of increase or decrease in the Consumer Price Index-U for the 12-month period ending August 31 of that year. The change shall be effective January l of the following year. *The Consumer Price Index-U means the index published by the Bureau of Labor Statistics of the U.S. Department of Labor that measures the average change in prices of all goods and services purchased by all urban consumers, U.S. city average, all items, 1982-84=100*. (Section 8.2 of the Act)

(Source: Amended at 33 Ill. Reg. 2850, effective February 1, 2009)

(Source: Emergency amendment at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

# PART 7120
# ANTI-CORRUPTION RULE

Section
7120.10 Prohibition of Payment or Things of Value to Commission Personnel
7120.20 Prohibit of Request by Commission Personnel for Payment or Thing of Value
7120.30 Discipline for Violation
7120.40 Statutory Fees Not Applicable

AUTHORITY: Implementing and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/16).

SOURCE: Filed and effective March 1, 1977; codified at 7 Ill. Reg. 2354.

## Section 7120.10 Prohibition of Payment or Thing of Value to Commission Personnel

It shall be a violation of the rules of the Industrial Commission for any party to a proceeding, a representative of any party to a proceeding, or any other person, firm or corporation having an interest in or connection with a pending proceeding or pay, lend or deliver or cause to be paid, lent or delivered to any member or employee of the Industrial Commission any money or other thing of value.

## Section 7120.20 Prohibition of Request by Commission Personnel for Payment or Thing of Value

It shall be a violation of the rules of the Industrial Commission for any member or employee of the Commission to request, demand, receive, accept, or agree to receive or accept any payment, loan, or delivery of any money or any thing of value from any party to a proceeding, a representative of any party to a proceeding, or any other person, firm, or corporation having any interest in or connection with a pending proceeding.

## Section 7120.30 Discipline for Violation

Any person, firm or corporation found to have violated the provisions of Section 7120.10 above shall be subject to suspension or revocation of their right to appear before the Industrial Commission or participate in any way in connection with any matters which may properly come before the Commission. Any employee of the Industrial Commission shall be subject to discipline, including discharge, for violations of Section 7120.20 above.

## Section 7120.40 Statutory Fees Not Applicable

The provisions of this Part shall not be applicable in respect to any money payable to an employee of the Industrial Commission as a fee as prescribed by statute or by formal order of the Industrial Commission.

# PART 7130
# HEARING LOSS GUIDELINES

Section
7130.10 Causal Connection
7130.20 Nature and Extent of Disability
7130.30 Prior Hearing Loss

AUTHORITY: Implementing Section 8(e)(16) and authorized by Section 16 of the Workers' Compensation Act (820 ILCS 305/8(e)(16) and 16).

SOURCE: Filed and effective March 1, 1977; emergency rule at 4 Ill. Reg. 41, p. 171. effective September 25, 1980 for a maximum of 150 days; amended at 5 Ill. Reg. 4580, effective April 13, 1981; codified at 7 Ill. Reg. 2515.

## Section 7130.10 Causal Connection

a) The Industrial Commission shall use the following rebuttable presumptions to determine whether exposure between July 1, 1975 and September 15, 1980, to industrial noise caused a hearing loss:

   1) Exposure to noise with the intensity of 90 decibels or more for 8 hours or its time weighted equivalent causes hearing loss, and

   2) Exposure to noise with the intensity of less than 90 decibels or less for eight hours or its time weighted equivalent does not cause hearing loss.

b) Cases with a date of last exposure after September 15, 1981, shall be determined pursuant to Ill. Rev. Stat. 1981, ch. 48, pars. 138.8(e)(16) (Workers' Compensation Act).

## Section 7130.20 Nature and Extent of Disability

a) The Industrial Commission shall use the following rebuttable presumptions to determine percentage loss of hearing in cases where the hearing loss was caused by exposure between July 1, 1975, and September 15, 1980:

b) The percentage loss of hearing shall be calculated using the average, in decibels, of the thresholds of hearing for the frequencies of one thousand, two thousand and three thousand cycles per second. If such losses of hearing average thirty decibels American National Standards Institute (ANSI) or less in the three frequencies, such losses of hearing shall not constitute any hearing disability. If the losses of hearing average eighty-five decibels (ANSI) or more in the three frequencies, such losses of hearing shall constitute total loss of hearing. Every average decibel loss exceeding thirty decibels (ANSI) shall constitute 1.82 percent of loss of hearing.

c) Pure tone conduction audiometric instruments shall be used for measuring hearing loss pursuant to

this guideline. Audiometric tests must not be conducted before a Petitioner has been separated from noise exposure for 16 hours or more.

Section 7130.30 Prior Hearing Loss

An employer shall be liable for the entire occupational deafness to which his employment contributed unless the employer can establish the extent of Petitioner's hearing loss prior to July 1, 1975. If the employer can establish prior hearing loss, the employer shall only be liable for the hearing loss caused by exposure to employer's noise after July 1, 1975.

# PART 7500
# COMMISSION REVIEW BOARD PROCEDURES

Section
7500.10 Function
7500.20 Chairman of the Commission Review Board
7500.30 Complaints
7500.40 Hearings on Complaints
7500.50 Decisions of the Board

AUTHORITY: Implementing and authorized by Section 14.1 of the Workers' Compensation Act (820 ILCS 305/14.1).

SOURCE: Emergency rules and adopted at 10 Ill. Reg. 3309 effective January 27, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3495, effective February 9, 1987.

## Section 7500.10 Function

a) Authority of the Commission Review Board (herein the Board) shall consist of the following:

1) to receive complaints concerning conduct that occurred after June 30, 1984, by an Industrial Commission Commissioner or Industrial Commission Arbitrator when either:
   A) allegations of misconduct committed as part of the Commissioner's or Arbitrator's duties have been made which would factually support an indictment under the criminal law of Illinois; or
   B) allegations that the Arbitrator's or Commissioner's conduct demonstrates favoritism toward one party in the conduct of the proceeding; or
   C) allegations that the Arbitrator or Commissioner did not follow the procedures and rules set by the Illinois Industrial Commission or the procedures set forth in the Workers' Compensation Act; or
   D) allegations that an Arbitrator or Commissioner had a conflict of interest.

2) to conduct investigations of such complaints;

3) to conduct hearings on such complaints to determine if there is sufficient evidence:
   A) to advise the Commissioner or Arbitrator of necessary corrective action which shall consist of an oral or written reprimand sent to the Commissioner or Arbitrator by the Board that the Commissioner or Arbitrator should not repeat the conduct stated in the complaint; or
   B) in matters of serious concern to the State, to recommend to the Governor the dismissal of an Arbitrator or the non-reappointment of a Commissioner. A matter of serious concern is misconduct in a proceeding by a Commissioner or Arbitrator such that it would support an indictment under Illinois Criminal law or a pattern of complaints requiring corrective action consisting of 3 oral or written reprimands for favoritism toward a party or failure to follow

rules or procedures of the Industrial Commission.

b) Membership

No member of the Board may participate, except to hear and defend against the complaint, in any proceedings before the Board involving a complaint as to his or her own conduct.

c) Meetings

1) Regular meetings will be scheduled to be held at least once per calendar year quarter. Additional meetings will be held pursuant to the call of the Chairman or at the request of three or more members. The Board will call a meeting within (15) days or receipt of any complaint.

2) Members of the Board shall receive written notice of the scheduling, rescheduling, or cancellation of meetings at least five business days prior to any such meeting.

3) Five members shall constitute a quorum for the transaction of business.

4) The Board will vote to close all or any portion of that meeting whenever the meeting is to consider information regarding appointment, employment or dismissal of an Arbitrator or Commissioner or is to hear testimony on a complaint lodged against an Arbitrator or Commissioner to determine its validity. (Ill. Rev. Stat. 1985, ch. 102, par. 42). The motion requesting a closed meeting and the vote of each member on that motion will be recorded in the minutes of the meeting.

Section 7500.20 Chairman of the Commission Review Board

The Chairman of the Industrial Commission will serve as Chairman of the Commission Review Board, will receive, compile, audit, and retain complaints filed against Commissioners and Arbitrators of the Industrial Commission, and will perform such other duties as are set forth in this Part or may be designed by a majority of the members from time to time.

Section 7500.30 Complaints

a) All complaints filed against a Commissioner or Arbitrator must be set forth by a complainant in written form and must contain a concise statement of essential facts specifically describing misconduct listed in Section 7500.10(a).

b) The Chairman will acknowledge in writing receipt of each written communication which constitutes a complaint under Section 14.1 of the Worker's Compensation Act (the Act) (Ill. Rev. Stat. 1985 ch. 48, par. 138.14.1). If a communication does not constitute a complaint then the Board will send the complainant a letter explaining that the communication does not meet the requirements of a complaint and why the communication is defective.

c) The Board will preserve the identity of any complainant who has not revealed his own identity to the respondent either directly or through publication subject to the statutory requirement of Ill. Rev. Stat. 1985, ch. 48, par. 138.14.1 that if complainant does not appear and testify at a hearing scheduled on the complaint, the complaint shall be dismissed.

d) If, on preliminary examination or injury, the Chairman determines that the complaint does not allege misconduct as stated in Section 7500.10(a), or does not set forth allegations which would constitute a basis for a complaint under section 7500.10(a)(1) of this Part he may, with the concurrence of a majority of the members, dismiss the complaint, in which case he shall notify the complainant of the dismissal. If the matter is not so dismissed, the Chairman will notify the Commissioner or Arbitrator, within fifteen (15) business days of receipt of the complaint, that a complaint has been filed against him or her, with written notice served by personal delivery or by certified mail with a return receipt. The notice shall include a copy of the complaint filed with the deletion of the identity of the complainant.

e) If the responding Commissioner or Arbitrator elects to respond in writing to the complaint, his response must be filed with the Chairman within thirty (30) days from receipt of the notice from the Chairman, unless prior to the time for filing of the response a written request for extension of the time to respond has been filed with and granted by the Chairman, for good cause shown. An extension is for 30 days and only one will be granted. The Respondent shall respond, in specific detail, to the charges of the complaint.

f) The proceedings of the Board and all information and material written or oral, pertaining to the proceedings, and all information or materials relating to any investigation and hearing held on specific complaints filed pursuant to Section 14.1 of the Act, shall not be available to the public pursuant to Sections 7(b)(v) and (m) of the Freedom of Information Act (Ill. Rev. Stat. 1985 ch. 116, par. 207 (b)(v) and (m)).

g) After examination of the complaint and response the Board may by written or oral vote of the majority of its members determine whether to dismiss the complaint or order its investigation. The Board's standard for determining whether to dismiss a complaint is if there is any credible evidence to support the complainant's allegations. An investigation may be conducted by such members, or by such other persons, as may be designated by the Board from time to time to conduct such investigations.

h) After consideration of the complaint and any response and investigation, the Board may by written or oral vote of a majority of its members determine whether to dismiss the complaint or hold a hearing on the complaint. The Board's standard for determining whether to dismiss a complaint or hold a hearing is whether evidence exists to sustain the complainant's allegation which has not been rebutted by the respondent. When the Board has voted to dismiss a complaint without a hearing, it shall so notify the complainant and the involved Arbitrator or Commissioner in writing.

Section 7500.40 Hearings on Complaints

a) Time and Notice of the Hearing

1) If the Board determines that a hearing on a complaint shall be held, it shall set a date for the hearing on a complaint within sixty (60) days from the date of that determination.

2) Written notice of the date, time and place of the hearing shall be served on the complainant and on the responding Arbitrator or Commissioner, or on their designated counsel, if any, by personal service or by certified mail with return receipt, not less than fifteen (15) days prior to the date set for hearing.

3) Hearings before the Board shall be continued only upon written motion supported by good cause. Good cause shall consist of illness of family, death in a party's family, or the need for additional time to gather evidence.

b) Conduct Hearings

1) All available members of the Board will sit en banc at all hearings on complaints, subject to non-participation of a member when the proceedings involve his own conduct, or the Board member is involved in the events related in the complaint such that he or she could be called as a witness in the complaint.

2) Hearings on a complaint shall proceed from day to day until the taking of any evidence and the hearing of any arguments has been completed.

3) The Board shall have present at each hearing a qualified court reporter for the purpose of making a permanent and complete record of proceedings. The original transcript of the proceedings shall be filed with the Board and will be available for inspection at the Commission's offices by or on behalf of members of any party to the proceedings. Upon request and at his or her own expense, any party to the proceedings may obtain a copy of said report from the court reporter at the fair market rate of compensation.

4) The Illinois common law rules of evidence will not be applicable for purpose of excluding offered evidence, but they will be considered by the Board in weighing the evidence received.

5) If any complaint fails to testify at a proceeding scheduled before the Board regarding his or her previously filed complaint, the complaint will be dismissed.

6) The responding Arbitrator or Commissioner, personally or through his designated counsel, if any, may waive in writing his right to appear before the Board to respond to charges.

7) The responding Arbitrator or Commissioner or the complainant may retain counsel to represent him or her at the hearing. The Board may grant, on motion, permission to a witness to have

counsel present; such counsel may not question or cross-examine witnesses, or otherwise participate in the hearing, except by permission of the Board.

8) The responding Arbitrator or Commissioner and complainant may be questioned by the Board concerning the allegations of the complaint and will be given the opportunity to make such statements, offer such evidence, or give much information, including the names of any witnesses he or she may wish to have heard by the Board, relevant to the complaint as he or she may desire, subject to the Board's authority to place reasonable restrictions on duration of any statement or direct or cross examination and the volume and nature of any non-testimony evidence.

c) The Board will provide a public notice of all meetings pursuant to Section 2.02 of the Open Meetings Act. (Ill. Rev. Stat. 1985, ch. 102, par. 42.02).

Section 7500.50 Decisions of the Board

a) Subsequent to the hearing on any complaint, the members will confer to determine the disposition of the matter. The Board will find an Arbitrator or Commissioner unfit to serve when an allegation which is a matter of serious concern to the State is sustained by the preponderance of the evidence. In conformance with Section 14.1 of the Act in matters of serious concern to the State as defined by Section 7500.10 (a)(3)(B), the Board may recommend that the Governor:

1) dismiss any Arbitrator who is found unfit to serve; or

2) not reappoint a Commissioner who it finds unfit to serve.

b) All decisions of the Board shall be preserved in the permanent records of the Board. The Board will issue copies of its decisions to the members, and to the complainants and the involved Arbitrator or Commissioner, or their counsel, by certified mail, with return receipt.