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WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9015

ELECTRONIC FILING

Section	
9015.10	Overview of Electronic Filing
9015.20	Format
9015.30	Filing
9015.40	Signatures
9015.50	Service and Proof of Service
9015.60	Document Privacy and Errors in Electronic Filings

AUTHORITY: Implementing the Electronic Commerce Security Act [5 ILCS 175] and authorized by Section 13 of the Illinois Workers' Compensation Act [820 ILCS 305/13].

SOURCE: Adopted at 40 Ill. Reg. _____, effective _____.

Section 9015.10 Overview of Electronic Filing

- a) The Electronic Commerce Security Act [5 ILCS 175] (ECSA) authorizes State agencies to send and receive electronic records and electronic signatures to and from other persons and otherwise create, use, store and rely upon electronic records and electronic signatures. The purpose of the ECSA is to facilitate electronic communication by means of reliable electronic records, and to facilitate electronic filing of documents with State agencies. By virtue of the ECSA, and with guidance from Supreme Court Rules, the Illinois Workers' Compensation Commission adopts this Part.
- b) Pursuant to Section 13 of the Illinois Workers' Compensation Act (Act), the Chairman will set forth administrative guidelines for the implementation of a system by which documents filed under this Part may be formatted and filed electronically. The Chairman shall set forth administrative procedures by which pro se nonattorney litigants may gain access to and file documents using the electronic filing system.
- c) Prior to filing any document electronically with the Commission, users are required to register with the Commission and provide all information as required by the Commission's registration procedure. Users shall promptly update the

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required information. The Commission shall provide an identifier to all registered participants and a means to confirm that the filing was approved by an authorized user. The Attorney Registration and Disciplinary Commission number may be used as the identifier for attorneys to ensure that the attorney is licensed and in good standing.

- d) The e-filing system will allow the Commission to verify whether an attorney who registers as a user is authorized to practice in Illinois.
- e) Information, records and signatures shall not be denied legal effect, validity or enforceability solely on the grounds that they are in electronic form. Further, if statute, regulation or case law requires information to be "written" or "in writing", or provides for certain consequences if it is not, an electronic record satisfies that requirement.

Section 9015.20 Format

- a) Documents must be submitted in the format prescribed by the Commission or in PDF format directly from the program creating the document, rather than the scanned image of a paper document. All electronically filed documents shall include the case caption and nature of filing. Each document shall include the typed name, e-mail address and telephone number of the attorney filing the document.
- b) All electronically filed documents shall, to the extent possible, be formatted in accordance with this Part.
- c) Electronic documents containing links to material either within the filed document or external to the document are for convenience purposes only. The external material behind the link is not considered part of the filing or basic record.
- d) Bulk filing of multiple cases or multiple documents combined into one PDF document will not be accepted. Documents with different workers' compensation numbers must be filed individually.
- e) Documents not complying with ECSA or this Part may be rejected.

Section 9015.30 Filing

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- a) The e-filing provider is an agent of the Commission for purpose of e-filing and receipt of electronic documents. Upon submission of the e-filed document, the e-filing provider will e-mail the registered user a transaction confirmation that includes the transaction number, a list of the documents submitted, and the date and time of submittal. The transaction number shall serve as proof of submittal.
- b) Filings may include pleadings, petitions, motions, proofs of service, exhibits or any other Commission authorized document. Communication between attorneys or attorneys and their clients shall not be filed electronically, unless part of a pleading, petition, motion or a Commission authorized document.
- c) A person who files a document electronically shall have the same responsibility as a person filing a document in the conventional manner for ensuring that the document is complete, readable and properly filed.
- d) A document shall be considered timely filed if e-filed at any time before midnight on or before the date on which the document is due. If the date required for filing falls on a Saturday, Sunday or holiday, the time for filing shall be the next date that is not a Saturday, Sunday or holiday. A document submitted at or after midnight or on a day that is not a Commission business day (see 50 Ill. Adm. Code 9020.10(c)) shall be considered filed the next Commission business day.
- e) The transmission date and time of transfer shall govern the electronic file mark. Each document reviewed and accepted for filing by the Commission will receive an electronic file stamp.
- f) If an e-filed document is untimely filed due to a technical failure or a system outage, the registered user may seek appropriate relief from the Commission.
- g) Proposed Decisions are to be submitted via e-mail directly to the Arbitrator in Microsoft Word format. For Proposed Decisions, only the proof of service must be e-filed.
- h) In any proceeding before the Commission, nothing in the application of the rules of evidence shall be applied in a manner that denies the admissibility of an electronic record or electronic signature. Information in the electronic record will be given due evidentiary weight by the Commission.

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- i) Any electronic document or record submitted to the Commission will be deemed filed if not rejected by the Commission. The transmission date and time shall govern the electronic file mark.
- j) An e-filed document must not contain viruses or malware. The e-filing of a document constitutes a certification by the registered user that the document has been checked for viruses and malware.
- k) All filed documents that are required to be maintained and preserved must be kept for one year after the appellate process period has been completed.

Section 9015.40 Signatures

- a) When a signature is required, or when certain consequences are provided if a document is not signed, an electronic signature will suffice.
- b) Any document electronically filed with a subscriber identifier is deemed to have been signed by the holder of the user identification and password.
- c) The original signed document that has been electronically filed shall be maintained and preserved by the party filing the document and presented to the Commission upon its request.
- d) Documents containing signatures of third parties may be filed electronically and shall bear a facsimile or typographical signature. If a document requires the signature of one or more persons not a party to the case or not registered for electronic filing, the subscriber must confirm all persons required to sign the document approve it. Original signatures of all nonregistered persons must be obtained before filing the document. The document must indicate the identity of each nonregistered signatory. The subscriber must retain the original document for one year after the date that the judgment has become final or the expiration of the time for seeking review. The subscriber must make the document available for inspection by the Commission upon request.
- e) Documents filed electronically by a Commissioner or an Arbitrator under his or her identifier shall be deemed entered by that Commissioner or Arbitrator.

Section 9015.50 Service and Proof of Service

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- a) Electronic service is not capable of conferring jurisdiction. Documents requiring personal service to confer jurisdiction may not be served electronically.
- b) All other documents may be served upon the other party or the party's representative electronically. The subscriber shall be responsible for completing electronic service of the documents. By registering in the electronic filing system, the subscribers consent to receipt of all other documents e-filed and e-served upon them.
- c) Subscribers consent to receive all communication from the Commission, including but not limited to notice of hearing, orders, decisions, or any general correspondence via electronic filing. The Commission may also issue any Commission document via e-mail.
- d) E-service shall be deemed complete as of the filed date and time listed by the e-file system. For the purpose of computing time for any party to respond, any document served is deemed to be served the next business day following the date of transmission.
- e) The e-filing vendor is required to maintain an e-service list for each e-filed case.

Section 9015.60 Document Privacy and Errors in Electronic Filings

- a) It is the responsibility of the filing party to insure that the documents filed electronically do not disclose private or confidential information.
- b) The Commission shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed or served documents.
- c) If the electronic filing is not filed with the Commission for any of the causes listed in this subsection (c), the Commission may, upon satisfactory proof, enter an order permitting the document to be subsequently filed effective the date the filing was first attempted. The causes the Commission may consider in making this decision are:
 - 1) an error in the transmission of the document to the vendor that was unknown to the sending party;
 - 2) a failure to process the electronic filing when received by the vendor;

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- 3) a rejection by the Commission;
 - 4) other technical problems experienced by the filer;
 - 5) the party was erroneously excluded from the service list.
- d) In case of a filing error, absent extraordinary circumstances, anyone prejudiced by the Commission's order to accept a subsequent filing effective as of the date filing was first attempted shall be entitled to an order extending:
- 1) the date for any response; or
 - 2) the period within which any right, duty or other act must be performed.

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9020

PRE-ARBITRATION

Section	
9020.10	Docketing and Numbering of Cases
9020.20	Application for Adjustment of Claim
9020.30	Memorandum of Names and Addresses for Service of Notice and Attorneys' Appearance
9020.40	Who May Appear – Unauthorized Practice
9020.50	Hearing: Place; Notice —Change of Venue
9020.60	Continuances on Arbitration, Notices, Monthly Status Call, Voluntary Dismissal
9020.70	Motion Practice, General
9020.80	Petitions for Immediate Hearing
9020.90	Petitions to Reinstate
9020.100	Medical Examinations

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; recodified from 50 Ill. Adm. Code 7020 to 50 Ill. Adm. Code 9020 at 39 Ill. Reg. 9603; amended at 40 Ill. Reg. _____, effective _____.

Section 9020.10 Docketing and Numbering of Cases

- a) All cases brought before the Illinois Workers' Compensation Commission

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~~(Commission)~~ shall be docketed, time-stamped and given a letter, ~~and~~ number corresponding to either the Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Diseases Act [820 ILCS 310] 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 ~~Workers' Compensation~~ 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 ~~that~~^{such} service. A copy of all ~~written communication~~^{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. Any documents or written communication not submitted in compliance with this subsection constitutes an ex parte communication and therefore will be disregarded.
- c) Upon presentation of paper documents at the Commission Office, the~~The~~ ~~Workers' Compensation~~ Commission ~~will~~^{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. Electronically filed documents shall be filed in accordance with 50 Ill. Adm. Code 9015.30.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.20 Application for Adjustment of Claim

- a) Applications for Adjustment of Claim (Application) 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 ~~that~~^{which} has been filed on all opposing parties.
- b) An ~~Application~~^{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 ~~shall~~^{for Adjustment of Claim} ~~should~~ be completed in full and must

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provide [an accident or manifestation of injury date](#), 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 [employerRespondent](#).

- d) Once an Application ~~for Adjustment of Claim~~ is filed, the ~~Workers' Compensation~~ Commission ~~will~~ 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 ~~Workers' Compensation~~ Commission because the filing party has supplied the wrong address for the opposing party, the ~~Workers' Compensation~~ Commission ~~will~~ so inform the filing party. The filing party has the obligation of providing the ~~Workers' Compensation~~ 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" [with all changes clearly marked on all copies](#) and must have attached to it [all prior versions of the Application for Adjustment of Claim](#). [Also attached must be proof that the 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 9020.70. It shall be within the discretion of the Commission whether to allow any amendments to the Application after the commencement of a hearing on the merits.](#)

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.30 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 [and timely update](#) with the Commission, his/[her](#) address, or the names and addresses of any agent upon whom notices shall be served, either personally or by regular mail, addressed to ~~the~~[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. [Appearances filed by the Petitioner's attorney shall be accompanied](#)

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by an Attorney Representation Agreement, on a form prescribed by the Commission, completely filled out and signed by the Petitioner and the attorney. 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 the attorney or the attorney's firm has ~~he or they have~~ duly entered ~~at their~~ written Appearance. A subsequent attorney wishing to appear on an existing claim may file a Motion for Substitution of Counsel or a Motion to Seek Leave to File an Appearance, supported by a properly executed Attorney Representation Agreement and with proper notice to all parties and attorneys of record. 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. No party or insurance carrier may file an Appearance on behalf of an attorney or law firm. 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 of the Commission ~~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 40 Ill. Reg. _____, effective _____)

Section 9020.40 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 ~~Workers' Compensation~~ 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.
- c) Violations of this Section may be referred to the Attorney Registration & Disciplinary Commission in accordance with the Supreme Court rules.

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(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.50 Hearing: Place; ~~Notice~~—Change of Venue

- a) Except to the extent modified by Section 9020.80 in reference to proceedings under Section 19(b-1) of the Workers' Compensation Act [820 ILCS 305/19(b-1)] (~~Act~~), the ~~following~~ provisions of subsection (b) ~~shall~~ apply:
- b) Upon receipt of an Application for Adjustment of Claim, the Commission ~~will~~shall fix ~~a place for hearing and~~ a date and place 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. However, the Commission may assign a different Arbitrator to balance Arbitrator caseloads at each hearing site. ~~When~~Where the accident ~~occurs~~ occurred outside the ~~State~~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. ~~When~~Where the accident ~~occurred~~occurs outside of Illinois and the applicant resides outside of Illinois, ~~then~~ the case shall be set at a hearing site most convenient to the parties.
- c) Designation of a hearing site other than as provided ~~in this subsection~~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. Absent agreement, any party seeking a change of venue may present a Motion for Change of Venue, setting forth the basis for the change.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.60 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~~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 ~~Workers' Compensation~~ Commission for 3 years, has been set for trial pursuant to 50 Ill. Adm. Code 9030.20, or otherwise disposed of. The parties must obtain any continued status call dates from ~~the Workers' Compensation~~ Commission records.

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b) Monthly Status Calls

- 1) Each Arbitrator, subject to his or her availability, shall hold a monthly status call of cases ~~that~~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. ~~or at a time, on a~~ date and place designated by the ~~Chairman~~Commission.
 - B) In areas outside of Cook County, each Arbitrator's monthly status call shall be held at 9:00 a.m. ~~or at a time, on a~~ date and place designated by the ~~Chairman~~Commission.
- 2) The monthly status call shall be conducted by ~~an~~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 50 Ill. Adm. Code 9030.20. A request for a trial date may be made in a case ~~that~~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 9020.80(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 ~~that, which~~ in the opinion of the Arbitrator, would warrant advancing the case for trial. The moving party must set forth in his ~~or her~~ motion the basis of the claimed special circumstance.
 - ~~C)~~ Motions for trial dates under ~~subsections~~subsections (b)(2)(B)(~~i~~), ~~(ii) and (iii) above~~ shall be presented at the conclusion of the status call.
 - ~~D)~~ Cases on ~~File~~file 3 or ~~More Years~~more years.

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i) In all cases ~~that~~which have been on file at the ~~Workers' Compensation~~ Commission for ~~3~~three years or more, the parties or their attorneys must be present at each status call ~~at~~on which the case appears. The case will be set for trial or dismissed unless a written request has been made to continue the case for good cause. ~~The~~Such request shall be made part of the case file. The written request must be received by the Arbitrator at least ~~15~~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 ~~the~~such case must be received by the Arbitrator at least ~~7~~seven days prior to the status call date and contain a similar proof of service. The Arbitrator shall rule on ~~the~~such requests for continuances or objections to the requests 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)(~~DC~~)(i) ~~above~~ and to appear at the monthly status call ~~at~~on which the case appears shall result in the case being dismissed for want of prosecution, ~~except upon a showing of good cause.~~

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

~~ED~~) Section 19(b-1) Pretrials, Motions, Pro Se Settlement Contracts~~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.

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- 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~~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~~petition or motion filed on his or her behalf without the signature of his ~~or her~~ attorney of record. The moving party must serve ~~the~~said motion on his or her attorney and the opposing party, in the manner set forth in Section 9020.20(a), and set the motion for hearing as set forth in Section 9020.70. In ~~these~~such cases, there shall be no disposition of the claim on its merits prior to the disposition of ~~the~~said motion.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.70 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) ~~of the Act~~, must be accompanied by a ~~Workers' Compensation~~ 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 ~~to~~and present the motion and must include the type of motion and nature of the relief sought. A Notice of Motion and Order not accompanied by the motion may be stricken.
- 1) Motions on Arbitration

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- A) Motions requesting a trial date will be heard during the status call in accordance with Section 9020.60(b)(2).
 - B) All other motions will be heard in accordance with Section 9020.60(b)(2)(~~ED~~). 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) Notice and Service of Papers
- 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, ~~when~~~~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. ~~The~~~~Such~~ service, if by personal or office delivery, shall be effected ~~53~~ 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 ~~105~~ 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 ~~dated~~~~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;

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- 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~~ The affidavit shall state the time and place of mailing, the complete address ~~that~~which appeared on the envelope, and the fact that proper postage was prepaid.
- D) ~~When~~Where the opposite party has not appeared within the time fixed by rule, or has appeared, but failed to designate a place for service, service may be directed to that party's~~his~~ last known business or residence address.
- 2) Waiver
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 subsection (b)(1)(A).~~
- c) Who Shall Hear Motions
 - 1) When a cause is pending on the ~~Arbitration~~arbitration call, all motions and settlement contracts, except ~~when~~where expressly otherwise provided in the Rules of the Commission (50 Ill. Adm. Code Ch. VI), shall be heard by the Arbitrator to whom the case has been assigned. If ~~that~~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~~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 40 Ill. Reg. _____, effective _____)

Section 9020.80 Petitions for Immediate Hearing

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

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1) ~~In a~~ Petition alleging that ~~A) the Petitioner~~ 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~~ benefits under Section 8(a) and/or 8(b) of the Act ~~temporary total disability or medical benefits~~ to which he or she is entitled, the Petitioner 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. ~~The Said~~ Petition shall set forth:

Ai) 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 or her attorney has conferred, the date of the conference, and the result of the conference;

Bi) 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.

2E) A response to ~~the said~~ Petition shall be filed on an appropriate form provided by the Commission within 15 days ~~after~~ of service of a 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 9020.70.

32) 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 benefits as provided in subsection (a)(1) ~~temporary total disability or medical benefits~~, the 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~~ or she is unable to work because of disability compensable under the ~~Workers' Compensation~~ Act or the

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Workers' Occupational Diseases Act [820 ILCS 310], and ~~B) he is not~~ receiving temporary total disability and/or medical, surgical, or hospital benefits to which he or she 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; The Petition shall be filed on an appropriate form provided by the Commission and. ~~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 ~~this~~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 ~~Workers' Compensation~~ Commission to all parties of record.
 - D) If, within the time period provided in subsection (b)(2)(C), 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~~.

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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 or she 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 after~~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 in subsection (b)(3)(A)(ii) ~~above~~ is filed, unless for good cause the Arbitrator extends the time for closing proofs for an additional period or~~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.

C) Transcripts

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- i) At the beginning of each hearing at which a record is made, the Arbitrator ~~shall~~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~~statement of ~~Exception~~exception(s) and ~~Supporting Brief~~supporting brief, or a response ~~to that statement~~thereto, in the event either party files a ~~Petition~~petition for ~~Review~~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~~statement of ~~Exception~~exception(s) and ~~Supporting Brief~~supporting brief, or a response ~~to that statement~~thereto.

- ii) ~~When~~Where the transcript of proceedings has been ordered

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pursuant to subsection (b)(3)(C)(i)-~~above~~, the transcript shall be authenticated by the Arbitrator and a 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. ~~When~~Where the transcript of ~~the~~ proceedings is ordered at the time a Petition for Review is filed ~~and~~, the transcript has been received, the transcript shall be authenticated and filed pursuant to subsection (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. ~~When~~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 ~~{820 ILCS 305/20}~~ may be submitted for payment of the transcript;
- iii) An order for the transcript of proceedings at Arbitration, ~~when the~~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 ~~after~~of the filing of the Petition for Review.
- iv) A statement of Appellant's specific ~~exception~~exception(s)

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to the Arbitrator's Decision; attachment of the Statement
~~statement~~ of Exception~~exception(s)~~ and Supporting
Brief~~supporting brief~~ required by subsection (b)(4)(B)
~~below~~ will satisfy this requirement.

B) Statement of Exceptions~~Exception(s)~~ and Supporting Brief

- i) Any party filing a Petition for Review with the Commission shall file a Statement~~statement~~ of Exception~~exception(s)~~ and Supporting Brief~~supporting brief~~ with attached proof of service within 15 days ~~after~~^{of} the filing of the Petition for Review. If the~~The~~ Appellee elects~~may elect~~ to file a response to the Petition~~thereto~~, in~~which case~~ the response must be filed and served on the opposing party within 15 days ~~after~~^{from} the last day allowed for the filing of the Appellant's Statement~~statement~~ of Exception~~exception(s)~~ and Supporting Brief~~supporting brief~~. Each party filing a Statement~~statement~~ of Exception~~exception(s)~~ and/or additions and Supporting Brief~~supporting brief~~, or a response ~~thereto~~, shall file ~~three~~ (3) copies. The~~Such~~ Statement~~statement~~ of Exception~~exception(s)~~ and/or additions and Supporting Brief~~supporting brief~~, or response ~~thereto~~, shall be written or printed on one side of no more than ~~twenty~~ (20) 8½" x 11" sheets of paper or contain no more than 5,200 words, whichever is greater, and shall follow the format set forth in 50 Ill. Adm. Code 9040.70(a). Failure of any appellant or petitioning party to file timely a Statement~~statement~~ of Exception~~exception(s)~~ and Supporting Brief~~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 ~~the~~^{such} document was due to be filed in accordance with this Section~~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

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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 ~~that 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 ~~that which~~ is not a Saturday, Sunday or holiday. Electronically filed documents shall be filed in accordance with 50 Ill. Adm. Code 9015.30.

- C) Hearing on Review and Oral Arguments
No ~~Hearing~~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 ~~after from~~ the filing of the Petition under Section 19(b-1) of the Act, whichever is sooner.
- 5) Service in Section 19(b-1) Proceedings
All service required pursuant to this ~~Section~~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 40 Ill. Reg. _____, effective _____)

Section 9020.90 Petitions to Reinstate

- a) ~~When~~Where a cause has been dismissed from the ~~Arbitration~~arbitration call for want of prosecution, the parties shall have 60 days from receipt of the dismissal order to file a Petition to Reinstate ~~petition for reinstatement of~~ the cause onto the ~~Arbitration~~arbitration call. Notices of dismissal shall be sent to the parties.
- b) Petitions to Reinstate must be in writing. The ~~Petition~~petition shall set forth the

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reason the cause was dismissed and the grounds relied upon for reinstatement. The ~~Petition~~~~petition~~ must also set forth the date on which the Petitioner will appear before the Arbitrator to present ~~the his~~ ~~Petition~~~~petition~~. A copy of the ~~Petition~~~~petition~~ must be served on the other side at the time of filing with the Commission in accordance with the requirements of Section 9020.70. The Respondent may file a response to the Petition.

- c) Petitions to Reinstate shall be docketed, ~~and assigned to~~ and heard by the same Arbitrator to whom the ~~case is~~~~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~~~~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 the Petitioner, the objections of the Respondent, and the precedents set forth in Commission decisions. A record shall be made of a hearing on any contested Petition.
- d) A cause shall be reinstated upon stipulation of the parties filed with the Commission, which will docket the stipulation.
- e) Nothing in this Section abridges the rights found in the applicable Statute of Limitations of the Illinois Workers' Compensation Act (Section 6(d) of the Act) or Section 6(c) of the Illinois Occupational Diseases Act.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9030
ARBITRATION

Section	
9030.10	Arbitration Assignments
9030.20	Setting a Case for Trial
9030.30	Disqualification of Commissioners and Arbitrators
9030.40	Request for Hearing
9030.50	Subpoena Practice
9030.60	Depositions
9030.70	Rules of Evidence
9030.80	Briefs, Arbitrators' Decisions
9030.90	Opening and/or Closing Statements
9030.100	Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

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

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; amended at 36 Ill. Reg. 17913, effective December 4, 2012; recodified from 50 Ill. Adm. Code 7030 to 50 Ill. Adm. Code 9030 at 39 Ill. Reg. 9605; amended at 40 Ill. Reg. _____, effective _____.

Section 9030.10 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~~

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~~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, on a random basis, at the time of the First Notice of Hearing, depending on the place of the 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~~arbitration are final, except as otherwise provided in Section 14 of the Workers' Compensation Act [820 ILCS 305] (Act), Section 9030.30 of this Part, and 50 Ill. Adm. Code 9070.40, or ~~when~~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 Arbitrator of the case filed first. However, the Commission may make an exception based on a showing of good cause by the objecting party. 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.
- e) ~~When~~Where more than one Petitioner files a claim against the same Respondent relating to the same accident, the cases may be consolidated, upon the motion of any party. The Arbitrator assigned to the case filed first shall determine whether before the Arbitrator assigned to the case first consolidation filed upon motion of any party, if such consolidation would promote consistency and efficiency of administration. Motions to consolidate must be heard by the Arbitrator that is assigned to the earliest filed claim.~~All disputes involving reassignment shall be heard by the Chairman or a Commissioner designated by the Chairman.~~
- f) 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.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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Section 9030.20 Setting a Case for Trial

- a) A written request for a date certain for trial may be made by any party at the monthly status call on which the case appears. A request for a trial date in a case that which does not appear on the monthly status call may only be made in accordance with 50 Ill. Adm. Code 9020.60(b)(2)(B).
- b) If the parties, by agreement, request a trial date, the Arbitrator shall 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.
- c)3) The motions for trial dates shall be filed and heard pursuant to 50 Ill. Adm. Code 9020.70 and 9020.60.
 - 1) The Arbitrator shall set the matter for trial on a date certain if:
 - A) If the Arbitrator determines that proper and timely ~~fifteen (15)~~ days notice was given of the motion for trial date to the opposing party;

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- B) ~~the~~ opposing party was provided with a completed Request for Hearing;~~;~~~~said~~
- C) ~~the~~ 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 50 Ill. Adm. Code 9020.60(b)(2)(B);~~;~~ and
- D) ~~the Arbitrator determines~~ that the matter should proceed to trial;~~the Arbitrator shall set the matter for trial on a date certain.~~
- 2) 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 ~~9:30~~9:15 a.m. ~~During this time period, during which time~~ the Arbitrator ~~may~~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 ~~that, 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 ~~9:30~~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., ~~after establishing the order in which cases will proceed~~. 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 Workers' Compensation 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.

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- g) Bifurcated hearings ~~are discouraged and~~ will be allowed only for good cause. Examples of good cause include, but are not limited to, situations in which~~where~~ the number or location of witnesses ~~makes~~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, ~~should~~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 40 Ill. Reg. _____, effective _____)

Section 9030.40 Request for Hearing

Before a case proceeds to trial on Arbitration~~arbitration~~, the parties (or their counsel) shall complete and sign a form provided by the Workers' Compensation Commission called Request for Hearing. However, in the event a party (or ~~his~~ counsel) ~~fails~~shall fail or ~~refuses~~refuse to complete and sign the document, the Arbitrator, in his or her discretion, may allow the case to be heard and may impose upon ~~that~~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.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.50 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
Service~~Personal service~~ of the subpoena is required and payment of the~~statutory~~Statutory fee and travel expense (see Sections 16 and 20 of the Act and 705 ILCS 35/4.3) must accompany the service.

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- d) Failure to Honor Subpoena
- 1) Upon failure of any person, firm or organization to obey a subpoena of the ~~Illinois Workers' Compensation~~ Commission, a party seeking enforcement of the subpoena ~~(or counsel), or his attorney,~~ shall prepare an ~~Application~~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. ~~The party seeking enforcement and~~ shall present, file and serve on ~~the~~ opposing party ~~the Application,~~said application together with the original subpoena and proof of service to the Arbitrator or Commissioner designated to hear the ~~said~~ claim. ~~If, or if~~ no Arbitrator or ~~Commissioner~~ ~~Commission~~ has been designated, ~~the Application shall be presented then~~ to the Chairman of the Commission.
 - 2) A hearing ~~under pursuant to~~ 50 Ill. Adm. Code 9020.70 shall be held at which the Commissioner or Arbitrator to whom the ~~Application~~application is presented shall determine if the subpoena requested relevant information, and was properly issued and served, and if the ~~Application~~application is proper in form. If the ~~said~~ Commissioner or Arbitrator ~~shall so~~ ~~finds~~find, ~~then,~~ he or she shall sign the ~~Application~~application. The party seeking enforcement of the subpoena ~~(or counsel), or his attorney,~~ may then file and prosecute the ~~Application~~application in the Circuit Court.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.60 Depositions

- a) Evidence depositions of any witness may be taken, before a hearing, by stipulation of the parties, 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. If there is no agreement as to the deposition, the Arbitrator or Commissioner shall hold a hearing and may issue an order, called a dedimus potestatem, pursuant to Section 16 of the Act. In ruling on an Application for Dedimus Potestatem, the Arbitrator or Commissioner shall give consideration to the judgment of the applicant. Evidence depositions of any witness may be taken after the hearing begins only by stipulation of the parties or upon ~~Order~~order of the Arbitrator or Commissioner, for good cause shown. Except as provided in

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subsection (f) ~~below~~, an Application for Dedimus Potestatem ~~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. ~~The~~ 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 ~~the~~ 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 ~~application~~, together with all documents required by this Section ~~rule~~ to be attached to the ~~Application~~ said application, has been served on the opposing party and proof of service of ~~the~~ such copy has been made as provided in 50 Ill. Adm. Code 9020.70 ~~9020, Pre Arbitration~~.
 - 2) The opposing party may, within ~~five (5)~~ days after the receipt of the copy of the Application ~~application~~, file written objections to the issuance of the dedimus potestatem. The Arbitrator or Commissioner ~~Commission~~ shall rule on ~~the~~ 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 ~~the~~ 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, ~~those~~ such interrogatories shall be filed in triplicate with the

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~~Application for Dedimus Potestatem~~ ~~application for dedimus potestatem~~ and a copy of ~~thesuch~~ interrogatories shall be attached to the copy of the dedimus potestatem mailed to each party. If cross-interrogatories are desired, ~~they~~ ~~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 ~~them~~ ~~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:

~~1A)~~ ~~when~~ ~~where~~ the party applying for the dedimus potestatem has refused or failed to comply with the provisions of Section 12 of the Act; and

~~2B)~~ unless ~~the applying party~~ ~~he shall have~~ served the other side with a signed report of ~~thesuch~~ medical witness ~~(-other than a treating physician)~~ -giving his ~~or her~~ findings and conclusions.

- f) Exceptions

1) ~~However, when~~ ~~Provided, however, where~~ it is shown that, by complying with the time requirements prescribed ~~in this Section~~ ~~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 ~~or her~~ discretion:

A) on notice and hearing before trial, waive or reduce ~~the such~~ requirements; or

B) permit a party to present an oral ~~Application~~ ~~application~~ ~~for~~ ~~of~~ a dedimus potestatem immediately before or during trial and, after due consideration of ~~the Applications~~ ~~such application~~ and any objections ~~to the Application~~ ~~thereto~~ that may be orally raised by the opposite party, rule upon the ~~Application~~ ~~application~~.

2) ~~When~~ ~~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 ~~of the deposition~~ ~~thereof~~ before closing proofs in the case.

- g) When any party takes an evidence deposition, ~~that said~~ deposition shall be filed

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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 thesaid deposition. It shall be the duty of the hearing officer to note his or her ruling on each objection in the margin of the transcript of thesaid deposition or at a hearing on the record.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.70 Rules of Evidence

- a) The Illinois Rules of Evidence~~common law rules of evidence and the Illinois Evidence Act [820 ILCS 305]~~ shall apply in all proceedings ~~had~~ before the ~~Workers' Compensation~~ Commission, either upon Arbitration~~arbitration~~ or Review~~review~~, except to the extent they conflict with the ~~Workers' Compensation Act [820 ILCS 305]~~, the Workers' Occupational Diseases Act [820 ILCS 310], or the Rules Governing Practice Before the Workers' Compensation Commission (50 Ill. Adm. Code Chapter VI).
- 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 ~~Workers' Compensation~~ Commission pursuant to the requirements of Section 17 of the ~~Workers' Compensation Act [820 ILCS 305/17]~~.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.80 Briefs, Arbitrators' Decisions

- a) At the close of proofs, the Arbitrator may require that each party tenderfile 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 shall contain proof of service. The proposed decision shall be written in the same manner and form as that which is required under subsection (b). The proposed decision shall not be considered an admission of a party and shall not be made part of the record.

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- b) After the closing of proofs, the Arbitrator ~~shall~~will issue a written decision ~~that~~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, if requested by either party;
 - 4) applicable orders resulting from the findings of fact and conclusions of law;
 - 5) a statement of the requirements for ~~perfecting a review~~filing a decision pursuant to 50 Ill. Adm. Code 9040.10~~(a) and (b)~~;
 - 6) ~~when~~where applicable, a statement of the rate of interest due under Section 19(n) of the ~~Workers' Compensation Act~~ [820 ILCS 305/19(n)].

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.100 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~~Under Voluntary Arbitration
- 1) The Workers' Compensation Advisory Board shall compile a list of not ~~fewer~~less than ~~seven~~(7) certified ~~Arbitrators~~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 ~~the~~such list to the Chairman of the ~~Workers' Compensation~~ Commission (the Chairman).
 - 2) Within ~~thirty~~(30) days ~~after~~of submission of the list by the ~~Workers' Compensation~~ Advisory Board, the Chairman shall select ~~five~~(5) ~~Arbitrators~~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~~arbitrators selected by the

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

b) Request for Voluntary Arbitration

- 1) After filing an Application for Adjustment of Claim~~application for adjustment of claim~~ but prior to the hearing on Arbitration~~arbitration~~, the parties may voluntarily agree to submit the application for decision by an Arbitrator~~arbitrator~~ from a list of five~~(5)~~ Arbitrators~~arbitrators~~ selected by the Chairman to hear cases under this Section. If the parties cannot agree on an Arbitrator~~arbitrator~~ from the list of five~~(5)~~ Arbitrators~~arbitrators~~, they may, by agreement, select an Arbitrator~~arbitrator~~ from the American Arbitration Association.
- 2) Only Applications for Adjustment of Claim~~that 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~~arbitrator~~ under this Section.
- 3) The agreement of the parties to submit the case to voluntary Arbitration~~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~~arbitrator~~ at the beginning of the hearing.
 - B) a certification by the Arbitrator~~arbitrator~~ and any party not represented by an attorney that the statement in subsection (c)(2) was made on the record by the Arbitrator~~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

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~~Arbitrator~~ arbitrator under this Section has been filed with the Commission, the application shall be assigned to the call of the ~~Arbitrator~~ arbitrator chosen by the parties to conduct the hearing. In cases in which the parties agree to select an ~~Arbitrator~~ 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~~ 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~~ arbitrator at the beginning of the hearing:

Voluntary ~~Arbitration~~ 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~~ 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 Workers' Compensation Commission (50 Ill. Adm. Code: Chapter VI) shall apply to hearings in cases submitted for decision by an ~~Arbitrator~~ 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~~ arbitrator of the American Arbitration Association.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9040

REVIEW

Section

- 9040.10 Perfecting a Review
- 9040.20 Assignment of Reviews
- 9040.30 Review Hearing: Date and Place
- 9040.40 Conduct of Review Hearings
- 9040.50 Remanding Orders [\(Repealed\)](#)
- 9040.60 Continuances for Oral [Arguments](#)~~Argument(s)~~ and [Extensions](#)~~Extension(s)~~ of Time for Filing Statements of [Exceptions](#)~~Exception(s)~~ and/or [Addition\(s\) and Supporting Briefs and Abstracts](#)
- 9040.70 Statements of [Exceptions](#)~~Exception(s)~~ and/or [Addition\(s\) and Supporting Briefs and Abstracts](#)
- 9040.80 Commission Decision on Review

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. 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; recodified from 50 Ill. Adm. Code 7040 to 50 Ill. Adm. Code 9040 at 39 Ill. Reg. 9607; amended at 40 Ill. Reg. _____, effective _____.

Section 9040.10 Perfecting a Review

a) Time for Filing

- 1) Petitions for ~~Review~~[review](#) of ~~Decision of the Arbitrator~~[an arbitration decision](#) shall be filed in duplicate with the [Illinois Workers' Compensation Commission](#) ~~(Commission)~~, [unless filed electronically](#).

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within the time provided by statute.

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

b) Order of Arbitration Transcript

- 1) ~~Transcripts~~Stenographic reports of arbitration proceedings before the ~~Workers' Compensation~~ Commission shall be furnished to the parties only upon written ~~request~~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 ~~Workers' Compensation~~ Commission, and the party requesting ~~the~~such transcript shall deposit a sum of money covering the estimated cost before the reporter ~~is~~shall be required to complete the transcript. An order entered pursuant to Section 20 of the Workers' Compensation Act (the Act) [820 ILCS 305/20] may be submitted for ~~the~~said monetary deposits.
- 3) In cases in which Section 19(b-1) Petitions have been filed, transcripts shall be ordered in accordance with 50 Ill. Adm. Code 9020.80(b)(3)(C).

- e) ~~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.~~

cd) Authentication of Transcript

- 1) For purposes of perfecting a review, the transcript of arbitration proceedings shall be authenticated in the manner provided by Section 19(b) of the Workers' Compensation Act and Section 19(b) of the Workers' Occupational Diseases Act [820 ILCS 310/19(b) statute [820 ILCS 305/19a], and filed with~~presented to~~ the Commission on or prior to the designated time and place set by the Commission as the Return Date on Review~~or at the time set for hearing on review.~~

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- 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 date and time set for the Return Date on Review.
- B) The reviewing party shall file~~may elect to submit~~ the authenticated transcript in person, ~~or by mail, or in any manner provided by the Commission in its notice of the Return Date of Review, to the Review Department of the Commission at its offices in Chicago on or before the Return Date on Review.~~
- C) Unless electronically filed, the authenticated transcript shall be accompanied by 2 completed copies of the Commission's Transcript Receipt Form and, if filed by mail, a self-addressed stamped envelope.~~The authenticated transcript shall be accompanied by a cover letter indicating the case caption, case number, assigned Commissioner and Return Date on Review.~~
- D) Timely filing by mail may be shown by:
- i) ~~shall be shown by~~ a legible postmark date 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 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~~
- ii) 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 that~~which~~ is not less

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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 50 Ill. Adm. Code ~~Section 9020.80(b)(3)(C).~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.20 Assignment of Reviews

- a) ~~Reviews shall be assigned to individual Commissioners for hearing in the following manner:~~
- ~~ab)~~ At the conclusion of every work week, the transcript clerk shall deliver to the review clerk a list of the arbitration ~~transcript~~ transcript completed during that week. The transcript list 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.
- ~~be)~~ Upon receipt of the list of completed 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.~~
- c) Petitions filed post-arbitration under Section 7(a), 8(a) and 19(h) of the Act shall be assigned to the original hearing Commissioner or the Commissioner assigned to the particular territory where the original hearing was held.
- d) Assignments shall be final except upon disqualification of a Commissioner as provided in ~~Arbitration (50 Ill. Adm. Code 9030.30)~~ or upon motion by any party for good cause shown.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.30 Review Hearing: Date and Place

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

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~~reasonably convenient to the parties.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.40 Conduct of Review Hearings~~Hearing~~

- a) ~~All cases on review under Section 19a 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.~~
- ab) In all cases on Review, review under Section 19a 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 unless relating to procedural issues relevant to the Review process.
- be) Special Findings on Review
- 1) Either party may request in writing that the Commission make up to 5 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~~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) The interrogatories~~In all cases referred to in subsection (b) above, said~~

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~~interrogatories~~ shall be filed at the time of filing the parties' Statement of Exceptions ~~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 all parties ~~the other side~~ with appropriate proof of service.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.50 Remanding Orders (Repealed)

~~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: Repealed at 40 Ill. Reg. _____, effective _____)

Section 9040.60 Continuances for Oral Arguments ~~Argument(s)~~ and Extensions ~~Extension(s)~~ of Time for Filing Statements of Exceptions ~~Exception(s)~~ and/or Addition(s) and Supporting Briefs and Abstracts

Parties shall present ~~are expected to make~~ their oral arguments at the time and date set by the Commission. Continuance ~~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 ~~order~~ of the Commission only for good cause shown.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.70 Statements of Exceptions ~~Exception(s)~~ and/or Addition(s) and Supporting Briefs and Abstracts

- a) In the event that more than one party files for Review, without regard to who filed first, each party may file its own Statement of Exception(s), as well as a Response.
- ba) Except in cases in which ~~where~~ Section 19(b-1) Petitions have been filed, each party filing a Petition ~~petition~~ for Review ~~review~~ of an ~~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 ~~statement~~ of

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~~Exception~~~~exception(s) and/or addition(s)~~ and ~~Supporting Brief~~~~supporting brief~~ setting forth:

- 1) the identity of the party filing;
- 2) the names of the parties and the ~~Commission~~~~Commission's~~ number ~~assigned to~~~~of~~ the ~~case or~~ 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 ~~that an~~~~the fact of any~~ award of benefits by reason of death or permanent total disability was granted;
 - E) the dollar amount of any awards, or other findings, under Sections 4(i), 8(f), 16, 19(k), and ~~Section~~ 19(l), of the Act, if any;
- 7) appellant's ~~Statement~~~~statement~~ of ~~Exception~~~~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;

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- B) statements of particular evidence in the record pertaining to each ~~such~~ issue, together with citation of any legal authorities, including, Commission decisions, ~~that~~which support the position of ~~the~~that issue.
- cb) ~~Three~~three (3) copies of the appellant's ~~Statement~~statement of ~~Exception~~exception(s) and/or addition(s) and the ~~Supporting Brief~~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, 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, filing 3~~in which case he must file three (3)~~ copies of the response with the Commission, and shall serve copies of the response~~thereof~~ on all parties within ~~fifteen (15)~~ days from the last day allowed for the filing of appellant's ~~Statements~~statements of ~~Exception~~exception(s) and/or addition(s) and ~~Supporting Brief~~supporting brief. ~~A Statement~~Such a statement of ~~Exception~~exception(s) and/or addition(s) and ~~Supporting Brief~~supporting brief, and any response to those documents;~~thereto;~~
- 1) shall be written or printed on one side of no more than ~~twenty (20)~~ 8½" x 11" sheets of paper, or shall contain no more than 5,200 words, whichever is greater; and
- 2) 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 the 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.~~

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- d) All documents filed under this Section shall bear the caption of the case, including the Commission case number, and shall include, directly under the case number in the caption, 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). ~~Oral~~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~~statement of ~~Exception~~exception(s) and/or addition(s) and ~~Supporting Brief~~supporting brief, and to those in any complying response to those documents thereto. Failure of any ~~appellant or petitioning~~ party to ~~file~~file any ~~Statement~~statement of ~~Exception~~exception(s) and/or addition(s) and ~~Supporting Brief or Response Brief~~supporting brief as required by this Section, including an abstract when required under subsection ~~(f)~~(e) of this Section, shall constitute a forfeiture waiver of the right to oral argument by that party. When a party has timely filed, that party may petition the Commission to present oral arguments in support of its Statement of Exceptions and Supporting Brief and/or Response Brief. Within 15 days after the date the last filing was due, a party that has timely filed may petition the Commission for oral argument. The assigned Commissioner may order oral argument at his or her discretion, notwithstanding anything to the contrary in this Part, 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 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 least ~~two~~(2) calendar days prior to ~~and exclusive of~~ the date on which ~~the~~such document was due to be filed in accordance with this ~~subsection (e). 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

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~~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 that which is not a Saturday, Sunday or holiday;~~

3) an Order entered at the discretion of the assigned Commissioner upon written Motion.

f) ~~In all cases on review under Section 19a 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) 8½" 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 requirements set forth in subsections (a),(d) and (e) above are applicable to subsection (f).~~

f2) Abstracts on Review~~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,~~

1) Any~~any~~ reviewing Commissioner ~~of the permanent panels~~ may, by written notice to the parties, ~~order request~~ the party first filing for Review~~appealing first~~ to file an Abstract of the Record and serve a copy of that abstract upon all other parties within ~~thirty (30) days after of~~ the notice. Any other~~The other~~ party may file a supplemental Abstract within ~~fifteen (15) days after of the~~ receipt of the original Abstract.

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- 2) Upon Motion, any party may request leave to file an Abstract of the Record, which may be allowed at the discretion of the reviewing Commissioner, as provided in subsection (f)(1).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.80 Commission Decision on Review

In all cases in which, 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 ~~[820 ILCS 305/19(e)]~~, the Commission will issue a decision, which shall include:

- a) the Commission's number assigned to the case, ~~and~~ the names of the parties, and the name of the county in which the case was heard on Arbitration ~~arbitration~~;
- b) the Arbitrator's findings as relevant to the issues on Review, including, if relevant:
 - 1) the date or dates of the accident, exposure or, 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) of the Act, 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(1)~~ of the Act, if applicable;
- c) the ~~identities~~ identity(ies) of the ~~parties~~ party(ies) who ~~has (or have) filed~~ filed a Petition for Review, or other proceedings as under Section 19(h), ~~Section 8(a)~~, or ~~Section 8(f)~~ of the Act, and a statement of the issue to be decided on Review;

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- 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~~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 9060.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9050

ORAL ARGUMENTS

Section

9050.10	Right to Oral Argument
9050.20	Time Allotted
9050.30	Section 19(h) Petitions
9050.40	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; recodified from 50 Ill. Adm. Code 7050 to 50 Ill. Adm. Code 9050 at 39 Ill. Reg. 9609; amended at 40 Ill. Reg. _____, effective _____.

Section 9050.10 Right to Oral Argument

Upon the request of ~~any~~either party that complies with 50 Ill. Adm. Code 9040.70, and no later than the conclusion of the review hearing, or upon order of the assigned Commissioner, a cause shall be set down for Oral Argument~~oral argument~~ before not less than a majority of the members of the assigned Commission panel.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9050.20 Time Allotted

- a) Oral Argument on all cases in which nature and extent of ~~where Nature and Extent of~~ injury is the sole issue shall be limited to five~~(5)~~ minutes for each side.
- b) Oral Argument~~argument~~ shall be limited to ten~~(10)~~ minutes for each side, inclusive of rebuttal time, on:
 - 1) all other cases; and
 - 2) those cases in which~~where~~ a total permanent disability or death award has

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been entered, regardless of the number of issues involved.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9050.30 Section 19(h) Petitions

Oral ~~Argument~~argument may be had on hearings under Section 19(h) of the Workers' Compensation Act in the same manner as provided in Section ~~9050.20~~9050.20.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9050.40 Petitioner's Presence at Oral Argument

- a) The Petitioner has a right to be present at any Oral Argument.
- b) The Petitioner shall be present for examination at the time set for Oral Argument if:
 - 1) the Petitioner desires to be present and requests examination by a Commissioner; or
 - 2) a Commissioner of the assigned panel requests the Petitioner to be present. 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.
- c) In the event that ~~neither the~~ Petitioner does not choose to be present and ~~nopetitioner nor Commissioner requests~~the hearing commissioner request the presence of the ~~Petitioner~~petitioner, the ~~Respondent~~respondent may request the ~~Petitioner's~~his presence, subject to the discretion of a Commissioner of the assigned panel. If, and if that such ~~commissioner the assigned panel. If, and if that such~~ presence is ordered, by the hearing commissioner, the Respondent ~~the hearing commissioner, the Respondent~~ shall pay the Petitioner directly, or his or her attorney, if represented, in advance of the time fixed for Oral ~~the Petitioner directly, or his or her attorney, if represented, in advance of the time fixed for~~ Argument.
- 1) ~~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
- 2) reimbursement for any loss of wages caused because of loss of working

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time, ~~as provided under Section 12 of the Workers' Compensation Act~~
~~relative to physical examinations.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9060

JUDICIAL REVIEW

Section

9060.10 Certification of Record: Conditions

[9060.20 Orders on Judicial Review](#)

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; recodified from 50 Ill. Adm. Code 7060 to 50 Ill. Adm. Code 9060 at 39 Ill. Reg. 9610; amended at 40 Ill. Reg. _____, effective _____.

Section 9060.10 Certification of Record: Conditions

- a) ~~Receipt of Notice of Intent to File for Review in the Circuit Court~~~~Cost of Record~~
Judicial review of Commission decisions is had by summons as provided in the Workers' Compensation Act [820 ILCS 305/19]. ~~No request for a summons may be filed and no summons shall issue unless the party seeking to review the decision of the Commission exhibits to the clerk of the Circuit Court proof of filing with the Commission of the notice of the intent to file for review in the Circuit Court or an affidavit of the attorney setting forth that notice of intent to file for review in the Circuit Court has been given in writing to the Secretary or Assistant Secretary of the Commission.~~~~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.

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(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9060.20 Orders on Judicial Review

- a) Upon receipt of a final Order from the reviewing court or an Order from the reviewing court that remands the matter back to the Commission, the moving party shall file a copy of the Order with the Commission within 30 days after receipt, with notice of filing to all parties.
- b) Upon receipt of an Order from a reviewing court, the Commission shall docket the Order and set the matter for hearing in the same manner as Petitions for Review, except that, when practical, the cause shall be returned to the original Commissioner.

(Source: Added at 40 Ill. Reg. _____, effective _____)

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PART 9070

SETTLEMENT CONTRACTS AND LUMP SUM PETITIONS

Section

9070.10	Settlement Contracts
9070.20	Agreed Petitions for Lump Sum Settlement
9070.30	Contested Petitions for Lump Sum Settlement
9070.40	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; recodified from 50 Ill. Adm. Code 7070 to 50 Ill. Adm. Code 9070 at 39 Ill. Reg. 9611; amended at 40 Ill. Reg. _____, effective _____.

Section 9070.10 Settlement Contracts

a) Filing Requirements

- 1) Settlement Contracts shall be filed in quadruplicate on a form provided by the Commission and docketed. One copy shall be provided for each additional case number listed on the contract. ~~When~~Where an application is pending, the contracts must bear the docket number of the application. ~~When~~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 an "Attorney

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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 ~~Contract~~ 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. Settlement Contract forms are available at <http://www.iwcc.il.gov/forms.htm>.

~~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.~~

12) 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, ~~when~~ 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.~~

23) ~~The~~ 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, upon request, provide ~~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 Workers' Compensation 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;~~

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- 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 9080.10(a)).~~

12) Settlement Contracts on cases originating in Cook County ~~that, which~~ have not previously been assigned to an Arbitrator or Commissioner may be assigned randomly to an Arbitrator in the appropriate venue by a computer program~~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.~~

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

3) When the venue is outside Cook County, the parties may present Settlement Contracts by appearing personally before an Arbitrator assigned to that venue and requesting approval of the contracts.

- d) Appearance of Petitioner Discretionary
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 settlementSettlement and the medical and other reports required to be submitted pursuant to subsection (b)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 40 Ill. Reg. _____, effective _____)

Section 9070.20 Agreed Petitions for Lump Sum Settlement

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- a) All of the requirements set forth in Section 9070.10 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) ~~When~~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 40 Ill. Reg. _____, effective _____)

Section 9070.30 Contested Petitions for Lump Sum Settlement

Contested Lump Sum Settlement Petitions shall be docketed and set for hearing pursuant to 50 Ill. Adm. Code 9040.20(c)~~.in the same manner as Petitions for Review.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9070.40 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 Sum 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) ~~When~~Where a Settlement Contract has been rejected by an Arbitrator and the venue of ~~thesaid~~ case lies outside Cook County, it shall be the duty of the Arbitrator to return ~~thesaid~~ file to the ~~Workers' Compensation~~ Commission, which will~~whose function it shall be to~~ transfer the ~~said~~ case to a new Arbitrator in the

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nearest contiguous geographical territory. ~~The, and the Workers' Compensation~~ Commission shall notify all parties of the time, place and date of further
actionpertinent thereto.

- c) ~~When~~Where a Settlement Contract has been rejected by an Arbitrator and the venue of ~~thesaid~~ case lies in Cook County, it shall be the duty of the Arbitrator to notify the ~~Workers' Compensation~~ Commission, ~~which will~~whose function it shall
~~be to~~ transfer ~~thesaid~~ case to a new Arbitrator chosen randomly from all Arbitrators located in Cook County.
- d) When a Settlement Contract has been rejected by a Commissioner and reassigned to an Arbitrator for hearing, no Settlement Contract may be approved by any Arbitrator. Any additional Settlement Contract must be presented to the Commissioner who rejected the prior Settlement Contract for consideration and possible approval.
- e) Parties may reserve the right to amend an approved Settlement Contract by stipulation and Order of a Commissioner to conform with regulatory requirements including, but not limited to, those of Social Security and Medicare. In no event may those amendments abridge the substantive rights of the parties as listed in the previously approved Settlement Contract.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9090

DISCIPLINE OF ATTORNEYS; AGENTS

Section

9090.10 Disciplining of Attorneys: Procedure

9090.20 Disciplining of Agents: Procedure

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

SOURCE: Filed and effective March 1, 1977; codified at 7 Ill. Reg. 1243; recodified from 50 Ill. Adm. Code 7090 to 50 Ill. Adm. Code 9090 at 39 Ill. Reg. 9613; amended at 40 Ill. Reg. _____, effective _____.

Section 9090.10 Disciplining of Attorneys: Procedure

~~a) When~~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 refer that matter to the Attorney Registration and Disciplinary Commission~~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.~~

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(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9090.20 Disciplining of Agents: Procedure

- a) Whenever the Commission finds that an insurer, self-insurer, claims service ~~or~~ other association, or an agent of one of these entities~~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 Act~~Acts~~, the Commission may issue a Rule to Show Cause ~~rule to show cause~~ why such~~the~~ carrier or agent should not be suspended from writing insurance or processing workers' compensation claims within the State~~state~~.
- b) The recipient of the Rule to Show Cause ~~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 to provide~~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 (i.e., submission) to the Attorney General for action on any violation of the law~~misdemeanor~~, or certification to the Director of Insurance for discipline~~suspension~~ of license.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9100

INSURANCE REGULATIONS

Section	
9100.10	Insurance Forms
9100.20	Policy Information Page
9100.30	Termination of Insurance
9100.40	Requirements for Approval as a Self-Insurer
9100.50	Self-Insurers to File Statements and Reports
9100.60	Administration of Claims Against Securities, Indemnity or Bonds of Self-Insurers
9100.70	Administration of Claims Against Group Self-Insurer's Insolvency Fund
9100.80	Administration of Claims Against the Self-Insured Employers Liability Fund
<u>9100.85</u>	<u>Administration of Claims Against the Injured Workers' Benefit Fund</u>
9100.90	Insurance Coverage: Compliance

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

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; recodified from 50 Ill. Adm. Code 7100 to 50 Ill. Adm. Code 9100 at 39 Ill. Reg. 9614; amended at 40 Ill. Reg. _____, effective _____.

Section 9100.20 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 locations~~location(s)~~ and character of the business

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~~operation~~~~operation(s)~~, the date effective, and the policy number. The ~~policy~~~~Policy~~ information page must be ~~countersigned~~~~counter-signed~~ by a duly authorized agent of the insurance company.

- b) A policy information page shall be required ~~when~~~~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 40 Ill. Reg. _____, effective _____)

Section 9100.40 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] (~~WODA~~) who ~~desires~~~~shall desire~~ to be approved as a self-insurer shall file with the Commission an ~~Application for Approval~~~~application for approval~~ on a form prescribed by the Commission and ~~the most current 3 years'~~~~audited~~~~a current~~ financial ~~statements~~~~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 ~~WODA~~the ~~Workers' Occupational Diseases Act~~ or the State of Illinois, any political subdivision of the ~~State~~~~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) Any reference in this Part to workers' compensation insurance coverage shall encompass coverage under both the Act and WODA.
- B) *The application and current financial ~~statements~~~~statement~~ shall be signed and sworn to by the president or vice-president and secretary or assistant secretary of the employer, if it ~~is~~~~be~~ a corporation, or by all of the partners, if it ~~is~~~~be~~ a copartnership, or by the owner if it ~~is~~~~be~~ neither a copartnership nor a corporation.* (Section 4(a)(1) of the Act)

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- C) In the event the employer does not have ~~a current~~ audited financial ~~statements~~statement, the employer must submit ~~a current~~ financial ~~statements that have~~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 ~~statements~~statement of the parent ~~corporation~~corporation(s) or each of its controlling ~~persons~~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 ~~that~~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~~Workers' Compensation~~ insurance coverage ~~that~~which shall be maintained until final approval as a self-insurer is granted.

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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 ~~thesuch~~ personnel and facilities to provide ~~thosesuch~~ 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; ~~and~~

v) whether a current estimate of the expected total cost for each claim is established based on facts of each claim, medical information, and provisions of the Act. This estimation is not trended, based on discounted present value, or actuarially developed.

H) 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 ~~thea-current~~ financial ~~statementsstatement as~~ described in subsection (a)(1)(~~AG~~). The renewal application and ~~current~~ financial ~~statementsstatement~~ shall be signed and sworn to in accordance

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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~~ corporation(s) or controlling ~~person~~ 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 ~~nonrefundable~~ non-refundable application fee of \$500 ~~that~~ which shall be deposited upon receipt by the Commission into the Self-Insurers Administration Fund. (Section 4a-4(a) of the Act)*
- 2) If ~~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)* If ~~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 ~~after~~ 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 in this subsection (c)(2) ~~below~~:

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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
1.1	:	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

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has been self-insured for a minimum of ~~3~~three consecutive years ~~may~~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 ~~3~~three financial ratios in ~~subsections~~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~~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~~WODA and Workers' Occupational Diseases Act.

3) Security
~~When~~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 ~~that~~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 ~~shall~~may also require that the applicant further secure payment of liabilities under the ~~Workers' Compensation Act~~WODA and Workers' Occupational Diseases Act by obtaining a policy of excess ~~workers' compensation liability or catastrophe~~ insurance on such form as may be required by the Commission.

A) Security Determination

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- i) The amount of the security shall be based upon, but not be limited to, such criteria as the employer's financial strength, industry, 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 in this subsection (c)(3)(A) 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) When~~Where~~ the employer submits audited financial statements containing an unqualified opinion, the security requirement shall be determined by using the highest amount of security obtained after applying the following formulas:

Minimum security to be not less than \$200,000.

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 reserves may~~losses will~~ be equalized. The following formula is then applied:

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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 paid losses may~~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 that do not contain an unqualified opinion or~~which~~ are not audited, the security requirements shall be determined by using the highest amount of security obtained after applying the following formulas:

Minimum security to be not less than \$200,000.

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:

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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%.~~

~~iii~~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 on a life of ~~claim~~claims on an incurred basis, a factor of 120% is applied to the formulas used in ~~subsections~~subsections (c)(3)(B)(i) and, (ii) ~~and (iii) above~~, to cover the contingent claims cost in the event of insolvency.

~~iv~~v) All trending factors used in this subsection ~~(b)(3)(C)~~ 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

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	1,000,001 +	100
3 - 5.9	0 - 250,000	150
	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 [in this subsection \(b\)\(3\)\(C\) above](#) is less than 125% and the employer has submitted [financial statements that do not contain an unqualified opinion or are not audited](#)~~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 [on a life of claim](#)~~of claims on an incurred~~ basis, a factor of 120% is applied to cover the contingent claims cost in the event of insolvency.

D) [Acceptable Security Instruments](#)

i) [Surety Bond: Must be on a form prescribed by the Commission.](#) No surety bond may be terminated unless the Chairman has received written notice of ~~the~~[such](#) prospective termination at least 60 days prior to the termination date.

~~iiE)~~ [Escrow Agreement:](#) *Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. ~~The~~[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*

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least equal to the security requirement determined by the Chairman. (See subsection (c)(3)(A).)

iiiF) Letter of Credit: Must be issued by a financial institution acceptable to the Commission and be written in conformity with prescribed format. 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 accompanied by a Self-Insurer's Agreement to Post 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 personsperson(s) designated by the Commission. Pursuant to thesaid agreement, the parent company or the controlling personsperson(s) shall guarantee that the obligations of the subsidiary or the controlled employer under the Workers' Compensation Act/WODA 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 personsperson(s) with respect to the subsidiary or controlled employer whose obligations it has guaranteed, the former parent company and subsidiary or controlling personsperson(s) and controlled employer shall notify the Commission immediately. Notwithstanding any other provisions of this Partrule, if the Board determines that a controlled person or

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subsidary is controlled by an alien controlling person or parent company. ~~or~~ is a utility, or is unable or unwilling to provide a guarantee agreement, the Chairman may, in his or her discretion, waive the requirement that the controlled employer or subsidiary provide a guarantee agreement; ~~if provided, that~~ the controlled employer or subsidiary or utility ~~furnishes~~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 ~~in accordance with~~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 ~~for the security therefor,~~ obtaining appropriate excess ~~workers' compensation liability or catastrophe~~ insurance, ~~and~~ submission of an appropriate claims administration and loss control program, and payment of assessments prescribed by the Commission (see Section 4a-7 of the Act).
- 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

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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. ~~The Order~~ Such order shall be subject to review ~~underpursuant to~~ subsection (h) ~~below~~. Nothing ~~in this subsection (d)(1) 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. ~~The Order~~ Such order shall be subject to review ~~underpursuant to~~ subsection (h) ~~below~~.
- C) When the Chairman denies an application for renewal of the self-insurance privilege, nothing ~~in this subsection (d)(2) herein~~ shall bar an employer from reapplying for approval as a self-insurer. ~~A Such reapplication~~ 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 ~~or her~~ own initiative or at the request of the Board, require a self-insurer to file additional information related to the ~~self insurer's~~ self insurers' ability to adequately secure payment of its financial obligations under the ~~Workers' Compensation Act~~ ~~WODA and Workers' Occupational Diseases Act~~. ~~That~~ Such

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information shall include, but not be limited to, information related to:

- A) the employer's financial condition;
- B) the employer's ability to provide an adequate claims administration program;
- C) the employer's loss control, or safety program; and
- D) the employer's ability 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 or her intent to terminate the self-insurance privilege and the reasons for termination~~therefor~~. The notice shall set forth a time and place of hearing on the matter, which shall be within 30 days after the date of the notice. The Chairman shall notify the employer of the decision in writing after the hearing date. These~~Such~~ decisions shall be subject to review under~~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 that~~which~~ support the employer's position; and, if applicable, any information not previously considered. The~~Such~~ information may include, but is not limited to,

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evidence of an improving financial condition ~~that~~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 ~~that~~which sets forth a place and time of hearing, which shall be 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 or her final decision and the reasons for that decision~~therefor~~. The Order~~Such order~~ shall be subject to review under~~pursuant to~~ subsection (h) ~~below~~.

g) Conduct of Hearings

- 1) All hearings under this Section shall be conducted by the Chairman or a Commissioner designated by the Chairman.
- 2) All hearings shall be conducted in accordance with the requirements of Article 10 of the Illinois 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 of the Commission~~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,*

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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.
(Section 16 of the Act)[820 ILCS 305/16]

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

- h) Appeal
All ~~Orders~~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(f) of the Act for review of awards and decisions of the Commission. (Section 4(j) of the Act)

i) Requirements Following Termination of the Self-Insurance Privilege

- 1) Termination of the employer's self-insurance privilege does not terminate its obligation to provide the Commission with security. The Chairman shall approve release of the security when the Chairman determines, in his or her discretion, that the employer, as a private self-insurer, has no outstanding liability under the Act/WODA.
- 2) Former self-insurers shall be liable for any and all assessments until they have discharged all obligations to pay compensation that arose during the self-insurance period. (Section 4a-7(b) of the Act)

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9100.60 Administration of Claims Against Securities, Indemnity or Bonds of Self-Insurers

- a) Determination of Self-Insurer's Insolvent Condition
This Section applies whenever~~Whenever:~~
- 1) Any self-insured employer who is unable to pay compensation under ~~Sections the Workers' Compensation Act [820 ILCS 305/7(f), 8(a), 8(b), 8(c), 8(d)(1), 8(d)(2), 8(e), 8(f), 19(a) and 19(g)] of the Act and Section 7(7) of WODA~~and Workers' Occupational Diseases Act [820 ILCS 310/7(7)] has filed a written notice of ~~that~~such inability to pay with the ~~Workers' Compensation~~ Commission; or

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- 2) Any person who has filed an Application for Adjustment of ~~Claim~~ claim against a self-insured employer gives written notice to the ~~Workers' Compensation~~ Commission ~~that~~which the Commission determines has raised a question with respect to that employer's ability to pay compensation under the ~~Workers' Compensation Act/WODA 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/WODA 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 (11 USC 101 et seq.); or is a party, whether plaintiff ~~or~~ defendant, in any proceeding in which a receiver, liquidator, custodian, rehabilitator, sequestrator or trustee, or similar officer for ~~the~~such self-insurer or its property, has been appointed;
- b) The ~~Workers' Compensation~~ 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 ~~and to determine~~ the existence and status of any action described in subsection (a)~~proceeding or proceedings referenced above~~. *The Commission or any member of the Commission 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.* [820 ILCS 305/16]
- c) **Duty to Notify**
A self-insured employer ~~that~~which is claiming it is unable to pay compensation under the ~~Workers' Compensation Act/WODA and that and Workers' Occupational Diseases Act, which~~ is a party to a bankruptcy proceeding described in subsection (a)(4)~~above~~, or ~~that~~which is the subject of an order set forth in subsection (a)(3) or (4)~~above~~, shall file written notice of ~~that~~such fact with the ~~Industrial~~ Commission within 10 days ~~after~~ the occurrence of ~~the~~such event.
- d) **Stay**
Upon notification of any of the actions described in subsection (a)~~events in 50 Ill. Adm. Code 9100.60(a)(1)(4)~~ the ~~Workers' Compensation~~ Commission shall, on its own motion, stay all proceedings before the ~~Workers' Compensation~~

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Commission involving ~~thatsaid~~ self-insured employer for ~~at leastno less than~~ 60 days.

e) Transfer of Securities, Indemnity ~~or Bond~~~~sef Bond~~ to the Commission

1) The ~~Workers' Compensation~~ Commission will issue notification, within 20 days after a hearing, ~~of its determination~~ that the self-insured employer is unable to pay compensation due under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~, or has filed for, or is the subject of, any bankruptcy proceeding (~~see set forth in~~ subsection (a)(4)) ~~above~~, or is the subject of an order under subsection (a)(3) or (4). ~~Any above, any~~ holder of any securities, indemnity or bonds furnished by ~~that~~~~such~~ employer guaranteeing the payment of compensation under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~, shall notify the ~~Workers' Compensation~~ Commission in writing whether ~~or not~~ it is willing ~~to~~ and able to administer ~~those~~~~such~~ funds. Unless the holder has provided written notification to the Commission within ~~the~~~~such~~ 20 ~~day~~~~days~~ period that it is able and willing to administer the funds, ~~the~~~~such~~ holder shall immediately deliver all such securities, indemnity or bonds to the ~~Workers' Compensation~~ Commission; otherwise, the ~~Workers' Compensation~~ Commission shall order ~~the~~~~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 ~~those~~~~the said~~ securities, indemnity or bonds with any state or national bank or trust company having trust authority in the State of Illinois ~~that~~~~which~~ has been ranked in the upper 10% in the Annual Report submitted by the State of Illinois Director of the Division of Banking of the Department of Financial and Professional Regulation~~Commissioner of Banks and Trust Companies~~ and ~~that~~~~which~~ has the lowest fees for administration of escrow funds. Deposits in ~~the~~~~said~~ bank or trust company shall be in the form of negotiable United States government bonds ~~or~~~~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 ~~the~~~~said~~ bank or trust company shall be payable only from the interest accrued on ~~the~~~~said~~ proceeds from time of deposit.

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

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- 1) If the bankruptcy proceedings ~~described set forth~~ in subsection (a)(4) ~~above~~ have been commenced or the ~~Order affecting an entity~~ order under subsection (a)(3) or (4) ~~was 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 ~~has~~ not already been filed pursuant to 50 Ill. Adm. Code 9020.20 must ~~have been be~~ filed on or before September 17, 1984.
 - 2) If the bankruptcy proceedings ~~described set forth~~ in subsection (a)(4) ~~above~~ have been commenced or the ~~Order affecting an entity~~ order under subsection (a)(3) or (4) ~~was 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 9020.20 must be filed on or before 12 months after the date of the commencement of ~~those such~~ proceedings or the entry of ~~the Order such~~ order.
- g) Distribution of Securities, Indemnity or Bonds
- 1) Upon determination by the Commission of the extent of the Self-Insured's ~~liability~~ Liability under the Act in all cases for which Applications for Adjustment of Claims or ~~Settlement Contract Petitions~~ 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 subsection (g)(1) ~~above~~, the Commission has determined that the proceeds of the securities, indemnity or bonds are sufficient to pay all ~~claims~~ claim against ~~the such~~ assets in full, it shall order the holder or the ~~depository~~ depository bank or trust company to make payment to the parties entitled ~~to the assets~~ thereto who have perfected claims against ~~those 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, ~~those then such~~ claims

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~~that~~~~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. ~~If, and if~~ the proceeds ~~of securities, indemnity or bonds~~ are not sufficient to pay all claims within ~~this~~~~said~~ class in full, ~~then~~ payment of ~~those~~~~such~~ claims will be ~~prorated~~~~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 ~~prorated~~~~pro~~~~rated~~ on the basis of the amount of each ~~identified~~~~such~~ claim in proportion to the amount of the remainder of the securities, indemnity or bonds.
- 5) If, after all ~~identified~~~~such~~ claims are paid in full, ~~there exists~~ any surplus securities, indemnity or bond amounts ~~remain~~, the Commission shall order ~~those~~ ~~said~~ amounts returned to the employer, bond company, or other party with legal right to ~~those~~~~such~~ monies.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9100.85 Administration of Claims Against the Injured Workers' Benefit Fund

a) Reimbursement

- 1) The Commission shall have the right to obtain reimbursement for any compensation obligations paid by the Injured Workers' Benefit Fund (IWBF) from any individual employer/owner, corporate officer, director of a corporate employer, partner of an employer partnership, or member of an employer limited liability company. (Section 4(d) of the Act)
- 2) If an injured employee or his or her personal representative receives payment from the IWBF, the State of Illinois has the same rights under Section 5(b) of the Act/WODA that the employer who failed to pay the benefits due to the injured employee would have had if the employer had paid those benefits. Any moneys recovered by the State as a result of the State's exercise of its rights under those statutes shall be deposited into the IWBF for the payment of claims. (Section 4(d) of the Act)

b) Administration for IWBF Payout

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To qualify for payment from the IWBf, a claimant must have filed an Application for Adjustment of Claim against the employer (see 50 Ill. Adm. Code 9020.20) and must have named the State Treasurer as ex-officio custodian of the IWBf as a party respondent, or must have amended the Application of Adjustment of Claim to do so.

(Source: Added at 40 Ill. Reg. _____, effective _____)

Section 9100.90 Insurance Coverage: Compliance

- a) Employers to Insure Payment of Compensation
Any employer ~~subject to who shall come within the provisions of~~ Section 3 of the ~~Workers' Compensation Act (the Act) [820 ILCS 305/3]~~ or any employer who ~~elects shall elect~~ to provide and pay the compensation provided for in the ~~Workers' Compensation Act/WODA and the Workers' Occupational Diseases Act [820 ILCS 310]~~ shall insure payment of ~~that such~~ compensation ~~as required by pursuant to~~ Section 4(a) of the Act ~~WODA and Section 4(a) of the Workers' Occupational Diseases Act~~ by obtaining approval ~~from by~~ the ~~Industrial~~ Commission to operate as a self-insurer or by insuring its entire liability to pay ~~the 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
Penalties may be assessed by the Commission after reasonable notice and hearing in accordance with Section 4 of the Act and Section 4 of WODA.
- 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 Workers' Compensation 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. [820 ILCS 305/4(d) and 820 ILCS 310/4]*

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- 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 ~~Workers' Compensation~~ Commission shall give Notice of Non-Compliance to the employer at the employer's last known address or to the employer's representative ~~thereof~~. The notice shall be accompanied by a certificate of service by the ~~Workers' Compensation~~ 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 that~~which~~ may be imposed;
- C) a statement that the employer must submit evidence of compliance or otherwise respond within ~~thirty~~ (30) days ~~after~~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 9100.20 that~~which~~ indicates coverage for the periods of alleged non-compliance;
- ii) a self-insurance certificate of approval covering the periods of alleged non-compliance~~;~~
- iii) a copy of a pooling agreement showing membership in a licensed group workers' compensation pool authorized by the Illinois Department of Insurance during the alleged periods of 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

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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 ~~after~~ after 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 ~~Workers' Compensation~~ Commission by service of a Notice of Hearing upon the employer at least ~~thirty~~ (30) days prior to the time fixed for hearing. If service cannot be made by personal service, 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 employer's 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;

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- ii) the time, date and place of hearing;
- iii) the name of the Commissioner;
- iv) a statement of the ~~Section~~section of the statute alleged to be violated, periods of non-compliance and the penalty ~~that~~which may be imposed; and
- v) a statement that failure to appear at the hearing, ~~if~~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 ~~willful~~willful failure of the employer to insure his ~~or her~~or her liability to pay compensation in accordance with Section 4(a) of the Act or to comply with an ~~Order~~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 ~~in which~~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) ~~of the Act~~of the Act or an ~~Order~~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

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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 ~~of the Commission~~ thereof shall have the power to administer oaths, to subpoena and examine witnesses, and to issue ~~subpoena~~ subpoenassubpoena 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 ~~Rules of Evidence~~ common-law rules of evidence and Article VIII of the Code of Civil Procedure [735 ILCS 5/Art. VIII] 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 Workers' Compensation Commission (50 Ill. Adm. Code: Chapter VI).

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 9100.20 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 that includes ~~decision which shall include:~~

- 1) the findings of the Commission;
- 2) ~~when~~ 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 ~~decision~~ in accordance with the requirements of 50 Ill. Adm.

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Code 9060.

- f) Payment Procedures
- ~~When~~Where the Commission assesses a penalty against an employer in accordance with Section 4(d) of the ~~Workers' Compensation Act~~WODA 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 Workers' Compensation Commission;
 - 2) payment shall be mailed or presented within ~~thirty (30)~~ days ~~after~~of the final ~~Order~~order of the Commission or the order of the court on review after final adjudication to:

Workers' Compensation Commission
Insurance Compliance Division~~Fiscal Office~~
100 West Randolph Street
Suite 8-328
Chicago, Illinois 60601
~~1 312/814 6625~~

- 3) or as otherwise directed by www.iwcc.il.gov.

g) Work-Stop Order

- 1) Failure to Insure Payment of Compensation Liability; Work-Stop Order
When the panel has issued a decision under subsection (g)(5), the Commission may issue a Work-Stop Order on an employer requiring the cessation of all business operations at the employer's places of employment or job sites.
- 2) Hearings, Notice, Locations
 - A) A matter under this Section is commenced by the Commission's Insurance Compliance Division by service of a Notice of Work-Stop Hearing upon an employer at least 5 days prior to the time fixed for hearing.
 - B) If service cannot be made by personal service, by United States

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registered or certified mail addressed to the employer at the last known address or to the employer's representative, service may be effectuated by posting a copy of the Notice of Work-Stop Hearing at the entrance of the employer's places of employment or in a prominent place at the job sites.

C) The Notice of Work-Stop Hearing shall set forth the following information:

i) The name and address of the employer;

ii) The time, date and place of hearing;

iii) A statement of the Section of the statute alleged to be violated, periods of non-compliance, and that a Work-Stop Order may be issued;

iv) A statement that failure to appear at the hearing shall constitute a default and shall result in a finding that:

• there has been a knowing failure of the employer to provide coverage required by Section 4(a) of the Act;

• the failure to insure is deemed an immediate serious danger to public health, safety and welfare; and

• a Work-Stop Order shall be issued by the Commission hearing panel at the close of evidence.

3) Assignments

A) A matter to be scheduled for a Work-Stop Order hearing in Chicago shall be randomly assigned to any available Commissioner.

B) A matter to be heard in Springfield shall be scheduled to a Commissioner at his or her next available review date.

C) The hearing shall be held within 7 days after the date of the Notice

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of Work-Stop Hearing.

4) Hearings under this subsection (g) shall be conducted in accordance with subsection (d)(3).

5) Decision

A) A panel of 3 Commissioners (one member representing the employing class, one member representing the employee class, and one member representing neither the employing or employee class) shall issue a decision at the close of the hearing that shall include:

i) The findings of the Commission;

ii) The dates of failure to insure;

iii) A statement of the conditions for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 9060.

B) If the panel's decision finds that the employer has knowingly failed to provide the WC coverage required by Section (4)(a) of the Act, that failure is statutorily deemed an immediate serious danger to public health, safety and welfare justifying service by the Commission of a Work-Stop Order under subsection (g)(1). (Section 4(d) of the Act)

6) Issuance and Posting of Work-Stop Order

A) A Work-Stop Order shall take effect immediately upon issuance by the Commission.

B) Posting of Work-Stop Order

i) Upon taking effect, the Commission shall cause a Notice of Work-Stop Order to be posted at the employer's places of employment or job sites reflecting the decision of the Commission.

ii) The Notice of Work-Stop Order shall be in the form of a

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sign of sufficient size and visibility to serve as notice to the public or persons at or entering the employer's places of employment or job sites that a Work-Stop Order is in effect. The notice shall be affixed to the employer's places of employment or job sites in any manner possible, including, but not limited to, windows, doors and fencing.

- iii) Upon request by the Commission, any law enforcement agency in the State shall render assistance to the Commission to carry out the provision of Section 4(d) of the Act, including, but not limited to, preventing any employee from remaining at the employer's place of employment after a Work-Stop Order has taken effect.

7) Release of Work-Stop Order

- A) A Work-Stop Order shall remain in effect until the Commission issues a Release of the Work-Stop Order upon a finding that the employer is in compliance with the workers' compensation insurance coverage requirements of Section 4(a) of the Act. An employer may request a Release of the Work-Stop Order by demonstrating compliance by submitting a copy of the policy information page issued by an insurance carrier (see Section 9100.20) and proof of payment of premium for at least 90 days. The documentation provided must be to the Commission's satisfaction.
- B) Release of a Work-Stop Order does not relieve the employer and/or officers of any fines, penalties or decision that may be assessed for prior noncompliance periods.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9110

MISCELLANEOUS

Section	
9110.5	Definitions
9110.10	Vocational Rehabilitation
9110.20	Petitions under Sections 19(h), 8(a), and 7(a) of the Act (Repealed)
9110.30	Commission Meetings: Minutes
9110.40	Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment
9110.50	Petitions under Section 19(o) of the Act
9110.60	Distribution of Commission Handbook
9110.70	Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care
9110.80	Rate Adjustment Fund and Second Injury Fund Contributions: Compliance
9110.90	Illinois Workers' Compensation Commission Medical Fee Schedule

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. 10222, effective July 6, 2010, for a maximum of 150 days; emergency rule repealed by emergency amendment at 34 Ill. Reg. 17471, effective October 28, 2010, for the remainder of the 150 days; amended at 36 Ill. Reg. 16349, effective November 5, 2012; amended at 36 Ill. Reg. 17108, effective November 20, 2012; recodified from 50 Ill. Adm. Code 7110 to 50 Ill. Adm. Code 9110 at 39 Ill. Reg. 9616; amended at 40 Ill. Reg. _____, effective _____.

Section 9110.10 Vocational Rehabilitation

- a) [An employer's vocational rehabilitation counselor](#)~~The employer or his~~

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~~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, vocational rehabilitation required to return the injured worker to employment. The vocational rehabilitation assessment is required 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 he or she was engaged at the time of injury. ~~When, or when~~ the period of total incapacity for work exceeds ~~365-120 continuous~~ days, the written assessment required by this subsection shall likewise be prepared~~whichever first occurs~~.

- b) The assessment shall address the necessity for a plan or program ~~that, 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~~~~order~~ or ~~Award~~~~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. Copies shall, to be made available for review by the Commission, on its request, until the matter is terminated by ~~Order~~~~order~~ or ~~Award~~~~award~~ of the Commission or by written agreement of the parties approved by the Commission.
- e) The rehabilitation plan ~~may~~shall be prepared on a form furnished by the Commission.

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f) Nothing in this Section abridges the rights of the parties.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9110.20 Petitions under Sections 19(h), 8(a), and 7(a) of the Act (Repealed)

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.

(Source: Repealed at 40 Ill. Reg. _____, effective _____)

Section 9110.40 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 in the same manner as Petitions filed pursuant to Section 19(b), as set forth in 50 Ill. Adm. Code 9020.80, as soon as possible, except that, if an emergency is alleged in the petition, it shall immediately be set for hearing. All Petitions 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, if unrepresented, either personally or by registered mail.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9110.60 Distribution of Commission Handbook

The An employer, upon receiving notice of an accident reportable pursuant to Section 6(b) of the Act, shall deliver the Commission Handbook will be maintained on the Commission website pursuant to Section 15a of the Act, 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 40 Ill. Reg. _____, effective _____)

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TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXII: INDUSTRIAL COMMISSION

PART 2026
FREEDOM OF INFORMATION ACT (REPEALED)

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2026.110	Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

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2026.200	Person to Whom Requests Are Submitted
2026.210	Form and Content of Requests

SUBPART C: PROCEDURES FOR COMMISSION RESPONSE
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2026.300	Timeline for Commission Response
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2026.510	Copies of Public Records
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2026.APPENDIX A Forms

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|---------------------|--|
| 2026.ILLUSTRATION A | Request for Public Records |
| 2026.ILLUSTRATION B | Approval of Request for Public Records |
| 2026.ILLUSTRATION C | Denial of Request for Public Records |
| 2026.ILLUSTRATION D | Partial Approval of Request for Public Records |
| 2026.ILLUSTRATION E | Deferral of Response to Request for Public Records |
| 2026.ILLUSTRATION F | FOIA Appeal, Chairman's Response |

2026.APPENDIX B Fee Schedule for Duplication of Public Records

AUTHORITY: Implementing and authorized by The Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983, ch. 116, pars. 201 et seq.) and Section 5-15 of The Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15).

SOURCE: Adopted at 8 Ill. Reg. 15451, effective August 10, 1984; repealed at 40 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 2026.100 Summary and Purpose

- a) These rules are established to implement the provisions of the Freedom of Information Act (P.A. 83-1013, effective July 1, 1984, Supp. to Ill. Rev. Stat. 1983, Ch. 116, pars. 201 et seq.). The purpose of these rules is to support the policy of providing public access to the public records in the possession of this Commission, while at the same time, protecting legitimate interests and maintaining administrative efficiency.
- b) These rules create a procedure by which the public may request and obtain public records. Therefore, they are being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15).

Section 2026.110 Definitions

- a) Terms used in these rules shall have the same meaning as in the Freedom of Information Act.
- b) "FOIA" means the Freedom of Information Act.
- c) "Freedom of Information Officer" means an individual responsible for receiving and responding to requests for public records.

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- d) "Requestor" means a person who submits a request for public records in accordance with these rules.

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 2026.200 Person to Whom Requests Are Submitted

Requests for public records shall be submitted to the Freedom of Information Officer of this Commission. Requests shall be submitted to the following address:

Freedom of Information Officer

Name: Mrs. Elsie Kurasch

Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1210
Chicago, Illinois 60601

Attn: FOIA Request

Section 2026.210 Form and Content of Requests

- a) Requests in accordance with the FOIA and these rules shall be made in writing. Such requests may be submitted on FOIA request forms provided by the Commission. (See Appendix A to these rules)
- b) Oral requests will be handled expeditiously. However, the required response times and the appeal procedures contained in the FOIA and these rules do not apply to oral requests.
- c) The requestor shall provide the following information in a request for public records:
- 1) The requestor's full name, address and phone number.
 - 2) A brief description of the public records sought, being as specific as possible.
 - 3) Whether the request is for inspection of public records, copies of public records, or both.

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SUBPART C: PROCEDURES FOR COMMISSION RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

Section 2026.300 Timeline for Commission Response

- a) The Commission shall respond to a written request for public records within 7 working days after the receipt of such request.
- b) The Commission may give notice of an extension of time to respond which does not exceed an additional 7 working days. Such an extension is allowable only if written notice is provided within the original 7 working day time limit and only for the reasons provided in Section 3(d) of the FOIA. Such notice of extension shall state the reasons why the extension is necessary.

Section 2026.310 Types of Commission Responses

- a) The Commission shall respond to a request for public records in one of three ways:
 - 1) Approve the request.
 - 2) Approve in part and deny in part.
 - 3) Deny the request.
- b) Upon approval of a request for public records, the Commission may either provide the materials immediately, give notice that the materials shall be made available upon payment of reproduction costs or give notice of the time and place for inspection of records.
- c) A denial of a request for public records shall be made in writing. It shall state the reasons for the denial in accordance with either Section 3(f) or Section 7 of the FOIA and the names and titles of individuals responsible for the decision. It shall also give notice to the requestor's right to appeal to the Chairman of the Commission.
- d) Categorical requests creating an undue burden upon the Commission shall be denied only after extending to the requestor an opportunity to confer in an attempt to reduce the request to manageable proportions in accordance with Section 3(f) of the FOIA.

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- e) Failure to respond to a written request within 7 working days may be considered by the requestor a denial of the request.

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section 2026.400 Appeal of a Denial

- a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Chairman of the Commission. The notice of appeal shall be made in writing and sent to:

Name: Acting Chairman Norman L. Brown
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1200
Chicago, Illinois 60601
Attn: FOIA Appeal

- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor, and a statement of the reasons why the appeal should be granted.

Section 2026.410 Chairman's Response to Appeal

The Chairman shall respond to an appeal within 7 working days after receiving notice thereof. The Chairman shall either affirm the denial or provide access to the requested public records. Failure to respond within 7 working days may be considered by the requestor an affirmation of the denial.

SUBPART E: PROCEDURES FOR PROVIDING
PUBLIC RECORDS TO REQUESTORS

Section 2026.500 Inspection of Records at Commission Offices

- a) Generally, public records will be made available for inspection during normal working hours of the Commission at the office of the Freedom of Information Officer.
- b) Documents which the requestor wishes to have copied shall be segregated during the course of the inspection. For purposes of convenience, copying may be done

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by the requestor or by Commission employees.

- c) Unless otherwise arranged, the inspection of records shall take place at the office of the Freedom of Information Officer. For purposes of convenience, either the Commission or the requestor may request that inspection take place in another Commission office location.
- d) An employee of the Commission may be present throughout the inspection. A requestor may be prohibited from bringing bags, brief cases or other containers into the inspection room.

Section 2026.510 Copies of Public Records

- a) Copies of public records shall be provided to the requestor only upon payment of any charges which are due.
- b) Charges for copies of public records shall be assessed in accordance with "Fee Schedule for Duplication of Public Records" attached as Appendix B to these rules.
- c) Charges shall be waived if the requestor is a State agency, a constitutional officer or a member of the General Assembly. Charges may be waived in any other case where the Freedom of Information Officer determines that the waiver serves the public interest.

Section 2026.520 General Materials available from the Freedom of Information Officer

The Freedom of Information Officer shall make available to the public at no charge the following materials:

- a) A brief description of the organizational structure and budget of the Commission;
- b) A brief description of the means for requesting information and public records;
and
- c) A list of types and categories and public records maintained by the Commission.

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Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION A Request for Public Records

TO: _____	FROM: _____
FOI OFFICER _____	NAME _____
_____	_____
COMMISSION _____	ADDRESS _____
_____	_____
ADDRESS _____	_____
_____	_____
_____	PHONE NUMBER _____

DESCRIPTION OF REQUESTED RECORD(S)

Please indicate if you wish to inspect the above-captioned records or wish a copy of them:

☐ Inspection

☐ Copy

☐ Both

Do you wish to have copies certified? ☐ Yes ☐ No

FOR OFFICE USE ONLY:

Date Received

Date Response Due

Notations re Oral Communications or Other Items.

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Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION B Approval of Request for Public Records

TO: _____	FROM: _____
Name _____	FOI Officer _____
Address _____	Commission _____
_____	Address _____
Phone Number _____	_____

DESCRIPTION OF REQUESTED RECORDS:

Your request dated _____ for the above-captioned records has been approved.

- ☐ The documents you requested are enclosed.
- ☐ The documents will be made available upon payment of copying costs in the amount of _____.
- ☐ You may inspect the records at _____
on _____.
Date

FOI OFFICER

Date

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Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION C Denial of Request for Public Records

TO: _____	FROM: _____
Name _____	FOI Officer _____
Address _____	Commission _____
_____	Address _____
Phone Number _____	_____

DESCRIPTION OF REQUESTED RECORDS:

Your request dated _____ for the above-captioned records has been denied:

- ☐ The request creates an undue burden on the public body in accordance with Section 3(f) of the Freedom of Information Act, and we were unable to negotiate a more reasonable request.
- ☐ The materials requested are exempt under Section 7____ of the Freedom of Information Act for the following reasons:

The individuals who have reached the determination that the records you have requested are to be denied are:

1. (Name and Title)
2. (Name and Title)

You have the right to appeal the denial of the records you have requested to the Chairman of the Commission submitting a written notice of appeal to:

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Name: Acting Chairman Norman L. Brown
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1200
Chicago, Illinois 60601
Attn: FOIA Appeal

In submitting your notice of appeal, you should include copies of your original request and this denial, and state any reasons why your appeal should be granted.

FOI Officer

Date

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Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION D Partial Approval of Request for Public Records

TO: _____	FROM: _____
Name _____	FOI Officer _____
Address _____	Commission _____
_____	Address _____
_____	_____
Phone Number _____	

DESCRIPTION OF REQUESTED RECORDS:

Your request dated _____ for the above-captioned records has been partially approved. Those parts of your request which have been approved:

- ☐ are enclosed.
- ☐ will be made available upon payment of copying costs in the amount of _____.
- ☐ may be inspected at _____ on _____.
(date)

The following portions of your request have been denied for the reasons cited:

The individuals who have reached the determination that the records you have requested are to be denied are:

1. (Name and Title)

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2. (Name and Title)

You have the right to appeal the denial of the records you have requested to the Chairman of the Commission by submitting a written notice of appeal to:

Name: Acting Chairman Norma L. Brown
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1200
Chicago, Illinois 60601
Attn: FOIA Appeal

In submitting your notice of appeal, you should include copies of your original request and this denial, and state any reasons why your appeal should be granted.

FOI Officer

Date

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Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION E Deferral of Response to Request for Public Records

TO: _____	FROM: _____
Name _____	FOI Officer _____
Address _____	Commission _____
_____	Address _____
Phone Number _____	_____

DESCRIPTION OF RECORDS REQUESTED:

The response to your request dated _____ for the above-captioned records must be delayed.
The delay in response to your request is for the following reason(s):

(Provide reason for delay in accordance with Section 3(d) of the FOIA.)

You will be notified by _____ as to the action taken
(date)

FOI Officer

Date

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Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION F FOIA Appeal Chairman's Response

TO: _____	FROM: _____
Name _____	FOI Officer _____
Address _____	Commission _____
_____	Address _____
Phone Number _____	_____

DESCRIPTION OF RECORDS REQUESTED:

Noted below is the action I have taken on your appeal from the denial of your request for the above-captioned records:

☐ I hereby approve your appeal to the following extent and for the following reasons:

☐ I affirm the denial of your request made by the Freedom of Information Officer.

You are entitled to judicial review of any denial pursuant to Section 11 of the Freedom of Information Act.

Chairman

Date

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Section 2026.APPENDIX B Fee Schedule for Duplication of Public Records

Type of Duplication	Per Copy Charge
Paper copy from paper original (possibly different charges for different sizes)	\$.10
Paper copy from microfilm original (possibly different charges for different sizes)	.10
Microfilm from microfilm original	30.00
Computer printout – paper	25.00 to 100.00 depending on complexity of computer run

Some records possessed by the Department are in book or pamphlet form. A charge may be assessed for such materials based upon the cost of such materials incurred by the Department.

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NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXII: WORKERS' COMPENSATION COMMISSION

PART 2026

ACCESS TO RECORDS OF THE WORKERS' COMPENSATION COMMISSION

SUBPART A: INTRODUCTION

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2026.115	Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section	
2026.205	Records that Will Be Disclosed
2026.215	Records that Will Be Withheld from Disclosure
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- 2026.505 Inspection and Copying of Records
- 2026.515 Fees for Records
- 2026.525 Reduction and Waiver of Fees

2026.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 8 Ill. Reg. 15451, effective August 10, 1984; former Part repealed at 40 Ill. Reg. _____ and new Part adopted at 40 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 2026.105 Summary and Purpose

- a) This Part states the policy of the Workers' Compensation Commission (Commission) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Commission's possession:
 - A) Records that shall be disclosed; and
 - B) Records that shall be withheld from disclosure;
 - 2) Contains the procedures by which requesters may obtain records in the Commission's possession; and
 - 3) Contains the procedures for claiming and determining that records submitted to the Commission are exempt from disclosure.

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Section 2026.115 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Act" means the Illinois Workers' Compensation Act [820 ILCS 305].

"Chairman" means the Chairman of the Commission.

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles or opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Commission" means the Workers' Compensation Commission as established by the Act and WODA.

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Commission. (Section 2(d) of FOIA)

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or

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corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Commission. (Section 2(c) of FOIA)

"Recurrent requester" means a person that, in the 12 months immediately preceding the request, has submitted to the same public body a minimum of 50 requests for records, a minimum of 15 requests for records within a 30-day period, or a minimum of 7 requests for records within a 7 day period. For the purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods, in this definition when the principal

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purpose of the requests is to access and disseminate information concerning news and current or passing events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific, or public research or education. For the purposes of this definition, "request" means a written document (or oral request, if the public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied. (Section 2(g) of FOIA)

"Requester" is any person who has submitted to the Commission a written request, electronically or on paper, for records.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

"WODA" means the Illinois Workers' Occupational Diseases Act [820 ILCS 310].

SUBPART B: CLASSIFICATION OF RECORDS

Section 206.205 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Commission shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 206.215 or 206.225. Records covered under this Section shall include, but are not limited to:

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Commission are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to the Commission under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Commission prior to disclosure. (Section 2.10 of FOIA)*

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- c) *Settlement and severance agreements. All settlement and severance agreements entered into by or on behalf of the Commission are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 2026.215 or 2026.225 may be redacted. (Section 2.20 of FOIA)*

Section 2026.215 Records that Will Be Withheld from Disclosure

- a) For exemptions from FOIA that are stated in FOIA, see Section 7(1) of the Act.
- b) *A record that is not in the possession of the Commission but is in the possession of a party with whom the Commission has contracted to perform a governmental function on behalf of the Commission, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Commission for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 2026.225 Statutory Exemptions

For exemptions from FOIA that are stated in other statutes, see Section 7.5 of the Act.

Section 2026.235 Records Maintained Online

- a) *Notwithstanding any provision of FOIA to the contrary, the Commission is not required to copy a public record that is published on the Commission's website. The Commission shall notify the requestor that the public record is available online and direct the requestor to the website where the record can be reasonably accessed.*
- b) *If the person requesting the public record is unable to reasonably access the record online after being directed to the website pursuant to subsection (a), the requester may resubmit his or her request for the record, stating his or her inability to reasonably access the record on line, and the public body shall make the requested record available for inspection or copying. (Section 8.5 of FOIA)*

SUBPART C: PROCEDURES FOR REQUESTING
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Section 2026.305 Submittal of Requests for Records

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- a) Any request for public records should be submitted in writing to the FOI Officer of the Commission.
- b) The Commission has one FOI Officer, located in the Chicago office.
- c) Contact information for each FOI Officer can be found online at www.Illinois.gov/Pages/FOIAContacts.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Workers' Compensation Commission
100 West Randolph Street, Suite 8-200
Chicago, Illinois 60601
Attn: FOI Officer

- e) E-mailed requests should be sent to wcc.FOIA@illinois.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 312/814-3520, Attn: FOI Officer.

Section 2026.315 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Commission considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 2026.415 of this Part.);
- c) A statement as to the requested medium and format for the Commission to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Commission to use in providing the records sought: for example, inspection at Commission headquarters or providing paper or electronic copies;

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- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 2026.325 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Commission. (Section 3.1(c) of FOIA)*
- b) *The Commission shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by the Commission to provide the records requested and an estimate of the fees to be charged, which the Commission may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 2026.215 or 2026.225;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Commission shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. (Section 3.1(b) of FOIA)*

SUBPART D: COMMISSION RESPONSE TO REQUESTS FOR RECORDS

Section 2026.405 Timeline for Commission Response

- a) Except as stated in subsection (b) or (c), the Commission will respond to any written request for records within 5 business days after its receipt of the request.

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Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Commission fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for those copies. If the Commission fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 2026.415. (Section 3(d) of FOIA) A written request from the Commission to provide additional information shall be considered a response to the FOIA request.

- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
- 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*
 - 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*
 - 6) *The request for records cannot be complied with by the Commission within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Commission; or*
 - 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*

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- c) *The person making a request and the Commission may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Commission agree to extend the period for compliance, a failure by the Commission to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), the Commission will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Commission fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Commission issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 2026.415. (Section 3(f) of FOIA)*

Section 2026.415 Requests for Records that the Commission Considers Unduly Burdensome

- a) *The Commission will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Commission, there is no way to narrow the request, and the burden on the Commission outweighs the public interest in the information. Before invoking this exemption, the Commission will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*
- b) *If the Commission determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Commission. The response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*
- c) *Repeated requests from the same person for records that are unchanged or identical to records previously provided or properly denied under this Part shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 2026.425 Recurrent Requesters

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- a) *Notwithstanding any provision of this Part to the contrary, the Commission will respond to a request from a recurrent requester, as defined in Section 2026.115, within 21 business days after receipt. The response shall:*
 - 1) *provide to the requester an estimate of the time required by the Commission to provide the records requested and an estimate of the fees to be charged, which the Commission may require the person to pay in full before copying the requested documents;*
 - 2) *deny the request pursuant to one or more of the exemptions set out in this Part;*
 - 3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *provide the records requested.*
- b) *Within 5 business days after receiving a request from a recurrent requester, the Commission will notify the requester that the Commission is treating the request as a recurrent request, of the reasons why the Commission is treating the request as a recurrent request, and that the Commission will send an initial response within 21 business days after receipt in accordance with subsection (a). The Commission will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*
- c) *Unless the records are exempt from disclosure, the Commission will comply with a request within a reasonable period considering the size and complexity of the request. (Section 3.2 of FOIA)*

Section 2026.435 Requests for Records that Require Electronic Retrieval

- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Commission will retrieve and provide electronic records only in a format and medium that is available to the Commission.

Section 2026.445 Denials of Requests for Records

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- a) The Commission will deny requests for records when:
 - 1) Compliance with the request would unduly burden the Commission, as determined pursuant to Section 2026.415, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 2026.215 or 2026.225 of this Part.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);
 - 2) *Each notice of denial shall also inform the person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).
- c) A requester may treat the Commission's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.
- d) If the Commission has given written notice pursuant to Section 2026.405(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Commission fails to act within the time periods provided in Section 2026.405.* (Section 9(c) of FOIA)

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Section 2026.455 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by the Commission may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review shall be in writing, be signed by the requester, and include a copy of the request for access to records and any response from the Commission. (Section 9.5(a) of FOIA)*
- b) *A person whose request to inspect or copy a record is made for a commercial purpose may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a record was treated by the Commission as a request for a commercial purpose may file a request for review with the Public Access Counselor for the limited purpose of reviewing whether the Commission properly determined that the request was made for a commercial purpose. (Section 9.5(b) of FOIA)*
- c) *Within 7 business days after the Commission receives a request for review from the Public Access Counselor, the Commission shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*
- d) *Within 7 business days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Commission may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*
- e) *The requester may, but is not required to, respond in writing to the answer within 7 business days and shall provide a copy of the response to the Commission. (Section 9.5(d) of FOIA)*
- f) *In addition to the request for review, and the answer and response to the request, if any, a requester or the Commission may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*

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- g) *A binding opinion from the Attorney General shall be binding upon both the requester and the Commission, subject to administrative review under Section 2026.475. (Section 9.5(f) of FOIA)*
- h) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- i) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Commission will either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 2026.475. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 2026.475. (Section 9.5(f) of FOIA)*
- j) *If the Commission discloses records in accordance with an opinion of the Attorney General, the Commission is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- k) *If the requester files suit under Section 2026.465 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor. (Section 9.5(g) of FOIA)*
- l) *The Attorney General may also issue advisory opinions to the Commission regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Chairman of the Commission or the Commission's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Commission in order to assist in the review. If the Commission relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Commission is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)*

Section 2026.465 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

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Section 2026.475 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Commission shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 2026.505 Inspection and Copying of Records

- a) The Commission may make available records for personal inspection at the Commission's headquarters office located at 100 West Randolph Street, Chicago, or at another location agreed to by both the Commission and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Commission may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.
- b) *When a person requests a copy of a record maintained in an electronic format, the Commission shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Commission shall furnish it in the format in which it is maintained by the Commission, or in paper format at the option of the requester. (Section 6(a) of FOIA)*
- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Commission will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Commission as soon as possible before the appointment.
- d) In order to maintain routine Commission operations, the requester may be asked to leave the inspection area for a specified period of time.

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- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Commission employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 2026.515 Fees for Records

- a) In accordance with Section 2026.525, unless a fee is otherwise fixed by statute, the Commission will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Commission to reproduce records, the Commission will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*
- c) In order to expedite the copying of records that the Commission cannot copy, due to the volume of the request or the operational needs of the Commission, in the timelines established in Section 2026.405, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Commission headquarters in Section 2026.501, or at another location agreed to by both the Commission and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.
- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Commission may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Commission will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(a) of FOIA)* Payment must be by check or money order sent to the Commission, payable to "Illinois Workers' Compensation Commission".
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:

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- 1) The requester, rather than the Commission, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Commission of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Commission personnel may provide records to the contractor;
 - 5) The Commission must have verification that the requester has paid the Commission, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Commission the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.
- f) *The Commission may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. The Commission may charge the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the Commission. If the Commission imposes a fee pursuant to this subsection (f), it must provide the requester with an accounting of all fees, costs, and personnel hours in connection with the request for public records. The provisions of this subsection (f) apply only to commercial requests. (Section 6(f) of FOIA)*

Section 2026.525 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by the Commission if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Commission will consider the following:*
- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*

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- 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*
- b) *In setting the amount of the waiver or reduction, the Commission will take into consideration the amount of materials requested and the cost of copying them. (Section 6(c) of FOIA)*
- c) *The Commission will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.*
- d) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format. (Section 6(a) of FOIA)*

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WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED RULES

Section 2026.APPENDIX A Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.