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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2016

Issue#	Rules Due Date	Date of Issue
1	December 21, 2015	January 4, 2016
2	December 28, 2015	January 8, 2016
3	January 4, 2016	January 15, 2016
4	January 11, 2016	January 22, 2016
5	January 19, 2016	January 29, 2016
6	January 25, 2016	February 5, 2016
7	February 1, 2016	February 16, 2016
8	February 8, 2016	February 19, 2016
9	February 16, 2016	February 26, 2016
10	February 22, 2016	March 4, 2016
11	February 29, 2016	March 11, 2016
12	March 7, 2016	March 18, 2016
13	March 14, 2016	March 25, 2016
14	March 21, 2016	April 1, 2016
15	March 28, 2016	April 8, 2016
16	April 4, 2016	April 15, 2016
17	April 11, 2016	April 22, 2016
18	April 18, 2016	April 29, 2016
19	April 25, 2016	May 6, 2016
20	May 2, 2016	May 13, 2016
21	May 9, 2016	May 20, 2016
22	May 16, 2016	May 27, 2016

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
30	July 11, 2016	July 22, 2016
31	July 18, 2016	July 29, 2016
32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
45	October 24, 2016	November 4, 2016
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48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2016 until January 3, 2017.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.74 Proposed Action: New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: PA 99-751 requires the Department to adopt rules that establish a payment resolution policy for situations where provider payment is denied due to inaccurate enrollment information that existed on the date of service.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
140.435	Amendment	40 Ill. Reg. 6936; May 6, 2016
140.523	Amendment	40 Ill. Reg. 6936; May 6, 2016
140.421	Amendment	40 Ill. Reg. 9909; July 22, 2016
140.469	Amendment	40 Ill. Reg. 9909; July 22, 2016
140.491	Amendment	40 Ill. Reg. 9909; July 22, 2016
140.494	Amendment	40 Ill. Reg. 9909; July 22, 2016
140.80	Amendment	40 Ill. Reg. 14999; November 4, 2016
140.473	Amendment	40 Ill. Reg. 15271; November 14, 2016

- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Mollie K. Zito
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking was Summarized: July 2016

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
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- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)
- [140.74 Resolution of Managed Care Claims Denied for Inaccurate or Updated Enrollment Information](#)

SUBPART C: PROVIDER ASSESSMENTS

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- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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140.86	Supportive Living Facility Funds
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984;

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peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427,

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effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency

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amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended

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at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December

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29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days;

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amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg.

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6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013;

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amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. _____, effective _____.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.74 Resolution of Managed Care Claims Denied for Inaccurate or Updated Enrollment Information

- a) Payment shall be made for a medically necessary covered service when payment is initially denied due to inaccurate or updated enrollment information on the date of service when the provider:
 - 1) Submits documentation to the entity responsible for payment pursuant to subsection (c) that the provider verified the client's enrollment on the date of service by using the Recipient Eligibility Verification Program (REV), the Medical Electronic Data Interchange (MEDI), or any other electronic system that the Department designates for electronic enrollment verification; and

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- 2) Meets all other requirements for providing the medically necessary covered service on the date of service.
- b) In order to receive payment for the medically necessary covered service rendered, the provider must also meet the following:
- 1) For services that required prior authorization, the provider must submit documentation to the entity responsible for payment pursuant to subsection (c) that the prior authorization request was approved by the previous entity to which the client was identified as being enrolled pursuant to subsection (a). For services that did not require prior authorization, the provider must provide proof that no prior authorization was required by the previous entity.
 - A) The MCO responsible for payment pursuant to subsection (c) must accept the approved prior authorization made by the previous entity and may not impose any further prior authorization or similar requirements.
 - B) For services that did not require prior authorization from the previous entity, the MCO responsible for payment pursuant to subsection (c) may not impose any further prior authorization or similar requirements.
 - 2) Provide evidence of claim denial or rejection and supporting documentation of enrollment to the entity responsible for payment pursuant to subsection (c).
 - 3) The approved prior authorization request from the previous entity, or proof that no prior authorization was required by the previous entity, and initial or resubmitted claim must be received by the entity responsible for payment pursuant to subsection (c) within the appropriate timely filing period. The timely filing period shall begin on the date on the payment voucher/remittance advice that informs the provider that the claim is denied or rejected.
- c) The MCO in which the client is enrolled on the date of service is responsible for payment.

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- d) Payment by the responsible MCO will be made as follows:
- 1) In-network managed care providers shall receive the payor's contracted rate that was in effect on the date of service.
 - 2) Out-of-network and fee-for-service providers shall receive the fee-for-service rate, plus any add-ons, that was in effect on the date of service.
 - 3) A payment penalty reduction is not permissible.

(Source: Added at 41 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Coin-Operated Amusement Device and Redemption Machine Tax
- 2) Code Citation: 86 Ill. Adm. Code 460
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
460.101	Amendment
460.105	Amendment
- 4) Statutory Authority: 35 ILCS 510/4; 20 ILCS 2505/2505-105
- 5) A Complete Description of the Subjects and Issues Involved: Section 460.101 is amended to implement a statutory change to the definition of coin-operated amusement device contained in Section 1 of the Coin-Operated Amusement Device and Redemption Machine Tax Act. The statutory change expanded the definition of coin-operated amusement device to include any device operated or operable by insertion of coins, tokens, chips or similar objects. The Department is also updating the definition by rule to include a device that is operated or operable by the use of a debit or prepaid card or mobile device. Amendments are made to Section 460.101 to notify taxpayers that they may file claims pursuant to Section 2 of the Act for tax, penalty and interest paid in error. Section 460.105 also is amended to implement statutory changes to the definition of redemption machine contained in Section 28-2(a)(4) of the Illinois Criminal Code. The definition also is amended to reflect changes in technology, such as games that use computer-generated graphics and electrical displays to simulate the throwing, rolling, bowling, shooting, placing or propelling a ball or object. Other changes have been made to the definition to explain the limitation on awards that may be awarded by a redemption machine.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Richard S. Wolters
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses operating devices or machines falling within the definitions of coin-operated amusement device and redemption machine.
 - B) Reporting, bookkeeping or other procedures required for compliance: Businesses operating devices or machines falling within the definitions of coin-operated amusement device and redemption machine must annually file an application for a privilege decal for each device and machine and pay the annual fee per device and machine of \$30.
 - C) Types of professional skills necessary for compliance: Bookkeeping and computer skills
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2016

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 460

COIN-OPERATED AMUSEMENT DEVICE AND REDEMPTION MACHINE TAX

Section

460.101	Nature and Scope of the Tax
460.105	Illustrations of Taxable and Nontaxable Coin-Operated Amusement Devices and Redemption Machines
460.110	Privilege Tax Decals

AUTHORITY: Implementing the Coin-Operated Amusement Device and Redemption Machine Tax Act [35 ILCS 510] and authorized by Section 2505-105 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-105].

SOURCE: Coin-Operated Amusement Device Tax Act Regulations, adopted July 30, 1953; codified at 8 Ill. Reg. 8607; amended at 16 Ill. Reg. 4876, effective March 12, 1992; amended at 27 Ill. Reg. 542, effective December 27, 2002; emergency amendment at 27 Ill. Reg. 10539, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 2284, effective January 22, 2004; amended at 41 Ill. Reg. _____, effective _____.

Section 460.101 Nature and Scope of the Tax

- a) The Coin-Operated Amusement Device and Redemption Machine Tax Act (the Act) imposes an annual privilege tax on the privilege of operating, in this State:
 - 1) every coin-in-the-slot-operated amusement device in this State, including a device operated or operable by insertion of coins, tokens, chips or similar objects, or operated by the use of a debit or prepaid card or mobile device, that returns to the player no money or property or right to receive money or property; and
 - 2) every redemption machine, as defined in Section 460.105 ~~of this Part.~~
- b) ~~Through June 30, 2003, the amount of the tax is \$15 for each device or machine for which a license was issued for a period beginning on or after August 1 of any year and prior to February 1 of the succeeding year. A privilege tax of \$8 is~~

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~~imposed on the privilege of operating a device or machine for which a license was issued for a period beginning on or after February 1 of any year and ending July 31 of that year. Beginning July 1, 2003, privilege tax decals will be issued instead of licenses.~~ The amount of the tax is \$30 for each device or machine for which a privilege tax decal ~~is~~was issued for a period beginning on or after August 1 of any year through July 31 of the following year. All privilege tax decals issued by the Department shall expire on July 31 following issuance [35 ILCS 510/2(b)]. Privilege tax decals are issued in one-year increments only.

- c) ~~Through June 30, 2003, the tax payable with respect to any amusement device or redemption machine must be remitted to the Department of Revenue with the application for license for such device or machine. Beginning July 1, 2003, the~~ The tax payable with respect to any amusement device or redemption machine must be remitted to the Department of Revenue with a form containing information regarding ~~that~~such device or machine. The remittance should be made payable to the Department of Revenue.
- d) If an amount of tax, penalty or interest has been paid in error to the Department, a taxpayer may file a claim for credit or refund with the Department in accordance with the provisions of Section 2 of the Act [35 ILCS 510/2(b)].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 460.105 Illustrations of Taxable and Nontaxable Coin-Operated Amusement Devices and Redemption Machines

- a) Coin-operated Amusement Devices – Taxable Devices
- 1) To be taxable, the device must be coin-operated, or operated by the insertion of tokens, chips or similar objects, or operated by the use of a debit or prepaid card or mobile device, and it must be an amusement device. However, if an otherwise taxable amusement device is equipped to be operated by means of the insertion of coins, tokens, chips or similar objects, or operated by the use of a debit or prepaid card or mobile device, it is the Department's position that ~~the~~such device does not cease to be a taxable device because of the fact that the operator of the device~~thereof~~ has his or her customers pay for the use of ~~the~~such device at the bar or in some other way ~~that~~which avoids the use of ~~a the coin~~ receptacle that accepts coins, tokens, chips or similar objects, or a debit or prepaid card or

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mobile device.

- 2) The device cannot return money or property or the right to receive money or property to the player. For example, a crane game that offers players the right to receive merchandise contained in the machine is not subject to the tax.
- 3) An amusement device is a device thatwhich is played primarily for amusement or entertainment rather than for the purchase of some specific commodity or service. Every kind of coin-operated amusement device, thatwhich does not return money or property or the right to receive money or property to the player, is subject to the tax. Therefore, the tax applies not only to coin-operated pinball machines, gun-ray devices and shuffleboards (as it did prior to August 1, 1963), but also (commencing August 1, 1963) to coin-operated hockey games, baseball games, horse racing games, gun games of all kinds, pool games, mechanical pony rides and other similar devices, juke boxes, fortune-telling machines and anything else thatwhich comes within the foregoing definition of a coin-operated amusement device.

b) Redemption Machines

- 1) Tax shall be imposed as required in Section 460.101 ~~of this Part~~ on the privilege of operating a redemption machine. For purposes of this Part, *a redemption machine is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object that is either physical or computer generated on a display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, or stopping, by physical, mechanical, or electronic means, a moving object that is either physical or computer generated on a display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, provided that all the following conditions are met:*
 - A) *The outcome of the game is predominantly determined by the skill of the player;*
 - B) *The award of the prize is based solely upon the player's achieving*

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the object of the game or otherwise upon the player's score;

- C) *Only merchandise prizes are awarded;*
- D) *The ~~average~~ wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed ~~\$25~~ ~~the lesser of \$5 or 7 times the cost charged for a single play of the device;~~ and*
- E) *The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, for a single play of the device does not exceed \$25 ~~does not exceed the amount charged for a single play of the device~~ [720 ILCS 5/28-2(a)(4)].*
- c) Nontaxable Devices and Redemption Machines
- 1) The tax does not apply to a coin-operated device maintained by a public utility for furnishing public utility service (such as telephone service). The tax does not apply to any coin-operated device ~~which is~~ designed and used strictly as a means of vending merchandise or service. For example, this tax does not apply (among other things) to cigarette, soft drink and other merchandise vending machines, nor to coin-operated scales ~~that~~~~which~~ merely provide information concerning a person's weight, nor to coin-operated machines ~~that~~~~which~~ merely provide the customer with a photographing service, nor to coin-operated machines ~~that~~~~which~~ merely provide a laundry or dry cleaning service.
 - 2) The tax does not apply to gambling devices, as defined in Section 28-2 of the Criminal Code [720 ILCS 5/28-2].
 - 3) The tax does not apply to a coin-operated amusement device or redemption machine that would otherwise be taxable ~~when~~~~where~~ the person operating ~~the~~~~such~~ device or machine is a private club or organization, and ~~when~~ ~~the~~ ~~where~~ ~~such~~ club or organization restricts the displaying of the amusement device or machine to its membership and ~~the~~~~such~~ device or machine is not displayed in such a manner as to be accessible to the public. The exemption described in the preceding sentence arises from the fact that the Act is worded so that it applies only

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to the displaying of coin-operated amusement devices or redemption machines ~~that where such devices or machines~~ are "to be played or operated by the public". However, a private club or organization cannot be established for the purpose of displaying ~~such~~ amusement devices or redemption machines and thus evade the privilege tax decal requirements of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Freedom of Information Act
- 2) Code Citation: 2 Ill. Adm. Code 2026
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2026.100	Repealed
2026.110	Repealed
2026.200	Repealed
2026.210	Repealed
2026.300	Repealed
2026.310	Repealed
2026.400	Repealed
2026.410	Repealed
2026.500	Repealed
2026.510	Repealed
2026.520	Repealed
2026.ILLUSTRATION A	Repealed
2026.ILLUSTRATION B	Repealed
2026.ILLUSTRATION C	Repealed
2026.ILLUSTRATION D	Repealed
2026.ILLUSTRATION E	Repealed
2026.ILLUSTRATION F	Repealed
2026.APPENDIX B	Repealed
- 4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140]
- 5) Effective Date of Repealer: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10149; July 29, 2016
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No

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NOTICE OF ADOPTED REPEALER

- 11) Difference between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is outdated and must be replaced to allow the Workers' Compensation Commission (Commission) to operate in compliance with the Illinois Freedom of Information Act. New rules, intended to replace this Part were adopted alongside this Repealer, published in first notice on July 29, 2016, in 40 Ill. Reg. 10168.
- 16) Information and questions regarding these repealed rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Access to Records of the Workers' Compensation Commission
- 2) Code Citation: 2 Ill. Adm. Code 2026
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
2026.105	New Section
2026.115	New Section
2026.205	New Section
2026.215	New Section
2026.225	New Section
2026.235	New Section
2026.305	New Section
2026.315	New Section
2026.325	New Section
2026.405	New Section
2026.415	New Section
2026.425	New Section
2026.435	New Section
2026.445	New Section
2026.455	New Section
2026.465	New Section
2026.475	New Section
2026.505	New Section
2026.515	New Section
2026.525	New Section
2026.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

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- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10168; July 29, 2016
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This new Part is designed to allow the Workers' Compensation Commission (Commission) to operate in compliance with the Illinois Freedom of Information Act. This Part is designed to replace rules that are outdated due to legislative changes in the Illinois Freedom of Information Act. A Repealer of the old Part was adopted alongside this adopted rulemaking, published in first notice on July 29, 2016, in 40 Ill. Reg. 10149.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Rules begins on the next page:

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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

Section	
2026.105	Summary and Purpose
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
2026.225	Statutory Exemptions
2026.235	Records Maintained Online

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE COMMISSION

Section	
2026.305	Submittal of Requests for Records
2026.315	Information To Be Provided in Requests for Records
2026.325	Requests for Records for Commercial Purposes

SUBPART D: COMMISSION RESPONSE TO REQUESTS FOR RECORDS

Section	
2026.405	Timeline for Commission Response
2026.415	Requests for Records that the Commission Considers Unduly Burdensome
2026.425	Recurrent Requesters
2026.435	Requests for Records that Require Electronic Retrieval
2026.445	Denials of Requests for Records
2026.455	Requests for Review of Denials – Public Access Counselor
2026.465	Circuit Court Review

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2026.475 Administrative Review

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

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. 15676 and new Part adopted at 40 Ill. Reg. 15678, effective November 9, 2016.

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

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- 3) Contains the procedures for claiming and determining that records submitted to the Commission are exempt from disclosure.

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.

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"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 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

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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 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 2026.205 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 2026.215 or 2026.225. 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)*

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- 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)*
- 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*

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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
RECORDS FROM THE COMMISSION**Section 2026.305 Submittal of Requests for Records**

- 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.);

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- 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;
- 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*

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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. 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;*

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- 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)*
- 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.*

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- 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

- 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).*

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- 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

- 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*

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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)

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)

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- 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)*
- 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)*

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- 1) *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.

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.

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- 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.
- 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)*

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- 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:
- 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.

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- 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*
 - 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.*

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- 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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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.

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- 1) Heading of the Part: Electronic Filing
- 2) Code Citation: 50 Ill. Adm. Code 9015
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9015.10	New Section
9015.20	New Section
9015.30	New Section
9015.40	New Section
9015.50	New Section
9015.60	New Section
- 4) Statutory 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]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10191; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.

Further Agreement:

The Workers' Compensation Commission recognizes that more policy and procedure needs to be developed governing the procedure for registering users of its e-filing system. WCC agrees that, within the next year, it will amend this rule if necessary to reflect any policy meeting the IAPA's definition of rule that evolves during design and implementation of the e-system.

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The rules are designed to implement an electronic database. This Part sets forth procedures for the filing of documents electronically. It provides a method by which electronic documents are to be formatted, signed, filed and served. The rules provide guidance and procedures in the event of system errors. This Part further provides a procedure for the handling of confidential or protected information.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were

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addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

16) Information and questions regarding this adopted rule shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Rules begins on the next page:

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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. 15700, effective November 9, 2016.

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

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by the Commission's registration procedure. Users shall promptly update the 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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- 1) Heading of the Part: Pre-Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 9020
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9020.10	Amendment
9020.20	Amendment
9020.30	Amendment
9020.40	Amendment
9020.50	Amendment
9020.60	Amendment
9020.70	Amendment
9020.80	Amendment
9020.90	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 16 and 19 of the Workers' Compensation Act [820 ILCS 305/16 and 19]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10199; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The amendments are designed to replace rules that are outmoded by today's practice and the Commission's implementation of an electronic database.

Section 9020.10 has been amended to include that all ex-parte communication will be disregarded.

Section 9020.20 has been amended to include language to ensure proper completion of an Application for Adjustment of Claim.

Section 9020.30 has been amended to require an appearance filed by a Petitioner's attorney be accompanied by an Attorney Representation Agreement and allows for a party to file a Motion for Substitution of Counsel supported by a properly executed Attorney Representation Agreement. Additionally, language has been included to indicate that no party or insurance carrier may file an appearance on behalf of an attorney or law firm.

Section 9020.40 has been amended to allow the Commission the ability to refer individuals to the Attorney Registration & Disciplinary Commission for unauthorized practice of law.

Section 9020.50 has been amended to allow the Commission discretion to set a venue for a claim based on balancing an arbitrator's case load.

Section 9020.60 has been amended to allow the Chairman greater flexibility in scheduling the monthly status call. Further, the monthly status calls are to be conducted by the Arbitrator, not an individual designated by the Chairman.

Section 9020.70 has been amended to indicate that a Notice of Motion and Order not accompanied by the Motion shall be stricken.

Section 9020.70 has been amended to eliminate the arbitrator's ability to enlarge or reduce the time of notice prescribed in Section 9020.70(b)(1)(A).

Section 9020.80 has been amended to replace references to TTD and medical benefits and now references the statutory basis for these benefits, Section 8(a) and 8(b).

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Section 9020.90 has been amended to allow the respondent to file a response to a Petition to Reinstate. Language has been added indicating that a record shall be made of a hearing on any contested Petition to Reinstate. Language was added indicating that nothing will abridge the rights as found in the applicable Statute of Limitations in both the Illinois Workers' Compensation Act and the Illinois Occupational Diseases Act.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

- 16) Information and questions regarding these adopted rules shall be directed to:

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Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

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. 15709, effective November 9, 2016.

Section 9020.10 Docketing and Numbering of Cases

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- a) All cases brought before the Illinois Workers' Compensation Commission (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 or 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. 15709, effective November 9, 2016)

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.~~

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- c) Applications ~~shall for Adjustment of Claim should~~ be completed in full and must 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 willshall 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 willshall 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. 15709, effective November 9, 2016)

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 thesueh party or agent at the last address ~~so~~ filed with the Commission.

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- 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 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. 15709, effective November 9, 2016)

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.

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

(Source: Amended at 40 Ill. Reg. 15709, effective November 9, 2016)

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. 15709, effective November 9, 2016)

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

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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.

- 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.

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- 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.
- DE) Cases on ~~File~~ file 3 or ~~More Years~~ more years.
- i) In all cases ~~that~~ which have been on file at the ~~Workers'~~ Workers' ~~Compensation~~ 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)(~~DE~~)(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~~

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- i) In Cook County, each Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act beginning at 8:45 a.m. on the monthly status call date. The Arbitrator shall hear other motions at the conclusion of the monthly status call. Pro se settlements may be presented on the morning of any monthly status call or on days designated by the Arbitrator.
 - ii) In all areas outside of Cook County, the Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act, and hear other motions, at the conclusion of the monthly status call. Pro se settlement contracts may be presented at the conclusion of any monthly status call or on days designated by the Arbitrator.
- c) Voluntary Dismissals
- 1) Any party may voluntarily dismiss his or her claim or any ~~Petition~~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. 15709, effective November 9, 2016)

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

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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
 - 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~~ 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~~ 105 days before the motion is to be heard, exclusive of any intervening Saturday, Sunday or legal holiday.

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- 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 ~~date~~ set forth in the notice.
- C) Proof of service of notices or other papers shall be affixed:
- i) in any case, by written acceptance of service;
 - ii) in case of service by delivery, by affidavit of the person delivering or leaving the papers; and;
 - iii) in case of service by mail, by affidavit of the person depositing the papers in the mail, ~~which~~ 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

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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. 15709, effective November 9, 2016)

Section 9020.80 Petitions for Immediate Hearing

- a) Petition for Immediate Hearing Under Section 19(b)
- 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.
- 2c) 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

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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~~ 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

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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~~.

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~~

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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

- 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

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~~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 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

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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)~~ 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 Statement~~ ~~Such 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

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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(s) ~~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 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 ~~3~~ 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.

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- 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. 15709, effective November 9, 2016)

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 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.

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(Source: Amended at 40 Ill. Reg. 15709, effective November 9, 2016)

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- 1) Heading of the Part: Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 9030
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9030.10	Amendment
9030.20	Amendment
9030.40	Amendment
9030.50	Amendment
9030.60	Amendment
9030.70	Amendment
9030.80	Amendment
9030.100	Amendment
- 4) Statutory Authority: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305] and the Workers' Occupational Diseases Act [820 ILCS 310]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10221; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner.

Section 9030.10 is being amended to allow the Commission to assign cases on a random basis. Further, when multiple claims have been filed, the subsequent claims are to be assigned to the Arbitrator of the claim first filed. The amendment allows for an exception of such an assignment based upon a showing of good cause. The Section proposes that Motions to Consolidate are to be heard by the arbitrator assigned to the earliest filed claim. Additionally, this Section proposes to include language that the arbitrator retains the case when it has been dismissed or otherwise closed and subsequently re-filed.

Section 9030.20 is being amended to give any party the opportunity to set a case for trial at the monthly status call. At trial, the time for the parties to appear is being extended to 9:30 a.m. from 9:15 a.m. The changes also provide for the arbitrator to establish the order in which cases shall proceed to hearing. The proposed amendment also eliminates the mandatory requirement that cases must conclude within 3 months after the first hearing. Now it is advisory, not mandatory.

Section 9030.50 is being amended so that service only of a subpoena is required, not personal service. When the parties are unable to reach an agreement as to the taking of a deposition, Section 9030.60 is being amended to allow the Commission to hold a hearing and issue a Dedimus Potestatem Order.

Section 9030.70 is being amended to simply state that the Illinois Rules of Evidence apply to proceedings before the Commission.

Section 9030.80 is being amended to state that proposed decisions are not considered admissions and are not part of the record. Further, an arbitrator's written decision should now include a statement of the requirements for perfecting a Review.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C.

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Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

16) Information and questions regarding this adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 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. 15732, effective November 9, 2016.

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**

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~~cases filed prior to January 1, 1982, which have not been assigned to an Arbitrator for hearing or settlement shall be assigned to Arbitrators using a random assignment system established at the direction of the Commission to facilitate assignment of all such cases to an Arbitrator in an equitable and efficient manner.~~

- b) In cases arising outside Cook County, cases shall be assigned to an Arbitrator, 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.

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(Source: Amended at 40 Ill. Reg. 15732, effective November 9, 2016)

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.
- e) ~~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:

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- 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;
- 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 shall set the matter for trial on a date certain.~~ the Arbitrator determines that the matter should proceed to trial;
- 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~~

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~~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.

- 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. 15732, effective November 9, 2016)

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. 15732, effective November 9, 2016)

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.

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- 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.
- 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. 15732, effective November 9, 2016)

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

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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 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 ~~9020.709020, 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

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rule on ~~thesueh~~ 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 ~~thesueh~~ 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, ~~thosesueh~~ interrogatories shall be filed in triplicate with the ~~Application for Dedimus Potestatem~~ ~~application for dedimus potestatem~~ and a copy of ~~thesueh~~ interrogatories shall be attached to the copy of the dedimus potestatem mailed to each party. If cross-interrogatories are desired, ~~theythe same~~ shall be filed with the Commission, not more than ~~five (5)~~ days after the receipt of the written interrogatories, and the party filing ~~themsame~~ 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) ~~whenwhere~~ 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 partyhe shall have~~ served the other side with a signed report of ~~thesueh~~ 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-sueh~~ requirements, or
- B) permit a party to present an oral ~~Application~~ ~~application for~~ 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

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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 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 ~~the said~~ 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 ~~the said~~ deposition or at a hearing on the record.

(Source: Amended at 40 Ill. Reg. 15732, effective November 9, 2016)

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. 15732, effective November 9, 2016)

Section 9030.80 Briefs, Arbitrators' Decisions

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- 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.
- b) After the closing of proofs, the Arbitrator ~~shallwill~~ issue a written decision ~~thatwhich~~ 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 reviewfiling a decision pursuant to 50 Ill. Adm. Code 9040.10~~(a) and (b)~~;
 - 6) whenwhere 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. 15732, effective November 9, 2016)

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 ~~underUnder~~ Voluntary Arbitration
- 1) The Workers' Compensation Advisory Board shall compile a list of not ~~fewerless~~ than ~~seven(7)~~ certified ~~Arbitratorsarbitrators~~, each of whom shall be approved by at least ~~seven(7)~~ of the ~~nine(9)~~ members of the

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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 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:

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- 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 ~~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

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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. 15732, effective November 9, 2016)

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- 1) Heading of the Part: Review
- 2) Code Citation: 50 Ill. Adm. Code 9040
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9040.10	Amendment
9040.20	Amendment
9040.30	Amendment
9040.40	Amendment
9040.50	Repealed
9040.60	Amendment
9040.70	Amendment
9040.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 16 and 19 of the Workers' Compensation Act [820 ILCS 305/16 and 19]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10237; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Illinois Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The rules are designed to replace rules that are outmoded by today's practice and the Commission's implementation of an electronic database.

Section 9040.10(a)(1) has been amended to allow the filing of Petitions for Review electronically.

Section 9040.10(e), Notice of Additional Evidence, has been deleted as it conflicts with Section 19(e) of the Act. The authenticated transcript has to be filed, not just submitted, by any manner provided by the Commission and shall be in compliance with the Transcript Receipt Form. Timely filing is shown by the date applied by the U.S. Postal Service, not the party.

Section 9040.20 has been amended to include that Petition's filed under Section 7(a), Section 8(a) and Section 19(h) shall be assigned to the original hearing Commissioner or the Commissioner assigned to a specific territory.

Section 9040.40 has been amended and eliminated the opportunity to offer additional evidence. Additionally, parties are allowed to file 5 interrogatories with the Statement of Exception(s), and deleted the provision to file interrogatories 5 days prior to Oral Arguments.

Section 9040.60 has been amended to allow for a continuance of Oral Argument only when good cause shown. Further, a Statement of Exception(s) may be filed by either party in any order when multiple reviews are filed. The Statement of Exception(s) are to be filed within 30 days from the Return Date on Review. The provisions allowing for an abstract to be requested by the Commission has been deleted and moved to Section 9040.70(f). The Commission may order the party first filing the Review to prepare an abstract and any other party may file a supplement abstract thereafter. Additionally, any party may seek leave to file an abstract.

Section 9040.70 has been amended to indicate that the failure to timely file a Statement of Exception(s) constitutes a forfeiture of the right to Oral Arguments by that party. However, language has been adopted to allow a party that has timely filed to petition the Commission to present Oral Arguments in support of their Statement of Exception(s). The Commission may order Oral Argument at its discretion.

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These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

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312/814-4932

e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 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 Hearing
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. 15748, effective November 9, 2016.

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'

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Compensation Commission (Commission), unless filed electronically,
within the time provided by statute.

- 2) The Petition for Review shall contain a statement of the reviewingpetitioning party's specific exceptions to the Decision of the Arbitrator.
- b) Order of Arbitration Transcript
- 1) TranscriptsStenographic reports of arbitration proceedings before the Workers' Compensation Commission shall be furnished to the parties only upon written requestorder 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 thesueh transcript shall deposit a sum of money covering the estimated cost before the reporter isshall 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 thesaid 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.
- c&d) 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 withpresented to the Commission on or prior to

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the designated time and place set by the Commission as the Return Date on Review~~or at the time set for hearing on review.~~

- 2) ~~In cases in which the first hearing of record before the Arbitrator is commenced after December 18, 1989, the transcript of Arbitration proceedings shall be authenticated in the manner provided by statute, and presented to the Commission prior to or at a designated time and place set by the Commission as the Return Date on Review.~~ The Return Date on Review shall be limited to the filing of the authenticated transcript.
- A) The Commission shall notify the parties at least ~~thirty (30)~~ days prior to the 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

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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 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. 15748, effective November 9, 2016)

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 ~~transcripts~~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. 15748, effective November 9, 2016)

Section 9040.30 Review Hearing: Date and Place

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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 reasonably convenient to the parties.

(Source: Amended at 40 Ill. Reg. 15748, effective November 9, 2016)

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

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~~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 ~~interrogatories~~ shall be filed at the time of filing the parties' Statement of Exceptionsat 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. 15748, effective November 9, 2016)

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. 15748, effective November 9, 2016)

Section 9040.60 Continuances for Oral 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. 15748, effective November 9, 2016)

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.

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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 ~~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;

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- 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;
 - 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~~ (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;~~ thereof;
- 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.
- e) ~~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~~

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~~proofs on Review or thirty (30) days from the date of notice of mailing or transmittal of the transcript of evidence on Review and each responding party shall have fifteen (15) days from the last day allowed for the filing of the opposing appellant's supporting brief within which to file a supplemental or corrected abstract. Appellant's reply, if filed, shall be limited to the matter raised in the supplemental or corrected abstract and response and shall be filed within ten (10) days after the date for filing of the appellee's abstract.~~

- d) All documents filed under this Section shall bear the caption of the case, including the Commission case number, and shall include, 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 Briefs~~supporting brief, and to those in any complying response ~~to those documents thereto~~. Failure of any ~~appellant or petitioning~~ party to ~~file~~ timely 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, not withstanding 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

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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 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 (e) above is applicable with the addition that in~~

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~~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~~ 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.
- 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. 15748, effective November 9, 2016)

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 of~~ 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

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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;
- 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. 15748, effective November 9, 2016)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Oral Arguments
- 2) Code Citation: 50 Ill. Adm. Code 9050
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9050.10	Amendment
9050.20	Amendment
9050.30	Amendment
9050.40	Amendment
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10252; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The amendment to Section 9050.10 clarifies the parties' right to oral

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argument. Specifically, the right to oral argument requires compliance with 50 Ill. Adm. Code 9040.70. The amendment also allows the Commission to grant oral argument by Order of the Commission. The remainder of the changes to Sections 9050.10, 9050.20, 9050.30 and 9050.40 are grammatical in nature.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
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The full text of the Adopted Amendments begins on the next page:

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 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. 15764, effective November 9, 2016.

Section 9050.10 Right to Oral Argument

Upon the request of ~~any~~ 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. 15764, effective November 9, 2016)

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

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- 2) those cases ~~in which~~^{where} a total permanent disability or death award has been entered, regardless of the number of issues involved.

(Source: Amended at 40 Ill. Reg. 15764, effective November 9, 2016)

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. 15764, effective November 9, 2016)

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 ~~no~~^{petitioner 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} presence is ordered, ~~by the hearing commissioner,~~ the ~~Respondent~~^{respondent} shall pay the Petitioner directly, or his or her attorney, if represented, in advance of the time fixed for Oral 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

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- 2) reimbursement for any loss of wages caused because of loss of working time, ~~as provided under Section 12 of the Workers' Compensation Act relative to physical examinations.~~

(Source: Amended at 40 Ill. Reg. 15764, effective November 9, 2016)

WORKERS' COMPENSATION COMMISSION

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- 1) Heading of the Part: Judicial Review
- 2) Code Citation: 50 Ill. Adm. Code 9060
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9060.10	Amendment
9060.20	New Section
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10256; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The amendment to Section 9060.10 requires that the moving party provide notice to the Commission of its intent to file an appeal to the Circuit Court in conformance with Section 19(f)(1) of the Workers' Compensation Act. The proposed amendments also add Section 9060.20, which establishes a requirement on the moving

WORKERS' COMPENSATION COMMISSION

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party to file a copy of any remanding Order with the Commission within 30 days after receipt of the Order from the reviewing court. The Commission will thereafter set the matter for hearing.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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The full text of the Adopted Amendments begins on the next page:

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 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. 15770, effective November 9, 2016.

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

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Commission on review subject to a maximum of \$75,000.

(Source: Amended at 40 Ill. Reg. 15770, effective November 9, 2016)

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. 15770, effective November 9, 2016)

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Settlement Contracts and Lump Sum Petitions
- 2) Code Citation: 50 Ill. Adm. Code 9070
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9070.10	Amendment
9070.20	Amendment
9070.30	Amendment
9070.40	Amendment
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10260; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner.

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Section 9070.10 requires that settlement contracts be filed in quadruplicate; however, the Section has been amended to require that only one copy be provided for each additional case number listed on the settlement contract. The amendments require that the settlement contract be accompanied by the Attorney Representation Agreement, if not previously filed.

Section 9070.10(b)(1), which requires a report relative to the condition of both eyes when an accident involves injury to one eye, has been deleted. Further, the requirement that the petitioner file a written explanation of how dependents are to be supported in a death case has been deleted. The amendment also now requires that a disabled petitioner may be requested to provide any relevant information to determine the appropriateness of a settlement instead of the obligation that petitioner provide written explanation of how he or she and any dependents will be cared for during a period of disability, if he or she has not returned to gainful employment at the time of the settlement. The amendment also allows the Commission to randomly assign settlement contracts to an Arbitrator or Commissioner in an appropriate venue. The amendment also allows that petitioner's presence is discretionary for approval of the settlement contract.

Section 9070.40 has been amended to state that when a settlement contract has been rejected by a Commissioner and re-assigned to an arbitrator for hearing on the merits, no new settlement contract may be approved by the arbitrator but must be presented to the Commissioner who rejected the original settlement contract for consideration. Further, the rules have been amended to allow the parties to reserve the right to amend the settlement contract to conform to any regulatory requirements i.e., Medicare.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

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. 15775, effective November 9, 2016.

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.

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

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~~vocational rehabilitation;~~

- B) ~~The Petitioner has returned to gainful employment for 60 days or more prior to the date of the settlement; and~~
- C) ~~The injury did not result in a disability listed in Attorney's Fees (50 Ill. Adm. Code 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 programCommission. 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 ~~ChairmanCommission~~ 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.

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(Source: Amended at 40 Ill. Reg. 15775, effective November 9, 2016)

Section 9070.20 Agreed Petitions for Lump Sum Settlement

- 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. 15775, effective November 9, 2016)

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. 15775, effective November 9, 2016)

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.

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- b) ~~When~~Where a Settlement Contract has been rejected by an Arbitrator and the venue of ~~the~~said case lies outside Cook County, it shall be the duty of the Arbitrator to return ~~the~~said file to the ~~Workers' Compensation~~ Commission, ~~which will whose function it shall be to~~ transfer the ~~said~~ case to a new Arbitrator in the nearest contiguous geographical territory. ~~The, and the Workers' Compensation~~ Commission shall notify all parties of the time, place and date ~~of further~~ action~~pertinent thereto~~.
- c) ~~When~~Where a Settlement Contract has been rejected by an Arbitrator and the venue of ~~the~~said 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 ~~the~~said 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. 15775, effective November 9, 2016)

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- 1) Heading of the Part: Discipline of Attorneys; Agents
- 2) Code Citation: 50 Ill. Adm. Code 9090
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9090.10	Amendment
9090.20	Amendment
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10268; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The amendment gives the Commission the option of referring disciplinary matters to the Attorney Registration Disciplinary Commission (ARDC). As disciplinary issues are now referred to the ARDC, Section 9090.10(b) and (c) are being

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deleted, as any hearings will be had by the ARDC, if the ARDC deems same appropriate. The remaining changes were grammatical in nature.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, the proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
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100 W. Randolph, Suite 8-200

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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The full text of the Adopted Amendments begins on the next page:

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TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 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. 15783, effective November 9, 2016.

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.~~
- e) ~~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. 15783, effective November 9, 2016)

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 the~~such~~ 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. 15783, effective November 9, 2016)

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- 1) Heading of the Part: Insurance Regulations
- 2) Code Citation: 50 Ill. Adm. Code 9100
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9100.20	Amendment
9100.40	Amendment
9100.60	Amendment
9100.85	New Section
9100.90	Amendment
- 4) Statutory Authority: Implementing Section 4 of the Workers' Compensation Act [820 ILCS 305/4], Section 4 of the Workers' Occupational Diseases Act [820 ILCS 310/4] and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/16] and Section 16 of the Workers' Occupational Diseases Act [820 ILCS 310/16]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10272; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The amendments are designed to replace rules that are outmoded by today's practice and the Commission's implementation of an electronic database.

Section 9100.20(c) is being added to require service companies to provide more detailed information regarding the nature of the work of loaned employees such that it will provide the Commission with a better understanding of possible liability and risk.

Section 9100.40 restates the rule informing self insureds that coverage includes both the Workers Compensation and Occupational Diseases Acts.

Section 9100.40(a)(1)(G)(v) provides a methodology for risk calculation.

Section 9100.40 is being amended to indicate the nature of required documents for self insurance and that the minimum security will be no less than \$200,000.

Section 9100.40(i)(1) is being amended to notify self insureds that the termination of the self insurance privilege does not release the security that was posted to obtain the privilege until all outstanding liability has been liquidated to the satisfaction of the Chairman.

Section 9100.40(i)(2) is being amended to require that all former self insureds remain liable for any assessments made by the Commission until the Chairman releases that obligation.

Section 9100.85 (a)(1) is being amended to conform to the Act and requires reimbursement from any responsible parties as stated in the Act. In conformance with the Act, Section 9100.85 (a)(2) is being added that allows the injured workers benefit fund to seek reimbursement from any responsible party pursuant to Section 5(b) of the Workers' Compensation or Occupational Diseases Acts.

Section 9100.90(b)(1)(C) provides any claim for penalties may include both administrative costs and savings realized by uninsureds by not paying premiums for not paying insurance.

Section 9100.90(c)(2)(c)(C)(iii-iv) provide that, upon the presentation of pooling agreements and loaning and borrowing agreements may be used in the preparation and submission of a Notice of Non-Compliance.

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Section 9100.90(g) provides a methodology by which notice, service, hearing assignments, work stop orders and the release of work stop orders, may be effectuated by both the Insurance Compliance Division of the Workers' Compensation Commission and the Workers' Compensation Commission.

Section 9100.90 also contains grammatical changes.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, these proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted rules shall be directed to:

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The full text of the Adopted Amendments begins on the next page:

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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. 15788, effective November 9, 2016.

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

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Insurance showing the ~~locations~~location(s) and character of the business ~~operations~~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. 15788, effective November 9, 2016)

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~~is a corporation, or by all of the partners, if it ~~is a~~is a copartnership, or by the owner if it ~~is~~is neither a copartnership nor a corporation.*

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(Section 4(a)(1) of the Act)

- 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'

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~~compensation~~Workers' Compensation insurance coverage ~~that~~which shall be maintained until final approval as a self-insurer is granted.

G) Each private employer applying for self-insurance shall indicate how it will service its self-insurance program. The employer shall provide adequate facilities for the investigation, administration and payment of claims or shall contract with a service company possessing ~~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

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by the Commission and shall be accompanied by ~~thea-current~~ financial ~~statementsstatement as~~ described in subsection (a)(1)(~~A~~C). The renewal application and ~~current~~ financial ~~statementsstatement~~ shall be signed and sworn to in accordance with subsection (a)(1)(B) ~~above~~. Each subsidiary or controlled employer requesting approval as a self-insurer shall provide the current financial statement of its parent ~~corporationseorporation(s)~~ or controlling ~~personsperson(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.00~~ ~~which~~ shall be deposited upon receipt by the Commission into the Self-Insurers Administration Fund. (Section 4a-4(a) of the Act)*
- 2) ~~IfWhere~~ 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)* ~~IfWhere~~ 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 ~~afterof~~ 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)*

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- 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](#):

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

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1.1 : 1 = 1 points

1 : 1 = 0 points

- B) An employer who earns a total of 18 points in the ~~3~~three financial ratios in ~~subsections~~subsections (c)(2)(A)(~~i~~)-(iii) above in each year of the most current ~~3~~three years' audited financial statements and 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

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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

- 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.

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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:

$$\begin{aligned} & \text{total outstanding loss reserves (loss fund) x} \\ & \text{applicable trending factor x applicable financial} \\ & \text{factor = security.} \end{aligned}$$

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:

$$\begin{aligned} & \text{average yearly paid loss (loss fund) x applicable} \\ & \text{trending factor x applicable financial factor =} \\ & \text{security.} \end{aligned}$$

- 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.

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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:

$$\text{average yearly paid loss (loss fund) x applicable trending factor x 125\% = security}$$

- 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%.~~
- iiiiv) 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 subsection~~subsections~~ (c)(3)(B)(i) and, (ii) ~~and (iii) above~~, to cover the contingent claims cost in the event of insolvency.
- ivv) 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

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renewal application, earn less than 9 points after applying the financial ratios in subsection (c)(2)(A), shall be determined as a percentage of the loss fund size as follows:

Points Scored	Loss Fund Size	Percentage of Loss Fund
6 - 8.9	0 - 250,000	130
	250,001-500,000	120
	500,001-1,000,000	110
	1,000,001 +	100
3 - 5.9	0 - 250,000	150
	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 thesueh prospective termination at least 60 days prior to the

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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~~ cash or bonds shall be deposited in escrow with any State or national bank or trust company having trust authority in the State of Illinois.* (Section 4(b) of the Act) All escrow agreements shall be on a form provided by the Commission. Securities used to fund an escrow account shall have at all times a market value at least equal to the security requirement determined by the Chairman. (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 person(s)

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designated by the Commission. Pursuant to ~~the said~~ agreement, the parent company or the controlling ~~person~~~~person(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 ~~person~~~~person(s)~~ with respect to the subsidiary or controlled employer whose obligations it has guaranteed, the former parent company and subsidiary or controlling ~~person~~~~person(s)~~ and controlled employer shall notify the Commission immediately. Notwithstanding any other provisions of this ~~Part~~~~rule~~, if the Board determines that a controlled person or subsidiary is controlled by an alien controlling person or parent company, ~~or~~ is a utility, ~~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 ~~furnish 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

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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 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~~ ~~order~~ denying the request for approval as a self-insurer. ~~The Order~~ ~~Such order~~ shall be subject to review ~~under pursuant 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~~ ~~order~~ denying the request for approval as a self-insurer. ~~The Order~~ ~~Such order~~ shall be subject to review ~~under pursuant to~~ subsection (h) ~~below~~.

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- 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'sself insurers' ability to adequately secure payment of its financial obligations under the Workers' Compensation Act/WODA and Workers' Occupational Diseases Act. ThatSuch 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 terminationtherefor. 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. TheseSuch decisions shall be subject to review underpursuant 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

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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, 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~~.

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- 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~~~~hereof~~, shall have the power to administer oaths, to subpoena and examine witnesses, and issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issues of denial or termination of the self-insurance privilege or adjustment of the security. (Section 16 of the Act)~~[820 ILCS 305/16]~~*
 - 5) The Illinois ~~Rule~~~~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

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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. 15788, effective November 9, 2016)

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
 - 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~~;
 - 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~~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 ~~off~~ the self-insurer to pay compensation under the Act and to determine~~of~~ the existence and status of

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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~~of~~ 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~~Commission~~ involving that~~said~~ self-insured employer for at least~~no less than~~ 60 days.
- e) **Transfer of Securities, Indemnity or Bond**~~of 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~~

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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~~
- 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

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- 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 ~~thesuch~~ 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 ~~thosesuch~~ 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, ~~thosethen such~~ claims ~~thatwhich~~ 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 ~~thosesuch~~ 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 ~~thosesuch~~ monies.

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(Source: Amended at 40 Ill. Reg. 15788, effective November 9, 2016)

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

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. 15788, effective November 9, 2016)

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

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as a self-insurer or by insuring its entire liability to pay ~~thesuch~~ 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]~~
 - 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;

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- 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 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~~of the receipt of the Notice of Non-Compliance.
 - C) The Commission shall send written notice to the employer or its attorney at least ~~seven (7)~~ days prior to the scheduled conference.

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- 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;
 - 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 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)

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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~~ 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 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 ~~subpoenas~~ ~~subpoena~~ duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issue of non-compliance.*
(Section 16 of the Act)
- C) The Illinois ~~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'

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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. 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

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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
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;

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- 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 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:

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- 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 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

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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. 15788, effective November 9, 2016)

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- 1) Heading of the Part: Miscellaneous
- 2) Code Citation: 50 Ill. Adm. Code 9110
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
9110.10	Amendment
9110.20	Repealed
9110.40	Amendment
9110.60	Amendment
- 4) Statutory Authority: Implementing and authorized by the Workers' Compensation Act and Occupational Diseases Act [820 ILCS 305 and 820 ILCS 310]
- 5) Effective Date of Rules: November 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 10307; July 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made since first notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The amendment to Section 9110.10 now requires a vocational

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rehabilitation report when the injured worker has been totally incapacitated from work for 365 days, instead of 120 days. The amendment also eliminates the condition that an injured worker remain totally incapacitated for work to trigger the employer's obligation to prepare a written review every 4 months regarding the appropriateness of the vocational plan.

These changes also make it optional to use a Commission prepared Vocational Rehabilitation form. The amendment repeals Section 9110.20. The proposed amendment to Section 9110.40 provides guidance as to how Petitions to Suspend Compensation are docketed and set for hearing. Section 9110.60 has been amended to conform to Section 15(a) of the Act. The Commission is now only required to maintain the Commission Handbook on its website.

These rules reflect an agreed effort, drafted by a Committee of 28 attorneys, representing all sides of the Workers' Compensation bar in Illinois. This Committee drafted, discussed, and amended these Rules to allow the IWCC to better serve its purpose, in a more efficient, effective, fair, and neutral manner.

The Committee consisted of 2 sitting Commissioners: Commissioner Michael J. Brennan and Commissioner Stephen Mathis; 4 sitting Arbitrators: Steve Friedman, Molly C. Mason, Doug McCarthy, and Maureen Pulia; 18 practicing attorneys: Matthew Belcher, Shawn Biery, Bruce A. Bonds, Frank Brady, Jack Cannon, James Clune, Richard D. Hannigan, Richard K. Johnson, Charles (Denne) Knell, William Lowry, David B. Menchetti, Elaine T. Newquist, Christine M. Ory, John F. Power, Arnold G. Rubin, Frank A. Sommario, Jean Swee, and Ken Werts; and 4 Commissioners' Staff Attorneys: Mary Sweeney-Bach, Svetlana Kelmanson, Tim Melford, and Elaine Llerena.

The Committee's efforts were supported by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; the sitting General Counsel and Secretary to the IWCC: Ronald A. Rascia, the sitting Deputy General Counsel to the IWCC: Dennie M. Mogensen; and 2 Associate General Counsel to the IWCC, David Larson and Cole D. Garrett.

After the Committee finalized its proposed rules and submitted them for public comment through the first notice period, these proposed rules, comments from JCAR, comments from interested members of the public, and any amendments made thereto were addressed and adopted by the Illinois Workers' Compensation Commission, led by the sitting Chairman of the IWCC: Madam Chairman Joann M. Fratianni; including sitting

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Commissioners of the IWCC: Commissioner Mario Basurto, Commissioner Michael J. Brennan, Commissioner Charles J. DeVriendt, Commissioner David L. Gore, Commissioner Kevin W. Lamborn, Commissioner Joshua Luskin, Commissioner Stephen Mathis, Commissioner Thomas J. Tyrrell, and Commissioner Ruth W. White.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ronald A. Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

WORKERS' COMPENSATION COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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. 15823, effective November 9, 2016.

Section 9110.10 Vocational Rehabilitation

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- a) ~~An employer's vocational rehabilitation counselor~~~~The employer or his representative~~, in consultation with the injured employee and, if represented, with his or her representative, shall prepare a written assessment of the course of medical care, and, if appropriate, 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

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Commission.

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

(Source: Amended at 40 Ill. Reg. 15823, effective November 9, 2016)

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. 15823, effective November 9, 2016)

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. 15823, effective November 9, 2016)

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. 15823, effective November 9, 2016)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of November 8, 2016 through November 14, 2016. The rulemakings are scheduled for review at the Committee's December 13, 2016 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
12/21/16	<u>State Police Merit Board</u> , Illinois State Merit Board Personnel Rules (80 Ill. Adm. Code 160)	7/8/16 40 Ill. Reg. 9092	12/13/16
12/21/16	<u>Secretary of State</u> , Regulations Under Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)	1/15/16 40 Ill. Reg. 441	12/13/16

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 40, Issue 48 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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