CHAPTER 20-100
WORKERS' COMPENSATION COMMISSION RULES AND REGULATIONS

Chapter Authority: 4 CMC § 9351(a)(1).

Chapter History: Amdts Adopted 30 Com. Reg. 28517 (May 27, 2008); Amdts Proposed 30 Com. Reg. 28428 (Apr. 25, 2008); Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995); Amdts Adopted 17 Com. Reg. 13529 (June 15, 1995); Amdts Proposed 17 Com. Reg. 13266 (Apr. 15, 1995); Amdts Adopted 15 Com. Reg. 10578 (Apr. 15, 1993); Amdts Proposed 14 Com. Reg. 9076 (Mar. 15, 1992); Amdts Adopted 15 Com. Reg. 10576 (Apr. 15, 1993); Amdts Proposed 14 Com. Reg. 9629 (Sept. 15, 1992); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991); Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: PL 1-43 (effective Jan. 18, 1980), formerly codified at 1 CMC §§ 8301, et seq., originally created the Northern Mariana Islands Retirement Fund. PL 6-17 (effective May 7, 1989), the "Northern Mariana Islands Retirement Fund Act of 1988," codified as amended at 1 CMC §§ 8301-8394, repealed and reenacted PL 1-43, as amended. See PL 6-17, ch. 1 § 8312; see also the commission comment to 1 CMC § 8301. PL 13-60 (effective Dec. 5, 2003), the "Retirement Integrity Assurance Act," amended numerous provisions of the 1988 NMI Retirement Fund Act.

1 CMC § 8312 creates the Northern Mariana Islands Retirement Fund (NMIRF) as an autonomous agency and public corporation of the government of the Commonwealth of the Northern Mariana Islands. 1 CMC § 8315(g) (renumbered by PL 13-60) authorizes NMIRF to adopt rules and regulations as necessary for the exercise of the funds powers, performance of its duties and administration of its operations.

PL 6-33 § 1 (effective Oct. 25, 1989) the Commonwealth Workers' Compensation Law, codified as amended at 4 CMC §§ 9301-9357, designates the Board of Trustees of NMIRF as the Workers' Compensation Commission responsible for the administration of the law. See 4 CMC § 9351(b). The Workers' Compensation Commission is empowered to make rules and regulations in conformance with the law. 4 CMC § 9351(a)(1).

PL 17-88 (effective November 9, 2012), the "Worker's Compensation Functions Transfer Amendment Act of 2011," amended 4 CMC §§ 9302-9351 to transfer the Worker's Compensation Commission to the Department of Commerce. Prior to 2012, these regulations were located at Chapter 110-50. To the extent that these regulations conflict with PL 17-88, they are superseded.

Part 001 - General Provisions

§ 20-100-001 Authority to Prescribe Rules and Regulations

Under and by virtue of the provisions of § 9351(a)(1) of Public Law 6-33 (4 CMC § 9351(a)(1)), the WCC hereby promulgates the regulations in this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-005 Definitions

As used in the regulations in this chapter, except where the context clearly indicates otherwise:

(a) "Act" means the CNMI Workers' Compensation Law, Public Law 6-33 [4 CMC §§ 9301-9357].

(b) "Administrator" means the administrator of the Workers' Compensation Commission/NMI Retirement Fund or his designee.

(c) "Adoption" means a process in which an employee becomes the legal parent of a child through a court decree. This term as used in the statute does not mean a local customary adoption as commonly known in the traditional Chamorro or Carolinian culture.

(d) "Calendar year" means 12 consecutive months beginning January 1 and ending December 31 of the same year.

(e) "Carrier" means all insurance companies licensed by the Department of Commerce and Labor to transact general casualty insurance in the Commonwealth; except where the Commission disbars the business because of poor performance or non-compliance of Public Law 6-33 [4 CMC §§ 9301-9357], or the regulations in this chapter.

(f) "Child" means the natural or adopted child of an employee and includes a locally adopted child if the child was living with the employee at least 1 year prior to the injury.

(g) "CWC or WCC" means the CNMI Workers' Compensation Commission.

(h) "Day" means calendar days. In any case where a deadline would not be on a working day, the time is extended to the next working day.

(i) "Grandchild" means the child of an employee's child.

(j) "Premium" means the amount of money the insurance carrier receives from the employer in payment for workers' compensation coverage or insurance for employees of the employer.

(k) "Sibling" means a person who has one or both parents in common with the employee.

(l) "Spouse" means the person who is legally married to an injured or deceased employee. This term does not include a common-law spouse.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991); Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The 1991 amendments added new subsections (j), (k) and (l). The Commission alphabetized the definitions in this section and codified the new subsections at (d), (j) and (k).

In subsection (b), the Commission corrected the spelling of "customary."

Part 100 - Special Coverage

§ 20-100-101 Coverage of Volunteers for the Commonwealth Government

(a) A person who is injured while in the performance of approved volunteer service as a firefighter or reserve police officer for the Commonwealth government, as provided by 4 CMC § 9303(e), shall be paid by the Commonwealth government compensation equal to that of the lowest paid full time firefighter or police officer employed by the Commonwealth government on the date of the injury.

(b) If a person who is injured while performing voluntary work for the government was paid his/her reasonable medical or hospital expenses from the government subsequently receives reimbursement from a third person, the person shall repay the reimbursement to the government, up to the total amount paid by the government.

(c) Any person who is injured while in the performance of approved volunteer service as a firefighter or reserve police officer for the Commonwealth government shall be compensated according to the provisions of subsection (a).

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 15 Com. Reg. 10578 (Apr. 15, 1993); Amdts Proposed 14 Com. Reg. 9076 (Mar. 15, 1992); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991); Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The 1991 amendments added a new subsection (c) and amended subsection (a). The 1993 amendments deleted former § 3.101, entitled "Coverage of Non-resident Worker Employees," and re-designated the remaining sections in this part accordingly. See 12 Com. Reg. at 6726 (Jan. 15, 1990).

In subsection (b), the Commission deleted the repeated word "the."

§ 20-100-105 Coverage of Employees on Travel Status

Any employee who travels within or without the Commonwealth on behalf of his/her employer shall be entitled to compensation as provided by law in the same manner as an employee who is injured on the job in the Commonwealth. The employee's coverage while on travel status is 24 hours each day. The Administrator shall determine any issue arising concerning the travel status of an employee, until he/she returns to his/her official duty station.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-110 Immediate Coverage

Every employee hired by an employer during the period of coverage, or who was not originally included in the contract for insurance, is included in the coverage for workers' compensation secured by the employer.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 200 - Records

§ 20-100-201 Employer's Record

Every employer shall maintain complete and accurate records of injury sustained by employees while in his employ. The records shall also contain information of disease, other impairments or disabilities, or death relating to said injury. Such records shall be available for inspection by the WCC. Records required by this section shall be retained by the employer for three years following the date of injury; this applies to records for lost time and not lost time injuries.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-205 Records of the WCC

All reports, records or other documents filed with the WCC with respect to claims are the records of the WCC. The Administrator shall be the official custodian of all records maintained by the WCC.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-210 Inspection of Records of the WCC

Any party in interest may be permitted to examine the record of the case in which he is interested. The Administrator shall permit or deny inspection as he deems appropriate. The original record in any such case shall not be removed from the office of the Administrator. The Administrator may, in his discretion, deny inspection of any record or part thereof if in his opinion such inspection may result in damage, harm, or harassment to the beneficiary or to any other person. For special provisions concerning release of information regarding injured employees undergoing vocational rehabilitation, see § 20-100-2135.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In the final sentence, the original cross-reference was to § 26.108. Because the referenced section does not exist, the Commission changed the cross-reference so that it cites § 25.107, codified at § 20-100-2135.

§ 20-100-215 Copying of Records of the WCC

Any party in interest may request copies of records he has been permitted to inspect. Such requests shall be addressed to the Administrator who may charge a reasonable copying fee.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 300 - Forms, Representation, Fees for Service

§ 20-100-301 Forms

The Administrator may from time to time prescribe, and require the use of, forms for reporting of any information required to be reported by the Act and/or the regulations in this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-305 Representation

Claimants, employers, and insurance carriers may be represented in any proceeding under the Act by a licensed attorney.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission inserted a comma after the word "employers" pursuant to 1 CMC § 3806(g).

§ 20-100-310 Fees for Services

(a) Any person seeking a fee for services performed on behalf of a claimant with respect to claims filed under the Act shall make application therefor to the WCC or court, as the case may be, before whom the services were performed. The application shall be filed and served upon the other parties within the time limits specified by the WCC or court. The application shall be supported by a complete statement of the extent and character of the necessary work done, described with particularity as to the professional status (e.g., attorney, paralegal, law clerk or other persons assisting the attorney) of each person performing such work, the normal billing rate for each such person, and the hours devoted by each such person to each category of work. Any fee approved shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the complexity of the legal issues involved, and the amount of benefits awarded, and, when the fee is to be assessed against the claimant, it shall also take into account the financial circumstances of the claimant. No contract charging a flat fee shall be valid.

(b) Where fees are included in a settlement agreement submitted under §§ 20-100-1001, et seq., approval of that agreement shall be deemed approval of attorney fees for purposes of this subsection for work performed.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-315 Payment of Claimant's Witness Fees and Mileage in Disputed Claims

In cases where an attorney's fee is awarded against an employer or carrier, there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the request of the claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the WCC or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under the Act.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-320 Request for Information and Assistance for Claimants

The Administrator or his designee shall, upon request, provide persons covered by the Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 400 - Special Disability Fund

§ 20-100-401 Establishment of Special Disability Fund

The legislature, by § 9353 of the Act (4 CMC § 9353), established in the CNMI government treasury a special disability fund, to be administered by the WCC. The Treasurer of the Commonwealth is the custodian of the fund, and all monies and securities of such fund shall not be property of the Commonwealth. The Treasurer shall make disbursements from such fund only upon the order of the WCC.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-405 Purpose of the Special Disability Fund

The special disability fund was established to give effect to a legislative policy determination that, under certain circumstances, the employer of a particular employee should not be required to bear the entire burden of paying for the compensation benefits due that employee under the Act. Section 20-100-410 of this chapter describes the special circumstances under which the particular employer is relieved of some of his burden. Section 20-100-415 describes the sources of this special fund.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-410 Use of the Special Disability Fund

(a) Under § 9308(f)(1) of the Act (4 CMC § 9308(f)(1)). In any case in which an employee having an existing permanent partial disability suffers an injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. If, following an injury falling within the provisions of § 9308(c)(1)-(22), the employee with the preexisting permanent partial disability becomes permanently and totally disabled after the second injury, but such total disability is found not to be due solely to his second injury, the employer or carrier shall be liable for compensation only as provided by the provisions of § 9308(c)(1)-(22) of the Act, 4 CMC § 9308(c)(1)-(22).

(b) In cases wherein the employee is permanently and partially disabled following a second injury, and wherein such disability is not attributable solely to that second injury, and wherein such disability is materially and substantially greater than that which would have resulted from the second injury alone, and wherein such disability following the second injury is not compensable under § 9308(c)(1)-(22) of the Act, then the employer or carrier shall be liable for such compensation as may be appropriate under § 9308(b) or (e) of the Act.

(c) The term "compensation" herein means money benefits only, and does not include medical benefits. The procedure for determining the extent of the employer's or carrier's liability under this section shall be as provided for in the adjudication of the claims as provided in part 1400 of this chapter. Thereafter, upon cessation of payments which the employer is required to make under this section, if any additional compensation is payable in the case, the Administrator or his designee shall forward such case to the WCC for consideration of an award to the person or persons entitled thereto out of the special disability fund. Any such award from the special fund shall be by order of the WCC.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-415 Sources of the Special Disability Fund

(a) All amounts collected as fines and penalties under the several provisions of the Act shall be deposited into the special disability fund pursuant to 4 CMC § 9353(c)(3).

(b) Whenever an employee dies under circumstances creating a liability on an employer to pay death benefits to the employee's beneficiaries, and whenever there are no such beneficiaries entitled to such payments, the employer shall pay $10,000 into the special disability fund pursuant to 4 CMC § 9353(c)(1). In such cases, the compensation order entered in the case shall specifically find that there is such liability and that there are no beneficiaries entitled to death benefits, and shall order payment by the employer into the fund.

(c) The Administrator shall annually collect an amount from insurance carriers as provided by 4 CMC § 9353(c)(2), and the money shall be deposited into the fund.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-420 Percentage of Premiums to Be Remitted by Carrier

For purposes of this part, and pursuant to title 4 CMC § 9353(c)(2) and § 20-100-415(c) of the rules and regulations in this chapter, remittance of premium due to the Administrator by the carrier is an amount equal to 2% of the total premiums received by the carrier during the preceding calendar year.

(a) Example I
Employer A purchased workers compensation insurance from carrier Q for $1,200. Carrier Q is required to remit to the Commission 2% of $1,200 or $24.00.

(b) Example II
Employer B purchased workers' compensation insurance from carrier G. Carrier G, in computing the premium to charge employer B, multiplied $1,200 times 2% and collected from the employer $1,224 or $24.48.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 20-100-425 Allocation of Premium by Carrier

(a) Premiums collected pursuant to this part which cover two or more calendar years shall be separately allocated and the amount of remittance due to the Administrator shall be based on the premium allocated for each calendar year. In making the allocation, if coverage began on the 1st through the 14th of a month, the premium paid shall be allocated for that month. If coverage began on or after the 15th of a month, the premium paid shall be allocated to the following month.
(1) Example I
Employer Y purchased workers' compensation coverage on October 5, 1990. The amount of premium paid by the employer was for one year coverage from October 5, 1990 to October 4, 1991. In determining the period for which a percentage of premium must be remitted to the Commission for calendar year 1990, the carrier will include October 1990. Therefore, the period for which remittance is due from the carrier for calendar year 1990, is one quarter which represents the period of October 1990 through December 1990.
(2) Example II
Employer Y purchased workers' compensation coverage on October 20, 1990. The amount of premium paid by the employer was for one year coverage beginning October 20, 1990 to October 19, 1991. In determining the percentage of premium to be remitted to the Commission for calendar year 1990, the carrier will exclude the month of October. Therefore, the period for

which remittance is due from the carrier for calendar year 1990, is two months, that is, November 1990 and December 1990.

(b)(1) Worker's compensation coverage procured and in effect before October 25, 1989, the effective date of Public Law 6-33 [4 CMC §§ 9301-9357], which extends through the effective date of the workers' compensation law, must also be allocated and a percentage of premium collected on or after the effective date of the law must be remitted as provided in subsection (a) of this section.

(2) Example

Employer Z obtained worker's compensation coverage on July, 1989, for coverage from that date to June 1990 and paid the full year's premium. Since the law became effective on October 25, 1989, the carrier will exclude the month of October 1989, in determining the percentage of premium to be remitted to the Commission for calendar year 1989. Therefore, the period for which remittance is due from the carrier for calendar year 1989, is two months, that is, November 1989 and December 1989.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Commission Comment: The original paragraphs of subsections (a) and (b) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (b)(1) and (b)(2).

§ 20-100-430 Percentage of Premium; When Due from Carrier

The percentage of premium due by a carrier for premiums allocated to a calendar year shall be paid to the Administrator no later than thirty calendar days after the end of the calendar year for which the premium was allocated.

Modified, 1 CMC § 3806(e).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

§ 20-100-435 Reporting of Premium Collected by Carrier

(a) In order to properly administer the requirement of 4 CMC § 9353(c)(2), all carriers receiving premiums for the purpose of providing security for compensation shall file with the Administrator a quarterly premium and remittance report showing the amount of premium collected during the preceding calendar quarter. The payment of 2% of the premium collected shall accompany the quarterly report. For purposes of this subpart, "calendar quarter" means any three months period ending March 31, June 30, September 30, and December 31 of any calendar year.

(b) Such report shall be filed on a form prescribed by the Commission which shall indicate the name of the carrier, the period covered by the report, the total premium received by the

carrier, the 2% of premium, and such other information necessary to carry out the purpose of 4 CMC § 9353(c)(2).

(c) Such report shall be filed along with the 2% payment on or before the end of the month following the end of the calendar quarter in which the premium was received.

(d) At the end of a calendar year, the carrier shall file with the Administrator the annual carrier's remittance report (form CWC 901), together with the final quarter's payment of 2% of premium, no later than 30 days following the end of the calendar year. The remittance report shall be accompanied by a list of employers being accorded coverage for workers' compensation during the preceding year, and the amount of which must reconcile with the amount reported on the quarterly premium and remittance report during the calendar year.

Modified, 1CMC § 3806(f).

History: Amdts Adopted 15 Com. Reg. 10576 (Apr. 15, 1993); Amdts Proposed 14 Com. Reg. 9629 (Sept. 15, 1992).

§ 20-100-440 Authority to Transfer

The Commission is authorized to transfer one hundred fifty thousand dollars solely from the collected penalties and fines deposited into the special disability fund for operation and maintenance, and payment of compensation claims of the government self insurance fund pursuant to 4 CMC § 9353(h).

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-445 Transfer Elected

The transfer of any amount from the special disability fund shall be effected only in the absence of sufficient appropriation from the Legislature.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

Part 500 - Injury Increasing Disability

§ 20-100-501 Procedures for Determining Applicability of 4 CMC § 9308(f)

(a) Application: Filing, Service, Contents.
(1) An employer or insurance carrier which seeks to invoke the provisions of § 9308(f) of the Act must request limitation of its liability and file, in duplicate, with the Administrator a fully documented application. A fully documented application shall contain the information:

(i) A specific description of the pre-existing condition relied upon as constituting an existing permanent partial disability;
(ii) The reasons for believing that the claimant's permanent disability after the injury would be less were it not for the pre-existing permanent partial disability or that the death would not have ensued but for that disability. These reasons must be supported by medical evidence as specified in subsection (a)(1)(iv) of this section;
(iii) The basis for the assertion that the pre-existing condition relied upon was manifest in the employer; and
(iv) Documentary medical evidence relied upon in support of the request for § 9308(f) relief. This medical evidence shall include, but is not limited to, a current medical report establishing the extent of all impairments and the date of maximum medical improvement. If the claimant has already reached maximum medical improvement, a report prepared at that time will satisfy the requirement for a current medical report. If the current disability is total, the medical report must explain why the disability is not due solely to the second injury and why the resulting disability is materially and substantially greater than that which would have resulted from the subsequent injury alone. If the injury is the loss of hearing, the pre-existing hearing loss must be documented by an audiogram which complies with the requirements of § 20-100-2001. If the claim is for survivor's benefits, the medical report must establish that the death was not due solely to the second injury. Any other evidence considered necessary for consideration of the request for § 9308(f) relief must be submitted when requested by the Administrator.
(2) If a claim is being paid by the special disability fund and the claimant dies, an employer need not reapply for § 9308(f) relief. However, survivor benefits will not be paid until it has been established that the death was due to the accepted injury and the eligible survivors have been identified. The Administrator will issue a compensation order after a claim has been filed and entitlement of the survivors has been verified. Since the employer remains a party in interest to the claim, a compensation order will not be issued without the agreement of the employer.

(b) Application: Time for Filing.
(1) A request for § 9308(f) relief should be made as soon as the permanency of the claimant's condition becomes known or is an issue in dispute. This could be when benefits are first paid for permanent disability, or at an informal conference held to discuss the permanency of the claimant's condition. Where the claim is for death benefits, the request should be made as soon as possible after the date of death. Along with the request for § 9308(f) relief, the applicant must also submit all the supporting documentation required by this section, described in subsection (a), of this section. Where possible, this documentation should accompany the request, but may be submitted separately, in which case the Administrator shall, at the time of the request, fix a date for submission of the fully documented application. The date shall be fixed as follows:
(i) Where notice is given to all parties that permanency shall be an issue at an informal conference, the fully documented application must be submitted at or before the conference. For these purposes, notice shall mean when the issues of permanency is noted on the notice of informal conference. All parties are required to list issues reasonably anticipated to be discussed at the conference when the initial request for a conference is made and to notify all parties of additional issues which arise during the period before the conference is actually held.
(ii) Where the issue of permanency is first raised at the informal conference and could not have reasonably been anticipated by the parties prior to the conference, the Administrator shall

adjourn the conference and establish a date by which the fully documented application must be submitted and so notify the employer/carrier. The date shall be set by the Administrator after reviewing the circumstances of the case.

(2)(i) At the request of the employer or insurance carrier, and for good cause, the Administrator at his/her discretion, may grant an extension of the date for submission of the fully documented application. In fixing the date of submission of the application under circumstances other than described above in considering any request for an extension of the date for submitting the application. The Administrator shall consider all the circumstances of the case, including but not limited to:

(A) Whether the claimant will encounter hardship by delaying referral of the case for hearing;

(B) The complexity of the issues and the availability of medical and other evidence to the employer;

(C) The length of time the employer was or should have been aware that permanency is an issue; and

(D) The reasons listed in support of the request.

(ii) If the employer/carrier requested a specific date, the reasons for selection of that date will also be considered. Neither the date selected for submission of the fully documented application nor any extension of the fully documented application nor any extension therefrom can go beyond a reasonable date set by the Administrator for formal hearing.

(3) Where the claimant's condition has not reached maximum medical improvement and no claim for permanency is raised by the date the case is set for hearing, an application need not be submitted to the Administrator to preserve the employer's right to later seek relief under 9308(f) of the Act. In all other cases, failure to submit a fully documented application by the date set for hearing by the Administrator shall be an absolute defense to the liability of the special fund. This defense may be raised by the Administrator. In all cases, where permanency has been raised, the failure of an employer to submit a timely and fully documented application for § 9308(f) relief shall not prevent the Administrator, at his/her discretion, from considering the claim for compensation and setting the case for formal hearing. The failure of an employer to present a timely and fully documented application for § 9308(f) relief may be excused only where the employer could not have reasonably anticipated the liability of the special fund prior to the consideration of the claim by the Administrator. Relief under § 9308(f) is not available to an employer who fails to comply with § 9341(a) of the Act, (4 CMC § 9341(a)).

(c) Application: Approval, Disapproval.

If all evidence required by paragraph (a) was submitted with the application for § 9308(f) relief and the facts warrant relief under this section, the Administrator shall award such relief after concurrence by the WCC. If the Administrator or the WCC finds that the facts do not warrant relief under § 9308(f), the Administrator shall advise the employer of the grounds for the denial. The application for § 9308(f) relief may then be appealed for a formal hearing. When a case is set for hearing, the Administrator shall include in the hearing file a copy of the application for § 9308(f) relief submitted by the employer, the Administrator's denial of the application at the informal conference level.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The original paragraphs of subsection (b)(2) were not designated. The Commission designated subsections (b)(2)(i) and (ii).

In subsection (a)(1)(iv), the Commission changed "but not limited to" to "but is not limited to" to correct a manifest error. In subsection (b)(3), the Commission corrected the spelling of "setting."

Part 600 - Additional Procedures When CNMI Government Is Employer

§ 20-100-601 Records and Reports Must Be Kept and Transmitted

In cases involving employees of the CNMI government, such records as are required by the workers' compensation law, title 4 CMC §§ 9301, et seq., shall be kept by the Administrator. Heads of governmental agencies or departments shall make or cause to be made and transmitted to the Administrator, the employer's first report of accident or injury and shall thereafter furnish to the Administrator such information as is requested.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 30 Com. Reg. 28517 (May 27, 2008); Amdts Proposed 30 Com. Reg. 28428 (April 25, 2008); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

§ 20-100-605 Treatment or Examination for Employee

When an employee of the CNMI government suffers an injury as defined in 4 CMC § 9302(o), the department or agency head or supervisor shall send the employee to a local medical facility for such examination and treatment as is necessitated by such injury, and shall furnish to the medical facility such information or certification as the hospital requires.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 30 Com. Reg. 28517 (May 27, 2008); Amdts Proposed 30 Com. Reg. 28428 (April 25, 2008); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Commission Comment: The Commission changed the incorrect reference to Title 3 in the Commonwealth Code for the definition of injury used in this section to Title 4.

§ 20-100-610 Physician's and Other Medical Reports Must Be Transmitted

(a) The attending physician's report required by 4 CMC § 9307, and by the rules and regulations in this chapter shall be transmitted by the medical facility to the Administrator or to the department or agency head or supervisor who referred the injured employee for treatment, within twenty days of the first treatment.

(b) Any additional medical reports required by the Administrator shall be promptly rendered and transmitted by the medical facility to the Administrator or to the department or agency head or supervisor who referred the injured employee for treatment.

(c) Any and all medical reports concerning examination or treatment of an employee under the CNMI workers' compensation law, received by department or agency heads or supervisors, shall be promptly forwarded to the Administrator.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 30 Com. Reg. 28517 (May 27, 2008); Amdts Proposed 30 Com. Reg. 28428 (April 25, 2008); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

§ 20-100-615 Payment of Compensation Following a Determination

In any case in which the Administrator determines that an employee of the government of the Commonwealth government has suffered an injury as defined in 4 CMC § 9302(o) for which an amount of compensation is due by either the government self-insurance fund or an insurance carrier, regardless of whether a claim for compensation has been filed, the Administrator shall issue, in the name and on behalf of the Commission, an order directing the Treasurer of the Commonwealth or the carrier to pay the compensation due, provided the employer has satisfied all payment obligations into the self-insurance fund and/or the special disability fund, whichever is applicable.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 30 Com. Reg. 28517 (May 27, 2008); Amdts Proposed 30 Com. Reg. 28428 (April 25, 2008); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Part 700 - Notices and Reports

§ 20-100-701 Notice of Employee's Injury or Death; Designation of Responsible Official

(a) In order to claim compensation under the Act, an employee or claimant must first give notice of the fact of an injury or death to the employer and also may give notice to the Administrator or his designee. Notice to the employer must be given to that individual whom the employer has designated to receive such notices. If no individual has been so designated, notice may be given to:
(1) First line supervisors (including foreman or timekeeper), local plant manager, or personnel office official;
(2) To any partner if the employer is a partnership; or
(3) If the employer is a corporation, to any authorized agent, to an officer or to the person in charge of the business at the place where the injury occurred. In the case of a retired employee, the employee/claimant may submit the notice to any of the above persons, whether or not the employer has designated an official to receive such notice.

(b) In order to facilitate the filing of notices, each employer shall designate at least one individual responsible for receiving notices of injury or death; this requirement applies to all employers with more than 20 employees. The designation shall be by position and the employer

shall provide the name and/or position, exact location and telephone number of the individual to all employees by the appropriate method described below.

(1) Type of individual. Designees must be a first line supervisor (including a foreman, hatchboss, or timekeeper), local plant manager, personnel office official, company nurse or other individual traditionally entrusted with this duty, who is located full-time on the premises of the covered facility. The employer must designate at least one individual at each place of employment or one individual for each work crew where there is no fixed place of employment (in that case, the designation should always be the same position for all work crews).

(2) How designated. The name and/or title, the location and telephone number of the individual who is selected by the employer to receive all notices shall be given to the Administrator or his designee; posting on the worksite in a conspicuous place shall fulfill this requirement. A redesignation shall be affected by a change in posting.

(3) Publication. Every employer shall post the name and/or telephone number of the designated official. The posting shall be part of the general posting requirement, done on a form prescribed by the WCC, and placed in a conspicuous place at each worksite.

(4) Effect of failure to designate. Where an employer fails to properly designate and to properly publish the name and/or position of the individual authorized to receive notices of injury or death, such failure shall constitute satisfactory reasons for excusing the employee/ claimant's failure to give notice as authorized by 4 CMC § 9321(d). The employer has the burden of proof to establish compliance with this section.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-705 Notice; When Given; When Given for Certain Occupational Diseases

(a) For other than occupational diseases described in subsection (b), the employee must give notice within thirty days of the date of injury or death. For this purpose the date of injury or death is:

(1) The day on which a traumatic injury occurs;

(2) The date on which the employee or claimant is, or by the exercise of reasonable diligence or by reason of medical advice, should have been aware of a relationship between the injury or death and the employment; or

(3) In the case of claims for loss of hearing, the date the employee receives an audiogram, with the accompanying report which indicates the employee has suffered a loss of hearing that is related to his or her employment.

(b) In the case of an occupational disease which does not immediately result in disability or death, notice must be given within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice, should have been aware of a relationship between the employment, the disease and the death or disability. For purposes of these occupational diseases, therefore, the notice period does not begin to run until the employee is disabled, or in the case of a retired employee, until a permanent impairment exists.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-710 Notice; By Whom Given

Notice shall be given by the injured employee or someone on his behalf, or in the case of death, by the deceased employee's beneficiary or someone on his behalf.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-715 Notice; Form and Contents

Notice shall be in writing on form CWC-201 or such other form as may be prescribed by the Administrator or his designee. Such form shall be made available to the employee or beneficiary by the employer. The notice shall be signed by the person authorized to give such notice. (4 CMC § 9321(b).)

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-720 Notice; How Given

Notice shall be effected by delivering it by hand or by mail at the address posted by the employer to the individual designated to receive such notices. Notice when given to the Administrator or his designee may be by hand or by mail on CWC form-201.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-725 Effect of Failure to Give Notice

Failure to give timely notice to the employer's designated official shall not bar any claim for compensation if:

(a) The employer, carrier, or designated official had actual knowledge of the injury or death; or

(b) The Administrator or his designee determines the employer or carder has not been prejudiced; or

(c) The Administrator or his designee excuses failure to file notice. For purposes of this subsection, actual knowledge shall be deemed to exist if the employee's immediate supervisor was aware of the injury and/or in the case of a hearing loss, where the employer has furnished to the employee an audiogram and report which indicates a loss of hearing.

(d) Failure to give notice shall be excused by the Administrator, if:

(1) Notice, while not given to the designated official, was given to an official of the employer or carrier, and no prejudice resulted; or
(2) For some other satisfactory reason, notice could not be given. Failure to properly designate and post the individual so designated shall be a satisfactory reason. In any event, such defense to a claim must be raised by the employer/carrier at the first hearing on the claim. (See 4 CMC 9321(d).)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-730 Discharge by Carrier of Obligation and Duties of Employer

(a) Notice to or knowledge by an employer of the work related injury or death of an employee shall be deemed notice to or knowledge by the carrier.

(b) Every obligation and duty of an employer to provide medical and other treatment and care, to pay or furnish any other benefit required by 4 CMC §§ 9301, et seq., and to comply with the procedure required by the law or the rules and regulations in this chapter shall be discharged and carried out by the carrier, except that the report of injury or death shall be sent by the employer to the Administrator and to the insurance carrier as required by 4 CMC § 9339.

(c) The carrier shall be jointly responsible with the employer for the submission of all reports, notices, forms and other documents required by law or by the rules and regulations in this chapter to be submitted by the employer. Any form, notice, or other document so submitted shall contain, in addition to the name and address of the carrier, the full name and address of the employer on whose behalf it is submitted.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Commission Comment: The Commission inserted a comma after the word "notice" in subsection (c) pursuant to 1 CMC § 3806(g).

§ 20-100-735 Report of Injury or Death by Employer

(a) Within 10 days from the date of injury or death of an employee, or 10 days from the date an employer has knowledge of an employee's injury or death, including any disease or death proximately caused by the employment, the employer shall furnish a report thereof to the Administrator or his designee, and shall thereafter furnish such additional or supplemental reports as the Administrator may request. Notice shall be made on form CWC form 202, or such other form as the Administrator or his designee may prescribe. (See 4 CMC § 9339).

(b) No report shall be filed unless the injury causes the employee to lose one or more shifts from work. However, the employer shall keep a record containing the information specified in 4 CMC § 9339(a). Compliance with the current OSHA injury record-keeping requirements at 29 CFR part 1904, will satisfy the record- keeping requirements of this section for no lost time injuries.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991); Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The 1991 amendments moved this section from former § 8.101 to § 9.108, codified in this section.

§ 20-100-740 Notice and Reports May Be Filed with the Administrator

In any case where the CNMI workers compensation law, 4 CMC §§ 9301, et seq., or the rules and regulations in this chapter require that notice be given to or a report filed with the Commission, notice to or filing with the Administrator shall be deemed notice to or filing with the Commission in compliance with the law and these rules and regulations.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Part 800 - Claims

§ 20-100-801 Claims for Compensation; Time Limitations

(a) Claims for compensation for disability or death shall be in writing on form CWC-203, and filed with the Administrator or his designee. Claims may be filed anytime after the disability or death of an employee. Except as provided below, the right to compensation is barred unless a claim is filed within one year of the date of injury or death; or (where payment is made without an award) within one year of the date of which the last payment of compensation was made.

(b) In the case of a hearing loss claim, the time for filing a claim does not begin to run until the employee receives an audiogram with the accompanying report which indicates the employee has sustained a hearing loss that is related to his or her employment. (See § 20-100-2101) (See also 4 CMC § 9322.)

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (a), the Commission changed “claimed” to “claim” to correct a manifest error.

§ 20-100-805 Claims; Exceptions to Time Limitations

(a) Mentally Incompetent, Minor. Where a person entitled to compensation under the Act is mentally incompetent or a minor, the time limitation provision of § 20-100-801 shall not apply to a mentally incompetent person so long as such person has no guardian or other authorized representative, but § 20-100-801 shall be applicable from the date of appointment of such

guardian or other representative. In the case of minor who has no guardian before he or she becomes of age, time begins to run from the date he or she becomes of age.

(b) Lawsuit. Where a person brings a suit at law or in admiralty to recover damages in respect of an injury or death, the time limitation in § 20-100-801 shall not begin to run until the date of termination of such suit.

(c) Occupational Disease. Where the claim is one based on disability or death due to an occupational disease which does not immediately result in death or disability, it must be filed within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice, should have been aware of the relationship between the employment, the disease and the death or disability, or within one year of the date of last payment of compensation, whichever is later. For purposes of occupational disease, filing a claim does not begin until the employee is disabled, or in the case of a retired employee, until a permanent impairment exists.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (a), the Commission corrected the spelling of "person" and changed "but § 20-100-801 be" to "but § 20-100-801 shall be" to correct manifest errors. In subsection (b), the original cross-reference was to § 9.101, codified at § 20-100-701. See 12 Com. Reg. At 6736 (Jan. 15, 1990). Because the referenced section did not make sense, the Commission changed the reference to § 10.101, codified at § 20-100-801.

§ 20-100-810 Claims; Time Limitations; Time to Object

Notwithstanding the requirements of § 20-100-801, failure to file a claim within the period prescribed in such section shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard. (See 4 CMC § 9322(b).)

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-815 Claims; Notification of Employer of Filing of Employee

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the Administrator shall give written notice thereof to the employer or carrier, served personally or by certified mail.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-820 Withdrawal of a Claim

(a) Before adjudication of claim. A claimant (or an individual who is authorized to execute a claim on his behalf) may withdraw his previously filed claim; provided that:

(1) He files with the Administrator or with whom the claim is filed a written request stating the reasons for withdrawal;
(2) The claimant is alive at the time his request for withdrawal is filed;
(3) The Administrator approves the request for withdrawal as being for a proper purpose and in the claimant's best interest; and
(4) The request for withdrawal is filed on or before the date the WCC makes a determination on the claim.

(b) After adjudication of claim. A claim for benefits may be withdrawn by a written request filed after the date the WCC makes a determination on the claim: Provided, that:
(1) The conditions enumerated in subsections (a)(1) through (a)(3) of this section are met; and
(2) There is repayment of the amount of benefits previously paid because of the claim that is being withdrawn or it can be established to the satisfaction of the WCC that repayment of any such amount is assured.

(c) Effect of withdrawal of claim. Where a request for withdrawal of a claim is filed and such request for withdrawal is approved, such withdrawal shall be without prejudice to the filing of another claim, subject to the time limitation provisions of 4 CMC § 9322.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 900 - Non-controverted Claims

§ 20-100-901 Non-controverted Claims; Payment of Compensation Without an Award

Unless the employer controverts its liability to pay compensation under this Act, the employer or insurance carrier shall pay bi-weekly or such other period as the Administrator may prescribe, promptly and directly to the person entitled thereto benefits prescribed by the Act. For this purpose, where the employer furnishes to an employee a copy of an audiogram with a report thereon, which indicates the employee has sustained a hearing loss causally related to factors of that employment, the employer or insurance carrier shall pay appropriate compensation or at that time controvert the liability to pay compensation under this Act.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-905 Payments Without an Award; When; How Paid

The first installment of compensation shall become due by the 15th day after the employer has been notified through the designated official or by any other means described in §§ 20-100-701, et seq., or has actual knowledge of the injury or death. All compensation due thereafter must be paid in semimonthly installments, unless the Administrator determines otherwise. (See 4 CMC § 9323.)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-910 Penalty for Failure to Pay Without an Award

If any installment of compensation payable without an award is not paid within 15 days after it becomes due, there shall be added to such unpaid installment an amount equal to 10 percent thereof which shall be paid at the same time as, but in addition to, such installment, unless excused by 4 CMC § 9323(e).

Modified, 1 CMC § 3806(g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission changed "percentum" to "percent" to correct a manifest error.

§ 20-100-915 Report by Employer of Final Payment of Compensation

(a) Within 15 days after the final payment of compensation has been made by the employer or the insurance carrier, the employer or carrier shall notify the Administrator on a form prescribed by the WCC, stating that such final payment has been made, the total amount of compensation paid, the name and address of the person(s) to whom payments were made, the date of the injury or death, the name of the injured or deceased employee, and the inclusive dates during which compensation was paid.

(b) A "final payment of compensation" for the purpose of applying the penalty provision of § 20-100-920 shall be deemed any one of the following:
(1) The last payment of compensation made in accordance with a compensation order awarding disability or death benefits, issued by the WCC;
(2) The payment of an agreed settlement approved under 4 CMC § 9308(h);
(3) The last payment made pursuant to an agreement reached by the parties through informal proceedings;
(4) Any other payments under the Act.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (a), the Commission deleted the repeated words "the employer."

§ 20-100-920 Penalty for Failure to Report Termination of Payments

Any employer failing to notify the Administrator of termination of payments in accordance with § 20-100-915 shall be assessed a civil penalty in the amount of $100.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1000 - Agreed Settlements

§ 20-100-1001 Definitions and Supplementary Information

(a) A settlement agreement between parties represented by counsel is deemed approved when not disapproved within 30 days after it is filed with the CWC.

(b) An agreement among the parties to settle a claim is limited to the rights of the parties and to claims then in existence: settlement of disability compensation or medical benefits shall not be a settlement of survivor benefits nor shall the settlement affect, in any way, the right of survivors to file a claim for survivor's benefits.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1005 Information Necessary for a Complete Settlement Application

(a) The settlement application shall be a self-sufficient document which can be evaluated without further reference to the administrative file. The application shall be in the form of a stipulation signed by all parties and shall contain a brief summary of the facts of the case to include: a description of the incident, a description of the nature of the injury to include the degree of impairment and/or disability, a description of settlement, and a summary of compensation paid and the compensation rate or, where benefits have not been paid, the claimant's average weekly wage.

(b) The settlement application shall contain the following:
(1) A full description of the terms of the settlement which clearly indicates, where appropriate, the amounts to be paid for compensation, medical benefits, survivor benefits, and attorney's fees which shall be itemized as required by § 20-100-310.
(2) The reason for the settlement, and the issues which are in dispute, if any.
(3) The claimant's date of birth and in death claims, the names and birth dates of all dependents.
(4) Information on whether or not the claimant is working or is capable of working. This should include, but not be limited to, a description of the claimant's educational background and work history, as well as other factors which could impact, either favorably or unfavorably, on future employability.
(5) A current medical report which fully describes any injury related impairment as well as any unrelated conditions. This report shall indicate whether maximum medical improvement has been reached and whether further disability or medical treatment is anticipated. If the claimant has already reached maximum medical improvement, a medical report prepared at the time the employee's condition stabilized will satisfy the requirement for a current medical report. A medical report need not be submitted with agreements to settle survivor benefits unless the circumstances warrant it.
(6) A statement explaining how the settlement amount is considered adequate.
(7) If the settlement application covers medical benefits an itemization of the amount paid for medical expenses by year for the three years prior to the date of the application. An estimate of the claimant's need for future medical treatment as well as an estimate of the cost of such medical treatment shall also be submitted which indicates the inflation factor and/or the discount rate used, if any. The adjudicator may waive these requirements for good cause.
(8) Information on any collateral source available for the payment of medical expenses.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (b)(5), the Commission corrected the spelling of "circumstances."

§ 20-100-1010 Settlement Application; How Submitted, How Approved, Disapproved, Criteria

(a) When the parties to a claim for compensation, including survivor benefits and medical benefits, agree to a plete application to the Administrator.* The application shall contain all the information outlined in § 20-100-1005 and shall be sent by certified mail, return receipt requested or submitted in person, or by any other delivery service with proof of delivery to the Administrator. Failure to submit a complete application shall toll the thirty day period mentioned in § 20-100-1001 of this chapter until a complete application is received.

*So in original.

(b) The Administrator shall consider the settlement application within thirty days and either approve or disapprove the application. The liability of an employer/insurance carrier is not discharged until the settlement is specifically approved by a compensation order issued by the Administrator. However, if the parties are represented by counsel the settlement shall be deemed approved unless specifically disapproved within thirty days after receipt of a complete application. This thirty day period does not begin until all the information described in § 20-100-1005 has been submitted. The Administrator shall examine the settlement application within thirty days and shall immediately serve by certified mail on all parties notice of any deficiency. This notice shall also indicate that the thirty day period will not commence until the deficiency is corrected.

(c) If the Administrator disapproves a settlement application, the Administrator shall serve on all parties a written statement or order containing the reasons disapproval. This statement shall be served by certified mail within thirty days of receipt of a complete application (as described in § 20-100-1005) if the parties are represented by counsel.

(d) The parties may submit a settlement application solely for medical benefits, or for compensation and medical benefits combined.

(e) If either portion of a combined compensation and medical benefits settlement application is disapproved, the entire application is disapproved unless the parties indicate on the face of the application that they agree to settle either portion independently.

(f) When presented with a settlement, the Administrator shall review the application and determine whether considering all of the circumstances, including, where appropriate, the probability of success if the case were formally litigated, the amount is adequate. The criteria for determining the adequacy of the settlement shall include but not limited to:
(1) The claimant's age, education, and work history;

(2) The degree of the claimant's disability or impairment;
(3) The availability of the type of work the claimant can do;
(4) The cost and necessity of future medical treatment (where the settlement includes medical benefits).

(g) In cases being paid pursuant to a final compensation order, where not substantive issues are in dispute, a settlement amount which does not equal the present value of future compensation payments commuted, computed at the discount rate specified below, shall be considered inadequate, unless the parties to the settlement show that the amount is adequate. The probability of the death of the beneficiary before the expiration of the period during which he or she is entitled to compensation shall be determined according to the most current United States Life Table, as developed by the United States Department of Health and Human Services, which shall be updated from time to time. The discount rate shall be equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 weeks U.S. Treasury Bills settle immediately prior to the date of the submission of the settlement application.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (b), the Commission corrected the spelling of "Administrator." The Commission inserted a comma after the word "education" in subsection (f)(1) pursuant to 1 CMC § 3806(g). In subsection (g), the Commission corrected the spelling of "which" and "future."

Part 1100 - Controverted and Contested Claims

§ 20-100-1101 Controverted Claims

(a) Employer's controversion of the right to compensation. Where the employer controverts the right to compensation after notice or knowledge of the injury or death, or after receipt of a written claim, he shall give notice thereof, stating the reasons for controverting the right to compensation, using the form prescribed by the WCC. Such notice, or answer to the claim, shall be filed with the Administrator within 14 days from the date the employer receives notice or has knowledge of the injury or death. The original notice shall be sent to the Administrator, and a copy thereof shall be given or mailed to the claimant.

(b) Action by Administrator upon receipt of notice of controversion. Upon receiving the employer's notice of controversion, the Administrator shall forthwith commence proceedings for the adjudication of the claim in accordance with the procedures set forth in the Act and regulations.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1105 Contested Claims

(a) Claimant's contest of actions taken by employer or carrier with respect to the claim. Where the claimant contests an action by the employer or carrier reducing, suspending, or

terminating benefits, including medical care, he should immediately notify the WCC, in person or in writing, and set forth the facts pertinent to his complaint.

(b) Action by Administrator upon receipt of notice of contest.
Upon receipt of the claimant's notice of contest, the Administrator shall forthwith commence proceedings for adjudication of the claim in accordance with the Act and the regulations in this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1200 - Discrimination

§ 20-100-1201 Against Employees Who Bring Proceedings, Prohibition and Penalty

(a) No employer or its duly authorized agent may discharge or in any manner discriminate against an employee as to his/her employment because that employee:
(1) Has claimed or attempted to claim compensation under this Act;
(2) Has testified or is about to testify in a proceeding under this Act; except that to discharge or refuse to employ a person who has been adjudicated to have filed a fraudulent claim for compensation or otherwise made a false statement or misrepresentation under 4 CMC § 9340, is not a violation of this section. Any employer who violates this section shall be liable to a penalty of not less than $1,000 or more than $5,000 to be paid (by the employer alone, and not by a carrier) to the Administrator for deposit in the special disability fund described in § 20-100-401 and in 4 CMC § 9353; and shall restore that employee to his or her employment along with all wages lost due to the discrimination unless that employee has ceased to be qualified to perform the duties of the employment.

(b) When the Administrator receives a complaint from an employee alleging discrimination, he/she shall notify the employer, and within five working days, initiate specific inquiry to determine all the facts and circumstances pertaining thereto. This may be accomplished by interviewing the employee, employer representatives and other parties who may have information about the matter. Interviews may be conducted by written correspondence, telephone or personal interview.

(c) If circumstances warrant, the Administrator may also conduct an informal conference on the issue as described in §§ 20-100-1410 through 20-100-1420.

(d) Any employee discriminated against is entitled to be restored to his employment and to be compensated by the employer for any loss of wages arising out of such discrimination; provided, that the employee is qualified to perform the duties of the employment. If it is determined that the employee has been discriminated against, the Administrator shall also determine whether the employee is qualified to perform the duties of the employment. The Administrator may use medical evidence submitted by the parties or he may arrange to have the employee examined by a physician selected by the Administrator. The cost of the medical examination arranged by the Administrator may be charged to the employer.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1205 Informal Recommendation by the Administrator

(a) If the Administrator determines that the employee has been discharged or suffered discrimination but is able to resume his or her duties, the Administrator will recommend that the employer reinstate the employee and/or make such restitution as is indicated by the circumstances of the case, including compensation for any wage loss suffered as the result of the discharge or discrimination. The Administrator may also assess the employer an appropriate penalty, as determined under authority vested in the Administrator by the Act. If the Administrator determines that no violation occurred he shall notify the parties of his findings and the reasons for recommending that the complaint be denied. If the employer and employee accept the Administrator's recommendation, it will be incorporated in an order and mailed to each party within 10 days.

(b) If the parties do not agree to the recommendation, the Administrator shall, within 10 days after receipt of the rejection, prepare a memorandum summarizing the disagreement, mail a copy to all interested parties, and shall within 14 days thereafter refer the case to the WCC for hearing.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1210 Adjudication by WCC

The WCC is responsible for final determinations of all disputed issues connected with the discrimination complaint, including the amount of penalty to be assessed, and shall proceed with a hearing as described in the regulations in this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1215 Employer's Refusal to Pay Penalty

In the event the employer refuses to pay the penalty or lost wages assessed, the Administrator shall refer it to the legal counsel with the request that appropriate legal action be taken to recover the penalty or lost wages.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1300 - Third Party Liability; Report of Earnings

§ 20-100-1301 Third Party Action

(a) Every person claiming benefits under the Act (or their representative) shall promptly notify the employer and the Administrator when:
(1) A claim is made that someone other than the employer or person or persons in its employ, is liable in damages to the claimant because of the injury or death and identify such party by name and address.
(2) Legal action is instituted by the claimant or the representative against some person or party other than the employer or a person or persons in his employ, on the ground that such other person is liable in damages to the claimant on account of the compensable injury and/or death; specify the amount of damages claimed and identify the person or party by name and address.
(3) Any settlement, compromise or any adjudication of such claim has been effected and report the terms, conditions, and amounts of such resolution of claim.

(b) Where the claim or legal action instituted against a third party results in a settlement agreement which is for an amount less than the compensation to which a person would be entitled under the Act, the person (or person's representative) must obtain the prior written approval of the settlement from the employer and the employer's carrier before the settlement is executed. Failure to do so relieves the employer and/or the carrier of liability for compensation described in 4 CMC § 9342, and for medical benefits otherwise due under 4 CMC § 9307, regardless of whether the employer or the carrier has made payments or acknowledged entitlement to benefits under the Act. The approval shall be on a form provided by the WCC and filed, within 30 days after the settlement is entered into, with the Administrator.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission inserted a comma after the word "conditions" in subsection (a)(3) pursuant to 1 CMC § 3806(g).

§ 20-100-1305 Report of Earnings

(a) Any employer, carrier, or the Administrator (for those cases being paid from the special disability fund) may require an employee to whom it is paying compensation to submit a report of earnings from employment or self-employment. This report may not be required any more frequently than semi-annually. The report shall be made on a form prescribed by the Administrator and shall include all earnings from employment and self-employment and the periods for which the earnings apply. The employee must return the complete report on earnings even where he or she has no earnings to report.

(b) For these purposes the term "earnings" is defined as all monies received from any employment and includes but is not limited to wages, salaries, tips, sales commissions, fees for services provided, piecework and all revenue received from self-employment even if the business or enterprise operated at a loss or if the profits were reinvested.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission inserted a comma after the word "carrier" in subsection (a) pursuant to 1 CMC § 3806(g).

§ 20-100-1310 Report of Earnings; Forfeiture of Compensation

(a) Any employee who fails to submit a report on earnings from employment or self-employment as may be required under § 20-100-1305, or, who knowingly and willfully omits or understates any part of such earnings, shall upon determination by the Administrator forfeit all right to compensation with respect to any period during which the employee was required to file such report. The employee must return the completed report on earnings (even where he/she reports no earnings) within 30 days of the date of receipt; this period may be extended for good cause by the Administrator in determining whether a violation of this requirement has occurred.

(b) Any employer or carrier who believes that a violation of subsection (a) of this section has occurred may file a charge with the Administrator. The allegation shall be accompanied by evidence which includes a copy of the report, with proof of service requesting the information from the employee and clearly stating the dates for which the employee was required to report income. Where the employer or carrier is alleging an omission or understatement of earnings, it shall, in addition, present evidence of earnings by the employee during that period, including copies of checks, affidavits from employers who paid the employee earnings, receipts of income from self-employment or any other evidence showing earnings not reported or under reported for the period in question. Where the Administrator finds the evidence sufficient to support the charge he or she shall convene an informal conference and shall issue a compensation order affirming or denying the charge and setting forth the amount of compensation for the specified period. If there is a conflict over any issue relating to this matter, any party may request a formal hearing before the WCC.

(c) Compensation forfeited under subsection (b) of this section, if already paid, shall be recovered by a deduction from the compensation payable to the employee, if any, on such schedule as the Administrator may determine. The Administrator's discretion in such cases extends only to rescheduling repayment by crediting future compensation and not to whether and in what amounts compensation is forfeited. For this purpose, the Administrator shall consider the employee's essential expenses for living, income from whatever source, and assets, including cash, savings and checking accounts, stocks, bonds, and other securities.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1400 - Adjudication Procedures

§ 20-100-1401 Scope of this Part

The regulations in this part govern the adjudication of claims in which the employer has filed a notice to controvert the right to compensation under § 20-100-1101, or the employee has filed a notice of contest under § 20-100-1105. In the vast majority of cases, the problem giving rise to the controversy results from misunderstandings, clerical or mechanical errors, or mistakes of fact of law. Such problems seldom require resolution through formal hearings, with the attendant production of expert witness. Accordingly, by §§ 20-100-1405, et seq., the Administrator is

empowered to amicably and promptly resolve such problems by informal procedures. Where there is a genuine dispute of fact or law which cannot be so disposed of informally, resort must be had to the formal hearing procedures as set forth beginning at § 20-100-1501. Supplementary compensation orders, modifications, and interlocutory matters are governed by regulations beginning with § 20-100-1601.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The final citation was originally to § 19.101, codified at § 20-100-1501. The regulations governing supplementary compensation orders, modifications, and interlocutory matters actually begin with § 20.101, codified at § 20-100-1601, and the Commission corrected the citation accordingly.

§ 20-100-1405 Handling of Claims Matters by Administrator; Informal Conferences

The Administrator is empowered to resolve disputes with respect to claims in a manner designed to protect the rights of the parties and also to resolve such disputes at the earliest practicable date. This will generally be accomplished by informal discussions by telephone or by conferences at the Administrator's office. Some cases will be handled by written correspondence. The regulations governing informal conferences at the Administrator's office with all parties present are set forth below. When handling claims by telephone, or at the office with only one of the parties, the Administrator and his staff shall make certain that a full written record be made of the matters discussed and that such record be placed in the administrative file. When claims are handled by correspondence, copies of all communications shall constitute the administrative file. (See 4 CMC § 9332.)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1410 Informal Conferences; Call by and Held Before Whom

Informal conferences shall be called by the Administrator or his designee assigned or reassigned the case and held before that same person, unless such person is absent or unavailable. When so assigned, the designee shall perform the duties set forth below assigned to the Administrator, except that a compensation order following an agreement shall be issued only by the Administrator.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1415 Informal Conference; How Called; When Called

Informal conferences may be called upon not less than 10 days' notice to the parties, unless the parties agree to meet at an earlier date. The notice may be given by telephone, but shall be confirmed by use of a written notice on a form prescribed by the WCC. The notice shall indicate the date, time and place of the conference, and shall also specify the matters to be discussed. For good cause shown, conferences may be rescheduled. A copy of such notice shall be placed in administrative file.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1420 Informal Conferences; How Conducted; Where Held

(a) No tape recording need be made at informal conferences and no witnesses shall be called. The Administrator shall guide the discussion toward the achievement of the purpose of such conference, recommending courses of action where there are disputed issues, and giving the parties the benefit of his experience and specialized knowledge in the field of workers' compensation.

(b) Conferences generally shall be held at the Administrator's office. However, such conferences may be held at any place which, in the opinion of the Administrator, will be of greater convenience to the parties or their representatives.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1425 Conclusion of Conference; Agreement on All Matters with Respect to the Claim

(a) Following an informal conference at which agreement is reached on all issues, the Administrator shall (within 10 days after conclusion of the conference), embody the agreement in a memorandum or within 30 days issue a formal compensation order, to be filed and mailed in accordance with § 20-100-1536. If either party requests that a formal compensation order be issued, the Administrator shall, within 30 days of such request, prepare, file, and serve such order in accordance with § 20-100-1536. Where the problem was of such nature that it was resolved by telephone conversation or discussion, or exchange of written correspondence, the parties shall be notified by the same means that agreement was reached and the Administrator shall prepare a memorandum or order setting forth the terms agreed upon. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action shall be commenced immediately upon becoming aware of the agreement, and without awaiting receipt of the memorandum or the formal compensation order.

(b) Where there are several conferences or discussions, the provisions of subsection (a) of this section do not apply until the last conference. The Administrator shall, however, prepare and place in his administrative file a short, succinct memorandum of each preceding conference or discussion.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1430 Conclusion of Conference; No Agreement on All Matters with Respect to the Claim

When it becomes apparent during the course of the informal conference that agreement on all issues cannot be reached, the Administrator shall bring the conference to a close, shall evaluate

all evidence available to him or her, and after such evaluation shall prepare a memorandum of conference setting forth all outstanding issues, such facts or allegations as appear material and his or her recommendations and rationale for resolution of such issues. Copies of this memorandum shall then be sent by certified mail to each of the parties or their representatives, who shall then have 14 days within which to signify in writing to the Administrator whether they agree or disagree with his or her recommendations. If they agree, the Administrator shall proceed as in § 20-100-1425(a). If they disagree, then the Administrator may schedule such further conference or conferences as, in his opinion, may bring about agreement; if he or she is satisfied that any further conference would be unproductive, or if any party has requested a hearing, the Administrator shall prepare the case for hearing. (See § 20-100-1435, §§ 20-100-1501 through 20-100-1540).

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1435 Preparation of the Case for Hearing

A case is prepared for hearing in the following manner:

(a) The Administrator may elect to furnish each of the parties or their representatives with a copy of a prehearing statement form.

(b) Each party shall, within 21 days after receipt of such form, complete it and return it to the Administrator and serve copies on all other parties. Extensions of time for good cause may be granted by the Administrator.

(c) Upon receipt of the completed forms, the Administrator, after checking them for completeness and after any further conferences that, in his/her opinion, are warranted, shall compile them together with all available evidence which the parties intend to submit at the hearing (exclusive of X-rays, slides and other materials not suitable for mailing which may be offered into evidence at the time of hearing); the materials compiled shall include any recommendations expressed or memoranda prepared by the Administrator pursuant to § 20-100-1430.

(d) If the completed pre-hearing statement forms raise new or additional issues not previously considered by the Administrator or indicate that the material evidence will be submitted that could reasonably have been made available to the Administrator before he or she prepared the last memorandum of conference, the Administrator may consider such issues or evaluate such evidence or both and issue an additional memorandum of conference in conformance with § 20-100-1430.

(e) If a party fails to complete or return his/her pre-hearing statement form within the time allowed, the Administrator may, at his discretion, compile the case without that party's form. However, such compilation shall include a statement from the Administrator setting forth the circumstances causing the failure to include the form, and such party's failure to submit a pre-hearing statement form may, subject to rebuttal at the formal hearing, be considered by the

Administrator, to the extent intransigence is relevant, in subsequent rulings on motions which may be made in the course of the formal hearing.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (e), the Commission corrected the spelling of "intransigence."

§ 20-100-1440 The Record; What Constitutes; Inclusion of Administrative File

For the purpose of any further proceedings under the Act, the formal record of proceedings shall consist of the hearing record made before the Administrator. When compiling the case for hearing pursuant to § 20-100-1435, the Administrator shall include the administrative file, communications with the parties, and memoranda. The work product and the attorney-client communications shall be and must remain confidential.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1445 Obtaining Documents from File for Reintroduction at Formal Hearings

Whenever any party considers any other documents in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such other document from the Administrator and reintroduce it for the record at the hearing. The type of document that may be obtained shall be limited to those including documents or forms with respect to notices, claims, controversions, contests, progress reports, medical services or supplies, etc. The work products of the Administrator or his staff shall not be subject to retrieval. Documents privileged by law under the attorney-client privilege between the WCC and its attorney shall not be subject to retrieval. The procedure for obtaining documents shall be for the requesting party to inform the Administrator in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt the Administrator shall deny the request in writing or grant it by causing copies of the requested documents to be made and then:

(a) Place the copies in the hearing file together with the letter of request; and

(b) Promptly forward the originals to the requesting party. The handling of multiple requests for the same documents shall be within the discretion of the Administrator and with the cooperation of the requesting parties.

Modified, 1 CMC § 3806(g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In the opening paragraph, the Commission corrected the spelling of "retrieval."

Part 1500 - Formal Hearings

§ 20-100-1501 Formal Hearings; How Initiated

Formal hearings are initiated before the Administrator who shall serve the pre-hearing statement forms, the available evidence which the parties intend to submit at the formal hearing, and the letter setting a hearing as provided in § 20-100-1430 and § 20-100-1435. (See 4 CMC § 9330.)

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1502 Formal Hearings; How Conducted

Formal hearings shall be conducted before the Administrator in accordance with 4 CMC § 9332 and the Administrative Procedure Act, 1 CMC §§ 9101, et seq. All hearings shall be tape recorded.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1504 Formal Hearings; Parties

(a) The necessary parties for a formal hearing are the claimant and the employer or insurance carrier, and the Administrator.

(b) The WCC legal counsel or his designee may appear and participate in any formal hearing held pursuant to the regulations in this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1506 Formal Hearings; Representatives of Parties

The claimant and the employer or carrier may be represented by attorneys of their choice.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1508 Formal Hearings; Notice

On a form prescribed for this purpose, the Administrator shall notify the parties (See § 100-50-1504) of the place and time of the formal hearing not less than 14 days in advance thereof.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1510 Formal Hearings; New Issues

(a) If, during the course of the formal hearing, the evidence presented warrants consideration of an issue or issues not previously considered, the Administrator may expand the hearing to include the new issue. If in the opinion of the Administrator the new issue requires additional time for preparation, the parties shall be given a reasonable time within which to prepare for it. If the new issue arises from evidence that has not been considered by the Administrator, and such evidence is likely to resolve the case without the need for a formal hearing, the Administrator may remand the case for an informal hearing before his or her designee for his or her evaluation and recommendation pursuant to § 20-100-1430.

(b) At any time prior to the filing of the compensation order in the case, the Administrator may in his discretion, upon the application of a party or upon his own motion, give notice that he will consider any new issue. The parties shall be given not less than 10 days' notice of the hearing on such new issue. The parties may stipulate that the issue may be heard at an earlier time and shall proceed to a hearing, unless they agree to such a change without notice.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1512 Formal Hearings; Change of Time or Place for Hearings; Postponements

(a) Except for good cause shown, hearings shall be held at a convenient location on the island of the claimant's residence, if in the CNMI.

(b) Once a formal hearing has been set, continuances shall not be granted except in cases of extreme hardship or where attendance of a party or his/her representative is mandated at a previously scheduled judicial proceeding, or by consent of the parties. Unless the ground for the request arises thereafter, requests for continuances must be received by the Administrator at least 10 days before the scheduled hearing date, must be served upon the other parties, and must specify the extreme hardship or previously scheduled judicial proceeding claimed.

(c) The Administrator may change the time and place of the hearing, or temporarily adjourn a hearing on his own motion or for good cause shown by a party. The parties shall be given not less than 10 days' notice of the new time and place of the hearing, unless they agree to such change without notice.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1514 Formal Hearings; General Procedures

All hearings shall be attended by the parties or their representatives and such other persons as the Administrator deems necessary and proper. The Administrator shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the Administrator believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time, prior to the filing of the compensation order, reopen the hearing for the

receipt of such evidence. The order in which evidence and allegations shall be presented and the procedures at the hearings generally, except as the regulations in this chapter otherwise expressly provide, shall be in the discretion of the Administrator and of such nature as to afford the parties a reasonable opportunity for a fair and impartial hearing.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1516 Formal Hearings; Evidence

In making an investigation or inquiry or conducting a hearing, the Administrator shall not be bound by technical or formal rules of procedure, except as required by the CNMI Administrative Procedure Act, 1 CMC §§ 9101, et seq., and the regulations in this chapter; but may make such investigation or inquiry or conduct such hearing in such manner and procedure as he deems to best ascertain the rights of the parties involved.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1518 Formal Hearings; Witnesses

(a) Witnesses at the hearing shall testify under oath or affirmation administered by the Administrator or other hearing officer. The Administrator may examine the witness and shall allow the parties or their representatives to do so.

(b) No person shall be required to attend as a witness in any proceeding before the Administrator at a place off the island of his residence, unless his lawful airfare and fees for one day's attendance shall be paid or tendered to him in advance of the hearing date. (See 4 CMC § 9334.)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1520 Formal Hearings; Depositions; Interrogatories

The testimony of a witness, including any party represented by counsel, may be taken by deposition or interrogatory according to the Commonwealth Rules of Civil Procedure as supplemented by the Commonwealth Rules of Practice. However, such depositions or interrogatories must be completed within reasonable times to be fixed by the Administrator. (See 4 CMC §§ 9333 and 9336.)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1522 Formal Hearings; Witness Fees

Witnesses summoned in a formal hearing before the Administrator or whose depositions are taken shall receive the same fees and mileage as witnesses in the CNMI Superior Court.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1524 Formal Hearings; Oral Argument; Written Arguments, and Service

(a) Upon request by any party in interest, a reasonable time for presentation of oral argument shall be allowed. Such party shall also be allowed to file a closing brief upon averment on the record that the case presents a novel or difficult legal or factual issue or issues that cannot be adequately addressed in oral summation. The brief shall be limited to the issue or issues specified by the hearing officer or by the party in his/her averment. Such brief shall be filed within 15 days of the conclusion of the hearing.

(b) The opposing party may file a brief in opposition within 15 days of the date of service of the initial brief. The party who filed the initial brief may then file a brief in rebuttal within 7 business days of the date of service of the opposition brief.

(c) The original brief shall be filed at the office of the Commission and copies thereof shall be served on all the parties. The Rules of Appellate Procedure for the Supreme Court of the CNMI shall govern the method of service of briefs for purposes of this subsection.

(d) Extension of time for filing of briefs must be made to the hearing officer in writing and copies served on all parties. Extensions shall not be granted unless good cause is clearly shown.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 15 Com. Reg. 10576 (Apr. 15, 1993); Amdts Proposed 14 Com. Reg. 9629 (Sept. 15, 1992); Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The 1993 amendments added new subsections (b) through (d) and amended subsection (a).

§ 20-100-1526 Formal Hearings; Record of Hearing

All formal hearings shall be open to the public and shall be tape recorded. All evidence upon which the Administrator relies for his final decision shall be contained in the transcript of testimony either directly or by appropriate reference to the hearing record or file. All medical reports, exhibits, and any other pertinent document or record, in whole or in material part, shall be incorporated into the record either by reference or as an appendix.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1528 Formal Hearings; Consolidated Issues; Consolidated Cases

(a) When one or more additional issues are raised by the Administrator pursuant to § 20-100-1510, such issues may, in the discretion of the Administrator, be consolidated for hearing and decision with other issues pending before him.

(b) When two or more cases are transferred for formal hearings and have common questions of law or which arose out of a common accident, the Administrator may consolidate such cases for hearing.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1530 Formal Hearings; Waiver of Right to Appear

If all parties waive their right to appear before the Administrator, or to present evidence or argument personally or by counsel, it shall not be necessary for the Administrator to give notice of and conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the WCC or the Administrator. Where such a waiver has been filed by all parties, and they do not appear before the Administrator personally or by representative, the Administrator shall make a record of the relevant written evidence in the hearing file/or submitted by the parties, together with any pleadings they may submit with respect to the issues in the case. Such documents shall be considered as all of the evidence in the case and the decision shall be based on them.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1532 Formal Hearings; Termination

(a) Formal hearings are normally terminated upon the conclusion of the proceeding at which evidence is submitted to the Administrator.

(b) In exceptional cases the Administrator may, in his discretion, extend the time for official termination of the hearing.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1534 Formal Hearings; Preparation of Final Decision and Order; Content

Within 20 days after the official termination of the hearing as defined by § 20-100-1532, the Administrator shall have prepared a final decision and order, in the form of a compensation order, with respect to the claim, making an award to the claimant or rejecting the claim. The compensation order shall contain appropriate findings of facts and conclusions of law with respect thereto, and shall be concluded with one or more paragraphs containing the order of the Administrator, his signature, and the date of issuance.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1536 Formal Hearings; Disposition of Orders and Transcripts

The Administrator shall, within 20 days after the official termination of the hearing, provide a copy to the WCC of his signed compensation order. The Administrator, being the official custodian of all records with respect to claims, shall formally date and file the compensation order (original) in his office. The Administrator shall, on the same day as the filing was accomplished, send by certified mail a copy of the compensation order to the parties and to representatives of the parties, if any. Appended to each such copy shall be a paragraph entitled "proof of service" containing the certification of the Administrator that the copies were mailed on the date stated, to each of the parties and their representatives, as shown in such paragraph.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1538 Finality of Compensation Orders

Compensation orders shall become effective when filed by the Administrator, and unless proceedings for suspension or setting aside of such orders are instituted as provided by 4 CMC § 9330(b), it shall become final at the expiration of the 15th day after such filing, as provided by 4 CMC § 9330(b). If any compensation payable under the terms of such order is not paid with 10 days after it becomes due, § 9323(f) of the Act requires that there be added to such unpaid compensation an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such compensation, unless review of the compensation order is had as provided in § 9330(c) and an order staying payment has been issued by the reviewing court.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1540 Withdrawal of Controversion of Issues Set for Formal Hearing; Effect

Whenever a party withdraws his controversion of the issues set for a formal hearing, the Administrator shall halt the proceedings upon receipt from said party of a signed statement to that effect and forthwith to dispose of the case as provided for in § 20-100-1425.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1600 - Interlocutory Matters, Supplemental Orders, Modifications

§ 20-100-1601 Interlocutory Matters

Compensation orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a compensation case.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1605 Supplementary Compensation Orders

(a) In any case in which the employer or insurance carrier is in default in the payment of compensation due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, apply in writing to the Administrator for a supplementary compensation order declaring the amount of the default. Upon receipt of such application, the Administrator shall institute proceedings with respect to such application as if such application were an original claim for compensation, and the matter shall be disposed of as provided for in § 20-100-1425, or if agreement on the issue is not reached, then as in §§ 20-100-1430, et seq.

(b) If, after disposition of the application as provided for in subsection (a) of this section, a supplementary compensation order is entered declaring the amount of the default, which amount may be the whole of the award notwithstanding that only one or more installments is in default, a copy of such supplementary order shall be forthwith sent by certified mail to each of the parties and their representatives. Thereafter, the applicant may obtain and file with the clerk of the Superior Court a certified copy of said order and may seek enforcement thereof as provided for by § 9327 of the Act, 4 CMC § 9327.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1610 Modification of Awards

(a) Upon his/her own initiative, or upon application of any party in interest (including an employer or carrier which has been granted relief under § 9308(f) of the Act), the Administrator may review any compensation case by an informal conference or by a formal hearing, and file a new compensation order terminating, continuing, reinstating, increasing or decreasing such compensation, or awarding compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made retroactive from the date of injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such method as may be determined by the Administrator or Commission. Settlements cannot be modified, unless exceptional circumstances are shown.

(b) If any investigation discloses a change in conditions and the employer or insurance carrier intends to pursue modification of the award of compensation, the Administrator and claimant shall be notified through an informal conference. At the conclusion of the informal conference the Administrator shall issue a recommendation either for or against the modification. The Commission shall then make a final determination.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1615 Appeals; Where

Appeals may be taken to the Commission as provided by 4 CMC § 9330. An appeal from a final order of the Administrator shall be made within 15 days from the date of its filing.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1700 - Medical Care and Supervision

§ 20-100-1701 Medical Care Defined

(a) Medical care shall include medical, surgical, and other attendance or treatment, nursing and hospital services, laboratory, X-ray and other technical services, medicines, crutches, or other apparatus and prosthetic devices, and any other medical service or supply, including the reasonable and necessary cost of travel incident thereto, which is recognized as appropriate by the medical profession for the care and treatment of the injury or disease.

(b) An employee may rely on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and nursing services rendered in accordance with such tenets and practice without loss of diminution of compensation or benefits under the Act. For purposes of the regulations in this chapter, a "church or religious denomination" shall be any religious organization:
(1) That is recognized by the Social Security Administration for purposes of reimbursements for treatment under Medicare and Medicaid or
(2) That is recognized by the Internal Revenue Service for purposes of tax exempt status.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1705 Employer's Duty to Furnish; Duration

It is the duty of the employer to furnish appropriate medical care (as defined in § 20-100-1701(a)) for the employee's injury, and for such period as the nature of the injury or the process of recovery may require.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1710 Employee's Right to Choose Physician; Limitations

The employee shall have the right to choose his/her attending physician from among those authorized by the Commission to furnish such care and treatment. In determining the choice of a physician, consideration must be given to availability, the employee's condition and method and means of transportation. Generally it is not reasonable to travel outside the CNMI, but other pertinent factors must also be taken into consideration.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1715 Physician Defined

The term "physician" includes doctors of medicine (MD), surgeons, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by Commonwealth law. The term includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation shown by X-ray or clinical findings. Physicians defined in this part may interpret their own X-rays. All physicians in these categories are authorized by the Administrator to render medical care under the Act. Naturopathy, faith healers, and other practitioners of the healing arts which are not listed herein are not included within the term "physician" as used in this part.

Modified, 1 CMC § 3806(g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission changed "show" to "shown" and "with" to "within" to correct manifest errors. The Commission also deleted the word "the" before "their practice."

§ 20-100-1720 Selection of Physician; Emergencies

Whenever the nature of the injury is such that immediate medical care is required and the injured employee is unable to select a physician, the employer shall select a physician. Thereafter the employee may change physicians when he is able to make a selection. Such changes shall be made upon obtaining written authorization from the employer or, if consent is withheld, from the Administrator, upon showing of good cause.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1725 Change of Physicians; Non-emergencies

(a) Whenever the employee has made his initial, free choice of an attending physician, he may not thereafter change physicians without the prior written consent of the employer (or carder) or the Administrator. Such consent shall be given in cases where an employee's initial choice was not a specialist whose services are necessary for, and appropriate to, the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.

(b) The Administrator may order a change of physicians or hospitals when such a change is found to be necessary or desirable or where the fees charged exceed those prevailing within the community for the same or similar services or exceed the provider's customary charges.

Modified, 1 CMC § 3806(g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (a), the Commission deleted the repeated word "a."

§ 20-100-1730 Supervision of Medical Care

The Administrator shall actively supervise the medical care of an injured employee covered by the Act. Such supervision shall include:

(a) The requirement that periodic reports on the medical care being rendered be filed in the office of the Administrator, the frequency thereof being determined by order of the Administrator or by the sound judgment of the attending physician as the nature of the injury may dictate;

(b) The determination of the necessity, character, and sufficiency of any medical care furnished or to be furnished the employee, including whether the changes made by any medical care provider exceed those permitted under the Act;

(c) The determination of whether a change of physicians, hospitals, or other persons or locales providing treatment should be made or is necessary;

(d) The further evaluation of medical questions arising in any case under the Act, with respect to the nature and extent of the covered injury, and the medical care required therefor.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission inserted commas after the words "character" in subsection (b) and "hospitals" in subsection (c) pursuant to 1 CMC § 3806(g).

§ 20-100-1735 Evaluation of Medical Questions; Impartial Specialists

In any case in which medical questions arise with respect to the appropriate diagnosis, and extent and effect of appropriate treatment, and the duration of any such care or treatment, for an injury covered by the Act, the Administrator shall have the power to evaluate such questions by appointing one or more especially qualified physicians to examine the employee, or in the case of death, to make such inquiry as may be appropriate to the facts and circumstances of the case. The physician or physicians, including appropriate consultants, should report their findings with respect to the questions raised as expeditiously as possible. Upon receipt of such report, action appropriate therewith shall be taken.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1740 Evaluation of Medical Questions; Results Disputed

Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed by or selected by the Administrator and such review or reexamination shall be granted unless it is found that it is clearly unwarranted. The dissatisfied party may be required to pay the cost of the examination. Such review shall be completed within 2 weeks from the date ordered unless it is impossible to complete the review

and render a report thereon within such time period. Upon receipt of the report of this additional review and reexamination, such action as may be appropriate shall forthwith be taken.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1745 Duties of Employees with Respect to Special Examinations

(a) For any special examination required of an employee by §§ 20-100-1735 and 20-100-1740, the employee shall submit to such examination at such place as is designated in the order to report, but the place so selected shall be reasonably convenient for the employee.

(b) Where an employee fails to submit to an examination required by §§ 20-100-1735 and 20-100-1740, the Administrator or Commission may order that no compensation otherwise payable shall be paid for any period during which the employee refuses to submit to such examination unless circumstances justified the refusal.

(c) Where an employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Administrator or Commission may by order suspend the payment of further compensation during such time as the refusal continues. Provided, that refusal to submit to medical treatment because of adherence to the tenets of a recognized church or religious denomination as described in § 20-100-1701(b) shall not cause the suspension of compensation. (Section 9307(a)(4).)

Modified, 1 CMC § 3806(c), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In subsection (b), the Commission changed “refuse” to “refuses” to correct a manifest error.

§ 20-100-1750 Special Examinations; Nature of Impartiality of Specialists

(a) The special examinations required by § 20-100-1735 shall be accomplished in a manner designed to preclude prejudgment by the impartial examiner. No physician previously connected with the case shall be present, nor may any other physician selected by the employer, carrier, or employee be present. The impartial examiner may be made aware, by any party, or the Administrator, or WCC of the opinions, reports, or conclusions of any prior examining physician with respect to the nature and extent of the impairment, its cause, or its effect upon the wage-earning capacity of the injured employee, if the Administrator determines that, for good cause, such opinions, reports, or conclusions shall be made available. Upon request, any party shall be given a copy of all materials made available to the impartial examiner.

(b) The impartiality of the specialists shall not be considered to have been compromised if the Administrator deems it advisable to and does, apprise the specialist by memorandum of those undisputed facts pertaining to the nature of the employee’s employment, of the nature of the injury, of the post-injury employment activity, if any, and of any other facts which are not disputed and are deemed pertinent to the type of injury and/or the type of examination being conducted.

(c) No physician selected to perform impartial examinations shall be, or shall have been for a period of 2 years prior to the examination, an employee of an insurance carrier or employer, or who has accepted or participated in any fee from an insurance carrier or employer, unless the parties in interest agree thereto.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1755 Special Examinations; Costs Chargeable to Employer or Carrier

(a) The Administrator shall have the power, in the exercise of his discretion, to charge the cost of the examination or review to the employer, to the insurance carrier, or in appropriate circumstances, to the special fund established by § 9353 of the Act, 4 CMC § 9353.

(b) The Administrator may also order the employer or the insurance carrier to provide the employee with the services of an attendant where the Administrator considers such services necessary, because the employee is totally blind, has lost the use of both hands, or both feet or is paralyzed and unable to walk, or because of other disability making the employee so helpless as to require constant attendance, in the discretion of the Administrator. Fees payable for such services shall be in accord with the provisions of § 20-100-1760.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1760 Fees for Medical Services; Prevailing Community Charges

All fees charged by medical care providers for persons covered by this Act shall be limited to such charges for the same or similar care (including supplies) as prevails in the community in which the medical care provider is located and shall not exceed the customary charges of the medical care provider for the same or similar services. The opinion of the Administrator that a charge by a medical care provider disputed under the provisions of § 20-100-1765 exceeds the charge which said medical care provider is located shall constitute sufficient evidence to warrant further proceedings pursuant to § 20-100-1765 and permit the Administrator to direct the claimant to select another medical provider for care to the claimant.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1765 Fees for Medical Services; Unresolved Disputes on Prevailing Charges

(a) The Administrator may, upon written complaint of an interested party, or upon the Administrator’s own initiative, investigate any medical care provider or any fee for medical treatment, services, or supplies that appears to exceed similar treatment, services or supplies or the provider's customary charges. Such investigation may initially be conducted informally

through contract of the medical care provider by the Administrator. If this informal investigation is unsuccessful further proceedings may be undertaken. These proceedings may include, but not limited to: an informal conference involving all interested parties; agency interrogatories to the pertinent medical care provider; and issuance of subpoenas duces tecum for documents having a bearing on the dispute.

(b) The failure of any medical care provider to present any evidence required by the Administrator pursuant to this section without good cause shall not prevent the Administrator from making findings of fact.

(c) After any proceeding under this section the Administrator shall make specific findings on whether the fee exceeded the prevailing community charges or the provider's customary charges and provide notice of these findings to the affected parties.

(d) The Administrator may suspend any such proceedings if after receipt of the written complaint the affected parties agree to withdraw the controversy from agency consideration on the basis that such controversy has been resolved by the affected parties. Such suspension, however, shall be at the discretion of the Administrator.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1770 Fees for Medical Services; Unresolved Disputes on Charges; Procedure

After issuance of specific findings of fact and proposed action by the Administrator as provided in § 20-100-1765 any affected provider employer or other interested party has the right to seek a hearing pursuant to the Administrative Procedure Act [1 CMC §§ 9101, et seq.]. Upon written request for such a hearing, the matter shall be referred to the WCC for formal hearing in accordance with the procedures in this part. If no such request for a hearing is filed with the Administrator within thirty days, the findings issued pursuant to § 20-100-1765 shall be final.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1775 Fees for Medical Services; Disputes; Hearings; Necessary Parties

At formal hearings held pursuant to § 20-100-1770, the necessary parties shall be the person whose fee or cost charge is in question and the Administrator or his representatives. The employer or carrier may also be represented, and other parties, or associations having an interest in the proceedings, may be heard, in the discretion of the WCC.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1780 Fees for Medical Services; Disputes, Effect of Adverse Decision

If the final decision and order upholds the finding of the Administrator that the fee or charge in dispute was not in accordance with prevailing community charges or the provider's customary charges, the person claiming such fee or cost charge shall be given thirty days after filing of such decision and order to make the necessary adjustment. If such person still refuses to make the required readjustment, such person shall not be authorized to conduct any further treatments or examinations (if a physician) or to provide any other services or supplies (if by other than a physician). Any fee or cost charge subsequently incurred for services performed or supplies furnished shall not be reimbursable medical expense under this part. This prohibition shall apply notwithstanding the fact that the services performed or supplies furnished were in all other respects necessary and appropriate within the provision of the regulations in this chapter. However, the Administrator may direct reimbursement of medical claims for services rendered if such services were rendered in an emergency (see § 20-100-1920(b)). At the termination of the proceedings provided for in this section the Administrator shall determine whether further proceedings under § 20-100-1905 should be initiated.

Modified, 1 CMC § 3806(c), (d), (e).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1785 Test for Intoxication

When an injured employee is referred for or seeks medical attention as a result of a job related injury or illness, the physician shall conduct a test to determine whether alcohol was a factor in the injury or illness, unless the physician determines that such a test would be detrimental to the health of the employee, in which case, the medical report shall contain an explanation for the physician's decision.

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

§ 20-100-1790 Physician's Report

The attending physician's report shall be legible and comprehensible to a lay person. To this end, the physician shall, to the extent possible, prepare the report using terms and words which a lay person can understand.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Part 1800 - Medical Procedures

§ 20-100-1801 Procedure for Requesting Medical Care; Employee's Duty to Notify Employer

(a) As soon as practicable, but within 30 days after occurrence of any injury covered by the Act, or within 30 days after an employee becomes aware, or in the exercise of reasonable

diligence should be aware, of the relationship between an injury or disease and his employment, the injured employee or someone on his behalf shall give written notice thereof of the Administrator and to the employer. If a form has been prescribed for such purpose it shall be used, if available and practicable under the circumstances. Notices filed under this part, if on the form prescribed by the Administrator for such purpose, satisfy the written notice requirements of this part.

(b) In the case of an occupational disease which does not immediately result in a disability or death, such notice shall be given within one year after the employee becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability. Notice shall be given:
(1) To the Administrator, and
(2) To the employer.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1805 Action by Employer upon Acquiring Knowledge or Being Given Notice of Injury

Whenever an employer acquires knowledge of an employee's injury, through receipt of a written notice or otherwise, said employer shall forthwith authorize, in writing, appropriated medical care. If a form is prescribed for this purpose it shall be used whenever practicable. Authorization shall also be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1810 Issuance of Authorization; Binding Effect upon Insurance Carrier

The issuance of an authorization for treatment by the employer shall bind his insurance carrier to furnish and pay for such care and services.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1815 Effect of Failure to Obtain Initial Authorization

An employee shall not be entitled to recover for medical services and supplies unless:

(a) The employer shall have refused or neglected a request to furnish such services and the employee has complied with § 9307(b) and (c) of the Act, and the regulations in this chapter; or

(b) The nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1820 Effect of Failure to Report on Medical Care after Initial Authorization

(a) Notwithstanding that medical care is properly obtained in accordance with the regulations in this chapter, a finding by the Administrator that a medical care provider has failed to comply with the reporting requirements of the Act shall operate as a mandatory revocation of authorization of such medical care provider. The effect of a final finding to this effect operates to release the employer/carrier from liability of the expenses of such care. In addition to this, when such a finding is made by the Administrator, the claimant receiving treatment will be directed by the Administrator to seek authorization for medical care from another source.

(b) For good cause shown, the Administrator may excuse the failure to comply with the reporting requirements of the Act and may make an award for the reasonable value of such medical care.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 1900 - Debarment of Physicians, Other Providers and Attorneys

§ 20-100-1901 Grounds for Debarment

A physician or health care provider shall be debarred if it is found, after appropriate investigation as described in § 20-100-1765 and proceedings under §§ 20-100-1905 and 20-100-1910, that such physician or health care provider has:

(a) Knowingly and willfully made, or caused to be made, any false statement or misrepresentation of a material fact for use in a claim for compensation or claim for reimbursement of medical expenses under this Act;

(b) Knowingly and willfully submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Administrator finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community or in excess of the provider's customary charges, unless the Administrator finds there is good cause for the bill or request containing the charge;

(c) Knowingly and willfully furnished a service, appliance, or supply which is determined by the Administrator to be substantially in excess of the need of the recipient thereof or to be of a quality which substantially fails to meet professionally recognized standards;

(d) Been convicted under any criminal statute, without regard to pending appeal thereof, for fraudulent activities in connection with federal or state program for which payments are made to physicians or providers of similar services, appliances, or supplies; or has otherwise been excluded from participation in such program.

(e) The fact that a physician or health care provider has been convicted of a crime previously described in subsection (d), or excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any program as described in (d), shall be a prima facie finding of fact for purposes of a debarment order.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1905 Debarment Process

(a) Pertaining to health care providers. Upon receipt of information indicating that a physician or health care provider has engaged in activities enumerated in subsections (a) through (c) of § 20-100-1901, the Administrator may evaluate the information (as described in § 20-100-1901) to ascertain whether proceedings should be initiated against the physician or health care provider to remove authorization to render medical care or service under the Act.

(b) Pertaining to health care providers and attorneys. If after appropriate investigation the Administrator determines that proceedings should be initiated, written notice thereof sent certified mail, return receipt requested, shall be provided to the physician, health care provider or attorney containing the following:

(1) A concise statement of the grounds upon which debarment will be based;

(2) A summary of the information upon which the Administrator has relied in reaching an initial decision that debarment proceedings should be initiated;

(3) An invitation to the physician, health care provider or attorney to:

(i) Resign voluntarily from participation in the program without admitting or denying the allegations presented in the written notice; or

(ii) Request a decision on debarment to be based upon the existing agency record and any other information the physician, health care provider or attorney may wish to provide;

(4) A notice of the physician's, health care provider's or attorney's right, in the event of an adverse ruling by the Administrator, to request a formal hearing before the WCC;

(5) A notice that if a physician, health care provider or attorney fail to provide a written answer to the written notice described in this section within thirty days of receipt, the Administrator may deem the allegations made therein to be true and may order exclusion of the physician, health care provider or attorney without conducting any further proceedings; and

(6) The name and address of the Administrator who shall be responsible for receiving the answer from the physician, health care provider or attorney.

(c) Should the physician, health care provider or attorney fail to file a written answer to the notice described in this section within thirty days of receipt thereof, the Administrator may deem the allegations made therein to be true and may order debarment of the physician, health care provider or attorney.

(d) The physician, health care provider or attorney may inspect or request copies of information in the agency records at any time prior to the Administrator's decision.

(e) The Administrator shall issue a decision in writing, and shall send a copy of the decision to the physician, health care provider or attorney by certified mail, return receipt requested. The decision shall advise the physician, health care provider or attorney of the right to request, within thirty days of the date of an adverse decision, a formal hearing before the WCC under the procedures set forth herein. The filing of such a request for hearing within the time specified shall operate to stay the effectiveness of the decision to debar.

Modified, 1 CMC § 3806(c), (d), (e).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1910 Requests for Hearing

(a) A request for hearing shall be sent to the Administrator and contain a concise notice of the issues on which the physician, health care provider or attorney desires to give evidence at the hearing with identification of witnesses and documents to be submitted at the hearing.

(b) If a request for hearing is timely received by the Administrator, the matter shall be referred to the Commission who shall assign it for hearing with the assigned hearing officer issuing a notice of hearing for the conduct of the hearing. A copy of the hearing notice shall be served on the physician, health care provider or attorney by certified mail, return receipt requested.

(c) If a request for hearing contains identification of witnesses or documents not previously considered by the Administrator, the Administrator may make application to the assigned hearing officer for an offer of proof from the physician, health care provider or attorney for the purpose of discovery prior to hearing. If the offer of proof indicates injection of new issues or new material evidence not previously considered by the Administrator, the Administrator may request a remand order for purposes of reconsideration of the decision made pursuant to § 20-100-1920 of this chapter.

(d) The parties may make application for the issuance of subpoenas upon a showing of good cause therefore to the hearing officer.

(e) The hearing officer shall issue a recommended decision after the termination of the hearing. The recommended decision shall contain appropriate findings, conclusions and a recommended order and be forwarded, together with the record of the hearing, to the Commission for a final decision. The recommended decision shall be served upon all parties to the proceeding.

(f) Based upon a review of the record and the recommended decision of the hearing officer, the Commission shall issue a final decision.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1915 Judicial Review

(a) Any physician, health care provider or attorney, after any final decision of the Commission made after a hearing to which such person was a party, irrespective of the amount of controversy, may obtain a review of such decision by a civil action commenced within thirty days after the mailing to him or her of notice of such decision, but the pendency of such review shall not operate as a stay upon the effect of such decision. Such action shall be brought in the CNMI Superior Court.

(b) As part of the Commission's answer, it shall file a certified copy of the transcript of the record of the hearing, including all evidence submitted in connection therewith.

(c) The findings of fact of the Commission, if based on substantial evidence in the record as a whole, shall be conclusive, as provided by the CNMI Administrative Procedure Act [1 CMC §§ 9101, et seq.].

Modified, 1 CMC § 3806(e).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-1920 Effects of Debarment

(a)(1) The Administrator shall give notice of the debarment of a physician, hospital, or provider of medical support services or supplies to:
(i) All worker's compensation offices;
(ii) The Commonwealth Health Center;
(iii) The CNMI authority responsible for licensing or certifying the debarred party;
(iv) The employers and authorized insurers on the Act; and
(v) The general public by posting a notice in the office.
(2) If a attorney is debarred, the Administrator shall give notice to those groups listed in subsections (a)(1)(i), (iii), (iv), and (v) of this section.

(b) Notwithstanding any debarment under this subsection, the Administrator shall not refuse a claimant reimbursement for any otherwise reimbursable medical expense if the treatment, service or supply was rendered by a debarred provider in an emergency situation. However, such claimant will be directed by the Administrator to select a duly qualified provider upon the earliest opportunity.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2).

In subsection (b), the Commission inserted the word "a" before "debarred provider" to correct a manifest error.

§ 20-100-1925 Reinstatement

(a) If a physician or health care provider, or an attorney has been debarred pursuant to § 20-100-1901(d), the person debarred will be automatically reinstated upon notice to the Administrator that the conviction or exclusion has been reversed or withdrawn. However, such reinstatement will not preclude the Administrator from instituting debarment proceedings based upon the subject matter involved.

(b) A physician, or a health care provider, or an attorney otherwise debarred by the Administrator may apply for reinstatement to participate in the program by application to the Administrator after three years from the date of entry of the order of exclusion. Such application for reinstatement shall be addressed to the Administrator, and shall contain a statement of the basis of the application along with any supporting documentation.

(c) The Administrator may further investigate the merits of the reinstatement application by requiring special reporting procedures from the applicant for a probationary period not to exceed six months to be monitored by the Administrator.

(d) At the end of aforesaid probationary period, the Administrator may order full reinstatement of the physician, health care provider or an attorney if such reinstatement is clearly consistent with the program goal to protect itself against fraud and abuse and, further, if the physician, health care provider or attorney has given reasonable assurances that the basis for the debarment will not be repeated.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 2000 - Hearing Loss Claims

§ 20-100-2001 Claims for Loss of Hearing

(a) Claims for hearing loss shall be adjudicated with respect to the determination of the degree of hearing impairment in accordance with the regulations in this chapter.

(b) An audiogram shall be presumptive evidence of the amount of hearing loss on the date administered if the following requirements are met:
(1) The audiogram was administered by a licensed or certified audiologist, by a physician certified by the American Board of Otolaryngology, or by a technician, under an audiologist's or by physician's supervision, certified by the Council of Accreditation on Occupational Hearing Conservation, or by any other person considered qualified by a hearing conservation program.

Thus, either a professional or trained technician may conduct audio-matic testing. However, to be acceptable under this subsection, a licensed or certified audiologist or otolaryngologist, as defined, must ultimately interpret and certify the results of the audiogram. The accompanying report must set forth the testing standards used and describe the method of evaluating the hearing loss as well as providing an evaluation of the reliability of the test results.
(2) The employee was provided the audiogram and a report thereon at the time it was administered or within thirty days thereafter.
(3) No one produces a contrary audiogram of equal probative value (meaning one performed using the standards described herein) made at the same time. "Same time" means within thirty days thereof where noise exposure continues or within six months where exposure to excessive noise levels does not continue.

(c) In determining the amount of pre-employment hearing loss, an audiogram must be submitted which was performed prior to employment or within thirty days of the date of the first employment-related noise exposure.

(d) In determining the loss of hearing under the Act, the evaluators shall use the criteria for measuring and calculating hearing impairment as published and modified from time-to-time by the American Medical Association in the Guides to the Evaluation of Permanent Impairment, using the most currently revised edition of this publication. In addition, the audiometer used for testing the individual's threshold of hearing must be calibrated according to current American National Standard Specifications for Audiometers. Audiometer testing procedures required by hearing conservation programs pursuant to the Occupational Safety and Health Act (OSHA) of 1970 should be followed (as described at 29 CFR § 1910.95 and appendices). (4 CMC § 9308(a)(1).)

Modified, 1 CMC § 3806(d), (e).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Part 2100 - Vocational Rehabilitation

§ 20-100-2101 Vocational Rehabilitation; Objective

The objective of vocational rehabilitation is the return of permanently disabled persons to gainful employment commensurate with their physical or mental impairments, or both, through a program of reevaluation or redirection of their abilities, or retraining in another occupation, or selective job placement assistance. (4 CMC § 9307(a).)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2105 Vocational Rehabilitation, Action by Administrator

All injury cases which are likely to result in, or have resulted in, permanent disability, and which are of a character likely to require review by a vocational rehabilitation adviser engaged by the Administrator shall promptly be referred to such adviser. If a form has been prescribed for such

purpose, it shall be used. Medical data and other pertinent information shall accompany the referral.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2110 Vocational Rehabilitation; Action by Adviser

The vocational rehabilitation adviser, upon receipt of the referral, shall promptly consider the feasibility of a vocational referral or request for cooperative services from available resources or facilities, to include counseling, vocational survey, selective job placement assistance, and retraining. Public or private agencies may be used in arranging necessary vocational rehabilitation services.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2115 Vocational Rehabilitation; Referrals to Commonwealth Labor Division

Vocational rehabilitation advisers will arrange referral procedures with the CNMI Division of Labor for the purpose of securing employment counseling, job classification, and selective placement assistance. Referrals shall be made to Division of Labor or employment agencies based upon the following:

(a) Vocational rehabilitation advisers will screen cases so as to refer only those disabled employees who are considered to have employment potential;

(b) Only employees will be referred who have permanent, compensable disabilities resulting in a significant vocational handicap and loss of wage earning capacity;

(c) Disabled employees, whose initial referral to former private employers did not result in a job reassignment or employment counseling and/or selective placement unless retraining services consideration is requested;

(d) The vocational rehabilitation advisers shall arrange for employees' referrals if it is ascertained that they may benefit from registering with the Division of Labor;

(e) Referrals will be made to Division of Labor by letter, including all necessary information and a request for a report on the services provided the employee when he registers;

(f) The injured employee shall be advised of available job counseling services and informed that he is being referred for employment and selective placement;

(g) A follow-up shall be made within 60 days on all referrals.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2120 Vocational Rehabilitation; Referrals to Other Public and Private Agencies

Referrals to such other public and private agencies providing assistance to disabled persons such as public welfare agencies, social services units of the Veterans Administration, the Social Security Administration, and other such agencies, shall be made by the vocational rehabilitation adviser, where appropriate, on an individual basis when requested by disabled employees.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2125 Vocational Rehabilitation; Training

Vocational rehabilitation shall be planned in anticipation of a short, realistic, attainable vocational objective terminating in remunerable employment, and in restoring wage earning capacity or increasing it materially. The following procedures shall apply in arranging or providing training:

(a) The vocational rehabilitation adviser shall arrange for and develop all vocational training programs.

(b) Training programs shall be developed to meet the varying needs of eligible beneficiaries, and may include courses at colleges, technical schools, training at rehabilitation centers, on-the-job training, or tutorial courses. The courses shall be pertinent to the occupation for which the employee is being trained.

(c) Training may be terminated if the injured employee fails to cooperate with the WCC or with the agency supervising the course of training. The employee shall be counseled before training is terminated.

(d) Reports shall be required at periodic intervals on all persons in approved training programs.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2130 Vocational Rehabilitation; Maintenance Allowance

(a) An injured employee who, as a result of injury, is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the Administrator or his designee is being rendered fit to engage in a remunerative occupation, shall be paid additional compensation necessary for this maintenance, not exceeding $25 a week. If so permitted by law, the expense shall be paid out of the special disability fund established in 4 CMC § 9353. The maximum maintenance allowance shall not be provided on an automatic basis, but shall be based on the recommendation of a Commonwealth agency that a claimant is unable to meet additional costs by reason of being in training.

(b) When required by reason of personal illness or hardship, limited periods of absence from training may be allowed without terminating the maintenance allowance. A maintenance

allowance shall be terminated when it is shown to the satisfaction of the Administrator that a trainee is not complying reasonably with the terms of the training plan or is failing to attend the training program without good cause so as to materially interfere with the accomplishment of the training objective.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2135 Vocational Rehabilitation; Confidentiality of Information

The following safeguards will be observed to protect the confidential character of information released regarding an individual undergoing rehabilitation:

(a) Information will be released to other agencies from which an injured employee has requested services only if such agencies have established regulations assuring that such information will be considered confidential and will be used only for the purpose for which it is provided;

(b) Interested persons and agencies have been advised that any information concerning rehabilitation program employees is to be held confidential;

(c) A rehabilitation employee's written consent is secured for release of information regarding disability to a person, agency, or establishment seeking the information for purposes other than the approved rehabilitation planning with such employee.

Modified, 1 CMC § 3806(g).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: In the opening paragraph, the Commission changed the final semi-colon to a colon.

Part 2200 - Occupational Disease with No Immediate Effect

§ 20-100-2201 Definitions

(a) "Time of Injury". For purposes of this part and with respect to an occupational disease which does not immediately result in death or disability, the time of injury shall be deemed to be the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability.

(b) "Disability". With regard to an occupational disease for which the time of injury, as defined in subsection (a), occurs after the employee was retired, disability shall mean permanent impairment as determined according to the Guides to the Evaluation of Permanent Impairment which is prepared and modified from time to time by the American Medical Association, using the most current revised edition of this publication. If this guide does not evaluate the

impairment, other professionally recognized standards may be utilized. The disability described in this subsection shall be limited to the permanent partial disability.

(c) "Retirement". For purposes of this part, retirement shall mean that the claimant, or decedent in cases involving survivor's benefits, has voluntarily withdrawn from the work force and that there is no realistic expectation that such person will return to the work force.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

Commission Comment: The Commission inserted quotation marks around terms defined.

Part 2300 - Penalties

§ 20-100-2301 Civil Penalty; Failure to Secure the Payment of Compensation

Any employer who fails to secure the payment of compensation required by the Act shall be assessed by the Administrator a civil fine of not more than $25 for each day such failure continues within the first year of the effective date of the Act; and, on the second year and thereafter, a penalty not to exceed $100 for each day such failure continues. For good cause shown, the Administrator may waive the civil penalty. (4 CMC § 9347(a).)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2305 Criminal Penalty; Failure to Secure the Payment of Compensation

In addition to the civil penalty, any employer who fails to secure the payment of compensation for its employees as required by the Act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or be imprisoned not more than one year, or both. (4 CMC § 9347(b).)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2310 Penalty for Failure to File Notices

(a) Upon making the first payment of compensation, an employer shall, within 15 days following the date of first payment, a notice of first payment to the Administrator. Failure to file such notice, the Administrator shall assess such employer a civil penalty of $100.

(b) Upon suspension, termination or making the final payment of compensation, an employer shall, within 15 days of the suspension, termination or final payment, a notice of final payment to the Administrator. Failure to file such notice, the Administrator shall assess such employer a civil fine of $100. (4 CMC § 9323(g).)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2315 Penalty for False Statement, Misrepresentation

(a) Any claimant or representative of a claimant who knowingly and willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under the Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed $1,000, by imprisonment not to exceed one year, or by both. (4 CMC § 9340.)

(b) Any person including, but not limited to, an employer, its duly authorized agent or an employee of an insurance carrier, who knowingly and willingly makes a false statement or representation for the purpose of reducing, denying or terminating benefits to an injured employee, or his dependents pursuant to 4 CMC § 3909, if the injury results in death, shall be punished by a fine not to exceed $1,000, by imprisonment not to exceed one year, or by both. (4 CMC § 9347(b).)

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2320 Interest Penalties

Interest of twelve percent per annum shall accrue in favor of the special disability fund on monies owed in the following instances:

(a) Failure of any employer/insurer to pay into the special disability fund the amount of $10,000.00, or any fraction thereof, within a period of 30 calendar days from the date that the compensation order has been entered in accordance with the provisions of 4 CMC § 9353(c)(1) and part 400, § 20-100-415 of the rules and regulations in this chapter.

(b) Failure of the insurer to remit an amount equal to two percent of the total premiums received, or any fraction thereof, pursuant to the provisions of 4 CMC § 9353(c)(2) and part 400 of the rules and regulations in this chapter, within a period of 30 calendar days following the end of the calendar year.

(c) Any remittance on premiums received by the insurer for the calendar years 1989 and 1990, pursuant to part 400 of the rules and regulations in this chapter, which the insurer has failed to pay within a period of 30 calendar days following the effective date of these rules and regulations.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

§ 20-100-2325 Waiver of Penalties

(a) For good cause shown, the Administrator may waive any penalties imposed by Public Law 6-33 or by the rules and regulations in this chapter. All requests for waiver of penalties must be in writing and addressed to the Administrator. All such requests must be received within 30 calendar days from the date of the notice of assessment or other notice that a penalty is due.

(b) In any case where an employer is considered high risk and workers' compensation coverage is denied by at least three carriers, the Administrator shall waive the penalties imposed by Public Law 6-33 and by the rules and regulations in this chapter upon receipt of these 3 letters of denial of coverage.

(c) A waiver of penalties under this section does not relieve the employer of liability for the work related injury, illness or death of any of its employees.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

§ 20-100-2330 Attorney's Fees

In the event that the employer's failure to pay the assessment must be referred to our attorney for collection, the employer will be liable for attorneys fees and other costs of collection, in addition to prejudgment interest at the rate of 12% per annum.

History: Amdts Adopted 17 Com. Reg. 13529 (June 15, 1995); Amdts Proposed 17 Com. Reg. 13266 (Apr. 15, 1995).

Commission Comment: The Commission inserted an apostrophe into the word "attorney's" pursuant to 1 CMC § 3806(g).

Part 2400 - Certificates of Compliance

§ 20-100-2401 Filing of Certificates of Compliance

Every employer who has secured the payment of compensation must submit a certificate (form WC-1) to the Administrator showing that such employer has secured the payment of compensation. Only one such certificate need be filed by each employer, and will be valid only during the period for which such employer has secured such payment.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2405 Issuance of Certificate of Coverage

Every employer who has secured the payment of compensation, and upon submission of a certificate of compliance to the Administrator, may request a certificate of coverage from the Administrator showing that such employer has secured the payment of compensation. Only one such certificate need be issued to each employer, and will be valid only during the period for which such employer has secured such payment.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2410 Subsequent Filing of Certificate of Compliance

An employer who has secured a renewal of insurance issued under the Act without a break in continuity thereof must submit a new certificate of compliance pursuant to the Act and § 20-100-2401 of this section.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2415 Policies; Report by Carrier of Issuance

Each carrier shall promptly transmit to the Administrator a report of each policy issued or renewed under 4 CMC §§ 9301, et seq. The report may consist of:

(a) A copy of the policy, or

(b) A copy of the declarations page of the policy together with a signed copy of necessary endorsements, or

(c) A 3 x 5 inch card in the following form:

Employer: _____
Address: _____

_____
(Policy number) (effective date) (expiration date)

Report is made of issuance of approved form of policy and endorsement under 4 CMC §§ 9301, et seq., to the above employer.

_____ _____
(Date) (Name of Carrier)

By: _____ _____
(Title)

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8233 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7809 (July 15, 1991).

Part 2500 - Self Insurance

§ 20-100-2501 General Provisions

The purpose of this part is to provide general guidelines for the review and approval of self-insurance for workers' compensation liability for employers. The authority to promulgate the rules in this part is provided under PL 9-33 § 9341.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

Commission Comment: The 1996 amendments added a new part 29, codified in this part. The Commission re-designated the remaining parts in this chapter accordingly.

§ 20-100-2505 Definitions

(a) "Commission": shall mean the Workers' Compensation Commission which shall be the Board of Trustees of the Northern Mariana Islands Retirement Fund.

(b) "Employer": shall mean any person, corporate or unincorporated, public or private, who employs the services of others in return for wages, salaries, or other remuneration and includes the legal representative of a deceased employer. Employer excludes a person who employs for a specified recompense for a specified result an independent contractor and who may or may not in turn employ others whose work is directed as to the means of accomplishing such result by the independent contractor. If the employer is insured it includes his insurer as far as applicable.

(c) "Employee": shall mean any person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. Employee includes aquacultural and agricultural workers. Employee excludes a person whose employment is purely casual and not for the purpose of the employers' trade or business, independent contractors, and any person employed by the inhabitant of a private contractors, and any person employed by the inhabitant of a private dwelling to reside at the dwelling and perform household domestic service.

(d) "Self-insurer": shall mean an employer who has been granted relief from the requirement of procuring insurance by the Commission, after having complied with the provisions of the self-insurance regulations.

(e) "Insolvency": shall mean the inability of a workers' compensation self-insurer to pay its lawful outstanding obligations as they mature in the regular course of business, as may be shown by either an excess of its liabilities over its assets or by its not having sufficient assets to insure all of its outstanding liabilities after paying all accrued claims owed by it.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

Commission Comment: In subsection (c), the Commission inserted the word "or" before "unlawfully" to correct a manifest error. The Commission inserted quotation marks around terms defined.

§ 20-100-2510 Eligibility for Self-insurance

(a) Employers with 200 or more employees are eligible to be self-insured. Any employer with at least 200 employees may elect to be self-insured by submitting an application form prescribed by the Commission which, upon approval shall be bound by the requirements and procedures set forth below in addition to the provisions of the statutes.

(b) Employers Unable to Secure Coverage.
(1) Employers who have demonstrated their inability to procure coverage from at least three carriers authorized to do business in the Commonwealth, may seek coverage from outside the Commonwealth. If the employer is still unable to obtain coverage from carriers outside the Commonwealth, employer is eligible for self-insurance.
(2) If employer is unsuccessful in obtaining outside coverage, employer shall automatically become self- insured two months from the date of notice from the Commission to seek coverage and must comply with the self-insurance provisions of the regulations in this chapter.

Modified, 1 CMC § 3806(d), (e).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2515 Requirements for Self-insurance

To qualify to receive a certificate of authorization and relief from procuring workers' compensation insurance, an employer must satisfy the following requirements:

(a) File with the Workers' Compensation Commission an annual surety bond issued by an insurance company licensed to do business in the Commonwealth in an amount of $100,000.00, or if the employer cannot procure a bond, then any other security such as cash or negotiable securities, or real property free of any encumbrances acceptable to the Commission, in an equal amount. If in the case of real property, its value shall be based on an appraisal completed by a licensed appraiser. Surety bonds shall be in the form prescribed by the Commission, which in the event of insolvency shall be payable to the WCC to ensure the payment of the employer's workers' compensation liabilities subject to the dollar limitation of the surety bond.

(b) Except as otherwise noted, all statutes, provisions, and rules and regulations applicable to non-self-insured employers shall also be applicable to self-insured employers. In addition, the self-insured employer shall adhere to the requirements as follows:
(1) Special Disability Fund. Employers shall pay into the special disability fund an amount equal to one percent of the total salaries paid but payment to the special disability fund shall not to exceed $1,500.00 each quarter, and shall be remitted quarterly to the Commission.
(2) All amounts due the special disability fund shall be remitted within 30 days following the end of each quarter.

(3) Records Inspection. Self-insured employers shall avail its records including but not limited to quarterly tax reports as well as reports pertaining to salaries and wages for inspection and review by the Commission to ensure compliance with applicable statutes and rules and regulations.
(4) Self-insured Notice. Employers shall keep posted in a conspicuous place, a notice prescribed or approved by the Commission indicating employer is self-insured.

(c) Administration of Self-insurance. Each self-insured employer shall have within its own organization a specific plan to administer its self-insurance program. A competent personnel should be available to service such program with respect to claims, administration, loss prevention, loss control safety programs, etc. Upon request by the Commission, such plans should be readily available for review by the Commission.

(d) Additional Security Requirements. The Commission may require additional security if the following exist:
(1) Insufficient liquid assets or retained earnings;
(2) A declining financial condition, as evidenced by a comparison of current financial reports to recent past financial statements in file;
(3) The workers' compensation loss experience is significantly higher than prior years;
(4) The loss potential as a result of business expansion or there is a significant increase in the number of employees, etc.; or
(5) Any other relevant considerations.

(e) Types of Additional Security. Any one or more of the following types of security may be required, in an amount determined by the Commission:
(1) Additional surety bond
(2) Irrevocable letter of credit
(3) Specific per occurrence excess insurance
(4) Trust fund
(i) If a trust fund is established, the Commission shall be the trustee, and may invest said funds as it deems fit.
(ii) Interest accrued on the investment of the trust fund shall accumulate to the trust fund.
(iii) The trust fund shall be used to pay losses and expenses in the event the employer is unable to pay for compensation benefits required by law.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2520 Application for Self-insurance

(a) An applicant for a certificate of self-insurance shall submit a completed application to the Workers' Compensation Commission together with the following:
(1) A surety bond or other security specified under § 20-100-251029.102(a) above.
(2) Most recent audited financial statement.
(3) Business gross revenue report for past three years and most recent quarter completed.

(4) Data from immediate past 3 years on paid and outstanding compensation losses.

(b) After an initial review, the Commission may require additional information or additional security.

(c) Within a reasonable time but no later than 60 days, the Commission will rule on the application and either issue a certificate for self-insurance or send a letter denying the application with a specific reason or explanation.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

Commission Comment: In subsection (a)(2), the Commission inserted the final period.

§ 20-100-2525 Insolvency

If the employer becomes insolvent, the Commission may appoint or designate an individual or company to receive funds under the trust or disperse the funds to individual claimants.

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2530 Term of Self-insurance Authorization

(a) Self-insurance authorization shall be issued not to exceed one year, and are renewable in accordance with renewal procedures.

(b) Terms and provisions of the self-insurance authorization shall remain unchanged if, during the term of the self-insurance authorization, employer shall have less than 200 employees.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2535 Termination of Self-insurance

(a) Employer may, without penalty, purchase coverage and terminate self-insurance, provided claims and penalties due under the self-insurance authorization are fully paid.

(b) Should employer obtain coverage and terminate the self-insurance authorization prior to the end of the quarter, payments due the special disability fund shall be prorated for the actual period the self-insurance authorization is in effect.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2540 Renewals

(a) Self insurance certificate is valid for one year, unless sooner revoked as provided herein.

(b) Renewal application shall be accompanied with the following:
(1) A completed application;
(2) An audited financial statement;
(3) Any additional relevant information required by the Commission.

(c) The Commission may require additional security depending on the change on financial condition of the employer.

(d) The Commission may require financial reports more frequently than once each year if the financial condition of the employer shows signs of deterioration and closer scrutiny is deemed warranted.

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2545 Periodic Examination

The Commission may examine relevant records of an employer as often as it deems necessary. Examination shall include but not be limited to adequacy of loss reserves, adequacy of securities provided, and claims handling practices.

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2550 Grounds for Non-renewal or Revocation of a Certificate of Authorization for Self-insurance

The following constitute grounds for non-renewal or revocation of a certificate of authorization from self- insurance:

(a) Failure to comply with any provisions of the rules and regulations in this chapter;

(b) Failure to comply with lawful orders of the Commission; or

(c) Committing an unfair or deceptive act or practice; or

(d) Poor financial condition adversely affecting employers' ability to pay expected losses.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2555 Hearing and Appeal

(a) Prior to denying a renewal application, or revoking a certificate of self insurance authorization issued pursuant to the regulations in this chapter, employer shall be given a hearing and a right to appeal as provided herein.

(b) The Workers' Compensation Commission shall hear the appeal no later than 90 days from the date of the request.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2560 Renewal Request for Self-insurance

All self-insured employers shall be subjected to an annual review for eligibility and shall submit application forms prescribed by the Commission. The renewal request shall be submitted no later than 30 days prior to the expiration of current self-insurance authorization.

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2565 Penalties

(a) A civil penalty of $100.00 shall be assessed each employee upon failure to post notice of self-insurance pursuant to § 9343(b) of PL 9-33.

(b) Employers who fail to remit payments due under the special disability fund shall be assessed a penalty of 10 percent per month or a fraction thereof of the amount unpaid, not to exceed 50% in the aggregate, plus interest of 12% per annum.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2570 Disposition of Receipts upon Termination of Self-insurance

Employer is not entitled to a refund of any payments made into the special disability fund in the event coverage is obtained from a carrier, or have elected not to be self insured.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

§ 20-100-2575 Severability Clause

The rules in this part are promulgated to implement § 9341 of PL 9-33. If any provision of these rules is held to be invalid, such invalidity shall not affect other provisions.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 18 Com. Reg. 14165 (June 15, 1996); Amdts Proposed 18 Com. Reg. 14066 (Apr. 15, 1996); Amdts Proposed 17 Com. Reg. 13557 (July 15, 1995).

Part 2600 - Miscellaneous Provisions

§ 20-100-2601 Amendments

The regulations in this chapter may be amended by the WCC from time to time as it deems necessary. Any amendment to these regulations shall be pursuant to the Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2605 Severability

If any part, or provision, or the application of any such part or provision, or order to any person or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of the parts, or provisions, or the applications or orders to any person or circumstances other than those to which it is held invalid, shall not be affected thereby.

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).

§ 20-100-2610 Effective Date

The regulations in this chapter shall be effective in accordance with the Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(c).

History: Adopted 12 Com. Reg. 7447 (Nov. 15, 1990); Proposed 12 Com. Reg. 6717 (Jan. 15, 1990).