

# Maryland Workers' Compensation Commission

## SUBPOENA PROCESS REVISED

Revised FEBRUARY 13, 2006 (see Notes below)

Due to statutory requirements, the Commission process dealing with **subpoena** requests for medical records is as described below.

A party requesting a **subpoena** for medical records must complete the WCC **subpoena** form H-08 and send the original and a copy to WCC for processing. After issuing the **subpoena**, the WCC will return the original to the requesting party for service. Before mailing a copy of the **subpoena** to the injured worker and counsel, the requesting party must also complete a new WCC Form (H-08/NOI), "**Notice of Intent to Subpoena Medical Records & Certificate of Service**" ("Notice of Intent"). Only the **Certification of Service** should be signed (not the "**30-day Certification**" statement). The requesting party shall include a copy of the **Notice of Intent** form when mailing the **subpoena** to the injured worker and counsel. Once 30 days from the mailing date has passed, and no objection has been filed, the requesting party shall complete the "**30 Day Certification**" & serve a copy of the fully executed **Notice of Intent** with the original **subpoena** on the healthcare provider from whom the records are being requested. A copy of the fully executed **Notice of Intent** and the **subpoena** shall be mailed to the WCC for filing in the claim file.

### Notes:

While the Employer/Insurer is charged with the responsibility of requesting medical records in a timely fashion, the Claimant is similarly charged with the responsibility of assisting the Employer/Insurer to secure such records in a timely manner. That responsibility includes providing the Employer/Insurer with a properly executed medical release for relevant medical records upon request.

The Commission has provided an acceptable medical release: Authorization for Release of Medical Information, (WCC A25 4/28/04).

This form is available from our web Forms & Instructions page:  
[http://www.wcc.state.md.us/Adjud\\_Claims/Forms.html](http://www.wcc.state.md.us/Adjud_Claims/Forms.html)

The Employer/Insurer may continue to use the **subpoena** to gather relevant medical records, although a continuance may not be granted if the Employer/Insurer fails to receive subpoenaed medical records prior to a scheduled hearing. Alternatively, the Employer/Insurer may request the Claimant to provide a medical release pursuant to the Code of Maryland Regulations 14.09.01.10 (C). In that case, if the Claimant fails to, forthwith, provide the Employer/Insurer with a medical release that had been requested in a timely manner, a request for continuance on the part of the Employer/Insurer will be granted.

**\*02/13/06- When an objection to a subpoena for the release of medical records is filed by a claimant, the Commission will put the case in line to be set for a hearing on an emergency basis on the issue of relevancy. The claim will not move forward for hearing on any other issue until the Commissioner has heard and ruled on the objection issue.**