

**Maryland Workers' Compensation  
Commissioners' Meeting Minutes  
Thursday, July 23, 2020**

**Call to Order:** Chairman R. Karl Aumann called the meeting to order at 9:30 a.m.

The Chairman reminded all outside guests who were attending via telephone to please mute their phones and reminded them that this is a meeting of the Commissioners and not an open forum for questions, comments, etc.

**Present:** Chairman Aumann and Commissioners Kathleen Evans, James Forrester, Allan Kittleman, Morrisann Martin, Howard Metz, Ju Oh, Maureen Quinn, and Tracey Parker-Warren. Staff members attending were Mary Ahearn, Jerome Reichmister, M.D., Scott Curtis, Amy Lackington, and Stacey L. Roig, Secretary of the Commission.

A list of guests who called in to this Open Meeting is attached to the Minutes.

**Approval of Minutes:** The Minutes of the July 9, 2020 Commissioners' Meeting were reviewed and, upon motion of Commissioner Martin and second of Commissioner Quinn, the Minutes were approved with a unanimous vote.

**Chairman's Report:** The Chairman discussed the excellent progress that is being made on attacking the backlog of cases. The Commission has a 70% reduction in backlog since mid-May when the backlog was at its highest point. Overall, pending cases are at 5400 before setting October dockets. The Chairman thanked the Commissioners and agency staff for all the hard work to tackle the backlog. The Chairman announced that the Commission will be focusing on Beltsville and reducing hearings at other sites to address the larger backlog for that location. Beltsville has the largest number of hearings, so extra dockets will be set in Beltsville. The November schedule will be modified to reduce the number of afternoon dockets; however, they will continue to be set as needed due to COVID-19. The Chairman reported that the number of claims filed dropped in March, April, and May, as expected. Year over year claims filed at this point in the year in 2019, there is an 8% decrease in claims filed. The Chairman reminded the Commissioners that masks are to be worn at all times because they do make a difference. Please remind all in the hearing rooms to wear their masks at all times and to cover the mouth and nose to prevent the need to close down in-person hearings. The Chairman reported that there are two virtual conference days by SAWCA coming up in the following week. The panel discussions will give everyone a good idea of the challenges being faced by workers' compensation professionals around the country and how the challenges are being addressed by our peers. The discussions are expected to be very informative. The enterprise modernization continues to move forward. Technical issues with uploading documents continue to exist; however, IT has been very responsive working on the problems for the community. The Chairman also discussed budget concerns due to a serious reduction of revenue for the State. The Board of Public Works has made some significant changes to the budget, although the Commission is not expected to be affected at this time. Personnel limitations may be coming in the future.

**Old Business:** Scott Curtis, Principal Counsel, reported on the status of certain regulation changes necessary for the conversion from the current WFMS online claim processing to CompHub and presented COMAR 14.09.01.01 – 14.09.04.01 for final adoption. (See attachment) After a motion by Commissioner Quinn and a second from Commissioner Metz, and a unanimous vote, final adoption of the regulation changes was approved.

**New Business:** Commissioner Quinn discussed attorney fee petitions and requested that attorneys be reminded that if their fee petition has not been submitted prior to the Order being issued, they should email the Commissioner Assistant to alert them that a fee petition has been filed. Commissioner Quinn also discussed the importance of texting all hearing personnel the night before a docket given all of the docket changes that are happening regularly. Communication is of utmost importance now. Commissioner Parker -Warren discussed opening times at the regional hearing sites and inquired about set times for all Commission staff to be at the hearing sites. The Chairman stated that arrival times are not firm; however, it should be early enough to allow plenty of time to sanitize and set-up before the first hearing parties arrive at the site.

**Medical Alerts:** Dr. Reichmister reminded everyone to please be safe, be cautious, wear masks, use frequent hand washing, social distance and stay home as much as possible. Dr. Reichmister also discussed a new publication on non-operative approaches to treatment of low back pain that he has put together for the Commissioners. Dr. Reichmister also discussed several medical alerts of interest to the Commissioners.

**Adjournment:** Upon a motion by Commissioner Forrester and second by Commissioner Quinn and upon unanimous vote, the meeting was adjourned at 10:05a.m.:

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R. Karl Aumann, Chairman

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Stacey L. Roig, Secretary

Public Attendees to Commissioners' Meeting  
Thursday, July 9, 2020

<b>Name</b>	<b>Law Firm, Company or Other Affiliation</b>
Douglas M. Gross, Esq.	Law Offices of Douglas M. Gross LLC
Paul G. Donoghue	Rollins, Smalkin, Richards & Mackie, L.L.C.

**Title 14**  
**INDEPENDENT AGENCIES**  
**Subtitle 09 WORKERS' COMPENSATION COMMISSION**

**Notice of Proposed Action**

[20-076-P]

The Workers' Compensation Commission proposes to amend:

- (1) Regulations **.01**, **.02**, **.04**, and **.09** under **COMAR 14.09.01 General Administrative**;
- (2) Regulation **.02** under **COMAR 14.09.02 Requirements for Filing and Amending Claims**; and
- (3) Regulation **.01** under **COMAR 14.09.04 Legal Representation and Fees**.

This action was considered at a public meeting held on February 13, 2020, notice of which was given by publication in 47:3 Md. R. 234 (January 31, 2020), pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to facilitate migration from legacy system WFMS to CompHub by updating WFMS references to CompHub; to simplify the regulation regarding roles for subscribers to CompHub to require that subscribers adhere to the terms of service assigned to their designated roles; to clarify that "papers" filed electronically need not be on physical paper, and to use the term "paper" as that term is used in the Maryland Rules; to permit filing by power of attorney in CompHub and to ensure that the power of attorney form meets minimum statutory requirements; and to bring the regulation concerning terminating the appearance of an attorney into alignment with the practice in civil matters before the District Court of Maryland (see Md. Rule 3-132), while recognizing that claims under the Maryland Workers' Compensation Law never "close" unless they are settled and there is no possibility of future medical benefits.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

## Opportunity for Public Comment

Comments may be sent to Amy S. Lackington, Administrator, Workers' Compensation Commission, 10 E. Baltimore Street, Baltimore, MD 21202, or call 410-864-5300, or email to [alackington@wcc.state.md.us](mailto:alackington@wcc.state.md.us), or fax to 410-864-5301. Comments will be accepted through May 11, 2020. A public hearing has not been scheduled.

### Open Meeting

Final action on the proposal will be considered by the Workers' Compensation Commission during a public meeting to be held on May 14, 2020, at 9:30 a.m., at 10 E. Baltimore Street, Baltimore, MD 21202.

#### 14.09.01 General Administrative

Authority: Health-General Article, §4-303; Labor and Employment Article, §§9-307, 9-309, 9-310.2, 9-314, 9-404, 9-405, 9-410, 9-602, 9-603, 9-610.1, 9-625, 9-635, 9-689, 9-701, 9-709, 9-710, 9-711, 9-721, 9-731, 9-736, 9-739, and 9-6A-07; Insurance Article, §§19-405 and 19-406; State Government Article, §10-1103; Annotated Code of Maryland

##### .01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) "*CompHub*" means the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims, and to provide other services related to workers' compensation benefits.

[(5)] (6)—[(12)] (13) (text unchanged)

(14) "*Paper*" means a document filed with the Commission, whether in physical paper form or electronic form or format.

[(13)] (15)—[(14)] (16) (text unchanged)

[(15)] (17) "*Role*" means the functionality and type of account for which a user is authorized in [the WFMS system] *CompHub* and includes [attorney, attorney proxy, employer, insurer, healthcare provider, insurer delegate and healthcare provider delegate.] *the following and their delegates and proxies:*

(a) *Attorney;*

(b) *Claimant;*

(c) *Employer;*

(d) *Insurer;*

(e) *Healthcare provider or practitioner; and*

(f) *Vocational rehabilitation provider or practitioner.*

[(16)] (18)—[(18)] (20) (text unchanged)

(21) "*Subscriber*" means an authorized user in *CompHub* having the access applicable to the role for which the user is authorized.

[(19)] (22)—[(21)] (24) (text unchanged)

[(22)] (25) "*Web-Enabled File Management System*" or "*WFMS*" means the Commission's *legacy* subscriber-based web-enabled electronic file management system designed to facilitate the filing and adjudication of workers' compensation claims. *Until the transition from WFMS to CompHub is complete, references to CompHub include WFMS.*

##### .02 [Commission] Forms and Documents.

A. Forms prepared by the Commission, and made available on the Commission's website or through [WFMS] *CompHub*, are mandatory and shall be used for filing claims, notices, requests, motions, and other papers as required by law, or by these regulations.

B. (text unchanged)

C. *Power of Attorney.*

(1) *If a party files a form or document under power of attorney, the party shall:*

(a) *Use a statutory form power of attorney in accordance with Estates and Trusts Article, §§17-101—17-204, Annotated Code of Maryland; and*

(b) *File electronically a copy of the power of attorney with the Commission.*

(2) *Only one copy of the power of attorney need be filed with the Commission.*

**.04 Filing Forms and Documents with the Commission.**

Forms and documents may be filed with the Commission by one of the following methods:

- A. Electronically through [the WFMS] *CompHub*;
- B.—C. (text unchanged)

**.09 [Web-Enabled File Management System] *CompHub* Conditions of Use.**

[A. The WFMS is a subscriber-based web-enabled electronic file management system designed to facilitate the filing and adjudication of workers' compensation claims.

B. An attorney, employer, insurer, or healthcare provider may register for a no-cost subscription to the WFMS by:

- (1) Completing an online application available at the Commission's website; and
- (2) Satisfying the requirements applicable to the type of account (role).

C. After filing the online application, an attorney seeking to register for a subscription shall appear before a Commission official to validate his or her identify by:

- (1) Scheduling an appointment with a court reporter at a remote hearing site; or
- (2) Appearing before the public service unit at the Commission's principal office.

D. An attorney shall present a valid government-issued photo identification to validate his or her identity.

E. Each attorney seeking to use the WFMS shall register for and maintain his or her own individual subscription.

F. No law firm subscriptions are permitted.

G. Conditions of use.]

[(1)] A. A subscriber shall:

[(a)] (1) (text unchanged)

[(b)] (2) Abide by the terms of the service agreement *available on CompHub, applicable to the role for which the user is authorized in CompHub.*

[(2)] B. A [WFMS] *subscriber's CompHub* subscription may be suspended or terminated if the subscriber:

[(a)] (1)—[(d)] (4) (text unchanged)

[(e)] (5) Violates the terms of the service agreement *available on CompHub, applicable to the role for which the user is authorized in CompHub.*

[H. Proxies.

(1) An attorney subscriber may authorize administrative or support staff to function as the attorney's proxy.

(2) The proxy shall complete an online proxy application.

(3) The attorney subscriber may validate the proxy's registration electronically by selecting and acknowledging the proxy.

(4) An attorney may not designate another attorney as a proxy.

(5) Once validated, the proxy may have access to all claim documents in all claims in which the attorney has entered the attorney's appearance.

(6) The attorney subscriber is responsible for all actions and conduct of the attorney's designated proxies.

(7) The attorney proxy shall abide by the terms and conditions of the subscription.

(8) An attorney proxy may not use any other subscriber's account to access the WFMS system.

I. Insurer Delegates.

(1) An insurer subscriber may authorize administrative or support staff to function as the insurer's delegate.

(2) The insurer delegate shall complete the online insurer delegate application.

(3) The insurer subscriber may validate the insurer delegate's registration electronically by selecting and acknowledging the delegate.

(4) Once validated, the insurer delegate may have access to all claim documents, excluding protected and confidential documents, in all claims in which the insurer is a party.

(5) The insurer subscriber is responsible for all actions and conduct of its delegates.

(6) If an insurer subscriber's access is terminated, the access afforded to its delegates will also be terminated.

(7) An insurer delegate shall use his or her individual subscription to access the WFMS system.

(8) An insurer delegate may not use any other subscriber's account to access the WFMS system.

(9) An insurer delegate shall abide by the terms and conditions of the subscription.

(10) An insurer subscriber may not designate another subscriber as the insurer's delegate.

J. Healthcare Provider Delegates.

(1) A healthcare provider subscriber may authorize administrative or support staff as the healthcare provider's delegate

(2) The healthcare provider delegate shall complete the online healthcare provider delegate application.

(3) The healthcare provider subscriber may validate the healthcare provider delegate's registration electronically by selecting and acknowledging the delegate.

(4) Once validated, the healthcare provider delegate may have access to claim documents, excluding protected and confidential documents, for the purpose of obtaining settlement, claim and hearing status information.

(5) The healthcare provider subscriber is responsible for all actions and conduct of its delegates.

(6) If a healthcare provider subscriber's access is terminated, the access afforded to its delegates will also be terminated.

- (7) A healthcare provider delegate shall use his or her individual subscription to access the WFMS system.
- (8) A healthcare provider delegate may not use any other subscriber's account to access the WFMS system.
- (9) A healthcare provider delegate shall abide by the terms and conditions of the subscription.
- (10) An healthcare provider subscriber may not designate another subscriber as the healthcare provider delegate.]

## 14.09.02 Requirements for Filing and Amending Claims

Authority: Labor and Employment Article, §§9-309, 9-314, 9-402, 9-404, 9-602, 9-701, 9-709—9-711, and 9-736; State Government Article, §10-1103; Annotated Code of Maryland

### .02 Requirements for Filing and Amending Claims.

#### A. Claim for Benefits.

- (1) To initiate a claim for benefits, an employee shall file a claim form with the Commission as follows:
  - (a) If represented by counsel, counsel shall file the claim on behalf of the employee electronically through [the WFMS] *CompHub*; or
  - (b) If unrepresented by counsel, the employee may file the claim:
    - (i) Electronically through [the public portal] *CompHub*; or
    - (ii) (text unchanged)
- (2)—(4) (text unchanged)
- (5) When completing the claim form, the claimant shall sign an authorization for disclosure of health information [directing the claimant's health care providers to disclose] *for the release* to the claimant's attorney, the claimant's employer, the employer's insurer, *the Subsequent Injury Fund, the Uninsured Employers' Fund*, or any agent thereof, the claimant's medical [records] *information* that [are] *is* relevant to:
  - (a)—(b) (text unchanged)
- (6)—(9) (text unchanged)

#### B. (text unchanged)

#### C. Amendment of Claim to Add or Remove a Body Part.

- (1)—(3) (text unchanged)
- (4) When completing the claim amendment form, the claimant shall sign an authorization for disclosure of health information authorizing the claimant's health care providers to disclose to the claimant's attorney, the claimant's employer, the employer's insurer, *the Subsequent Injury Fund, the Uninsured Employers' Fund*, or any agent thereof, the claimant's medical [records] *information* that [are] *is* relevant to the member of the body identified by the claim amendment form.
- (5) (text unchanged)

## 14.09.04 Legal Representation and Fees

Authority: Labor and Employment Article, §§9-309, 9-721, and 9-731, Annotated Code of Maryland

### .01 Legal Representation.

#### A. (text unchanged)

#### B. Attorney Registration with Commission.

- (1) An attorney wishing to practice before the Commission shall]:
  - (a) Register] *register* for [the WFMS] *CompHub* [in accordance with COMAR 14.09.01.09;
  - (b) Complete and file an Attorney Registration form; and
  - (c) Submit the attorney registration fee].

#### (2) (text unchanged)

#### C.—D. (text unchanged)

E. Termination of Representation. [An attorney whose appearance has been entered on behalf of a party to a claim remains the attorney of record for the party to that claim until the attorney files a Notice to Withdraw Appearance form accompanied by:

- (1) The client's written consent to the withdrawal; or
- (2) Certification that, at least 15 days prior to the filing of the Notice, a copy of the following was mailed to the client and that the client had consented or had not responded:
  - (a) Notice to Withdraw Appearance; and
  - (b) Notice advising the client:
    - (i) To have another attorney enter an appearance; or
    - (ii) To notify the Commission in writing of the client's intention to proceed in proper person.

#### F. The attorney filing the Notice to Withdraw Appearance shall also certify that:

- (1) Copies of the Notice to Withdraw Appearance form with the attachment required by this regulation were served on all parties; and
- (2) Notice of any pending hearing was mailed to the attorney's client.]

*(1) By Notice. An attorney may withdraw an appearance by filing a notice of withdrawal if:*

*(a) The client has another attorney of record; or*

*(b) The claim has been settled and there is no possibility of any future medical benefits.*

*(2) By Motion. If an attorney is not permitted to withdraw an appearance by notice under §E(1) of this regulation, the attorney wishing to withdraw an appearance shall file a motion to withdraw. Except if the motion is made in an open hearing with the client present, the motion shall be accompanied by the client's written consent to the withdrawal or the moving attorney's certificate that notice has been mailed to the client at least 5 days prior to the filing of the motion, informing the client of the attorney's intention to move for withdrawal and advising the client to have another attorney enter an appearance or to notify the Commission in writing or through CompHub of the client's intention to proceed in proper person. The Commission may deny the motion if withdrawal of the appearance would cause undue delay, prejudice, or injustice.*

*(3) An attorney whose appearance has been entered on behalf of a party to a claim remains the attorney of record for the party to that claim unless the appearance was terminated under §E(1) or (2) of this regulation.*

R. KARL AUMANN  
Chairman