

14.09.01.07 Average Weekly Wage.

A. (text unchanged)

B. [Subsequent] Determination *at First Hearing*.

[(1) Amount Disputed. If the employer, employer's insurer, or the Uninsured Employers' Fund asserts that the average weekly wage determined by the Commission under §A of this regulation exceeds the actual average weekly wage of the claimant, that party, before paying benefits at the lower rate, shall file with the Commission, with a copy to the claimant, or the claimant's attorney if the claimant is represented, a statement containing the basis of the assertion that the actual average weekly wage is less than the amount determined by the Commission. The statement shall be filed within 60 days after the date of the initial award.

(2) Waiver. The failure to file the statement in compliance with § B(1) of this regulation constitutes a waiver of the right to dispute the average wage as originally determined.]

*(1) Calculation of the average weekly wage shall be adjudicated and determined at the first hearing before the Commission.*

*(2) All parties shall be prepared to produce evidence from which the Commission can determine an accurate average weekly wage at the first hearing.*

*(3) If the Commission determines that an inaccurate average weekly wage resulted in the overpayment or underpayment of benefits, the Commission may order:*

*(a) A credit against future permanent disability benefits;*

*(b) The payment of additional compensation; or*

*(c) Any other relief the Commission determines is appropriate under the circumstances.*

*C. Uninsured Employers' Fund. The Uninsured Employers' Fund may contest the average weekly wage determined by the Commission under §A or B of this regulation, along with other issues as authorized by Labor and Employment Article, §9-1002, Annotated Code of Maryland, by filing issues on the form prescribed by the Commission.*