

COMAR 14.09.02 -- Requirements for Filing and Amending Claims

14.09.01

.01 Definitions

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Apostille" means a certificate issued under the Apostille Convention authenticating the origin of a public document.

(2) "Apostille Convention" means the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.

(3) "Authorization for Disclosure of Health Information" means the executed release authorizing the disclosure of protected health information in accordance with Labor and Employment Article §§ 9-709, 710 and 711, Annotated Code of Maryland.

(4) "Certified copy" means a duplicate of an original document that is certified as a true and accurate copy by the officer having custody of the original.

(5) "Competent authority" means an authority designated by a Contracting State as competent to issue apostilles.

(6) "Foreign State" means a foreign sovereign state or country.

(7) "Notarized" means signed by the person(s) authorized or required to sign the document, the signing of which was witnessed by a notary public, accompanied by the notary's official notary seal.

(8) "State of origin" means the country where the document was created or issued.

(9) "State Party" means a State that has joined the Apostille Convention, for which the Convention is in effect.

.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.

(2) The Commission shall reject and return to the claimant a claim form that does not contain sufficient information to process the claim, including:

(a) The employee's name;

(b) The employee's address;

(c) The employee's date of birth;

(d) The date of the accident or occupational disease;

(e) The member of the body that was injured;

(f) A description of how the accidental injury or occupational disease occurred; and

(g) The employee's employer's name and address.

(3) If the information set forth in §A(2) of this regulation is unavailable or does not exist the claimant shall:

(a) Enter all zeros (0) in the spaces provided for the information; and

(b) Attach a signed statement certifying that the information is unavailable or does not exist.

(4) The employee shall sign the claim form certifying that the information submitted on the claim form is accurate.

(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 to the claimant's attorney, the claimant's employer, the employer's insurer, or any agent thereof, the claimant's medical records that are relevant to:

(a) The member of the body that was injured by an accident or occupational disease, as indicated on the claim form; and

(b) The description of how the accidental injury or occupational disease occurred, as indicated on the claim form.

(6) Revocation of Authorization.

(a) A claimant may revoke an authorization for disclosure of health information in writing.

(b) The claimant shall serve a copy of the written revocation on all parties in the case.

(7) The Commission shall reject and return to the claimant a claim form that does not contain a signed authorization for disclosure of health information.

(8) Date of Filing.

(a) A claim is considered filed on the date that a completed and signed claim form, including the signed authorization for disclosure of health information, is received by the Commission.

(b) For any claim form that has not been rejected or returned as incomplete under §A(2) of this regulation, the Commission's date of receipt is determined by the date stamp affixed on the claim form.

(9) Electronic Submission.

(a) A claim that is submitted electronically is not considered filed until the signed claim form, including the signed authorization for disclosure of health information, is received by the Commission.

(b) The Commission's date of receipt is determined by the date stamp affixed on the claim form.

B. Social Security Number.

(1) Voluntary Disclosure of Social Security Number.

(a) On the claim form, the Commission shall request the social security number of each claimant for workers' compensation benefits.

(b) The disclosure of the social security number by the claimant on the claim form is voluntary.

(2) Use of Social Security Number.

(a) The Commission may use the social security number for the following purposes:

(i) Verifying wage records of a claimant;

(ii) Verifying the identity of a claimant;

(iii) Identifying a claimant who has changed his or her name;

- (iv) *Verifying medical records necessary to adjudicate workers' compensation claims;*
 - (v) *The administration and enforcement of Maryland's workers' compensation laws;*
 - (vi) *The collection of any debts owed as a result of the claimant's failure to pay child support under Title 10 of the Family Law Article; and*
 - (vii) *Assisting in the enforcement of child support orders as required by State and federal laws.*
- (b) *The Commission may not use the social security number for any purpose not authorized under this regulation or by state or federal law.*

[B.]C. Amendment of Claim to Add or Remove a Body Part.

- (1) A claimant may amend a claim to add or remove a member of the body by filing with the Commission a claim amendment form.
- (2) A claimant shall serve a copy of a claim amendment form on the parties of record.
- (3) The claimant shall sign the claim amendment form certifying that the information submitted on the claim amendment form is accurate.
- (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, or any agent thereof, the claimant's medical records that are relevant to the member of the body identified by the claim amendment form.
- (5) The Commission shall reject and return to the claimant a claim amendment form that does not contain a signed authorization for disclosure of health information.

.03 Amendment of Claim to Add an Additional Party, Including the Subsequent Injury Fund and Uninsured Employers' Fund

- A. *A party may amend a claim to add another party by filing a Request to Implead a Party form.*
- B. *A party may amend a claim to add an employer, a statutory employer, an insurance carrier, the Subsequent Injury Fund or the Uninsured Employers' Fund.*
- C. *Impleading the Subsequent Injury Fund.*
 - (1) *A party impleading the Subsequent Injury Fund more than 30 days before a scheduled hearing date shall file a Request to Implead a Party form and shall serve the SIF with a copy of the form.*
 - (2) *A party impleading the SIF within 30 days of a scheduled hearing date shall:*
 - (a) *File a Request to Implead a Party form;*
 - (b) *Serve the SIF with a copy of the form; and*
 - (c) *File with the form a declaration setting forth the moving party's prima facie case for alleging the involvement of the SIF, including, but not limited to, identification of the evidence the party intends to rely on to prove the liability of the SIF.*
 - (3) *Within 10 days of filing the Request to Implead a Party form, and any other required documents, the impleading party shall provide the following to the SIF and all other parties to the claim:*
 - (a) *All prior awards or settlements, identified by claim number if available, to the claimant for permanent disability made or approved by the Commission, or by a comparable Commission of another state, or the District of Columbia;*
 - (b) *All relevant medical evidence relied on to implead the SIF; and*
 - (c) *A certification providing that a copy of the Request to Implead a Party form, along with all required information and documents, have been mailed to the SIF and all other parties to the claim.*
 - (4) *A party who fails to comply with this regulation or causes unreasonable delay without good cause is subject to an assessment of costs and reasonable attorney fees under Labor and Employment Article, §9-734, Annotated Code of Maryland.*

[.06-1] .04 Claims for Death and Funeral Benefits.

- A. **Election for Counties and Municipal Corporations.**
 - (1) A county or municipal corporation may elect for the death benefits provisions of Labor and Employment Article, §§9-683.1—9-683.5, Annotated Code of Maryland, to apply to its public safety employees subject to the statutory presumption set forth in Labor and Employment Article, §9-503, Annotated Code of Maryland.
 - (2) A county or municipal corporation may make this election by:
 - (a) Completing an online form, available at the Commission's website; and
 - (b) Attaching a copy of the county or municipal corporation's ordinance or resolution making the election.
 - (3) The Commission shall issue a date-stamped notice advising the county or municipal government of its receipt of the election.
 - (4) The date stamp of the Commission's notice will be used as the effective date of the election.
 - (5) All death benefit claims arising out of a death that occurred after the date of election are subject to the death benefits provisions set forth in Labor and Employment Article, §§9-683.1—9-683.5, Annotated Code of Maryland.
- B. **Dependent Claim for Death Benefits.**
 - (1) To initiate a claim for death benefits, a dependent of the deceased employee or an individual authorized to act on behalf of the dependent claimant shall file a dependent death benefits claim form with the Commission.
 - (2) The Commission may reject and return to the dependent claimant or authorized individual a claim form that does not contain sufficient information to process the claim including:
 - (a) The dependent claimant's name and, if applicable, the authorized individual's name;
 - (b) The dependent claimant's address and, if applicable, the authorized individual's address;
 - (c) The deceased employee's name;
 - (d) The deceased employee's address;

- (e) The deceased employee's date of birth;
 - (f) The date of the accident or occupational disease;
 - (g) The member of the deceased employee's body that was injured;
 - (h) A description of how the accidental injury or occupational disease occurred;
 - (i) The deceased employee's date of death; and
 - (j) The deceased employee's employer's name and address.
- (3) If the information set forth in §B(2) of this regulation is unavailable or does not exist the claimant shall:
- (a) Enter all zeros (0) in the spaces provided for the information; and
 - (b) Attach a signed statement certifying that the information is unavailable or does not exist.
- (4) Signature.
- (a) The dependent claimant or authorized individual shall sign the dependent death benefit claim form.
 - (b) An authorized individual shall submit documentation establishing his or her authority to act on behalf of the dependent claimant with the claim form.
- (5) Submission of Supporting Documentation.
- (a) When completing the dependent death benefits claim form, the dependent claimant or authorized individual shall submit:
 - (i) An authorization for disclosure of health information signed by the dependent claimant or authorized individual, directing the deceased employee's health care providers to disclose to the dependent claimant's attorney, the deceased employee's attorney, the deceased employee's employer, the employer's insurer, or any agent thereof, the deceased employee's medical records that are relevant to:
 - 1. The member of the body that was injured by an accident or occupational disease, as indicated on the claim form; and
 - 2. The description of how the accidental injury or occupational disease occurred, as indicated on the claim form;
 - (ii) A certification of funeral expenses, if the dependent claimant is making a claim for funeral benefits, which shall:
 - 1. Include the name of the deceased employee;
 - 2. Include an attached itemized statement of the services performed and corresponding costs;
 - 3. Be signed by the provider of the funeral services or undertaker;
 - 4. Be signed by the person authorizing the burial or other services; and
 - 5. Be notarized;
 - (iii) A certified copy of the certificate of death for the deceased employee;
 - (iv) A certified copy of the certificate of marriage for the dependent claimant and deceased employee, if the dependent claimant is the surviving spouse of the employee; and
 - (v) A certified copy of the certificate of birth for the dependent claimant, and order of adoption if applicable, if the dependent claimant is the surviving child of the deceased employee.
 - (b) Prior to the scheduled hearing on the death claim, the dependent claimant or authorized individual who filed the claim shall submit:
 - (i) Proof of family income at the date of the accidental personal injury or disablement;
 - (ii) An affidavit attesting to the authenticity of the documents submitted as proof of family income; and
 - (iii) If applicable, copies of any legal documents or orders directing the deceased employee to pay child support or alimony.
 - (c) Proof of family income may include:
 - (i) Payroll stubs or wage records covering the 14-week period prior to the accidental injury or date of disablement;
 - (ii) W-2s;
 - (iii) 1099 forms or other evidence of earnings from self-employment; and
 - (iv) Tax returns.
 - (d) If the dependent claimant or authorized individual does not have access to proof of income records for some alleged dependent claimants, the dependent claimant or authorized individual shall submit evidence demonstrating the efforts made to obtain these records, including any Commission subpoenas.
- (6) Revocation of Authorization.
- (a) A dependent claimant or authorized individual may revoke an authorization for disclosure of health information in writing.
 - (b) The dependent claimant or authorized individual shall serve a copy of the written revocation on all the parties in the case.
- (7) The Commission shall reject and return to the dependent claimant or authorized individual a dependent death benefits claim form that does not contain a signed authorization for disclosure of health information.
- (8) Date of Filing.
- (a) A claim is considered filed on the date that a completed and signed claim form, including the signed authorization for disclosure of health information, is received by the Commission.
 - (b) The Commission's date of receipt is determined by the date stamp affixed on the claim form.
- (9) Electronic Submission.
- (a) A dependent death benefits claim that is submitted electronically is not considered filed until the signed claim form, including the signed authorization for disclosure of health information, is received by the Commission.
 - (b) The Commission's date of receipt is determined by the date stamp affixed on the claim form.
- C. Claim for Funeral Benefits Only.

(1) If the deceased employee has no dependents, any person or entity responsible for paying, or who has paid, the deceased employee's funeral expenses may initiate a claim for funeral benefits by filing with the Commission a signed funeral benefits only claim form certifying that the information submitted on the form is accurate.

(2) The Commission may reject and return to the filing party a funeral benefits only claim form that does not contain sufficient information to process the claim including:

- (a) The filing party's name and address;
- (b) The deceased employee's name and address;
- (c) The deceased employee's employer's name and address;
- (d) The date of accident or occupational disease; and
- (e) The deceased employee's date of death.

(3) When the information set forth in §D(2) of this regulation is unavailable or does not exist, the claimant shall:

- (a) Enter all zeros (0) in the spaces provided for the information; and
- (b) Attach a signed statement certifying that the information is unavailable or does not exist.

(4) When completing the funeral benefits only claim form the filing party shall attach a certification of funeral expenses, which shall:

- (a) Include the name of the deceased employee;
- (b) Include an attached itemized statement of the services performed and corresponding costs;
- (c) Be signed by the provider of the funeral services or undertaker;
- (d) Be signed by the person authorizing the burial or other services; and
- (e) Be notarized.

.05 Foreign Documents.

A. When a document or public record required by this chapter was created or issued in a foreign State the Commission may not accept as supporting documentation:

- (1) Photocopies;
- (2) Facsimile copies;
- (3) Notarized copies; or
- (4) Documents with alterations or erasures.

B. When a document or public record required by this chapter was created or issued in a foreign State and the State of origin is a State Party to the Apostille Convention, the party submitting the document shall:

- (1) Have a competent authority of the State of origin issue an apostille for the original or a certified copy of the document;

and

- (2) Attach to the apostilled document, an English translation of the document prepared pursuant to this regulation.

C. When a document or public record required by this chapter originated in a foreign State and the State of origin is not a State Party to the Apostille Convention, the party submitting the document shall:

(1) Submit the public document with a written declaration (certificate) authenticating the signature/seal/stamp, signed in the State of origin which, if falsely made, would subject the maker to a criminal penalty under the laws of that foreign State;

- (2) Attach to the document and certificate, a final certification as to the genuineness of the signature and official position

of:

- (a) the individual executing the certificate; or

(b) any foreign official who certifies the genuineness of signature and official position of the executing individual, or is the last in a chain of certificates that collectively certify the genuineness of signature and official position of the executing individual; and

- (3) Attach to the document and certificate(s), an English translation of the document prepared pursuant to this regulation.

D. A final certificate may be made by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign State who is assigned or accredited to the United States.

E. English Translation.

- (1) An English translation of any document authenticated by an apostille or by a final certificate shall include:

- (a) The typed or printed name and telephone number of the interpreter or translator; and
- (b) A signed certification by the interpreter or translator that the translation is true, accurate and complete.

- (2) A party shall have the English translation prepared by:

- (a) An interpreter or translator whose name appears on the State of Maryland Court Interpreter Registry; or
- (b) The embassy of the State from which the document originates.

F. An attorney who advances the cost of having a foreign document authenticated, translated, or both, is entitled to recover the actual amount expended.

[.08C Petition by Dependent of Deceased Claimant.] .06 Claim for Unpaid Compensation of Deceased Claimant.

[When a person claims to be a surviving dependent and seeks unpaid compensation payments under Labor and Employment Article, §§9-632, 9-640, or 9-646, a petition shall be filed by or on behalf of that person in the same action and using the same claim number as the original claim filed with the Commission by the employee. The petition shall contain a statement of the facts necessary to show the petitioner's right to receive the compensation payments and shall be accompanied by the certificate of death for the deceased employee, the certificate of marriage for the petitioner and deceased employee, if the petitioner is the surviving spouse of the employee, and the certificate of birth of the petitioner, if the petitioner is the surviving child of the deceased employee.]

A. A person seeking unpaid compensation payments as a dependent of a deceased covered employee under Labor and Employment Article, §§ 9-632, 9-640, or 9-646, Annotated Code of Maryland, shall file an Issue Form in the same claim.

B. A person seeking these benefits shall produce at the hearing proof of dependency and proof of death which may include a death certificate, marriage certificate, and birth certificate or order of adoption for any surviving children.

.07 Notice to Employer/Insurer of Claim

A. After a claim is filed, the Commission shall send a Notice of Claim to all parties listed on the claim form and identified through the Commission's database of insurers and employers.

B. Insurer Identified.

(1) If an insurer has been identified, the Commission shall send a Response to Employee's Claim form to the insurer for completion.

(2) The insurer shall file a completed Response to Employee's Claim form with the Commission.

C. No Insurer Identified.

(1) If no insurer has been identified, the Commission shall send a Response to Employee's Claim form to the employer.

(2) The employer shall file a completed Response to Employee's Claim form with the Commission.

(3) If an employer is not insured, the Commission shall send a Response to Notification to Employer for Insurance Information form to the employer and a questionnaire to the claimant.

(4) The employer shall file the completed form with the Commission and send copies of the completed form to the Uninsured Employers' Fund.

(5) The claimant shall file the completed questionnaire with the Commission and concurrently send a copy to the Uninsured Employers' Fund.

(6) No hearings on issues filed by the claimant shall be scheduled until the claimant has completed and filed the claimant's questionnaire.

D. If no Response to Employee's Claim form is filed by the consideration date an automatic order will be issued finding the claim compensable.