

# Title 14 INDEPENDENT AGENCIES

## Subtitle 09 WORKERS ' COMPENSATION COMMISSION

### 14.09.05 Uninsured Employers' Fund Claims

#### [.01 Definitions.

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

B. Terms Defined.

(1) "Claimant" means a person filing a workers' compensation claim and includes:

- (a) An employee;
- (b) A surviving spouse of a deceased employee; or
- (c) A surviving child of a deceased employee.

(2) "Commission" means the Workers' Compensation Commission or its designee.

(3) "Contested claim" means a new claim in which issues have been filed.

(4) "Disputed claim" means:

- (a) A contested claim; or
- (b) An existing claim in which issues have been filed.

(5) "Fund" means the Uninsured Employer's Fund.

(6) "Uninsured employer" means an employer who fails to secure payment of compensation to the covered employees of the employer in accordance with Labor and Employment Article, §9-402, Annotated Code of Maryland.]

#### [.02].01 Notification and Response of Uninsured Employer and Claimant.

A. If a workers' compensation claim is received by the Commission and the Commission's records indicate that the employer is uninsured, the Commission shall notify the employer of the claim by sending the employer:

- (1) A [copy of the initial claim] *Notice of the Claim form*;
- (2) An uninsured employer's questionnaire; and
- (3) A request for verification of the employer's workers' compensation insurance policy.

B. *The Commission shall send a copy of the Notice of the Claim form to all parties of record.*

[B]C. Within 21 days of the date the [notification] *Notice of the Claim form* was [mailed] *sent* by the Commission:

(1) The uninsured employer shall [file]:

- (a) *Begin paying temporary total benefits; or*
- (b) *File a Response to Employee's Claim form (C-40), if the employer contests the claim; and*

[(1)] (2) [One] *File one* of the following:

- (a) The signed and completed uninsured employer's questionnaire; or
- (b) The verification of the employer's workers' compensation insurance policy, if applicable[; and].

[(2) Issues, if the employer contests the claim; or]

D. *Within 21 days of the date the Commission sends the Notice of the Claim form to the parties of record, the claimant must complete and file the claimant's questionnaire in accordance with COMAR 14.09.02.*

#### [.03].02 Review of Claim Contested by Uninsured Employer.

A. The Commission shall set a hearing to review any claim contested by an uninsured employer pursuant to Regulation [.02B].01C of this chapter.

B. Upon completion of the hearing the Commission shall:

- (1) Dismiss the claim; or
- (2) Issue an award requiring that the appropriate compensation be paid by the uninsured employer to the claimant.

#### [.04].03 Review of Uncontested Claims.

If an uninsured employer does not contest the claim by filing [issues] *the Response to Employee's Claim form (C-30)* within 21 days after the Commission [mailed] *served* the [notice] *Notice of the Claim form* to the employer, [then] the Commission *may* [shall]:

A. Review the claim for legal sufficiency; and

B. Either:

- (1) Dismiss the claim; or
- (2) Issue an [award requiring that the appropriate compensation be paid by the uninsured employer to the claimant.]

*automatic award finding the claim compensable.*

#### [.05].04 Notification and Payment of the Award.

The uninsured employer [must]*shall* pay an award issued under Regulation [.03 or .04].02 or .03 of this chapter within 30 days of the date the Commission [mails or otherwise delivers] *serves* notice of the award to the parties in accordance with § 9-1002, Labor and Employment Article, Annotated Code of Maryland.

#### [.06 Proof of Nonpayment of the Award.

A. The Commission shall include a noncompliance form and a claimant's questionnaire with the copy of the award mailed to the claimant.

B. If the uninsured employer fails to pay an award as provided in Regulation .05 of this chapter, the claimant shall complete the noncompliance form and the claimant's questionnaire and return both to the Commission not earlier than 30 days after the date the award was issued.

C. No action will be taken against an employer or the UEF if the noncompliance form and the claimant's questionnaire are not returned to the Commission.]

**[.07].05 Request for Payment by UEF**

[A. If the uninsured employer does not comply with the Commission's order then the claimant may request payment from the Fund.

B. A request for payment by the Fund may be included in the noncompliance form filed under Regulation .06 of this chapter. ]

A. *If the uninsured employer fails to pay an award and does not file for review of the award, the claimant may:*

(1) *Send a request for payment, and a copy of claimant's questionnaire to the UEF; and*

(2) *Contemporaneously file a copy of the request for payment and the claimant's questionnaire with the Commission.*

B. *No action will be taken against an employer or the UEF if the request for payment and the claimant's questionnaire are not filed with the Commission.*

**[.08].06 [Notification and] Response of [Fund] UEF and Impleader of Other Employer or Insurer.**

[A. If the Commission receives proof of noncompliance, the claimant's questionnaire, and a request for payment by the Fund under Regulations .06 and .07 of this chapter, the Commission shall notify the Fund by sending a copy of the:

(1) Commission's award;

(2) Completed noncompliance form;

(3) Completed claimant's questionnaire;

(4) Request by claimant for payment by the Fund;

(5) Completed uninsured employer's questionnaire, if it was completed and returned by the uninsured employer; and

(6) Initial claim.]

[B.] A. Within 21 days after the date [of the notice referred to in §A of this regulation] *claimant filed a copy of the request for payment and claimant's questionnaire*, the UEF [Fund] shall respond by:

(1) Paying the award; or

(2) [Disputing the award] *Filing issues*.

**[.09 Impleader of Other Employer or Insurer.]**

B. If the [Fund]UEF raises issues of statutory employment, or the existence of another employer or insurer, the [Fund]UEF shall implead the employer *and the insurer, if known*.

**[.10].07 Notification and Response of Impleaded Employer or Insurer.**

A. If the [Fund]UEF impleads an employer or insurer the Commission shall [notify] *serve* the impleaded party [by sending] a copy of [the:

(1) Employee's initial claim; and

(2) Commission's award.] the Notice of the Claim form.

B. The impleaded party shall respond within 21 days after the date of the notice referred to in §A of this regulation, by:

(1) Paying the award; or

(2) [Disputing the award] *Filing issues*.

**[.11].08 Review of Disputed Claim.**

A. If the [Fund]UEF or an impleaded party disputes a claim under Regulation [.08].06 or [.10].07 of this chapter, the Commission shall set a hearing to review the claims of all parties on all issues.

B. Upon completion of the hearing, the Commission shall:

(1) Dismiss the claim; or

(2) Issue an award [requiring that the appropriate compensation be paid to the claimant].