

Title 14 INDEPENDENT AGENCIES

Subtitle 09 WORKERS ' COMPENSATION COMMISSIONS

Chapter .12 Responsibilities of Insurers

[14.09.06]14.09.12 [Local Office Requirements for Insurers] Responsibilities of Insurers

.01 Definitions.

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

B. Terms Defined.

(1) "Competent Individual" means an individual who has sufficient skill, knowledge, and experience to handle and adjust disputed claims and who has authority to resolve claims without having to routinely contact an out-of-State representative of the insurer.

[(2) "Insurer" means:

(a) A stock corporation or mutual association that is authorized under the Insurance Article, Annotated Code of Maryland, to provide workers' compensation insurance in the State;

(b) The Injured Workers' Insurance Fund;

(c) A governmental self-insurance group that meets the requirements of Labor and Employment Article, §9-404, Annotated Code of Maryland;

(d) A self-insurance group of private employers that meets the requirements of Insurance Article, §§25-301—25-308, Annotated Code of Maryland; or

(e) An individual employer that self-insures in accordance with Labor and Employment Article, §9-405, Annotated Code of Maryland.]

(2) "Commission designee" means the National Council on Compensation Insurance or any other entity that the Commission, from time to time, may designate as its representative to receive notices required by this regulation.

(3) "Insurance policy" means a policy or binder for workers' compensation insurance under Labor and Employment Article, Title 9, Annotated Code of Maryland.

[.05].02 Notices of Insurance, Cancellation, Reinstatement, and Election of Coverage.

[A. Definitions. In this regulation, the following terms have the meanings indicated:

(1) "Commission designee" means the National Council on Compensation Insurance or any other entity that the Commission, from time to time, may designate as its representative to receive notices required by this regulation.

(2) "Insurance policy" means a policy or binder for workers' compensation insurance under Labor and Employment Article, Title 9, Annotated Code of Maryland.

(3) "Insurer" means a stock corporation, mutual association, or the Injured Workers' Insurance Fund.]

[B.] A. Notice of Insurance. When an insurance policy is issued or renewed, the insurer issuing or renewing it shall file a Notice of Insurance with the Commission designee within 30 days after the effective date of the policy.

[C.] B. Notice of Cancellation.

(1) Required Filing. When an insurance policy is cancelled by the insurer or by the insured, the insurer shall file a Notice of Cancellation with the Commission designee.

(2) Time for Filing.

(a) Cancellation by Insurer.

(i) If the insurer cancels the insurance policy for nonpayment of premium, the Notice of Cancellation shall be filed at least 10 days before the effective date of the cancellation, in compliance with Insurance Article, §19-406(f), Annotated Code of Maryland.

(ii) If the insurer cancels the insurance policy for any other reason, the Notice of Cancellation shall be filed at least 30 days before the effective date of the cancellation, in compliance with Insurance Article, §19-406(a), Annotated Code of Maryland.

[(iii) If the Commission designee receives the Notice of Cancellation less than the required number of days before the effective date of cancellation set forth in the notice, the Commission shall amend the notice to provide a new cancellation effective date by adding 10 days or 30 days, as applicable, to the date of receipt.]

(b) Cancellation by Insured. When the cancellation is initiated by the insured, the Notice of Cancellation shall be filed by the insurer within 15 days after the effective date of the cancellation.

[D.] C. Notice of Reinstatement—Time of Filing. When an insurance policy is reinstated, the insurer shall file a Notice of Reinstatement with the Commission designee within 15 days after the effective date of the reinstatement.

[E.] D. Notice of Insurance, Cancellation, and Reinstatement—Form and Content. A notice of insurance, cancellation, or reinstatement shall contain all the following information:

(1) The employer's name;

(2) All names under which the employer trades;

(3) All nontemporary business addresses of the employer in Maryland;

(4) The employer's federal identification number or, if the employer is not required to have a federal identification number, the employer's social security number;

(5) The insurance policy number; and

(6) The policy period.

[F]E. Notice of Election of Inclusion or Exemption of Coverage. [Officers of closed corporations and officers of farm corporations or professional service corporations who are authorized by Labor and Employment Article, §9-206(b), Annotated Code of Maryland, to elect to be exempted from coverage as employees, and sole proprietors and partners who are authorized by Labor and Employment Article, §9-219(b) or 9-227(b), Annotated Code of Maryland, to elect to be covered as employees, shall file a Notice of Election with the Commission and with the insurer. A new election is required and notice pursuant to this section shall be filed whenever the employer changes insurers.]

(1) A person may elect to be a covered employee by filing a Notice of Election with the Commission and with the insurer.

(2) The following types of persons may elect to be covered employees:

(a) Pursuant to Labor and Employment Article, § 9-227(b), Annotated Code of Maryland, sole proprietors; and

(b) Pursuant to Labor and Employment Article, § 9-219(b), Annotated Code of Maryland, partners.

(3) A person may elect to be exempt from coverage as an employee by filing a Notice of Election with the Commission and the insurer.

(4) The following types of persons may elect to be exempted from coverage:

(a) Pursuant to Labor and Employment Article § 9-206(b)(1), officers of a closed corporation;

(b) Pursuant to Labor and Employment Article § 9-206(b)(2) and (c), officers of a corporation, other than closed corporation;

(c) Pursuant to Labor and Employment Article § 9-206(b)(3) and (4), officers of a farm corporation or professional services corporation; and

(d) Pursuant to Labor and Employment Article § 9-206(b)(5), members of a limited liability company.

(5) If an employer changes insurers, a person must file a new Notice of Election with the Commission and with the new insurer.

[.02].03 Handling and Adjusting Disputed Claims.

A. An insurer that provides workers' compensation insurance in Maryland shall have in the State competent individuals who:

(1) Handle and adjust each disputed workers' compensation claim for the insurer; and

(2) Possess the knowledge and experience to handle and adjust each disputed claim.

B. If an insurer files issues to dispute a claim, the filing shall be done in the State by competent individuals who:

(1) Handle and adjust each disputed workers' compensation claim for the insurer; and

(2) Possess the knowledge and experience and adjust each disputed claim.

C. Within 10 days of an insurer filing issues to dispute a claim, the insurer shall have an attorney complete and file an Entry of Appearance form in accordance with COMAR 14.09.04.01C(2).

[C]D. Each insurer shall register with the Commission the name, address, telephone number, and email address of a designated representative who can identify the competent individual handling and adjusting each disputed claim.

[D]E. Upon inquiry, the designated individual shall provide the name, address, telephone number, and email address of the competent individual handling and adjusting a claim within 2 business days.

[E]F. If any of the information in §[C]D of this regulation changes, the insurer shall notify the Commission immediately.

[F]G. An insurer that provides workers' compensation insurance in Maryland shall establish a toll-free telephone number through which an insured or claimant, or a representative of an insured or claimant, may make direct telephone inquiries during regular business hours.

[.03].04 Failure to Comply.

A. Fine.

(1) An insurer found in violation of Regulation [.02].03 of this chapter may be fined up to \$1,000 per offense.

(2) Each day a violation is continued after the first fine is a separate offense.

B. Revocation of Self-Insurance Approval. A violation of Regulation [.02].03 of this chapter that jeopardizes prompt and fair compensation of a Maryland workers' compensation claim may be grounds for the revocation of an employer's self-insurance approval under Labor and Employment Article, §9-403(e)(1), Annotated Code of Maryland.

[.04].05 Hearing Procedure.

A. Notice of Agency Action.

(1) If the Commission has reasonable cause to believe that an insurer has violated Regulation [.02].03 of this chapter, the Commission shall give reasonable notice of the alleged violation and the action the Commission proposes to take.

(2) The notice shall state:

(a) The facts that are asserted;

(b) If the facts cannot be stated in detail when the notice is given, the issues that are involved;

(c) The potential penalty that could be imposed;

(d) That the recipient has a right to request a hearing;

(e) That any request for a hearing shall be in writing and received by the Commission within 20 days of the date of the notice; and

(f) That if a hearing is not requested within the time allowed, the Commission shall render its decision on the basis of its own investigation.

B. Notice of Hearing.

(1) If a hearing is requested, the Commission shall mail a notice of the hearing 20 days before the date set for the hearing.

(2) The notice shall state:

(a) The date, time, place, and nature of the hearing;

(b) That the insurer may submit a written statement 5 days before the hearing;

(c) That the insurer may present oral argument at the hearing;

(d) That the insurer may call witnesses and submit documents or other evidence relative to the issues contained in the notice; and

(e) That the insurer may agree to the evidence and waive its right to appear at the hearing.

C. Postponement.

(1) An insurer may request a postponement in writing 5 days before the hearing.

(2) If an insurer fails to appear at a hearing, and has not requested a postponement, the Commission may either:

(a) Proceed with the hearing; or

(b) Make its decision on the record before it.

D. Disposition. A hearing may not be adjourned or continued except upon [an] order of the Commission.

[.28].06 Penalty for Failure to Submit Required Case Payment Report.

A. The Commission may assess against an insurer[, self-insurer, or the Injured Workers' Insurance Fund] a fine not to exceed \$1,000 for any unexcused failure to file a [quarterly] case payment report as required under Labor and Employment Article, §9-313(b), Annotated Code of Maryland.

B. Schedule of Assessments. The schedule of assessments established by the Commission is as follows:

Date	Amount Not To Exceed	Type Action
41st day	\$ 100	Initial Notice
51st day	250	2nd Notice
61st day	500	3rd Notice
91st day	1,000	Final Notice
120th day	1,000	Referral to Central Collection Unit and Insurance Commissioner

C. In calculating the imposition of an assessment *on an insurer*, each failure to submit a required report or the submission of an inaccurate or incomplete report is considered a separate violation subject to assessment.

[.05].07 Appeal.

An appeal from a decision made under this chapter shall be made in accordance with Maryland Rules [7-201—7-210] 7-200, *et seq.* and COMAR 14.09.11.