

**Please Note: Underline & CAPS = proposed changes**

**[ ] = proposed deleted language**

### **COMAR 14.09.01 Procedural Regulations**

**Authority: Labor and Employment Article, §§§§9-309, 9-701, and 9-6A-07, Annotated Code of Maryland**

#### **.01 Definitions.**

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

B. Terms Defined.

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

(2) "Disputed workers' compensation claim" means a:

(a) New claim in which issues have been filed;

(b) Pending claim in which one or more issues have been filed; or

(c) Claim that is pending on appeal.

(3) "UNDISPUTED WORKERS' COMPENSATION CLAIM" MEANS A CLAIM IN WHICH ALL ISSUES HAVE BEEN:

(A) WITHDRAWN;

(B) RESOLVED BY A DECISION OF THE COMMISSION THAT IS NOT APPEALED; OR

(C) RESOLVED ON APPEAL.

.02-.22 (text unchanged)

#### **.23 Legal Representation.**

A. Who May Practice. Only an attorney admitted by the Court of Appeals to practice in this State or an out-of-State attorney specially admitted under Business Occupations and Professions Article, §§10-215, Annotated Code of Maryland, may practice before the Commission.

B. Entry of Appearance.

(1) An attorney representing a party in a claim shall complete and file an Entry of Appearance form with the Commission to establish an attorney of record.

(2) Within 15 days of the filing of issues by any party, an insurer, as defined in COMAR 14.09.06.01B(2), shall have an attorney complete and file an Entry of Appearance form with the Commission to establish an attorney of record. Thereafter, all papers filed on behalf of the insurer shall be filed by the attorney of record UNTIL THE CLAIM BECOMES UNDISPUTED.

C. Notices.

(1) If a party is represented by an attorney, notices to the party may be mailed to the attorney of record only.

(2) An employer may designate a person who shall receive a courtesy copy of each Notice of Employee's Claim filed against the employer.

D. 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:

(1) The attorney

- (a) files a Withdrawal of Appearance form,
- (b) certifies that a copy of the withdrawal was mailed to all parties, and,
- (c) certifies that notice of any pending hearing was mailed to the attorney's client;

or

(2) The party requests the Commission to strike the appearance of the attorney.

#### **14.09.06 Local Office Requirements for Insurers**

**Authority: Labor and Employment Article, §§§§9-309, 9-404, 9-405, 9-409, and 9-410, Annotated Code of Maryland**

##### **.01 Definitions.**

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

B. Terms Defined.

[(1) "Competent individual" means an individual possessing the knowledge and experience to handle AND ADJUST DISPUTED claims arising under the Maryland Workers' Compensation Law.]

[(2)] (1) "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.

[(3) Workers' Compensation Work.

(a) "Workers' compensation work" means an activity performed or handled by a competent individual relating to the processing and servicing of a Maryland workers' compensation claim.

(b) "Workers' compensation work" does not include the electronic transfer and storage of claim information involving a Maryland workers' compensation claim if the claim information is electronically accessible to the competent individual responsible for handling the claim.]

**.02 [Local Office.] HANDLING AND ADJUSTING DISPUTED CLAIMS**

A. An insurer that [engages in] PROVIDES workers' compensation [work] INSURANCE in Maryland shall have [an office in Maryland run by a competent individual who handles all of the workers' compensation work in the State] 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 TO HANDLE AND ADJUST EACH DISPUTED CLAIM.

[B] C. An insurer that [engages in] PROVIDES workers' compensation [work] 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 Failure to Comply .**

A. Fine.

(1) An insurer found in violation of Regulation .02 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 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.

A. Notice of Agency Action.

(1) If the Commission has reasonable cause to believe that an insurer has violated Regulation .02 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.

**.05 Appeal.**

An appeal from a decision made under this chapter shall be made in accordance with Maryland Rules 7-201 — 7-210.