

ADMINISTRATIVE ORDER 2020-01

WHEREAS, in response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) in the State of Maryland, which saw its first reported case in the first week of March 2020, Governor Larry J. Hogan, Jr., issued a Declaration of a State of Emergency and Existence of Catastrophic Health Emergency - COVID-19, <https://governor.maryland.gov/wp-content/uploads/2020/03/Proclamation-COVID-19.pdf> (March 5, 2020); with periodic updates in the interim (see <https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>); and

WHEREAS, in February of this year, the Centers for Disease Control and Prevention ("CDC") issued "Interim Guidance" recommending that all employers consider how best to decrease the spread of COVID-19, including the review of guidance from state and local health officials. (See Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19), 28 February 2020, <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html> (last updated February 26, 2020); and

WHEREAS, the Maryland Department of Health also has issued (and continues to update) guidance and other information on COVID-19 (see <https://phpa.health.maryland.gov/Pages/Novel-coronavirus.aspx> and <https://governor.maryland.gov/coronavirus/>); and

WHEREAS, on March 12, 2020, Governor Hogan moved the state to Elevated Level II - Flexible Operations of the [Pandemic Flu and Other Infectious Diseases Attendance and Leave Policy](#). At this level, the state seeks to minimize the spread of COVID-19 while maintaining State operations. This determination does not result in the closure of State offices, but agencies should:

- Cancel all business-related overnight out-of-state travel for all employees except for individuals engaged in emergency preparedness activities.
- Encourage employees who are sick or caring for sick family members to use their leave to remain at home.
- For employees who do not have adequate leave to cover their absence, permit the use of advanced sick leave (in the case of temporary employees, advanced paid time off).
- Ease all documentation requirements related to the use of sick leave.
- Implement practices that distance employees from each other, customers and the general public, such as employing the use of telephones, telecommunications, emails, etc. to handle day-to-day tasks.
- Permit employees to telework whenever possible to facilitate social distancing and continue to prepare for a time when the State may move to a mandatory telework model for all non-emergency essential personnel.

(See <https://dbm.maryland.gov/employees/Pages/COVID19.aspx>); and

WHEREAS, on Thursday, March 12, 2020, the Maryland Workers' Compensation Commission voted to adopt emergency regulations granting certain emergency powers to the Chairman of the Commission whenever the Governor issues Declaration of a State of Emergency and Existence of Catastrophic Health Emergency and the emergency or directives issued by the Governor pursuant to the emergency significantly affect access to or the operations of one or more Commission hearing locations or other

Commission facilities or the ability of the Commission to operate effectively (*see generally*, COMAR 14.09.17); and

WHEREAS, the emergency regulations, COMAR 14.09.17, are in effect from March 23, 2020 until September 8, 2020; and

WHEREAS, pursuant to COMAR 14.09.17.03A, upon a determination by the Chairman of the Commission that an emergency or other event within the scope of COMAR 14.09.17.01 significantly affects access to or the operations of one or more Commission hearing locations or other Commission facilities or the ability of the Commission to operate effectively, the Chairman, by Administrative Order, may, to the extent necessary:

1. Amend and superintend existing Continuity of Operations (“COOP”) plans;
2. Suspend the operation of rules or regulations that cannot be implemented as intended because of the emergency;
3. Identify and direct the use of alternative locations to conduct Commission business if existing facilities become inaccessible or unusable;
4. Transfer cases pending in one hearing location that becomes inaccessible or unusable to any other hearing location;
5. Permit claims or documents to be filed in alternate location(s) or by alternative means where the normal location – i.e., Baltimore City, is not reasonably accessible or usable;
6. Suspend, toll, or grant relief from time deadlines or filing requirements that otherwise would expire when there is no practical ability of a party to comply with the deadline or seek other relief;
7. Triage claims or issues and categories of claims or issues with respect to expedited treatment;
8. Suspend any Commission business not deemed essential;
9. Designate other Commissioners, “recall” Commissioners or Commission officials to implement directives entered by the Chairman or the Governor; and
10. Take any other appropriate action necessary to assure that essential Commission business is effectively handled by the Commission; and

WHEREAS, the undersigned, as Chairman of the Commission, has determined that an emergency or other event within the scope of COMAR 14.09.17.01 significantly affects access to or the operations of one or more Commission hearing locations or other Commission facilities or the ability of the Commission to operate effectively;

NOW THEREFORE, pursuant to the authority granted the Chairman of the Commission by COMAR 14.09.17, it is this 17th day of April, 2020, hereby

ORDERED that beginning April 20, 2020, hearings before the Commission shall be conducted remotely, with the procedure as follows:

1. Except as provided in § 2 below, at the request of a party or on the Commission’s initiative, a hearing may be conducted by:
 - (a) Telephone or other audio means, if all parties have an opportunity to participate in and hear the entire proceeding; or

(b) Video using Microsoft Teams, if all parties have an opportunity to participate in, hear, and see the entire proceeding.

2. Exceptions.

(a) If a party establishes good cause not to conduct a hearing remotely by audio only, the proceeding shall be held by video using Microsoft Teams, or in person when the Commission resumes normal operations.

(b) If a party establishes good cause not to conduct a hearing remotely by video using Microsoft Teams, the proceeding shall be held in person when the Commission resumes normal operations.

3. Rights. All substantive and procedural rights that apply to in person hearings before the Commission apply to audio only and video hearings, subject only to the limitations of the physical arrangements.

4. Documentary Evidence. At least 3 days before the proceeding a party shall disclose all documentary, photographic, and other evidence the party plans to offer at the proceeding by:

(a) Filing one set of copies with the Commission by electronic means; and

(b) Serving one set of copies on the other party or parties by electronic means.

ORDERED that these procedures will remain in place temporarily until it is determined to be safe to remove them; and it is further

ORDERED that this Order shall be updated as further guidance is received.

IT IS SO ORDERED.

[Signature on Original]

R. Karl Aumann
Chairman