

**NOTICE OF PUBLIC HEARING**

The Ohio Bureau of Workers' Compensation will hold a public hearing on Tuesday, January 6, 2004, at 11:00 a.m., Training Room G, 3rd Floor, 30 West Spring Street, Columbus, Ohio 43215, to consider the following:

(1) Rescission of the following rules of the Bureau of Workers' Compensation for the purpose as shown below:

- 4123-3-05 Applications for the payment of medical expenses only
- 4123-3-06 Applications for the payment of compensation and medical expenses

(2) Adoption of the following rules of the Bureau of Workers' Compensation for the purpose as shown below:

- 4123-3-05 Applications for the payment of compensation or medical benefits

This rule replaces the prior version of the rule. The rule describes the initial application for claims by using the First Report of Injury form (FROI) in state fund employer, self-insured employer, and non-complying employer claims.

- 4123-3-37 Lump sum advancements

This new rule adopts BWC's current policies and procedures for determining lump sum advancement applications. Paragraph (A) describes the types of compensation for which BWC will consider a lump sum payment. Paragraph (B) states that the administrator shall review the application using whatever methods the administrator determines to be appropriate, consistent with general insurance principles. BWC will determine the amount of the biweekly rate reduction and the terms of such reduction, including fixing a specific time for the reduction of the biweekly rate of compensation to repay the lump sum advancement. The administrator may include interest in the repayment schedule. Upon the repayment of the lump sum advancement, the administrator shall remove the rate reduction due to the advancement and reinstate the injured worker's rate of compensation.

(3) Amendment of the following rules of the Bureau of Workers' Compensation for the purpose as shown below:

- 4123-3-03 Employers' reports of injuries and occupational diseases

In Paragraph (B), a requirement that claims be filed in duplicate is eliminated, and there are grammar and rule cross reference corrections.

- 4123-3-07 Applications for death benefits

This rule implements the use of the FROI for death claims. The rule also permits an estate to file for death benefits when there are no dependents, consistent with recent case law.

4123-3-08 Preparation and filing of applications for compensation and/or benefits

The rule provides that the FROI need not be signed by the employer, but that the employer's certification of the claim can follow through later correspondence. Paragraph (D) clarifies the time limit for filing a claim in self-insured employer claims and for occupational disease claims consistent with current law.

4123-3-09 Procedures in the processing of applications for benefits

Paragraph (B)(1)(a) of the rule is amended to provide that permanent partial applications are first heard by BWC. The rule also incorporates changes in the appeals process in Section 4123.511 of the Revised Code, and the elimination of the Regional Boards.

4123-3-10 Awards

The rule incorporates changes in the appeals process in Section 4123.511 of the Revised Code, and the elimination of the Regional Boards. Paragraph (A)(6) addresses power of attorney issues.

4123-3-11 Reports of payments by self-insuring employers

This rule contains minor grammar changes.

4123-3-12 Suspension of the processing of claims

This rule eliminates references to the Regional Boards of Review.

4123-3-14 Procedure in the original adjudication of noncomplying employers' claims

This rule clarifies when BWC will release a lien against a non-complying employer, adding when BWC determines that the employer subject to the lien is not the employer of record in the claim.

4123-3-16 Motions

Paragraph (J) amends the procedure for motions for psychiatric conditions. The rule requires an affidavit from the injured worker indicating awareness of the motion, that the motion be accompanied by supporting medical evidence consisting of a report by either a licensed psychiatric specialist or a clinical psychologist, or a report by a licensed professional clinical counselor or a licensed independent social worker.

4123-3-17        Briefs

The rule eliminates Regional Board references and legal paper requirements for briefs.

4123-3-18        Appellate procedure

The rule incorporates in various places the changes to the administrative hearing process in Section 4123.511 of the Revised Code and eliminates references to the Regional Boards.

4123-3-20        Additional awards by reason of violations of specific safety requirements

The rule deletes the special form references for death claim VSSRs.

4123-3-21        Change of address

The rule permits an injured worker or employer to use the internet and electronic access for a change of address.

4123-3-22        Inspection of claim files

This rule contains minor changes eliminating form references.

4123-3-25        Application for change of occupation allowance

This rule clarifies that a change of occupation shall be by motion, and may be first adjudicated by BWC. The rule requires a wage statement to support the fact that the occupation has been changed.

4123-3-30        Procedures to inform claimant on request as to the status of his claim and of any action necessary to maintain the claim

This rule updates BWC process for informing an injured worker of the status and location of the claim.

4123-3-32        Temporary total examinations

Paragraph (A) states that BWC will refer an injured worker to an exam not at the BWC medical section, but with an independent examiner.

4123-3-34        Settlement of state fund claims

The amendments in Paragraph (L) state that the indemnity portion of the settlement amount of a claim or claims in which an injured worker has been determined permanently and totally disabled or has alleged permanent and total disability shall be

deducted from any future permanent and total disability compensation paid or payable to the injured worker for the same or similar conditions. Paragraph (M) states that a self-insuring employer shall not settle disabled workers' relief fund liability in state fund claims without the administrator's approval.

4123-3-35      Employer handicap reimbursement

The amendment in Paragraph (C)(1)(d) states that the administrator may dismiss an employer's handicap reimbursement application if the initial allowance of the claim is being contested before the bureau, industrial commission, or a court of competent jurisdiction at the time the application is filed.

The full and complete text of the proposed rules is available at the Register of Ohio (<http://www.registerofohio.state.oh.us>) and is on file in the office of the Secretary of State (180 East Broad Street, 15th Floor, Columbus, Ohio), the Legislative Service Commission (77 South High Street, 9th Floor, Columbus, Ohio), the office of the Joint Committee on Agency Rule Review (77 South High Street, Concourse Level, Columbus, Ohio), the Bureau of Workers' Compensation, Legal Operations (30 West Spring Street, 26th Floor, Columbus, Ohio), the Bureau of Workers' Compensation (30 West Spring Street, Columbus, Ohio, 1st Floor, Hearing Rooms), and all service offices of the Bureau.

All interested parties will be given an opportunity to be heard. Any interested party unable to attend the public hearing may submit written comments to the undersigned prior to the public hearing.

THE OHIO BUREAU OF WORKERS' COMPENSATION

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