

4123-19-09

In regard to complaints filed by employees against self-insuring employers under the provisions of section 4123.35 of the Revised Code.

- (A) The bureau of workers' compensation shall receive all complaints concerning any employer engaged in paying compensation and benefits directly to its employees. The bureau shall transfer to the self-insuring employers evaluation board only those complaints which are not resolved. An employer shall respond in writing to a complaint within fourteen days of receipt thereof, and the employer's response shall be made a part of the complaint file.
- (B) The administrator of workers' compensation shall investigate and process all complaints against a self-insuring employer through the bureau's self-insured department. However, the bureau may dismiss a complaint based upon the employer's action or lack of action with respect to events that occurred more than two years prior to the filing of the complaint, unless the facts could not have been reasonably known to the claimant.
- (C) The bureau shall maintain a file by employer of all complaints that relate to the employer, together with any information filed by the employer as to such complaints. A copy of all complaints shall become a part of the self-insuring employer's record file and shall be available at the time of renewal consideration. The bureau shall evaluate each complaint and take appropriate action as follows:
- (1) If the bureau records for such employee does not contain full information as to the matter which is the subject of the complaint, the bureau may attempt to obtain such information by correspondence with the self-insuring employer, the claimant, and their authorized representatives, if any.
 - (2) The bureau may also audit the program of the employer in the manner provided in section 4123.35 of the Revised Code.
- (D) Following receipt of all necessary information, including bureau records, correspondence from the employee and the employer, or an audit by the bureau, the bureau may dismiss the complaint as invalid or find that the complaint has been resolved. Any unresolved complaint against a self-insuring employer shall be referred to the board for further action in accordance with the provisions of rule 4123-19-13 of the Administrative Code. If the bureau determines that a complaint is invalid or resolved and decides not to present the complaint to the board, the claimant may request that the complaint be presented to the administrator or the board for further consideration. If the bureau determines that a complaint is valid, a self-insuring employer may request that the complaint be presented to the administrator or the board for further consideration.

- (E) All requests by claimants or self-insuring employers in accordance with paragraph (D) of this rule shall be filed within fourteen days of receipt of the bureau's decision. Failure to timely file the request shall be grounds for dismissal of the request, and the bureau's decision shall be final.
- (F) Complaints referred to the bureau as provided in this rule shall be retained in the employer's file for a period of four years from the date of resolution.
- (G) No employer that elects to pay compensation directly shall harass, dismiss or otherwise discipline an employee for making a complaint. Upon receipt of this information that such harassment, dismissal or other disciplinary action has been taken, the bureau shall assign the matter for hearing pursuant to the provisions of rule 4123-19-13 of the Administrative Code before the members of the board. If the board finds that such employer is guilty of harassing, dismissing or otherwise disciplining the claimant for making the complaint, the board shall levy a reasonable financial penalty under the circumstances as the board deems appropriate, payable by the employer to the surplus fund.
- (H) Repeated violations of this rule shall be grounds for revocation of the employer's privilege to pay compensation, ~~etc.~~ and benefits, directly.

Effective:

Five Year Review (FYR) Dates: 6/1/2022

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.121, 4121.30, 4123.05
Rule Amplifies: 4123.35, 4123.352
Prior Effective Dates: 01/02/1978, 08/22/1986 (Emer.), 11/08/1986,
05/09/1990, 12/17/2001, 08/08/2003, 10/30/2006,
08/18/2017, 08/01/2019