



WORKERS' COMPENSATION FUND

601 MORRIS STREET
CHARLESTON, WEST VIRGINIA 25301

ARCH A. MOORE, JR.
Governor

MARY MARTHA MERRITT
Commissioner

May 23, 1985

NOTICE OF FINAL FILING - LEGISLATIVE RULE

LEGISLATIVE RULE: Time Limits for the Administrative Processing
of Adjudications and Awards, Series VI.

The attached legislative rule is hereby final filed with the Secretary
of State by Workers' Compensation Fund
as authorized by Senate Bill 399 Section 64-2-23(1) (13).

Mary Martha Merritt
Mary Martha Merritt
Commissioner

FILED

1985 MAY 23 PM 3:23

OFFICE OF THE SECRETARY OF STATE



FILED

1985 MAY 23 PM 1:01

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

May 23, 1985

PROPOSED RULES

STATE REGISTER FILING

=====

AGENCY Workers' Compensation Fund

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TYPE OF RULE Legislative

TITLE OF RULE Time Limits for the Administrative Processing of
Adjudications and Awards.

CHAPTER 23 ARTICLE 1 SERIES VI

AUTHORITY 23-1-13

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CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

- NEW RULE
- AMENDMENTS TO EXISTING RULE
- REPEAL OF EXISTING RULE
- NOTICE OF HEARING
- NOTICE OF AGENCY APPROVAL (legislative rules only)
- NOTICE OF AGENCY ADOPTION (interpretive & procedural rules only)

NOTE: ALL FILINGS REQUIRE ONLY ONE COPY, EXCEPT FINAL FILING OF RULES WHICH REQUIRES AN ORIGINAL AND A COPY.

- FINAL FILING
- FIRST EMERGENCY FILING
- SECOND EMERGENCY FILING

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
WORKERS' COMPENSATION COMMISSIONER

Chapter 23-1
Series VI
(1984)

ADJUDICATIONS AND AWARDS

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
WORKERS' COMPENSATION COMMISSIONER

Chapter 23-1
Series VI
(1984)

Subject: These rules provide time limits for the administrative processing of adjudications and awards.

Section 1. GENERAL

1.01. Scope. These are ~~emergency-legislative-rules~~ Agency Approved Proposed Legislative Rules promulgated for the purpose of promoting and facilitating the prompt processing of claims within the operation of the Workers' Compensation Fund. Adjudications and awards are to be made, and other actions are to be taken, within the time limits prescribed herein. In all instances where a time limit herein prescribed is in conflict with a time limit set forth in the Workers' Compensation Law, the latter statutory time limit shall govern. Compliance with non-statutory time limits may be extended for good cause.

1.02. Authority. These ~~emergency-legislative-rules~~ Agency Approved Proposed Legislative Rules are promulgated pursuant to the authority of West Virginia Code, Chapter 23, Article 1, Section 13, and directions of the Supreme Court of Appeals of West Virginia in the case of Meadows v. Lewis, W. Va. , 307 S.E.2d 625 (1983).

1.03. Filing Date. These rules were filed on the ~~6th~~ 25th day of ~~June~~ October, 1984, in the Secretary of State's office.

1.04. Effective Date. Submission Date. These rules ~~are to become effective on the 6th day of June, 1984, as emergency legislative rules.~~ were submitted on the 25th of October, 1984, to the Legislative Rule-Making Review Committee as required by law.

1.05. Definitions. As used in these rules:

- A. Commissioner shall mean the Workers' Compensation Commissioner appointed pursuant to West Virginia Code, Chapter 23, Article 1, Section 1.
- B. Fund shall mean the Workers' Compensation Fund created pursuant to West Virginia Code, Chapter 23, Article 3, Section 1.
- C. Occupational Pneumoconiosis Board shall mean the board appointed pursuant to West Virginia Code, Chapter 23, Article 4, Subsection 8a.
- D. Appeal Board shall mean the Workers' Compensation Appeal Board appointed pursuant to West Virginia Code, Chapter 23, Article 5, Section 2.

Section 2. INITIAL RULINGS

2.01. Injury and Occupational Disease Claims. Those claims based upon injuries and occupational diseases other than occupational pneumoconiosis that are filed in the Fund upon properly executed, prescribed forms pursuant to the provisions of West Virginia Code, Chapter 23, Article 4, Subsections 1a, 1b, and 1c, shall be ruled upon within fifteen working days from the date of receipt in the Fund.

2.02. Occupational Pneumoconiosis Claims. Non-medical rulings shall be entered in occupational pneumoconiosis claims within fifteen working days from the date of receipt in the Fund of properly executed, prescribed forms from all parties involved.

Section 3. MEDICAL AUTHORIZATIONS

3.01. Medical Treatment. Requests for authorization of medical treatment shall be ruled upon within ~~five~~ fifteen working days from the date of receipt in the Fund.

3.02. Appliances, Devices, and Supplies. Requests for authorization of purchase of prosthetic or other appliances, devices or medical supplies shall be ruled upon within ~~five~~ fifteen working days from the date of receipt in the Fund.

Section 4. DISABILITY BENEFITS

4.01. Awards of Temporary Total Disability Benefits. Written medical reports submitted upon properly executed, prescribed forms and providing proper and sufficient evidence that claimants are entitled to awards of temporary total disability benefits shall be acted upon by issuance of orders granting awards of benefits within five working days from the date of receipt in the Fund or the date of issuance of the compensability ruling in the claim. Payment pursuant to such awards shall be issued in accordance with the provisions of West Virginia Code, Chapter 23, Article 4.

4.02. Cessation of Temporary Total Disability. Written medical or other information providing proper and sufficient evidence that claimants have ceased to be temporarily and totally disabled or have returned to work shall be acted upon by issuance of notices advising the parties that benefit payments shall be suspended pending final disposition. Such notices shall be issued within five working days from the date of receipt of incoming correspondence in the Fund.

4.03. Notice of Closing Claim. After the notice period provided in suspension notices has expired and review of claims reveals that sufficient medical evidence to support a further award of temporary total disability benefits has not been received, orders shall be issued within ten working days from the end of the aforesaid notice period advising the parties that the claims have been closed upon a temporary total disability basis.

4.04. Medical Evaluations.

- A. Referral of claimants to physicians for examinations and evaluations as required by West Virginia Code, Chapter 23, Article 4, Subsection 7a(d) shall be made within ~~ten~~ twenty working days of the end of the 120-day period of temporary total disability.
- B. Referral of claimants to physicians for examinations and evaluations in response to requests by or on behalf of claimants for consideration of permanent disability awards,

and requests of employers desiring evaluations by physicians of their choice when claims are in litigation upon the issue of the extent of permanent partial disability, in claims based upon injuries and occupational diseases other than occupational pneumoconiosis shall be made within ~~ten~~ fifteen working days from the date of receipt of such requests in the Fund.

- C. Examinations and evaluations to be performed by the Occupational Pneumoconiosis Board shall be scheduled and notice of the scheduling shall be transmitted to the parties within sixty days from the date of non-medical rulings directing referral to the Board.

4.05. Permanent Disability Rulings.

- A. Permanent disability evaluation reports received from physicians to whom claimants have been referred by the Commissioner in claims based upon injuries and occupational diseases other than occupational pneumoconiosis shall be acted upon within ~~five~~ fifteen working days from the date of receipt in the Fund.
- B. Findings of the Occupational Pneumoconiosis Board shall be transmitted to the parties within ten working days from the date of examination by the Board.
- C. Payment pursuant to awards of permanent disability benefits shall be issued and delivered in accordance with the provisions of West Virginia Code, Chapter 23, Article 4.

4.06. Petitions for Reopening.

- A. Petitions for reopening of claims upon a temporary total disability basis shall be ruled upon within ten working days from the date of receipt in the Fund.
- B. Petitions for reopening of claims upon a permanent disability basis shall be ruled upon within thirty days from the date of receipt in the Fund.

4.07. Applications for Modification of Awards. Applications for modification of awards filed by employers shall be ruled upon within ten working days from the date of receipt in the Fund.

Section 5. VOCATIONAL REHABILITATION

5.01. Training Proposals. Individualized Written Rehabilitation Programs received from the Division of Vocational Rehabilitation shall be ruled upon within ~~fifteen~~ twenty working days from the date of receipt in the Fund.

Section 6. INVOICES

6.01. Medical Expenses. Invoices for payment or reimbursement of the cost of medical services or supplies submitted upon properly executed, prescribed forms shall be ruled upon within ~~ten~~ fifteen working days from the date of receipt in the Fund.

6.02. Travel Expenses; Wages. Invoices for reimbursement of travel expenses and wages submitted upon properly executed, prescribed forms shall be ruled upon within ~~ten~~ fifteen working days from the date of receipt in the Fund.

Section 7. PROTESTS; HEARINGS; MOTIONS

7.01. Protests. When awards or rulings of the Commissioner are protested within the time allowed therefor, written notices shall be issued which acknowledge receipt of the protests and advise the parties of the time and place that hearings will be conducted. Such notices shall be issued within fifteen days from the date of receipt of protest.

7.02. Hearings. A hearing shall be scheduled to be conducted within thirty days from the date of receipt of protest in the Fund.

7.03. Motions. Motions made at hearings regarding evidentiary or procedural matters shall be ruled upon whenever possible by trial examiners during the course of hearings. Motions that are necessarily referred to the Commissioner for consideration and ruling shall be ruled upon by written notice to be issued within thirty days from the date of hearing.

Section 8. COMMISSIONER'S FINAL DECISION; APPEAL

8.01. Appealable Orders. After final hearings appealable orders shall be entered and transmitted to the parties within thirty days from the date of final hearing, or the date of receipt of written submission or withdrawal by the parties.

8.02. Appeal. Upon receipt of written notices of appeal, notices shall be issued acknowledging receipt of the appeals and advising the parties that the claims will be transmitted to the Appeal Board. Such notices shall be issued within fifteen working days from the date of receipt of notice of appeal in the Fund. Claim files shall be prepared and transmitted to the Appeal Board within thirty working days from the date of receipt of notice of appeal in the Fund.

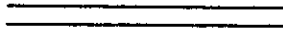
ADJUDICATIONS AND AWARDS

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MARY MARTHA MERRITT
Commissioner

May 23, 1985

Promulgation History Abstract

Rule Title: Time Limits for the Administrative Processing of Adjudications and Awards.

Rule Type: Legislative.

Filed Notice for Public Hearing: September 6, 1984.

Public Hearing Held: October 4, 1984.

Filed Agency Approved Rule: October 25, 1984.

Filed Agency Approved Rule with LRMRC: October 25, 1984.

Action by LRMRC: Approved January 8, 1985.

Legislative Action: Authorized in Senate Bill 399, W.Va. Code, 64-2-23(1)(13). Passed April 13, 1985; in effect from passage.

Final Rule Filed with Secretary of State: May 23, 1985.

Effective Date: May 23, 1985.

A handwritten signature in cursive script that reads "Mary Martha Merritt".

Mary Martha Merritt
Commissioner

Entered

SENATE BILL NO. 409

(By Mr. R. Williams

[Introduced March 6, 1985

referred to the Committee on the Judiciary

10 A BILL to amend article two, chapter sixty-four of the code
 11 of West Virginia, one thousand nine hundred thirty-one,
 12 as amended, by adding thereto a new section, designated
 13 section twenty-three (one) (thirteen), relating to
 14 authorizing the workers' compensation commissioner to
 15 promulgate legislative rules relating to time limits for
 16 the administrative proceedings of adjudications and
 17 awards.

18 Be it enacted by the Legislature of West Virginia:

19 That article two, chapter sixty-four of the code of West
 20 Virginia, one thousand nine hundred thirty-one, as amended,
 21 be amended by adding thereto a new section, designated
 22 section twenty-three (one) (thirteen), to read as follows:

23 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
 24 LEGISLATIVE RULES.

25 §64-2-23(1)(13). Workers' compensation commissioner.

26 The legislative rules filed in the state register on the

1 twenty-fifth day of October, one thousand nine hundred
2 eighty-four relating to the workers' compensation
3 commissioner (time limits for the administrative proceedings
4 of adjudications and awards) are authorized.

5

6 NOTE: The purpose of this bill is to authorize the
7 workers' compensation commissioner to promulgate legislative
8 rules relating to the time limits for the administrative
9 proceedings of adjudications and awards.

10 This section is new; therefore, strike-throughs and
11 underscoring have been omitted.

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H. B. 1619

(By Delegate Casey)

(Introduced March 6, 1985; referred to the

Committee on the Judiciary)

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three (one) (thirteen), relating to authorizing the workers' compensation commissioner to promulgate legislative rules relating to time limits for the administrative proceedings of adjudications and awards.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-three (one) (thirteen), to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-23(1)(13). Workers' compensation commissioner.

The legislative rules filed in the state register on the

1 twenty-fifth day of October, one thousand nine hundred
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