WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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FEB 4 9 09 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Bureau of Employment Programs, Workers' Compensation Division; Title Number: 85

RULE TYPE: Exempt Legislative ; CITE AUTHORITY West Virginia Code §§ 21A-2-6(1); 21A-2-6(2); 21A-2-6(14); 21A-2-19; 21A-3-7(b); 21A-3-7(c); 23-1-1; 23-1-13; 23-1-14; and 23-3-5(d)

AMENDMENT TO AN EXISTING RULE: YES ______ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: ______

TITLE OF RULE BEING AMENDED: ______

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 17

TITLE OF RULE BEING PROPOSED: Electronic Submittal of Invoices and Receipt of Payments

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DATE OF PUBLIC HEARING: Tuesday, February 25, 1997 TIME: 10:00 a.m.

LOCATION OF PUBLIC HEARING: Room 202-203, Charleston Civic Center, Charleston, WV 25301

COMMENTS LIMITED TO: ORAL ____, WRITTEN ____, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:
Written Comments through March 15, 1997.

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments

John H. Kozak
Dir., Legal Services Div.
PO Box 3922
Charleston, WV 25339

The issues to be heard shall be limited to the proposed rule

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

Andrew N. Richardson
Authorized Signature

3.80

Bureau of Employment Programs
112 California Avenue
Charleston, West Virginia 25305-0112

Cecil H. Underwood, Governor

Andrew N. Richardson, Commissioner of Employment Programs

February 3, 1997

The Honorable Ken Hechler
Secretary of State
Capitol Building
Charleston, WV 25305

Dear Secretary Hechler:

Re: Proposed Exempt Legislative Rule
Title 85, Series 17, Electronic Submittal of Invoices and Receipt of Payments

Please consider this letter to be my written approval for the filing of the above noted proposed exempt legislative rule.

Pursuant to Enrolled Committee Substitute for House Bill 4030, Regular Session, 1994, the Department of Commerce, Labor and Environmental Resources was abolished. Pursuant to that same bill, the Commissioner of the Bureau of Employment Programs is empowered to promulgate rules without the further consent or approval of a departmental secretary.

With much appreciation for your assistance in this matter, I remain

Very truly yours,

Andrew N. Richardson
Andrew N. Richardson
Commissioner

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FEB 4 9 03 AM '97
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

TITLE 85
EXEMPT LEGISLATIVE RULE
BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

SERIES 17
ELECTRONIC SUBMITTAL OF INVOICES AND RECEIPT OF PAYMENTS

BRIEF SUMMARY

This proposed rule implements the provisions of West Virginia Code § 23-3-5(a) and (b) which authorizes the workers' compensation division to establish programs by which vendors and others must submit invoices for services and goods rendered to the division by electronic invoices and to accept payment for those invoices by electronic disbursements. This requirement applies to those vendors or others who submitted in excess of 100 invoices totaling more than $10,000.00 in the previous state fiscal year.

The benefits payable to claimants of workers' compensation benefits are not subject to this rule. Claimants may choose to have their benefits payments paid by direct deposit to their bank accounts pursuant to other programs of the division.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 17 Electronic Submittal of Invoices and Receipt of Payments

Type of Rule: X Legislative Exempt ___Interpretive __Procedural

Agency: Bureau of Employment Programs

Address: 112 California Avenue
Charleston, WV 25305

1. **Effect of Proposed Rule**

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$120,000	$0	$120,000	$120,000	$0
PERSONAL SERVICES	120,000	0	120,000	120,000	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. **Explanation of above estimates:**
The electronic submission of invoices is processed by Consultec. The maximum the Fund will be liable is $120,000 as indicated in the contract between Consultec and the Fund. We have used the maximum liability. We feel no additional expense will be incurred for the receipt of payments by vendors from the workers' compensation division by electronic means. The current staff should be able to process these payments.

3. **Objectives of this rule:**
The purpose of this rule is to implement the provisions of West Virginia Code § 23-3-5 regarding the submission of vendor bills by electronic means and the receipt of payments by vendors from the workers' compensation division by electronic means.

Rule Title: Series 17 Electronic Submittal of Invoices and Receipt of Payments

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.
It is expected that the impact of this rule will lead to more efficient processing of vendor payments. This could result in savings to the Fund.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.
It is expected that the impact of this rule will improve the payment process for health care providers.

C. Economic Impact on Citizens/Public at Large.
This rule will not have a direct economic impact on the citizens of West Virginia.

Date: January 30, 1997

Signature of Agency Head or Authorized Representative

Andrew N. Richardson

Andrew N. Richardson
Commissioner, Bureau of Employment Programs

TITLE 85
EXEMPT LEGISLATIVE RULE
BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

SERIES 17
ELECTRONIC SUBMITTAL OF INVOICES AND RECEIPT OF PAYMENTS

§85-17-1. General.

1.1. Scope. -- These rules implement the provisions of West Virginia Code § 23-3-5 regarding the submission of vendor bills by electronic means and the receipt of payments by vendors from the workers' compensation division by electronic means.

1.2. Authority. -- West Virginia Code, §21A-2-6(1), -6(2) & -6(14); §21A-2-19; §21A-3-7(b) & -7(c); §23-1-1; §23-1-13 and §23-1-14. Pursuant to West Virginia Code § 21A-3-7(c), rules adopted by the compensation programs performance council and the commissioner are not subject to legislative approval as would otherwise be required under West Virginia Code § 29A-3-1 et seq.

1.3. Filing Date.

1.4. Effective Date.

§85-17-2. Purpose of these rules.

The purpose of this rule is to implement the provisions of West Virginia Code § 23-3-5 regarding the submission of vendor bills by electronic means and the receipt of payments by vendors from the workers' compensation division by electronic means.

§85-17-3. Definitions.

As used in these rules, the following terms have the stated meanings unless the context of a specific use clearly indicates another meaning is intended.

3.1. "Act" means the workers' compensation laws of the state of West Virginia which are codified at chapter twenty-three of the Code of West Virginia of 1931, as amended.

3.2. "ASAP" means that software program known as "Accelerated Systems and Processing."

3.3. "Code" means the Code of West Virginia of 1931, as amended.

3.4. "Commissioner" means the commissioner of the bureau of employment programs pursuant to West Virginia Code §21A-2-1 and West Virginia Code § 23-1-1 and any deputies designated pursuant to West Virginia Code § 2-2-5 and § 21A-2-12 & -13.

3.5. "Current fiscal year" means the fiscal year existing at the time a new invoice is to be submitted by a vendor. A fiscal year runs from the first day of July to the thirtieth day of the following June.

3.6. "Division" means the workers' compensation division within the bureau of employment programs, West Virginia Code § 5F-2-1(b)(2), as provided for by §21A-1-4, and by West Virginia Code § 23-1-1 et seq.

3.7. " Executive Director" means the executive director of the workers' compensation division, who is appointed by the commissioner and who serves as the chief operating officer of the daily operations of the workers' compensation division as provided by West Virginia Code § 23-1-4.

3.8. An "invoice" is any legal demand, whether written, oral, or by computer generated medium, for the payment by the workers' compensation to a vendor.

3.9. "Vendor" means any health care provider or other entity who performs a service or provides a thing of value to a claimant for workers' compensation benefits and who then submits an invoice or otherwise seeks payment from the workers' compensation division for the rendering of that service or thing of value. Under no circumstances is a claimant for workers' compensation benefits to be deemed a vendor under these rules.

§85-17-4. Electronic submission of invoices.

4.1. Any vendor who, in the previous fiscal year, submitted in excess of one hundred (100) invoices totaling in excess of ten thousand ($10,000.00) dollars to the workers' compensation division shall, in the current fiscal year, submit all invoices to the workers' compensation division by electronic means.

4.2. The electronic means required to be used on the effective date of this rule is the software program designated "ASAP." The executive director shall notify each vendor meeting the requirements of subsection 4.1 of these rules that the vendor must submit all future invoices by use of the ASAP software and shall provide a copy of that software to the vendor without charge.

4.3. The vendor shall be responsible for acquiring the necessary computer system, other software, and telephone lines by which the ASAP program will be utilized. The workers' compensation division shall not be responsible nor liable for the costs of acquiring or maintaining the necessary computer system, other software, or telephone lines.

4.4. In the event that the executive director wishes to change the software program from ASAP to some other software program, such change shall first be reviewed and approved by the commissioner and the compensation programs performance council.

4.5. Any vendor, who is required by subsection 3.1 of these rules, to submit invoices by use of the ASAP software program and who does not do so shall not receive payment upon that invoice and such invoice shall be immediately rejected and returned to the vendor. Upon proper resubmittal of the invoice by use of the ASAP software program, the vendor shall then be entitled to such payment as may be proper under the rules of the division.

§85-17-5. Payment by electronic means.

5.1. Any vendor who, in the previous fiscal year, submitted in excess of one hundred (100) invoices totaling in excess of ten thousand ($10,000.00) dollars to the workers' compensation division shall, in the current fiscal year, receive payment from the workers' compensation division by electronic means.

5.2. Any vendor who meets the requirements of subsection 5.1 of these rules and who wishes to receive payment from the workers' compensation division shall provide the division with the name and address of its bank and an appropriate account number or other designation to which the division may direct the state auditor's office to render appropriate payments. The vendor shall provide such additional information as the state auditor may require in order to effectuate the payments.

5.3. Any vendor who is required by subsection 5.1 of these rules to receive payments by electronic means and who does not provide the necessary information in order that payments may be made electronically or who fails to otherwise cooperate with the requirements of the division or the state auditor to make payments by electronic means shall not receive payment on any submitted invoice until such information is provided or cooperation is obtained.

§85-17-6. Self-insured employers.

6.1. Any self-insured employer who is permitted by the division to receive invoices directly from vendors and to make direct payments to the vendors may elect to require the submission of invoices by electronic means or to require receipt of payments by electronic means, or both.

6.2. Any self-insured employer who wishes to make the subsection 6.1 selection shall first submit the details of its proposed program to the executive director for his or her review and written approval. Until the proposed program is approved, the self-insured employer may not implement the program. Upon obtaining written approval of the proposed program, the self-insured employer may implement it. However, no change shall be made to the program without first presenting the proposed change to the executive director and obtaining his or her written approval of the change.

§85-17-7. Severability.

The provisions of subdivision (cc) of section ten, article two, chapter two of the Code of West Virginia, 1931, as amended, are incorporated herein by reference as if fully set forth herein.