WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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FILED

MAY 20 12 08 PM '97

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: Workers' Compensation Division Bureau of Employment Programs TITLE NUMBER: 85

CITE AUTHORITY: W. Va. Code §§23-4-3b & 23-4-7a

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X
CITE STATUTE(s) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW
§21A-3-7(c)

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 ADOPTED: 26

TITLE OF RULE BEING ADOPTED: Health Care Advisory Panel

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS June 20, 1997

3.60 w/o Comments
22.50 w/ Comments

West Virginia
Secretary of State
Ken Hechler
Administrative Law Division

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Form #6

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Bureau of Employment Programs, Workers' Compensation Division TITLE NUMBER: 85

RULE TYPE: *Legislative Exempt ; CITE AUTHORITY W. Va. Code §§23-4-3b and 23-4-7a

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: 85 C.S.R. 26

TITLE OF RULE BEING PROPOSED: Health Care Advisory Panel
*Per W. Va. Code, §21A-3-7(c), this rule is not subject to Legislative Review

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THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number)

SECTION _____, PASSED ON _____

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: _____

Wrong Form
ORiginal Signature

William F. Vieweg, Commissioner

TITLE 85
PROCEDURAL RULE
WORKERS' COMPENSATION COMMISSIONER

SERIES 26
HEALTH CARE ADVISORY PANEL

FILED
MAY 20 12 10 PM '9
OFFICE OF WEST VIRGINI
SECRETARY OF STATE

§85-26-1. General.

1.1. Scope. - This procedural rule defines the procedure for appointment of members and alternate members of the Health Care Advisory Panel, and further sets forth the procedures by which the Panel will conduct its business.

1.2. Authority. - W.Va. Code § 23-4-3b and §23-4-7a.

1.3. Filing Date. - MAY 20, 1997

1.4 Effective Date. - June 20, 1997

§85-26-2. Definitions.

2.1. As used in this procedural rule, the following terms, words and phrases have the meanings stated below unless in any instance where such term, word or phrase is employed, the context clearly indicates that another meaning is intended.

2.1.1. "Chair" means the chairperson of the Health Care Advisory Panel.

2.1.2. "Commissioner" means the Commissioner of the West Virginia Bureau of Employment Programs, appointed pursuant to West Virginia Code Section one, Article one, Chapter twenty three.

2.1.3. "Licensed" means that the described health care professional holds an active, unencumbered West Virginia license to practice the profession by which he or she qualifies for appointment to the Panel.

2.1.4. "Panel" or "HCAP" means the Health Care Advisory Panel, established pursuant to West Virginia Code Section three-b, Article four, Chapter twenty three.

2.1.5. "Physician" means an allopathic physician licensed by the West Virginia Board of Medicine, or an osteopathic physician licensed by the West Virginia Board of Osteopathy.

2.1.6. "Regular member" means a member of the Health Care Advisory Panel appointed to serve in all full Panel functions, as contrasted with an alternate member, who votes only in the absence of the corresponding regular member.

2.1.7. "Subpanel" means groups established under the authority of the Health Care Advisory Panel, which include members of the Panel and which report back to the Panel.

2.1.8. "This rule" means the instant procedural rule, designated as W.Va. 85 CSR 26, §85-26-1 et seq.

§85-26-3. Appointments.

3.1. The Commissioner shall appoint not less than five members to the Health Care Advisory Panel.

3.2. The members appointed by the Commissioner shall include:

3.2.1. A licensed physician specializing in orthopedic medicine and surgery and certified by the American Board of Orthopedic Surgery or by the American Osteopathic Board of Orthopedic Surgery;

3.2.2. A licensed physician specializing in the practice of psychiatry and certified by the American Board of Psychiatry and Neurology or by the American Osteopathic Board of Neurology and Psychiatry;

3.2.3. A licensed physician specializing in the practice of occupational medicine and certified by the American Board of Preventive Medicine - Occupational Medicine or by the American Osteopathic Board of Preventive Medicine- Occupational Medicine;

3.2.4. A licensed physician specializing in the practice of physical medicine and certified by the American Board of Physical Medicine and Rehabilitation or by the American Osteopathic Board of Rehabilitation Medicine;

3.2.5. A licensed physician specializing in the practice of otolaryngology and certified by the American Board of Otolaryngology or by the American Osteopathic Board of Ophthalmology and Otorhinolaryngology;

3.2.6. A licensed physician specializing in the practice of neurosurgery and certified by the American Board of Neurological Surgery and by the American Osteopathic Board of Surgery - Neurological Surgery;

3.2.7. At least one physician member of the Panel shall be certified by the American Board of Family Practice or the American Board of Internal Medicine or by the American Osteopathic Board of Family Physicians or the American Osteopathic Board of Internal Medicine.

3.2.8. A qualified rehabilitation professional (QRP) recognized by the Division pursuant to WV CSR Title 85, Series 27;

3.2.9. A chiropractor licensed by the West Virginia Board of Chiropractic Examiners;

3.2.10. A physical therapist licensed by the West Virginia Board of Physical Therapy, or an occupational therapist licensed by the West Virginia Board of Occupational Therapy;

3.2.11. A pharmacist registered with the West Virginia Board of Pharmacy; and

3.2.12. A licensed registered nurse with experience in the care of industrial injuries.

3.2.13. At least one physician member of the Panel shall be an osteopathic physician whose current practice includes osteopathic manipulative medicine.

3.3. Appointment to the Panel shall be for a term of six years, except that initial appointments to the Panel shall be made for one third of the members to serve two year terms, one third shall be appointed to four year terms, and one third shall be appointed to six year terms; all terms shall revert to six years in length at the conclusion of these initial appointments.

3.4. Members may be appointed to the Panel for up to three consecutive full terms; there is no limit to the number of non-consecutive or partial term appointments.

3.5. An appointment to fill a vacancy in an unexpired term shall be for the duration of the term.

3.6. The Commissioner shall appoint alternate Panel members to assure that the Panel may function in the absence or abstention of one or more regular members.

3.6.1. Alternate members will be appointed to serve in the absence of specific Panel members.

3.6.2. Alternate members may attend any meeting of the Health Care Advisory Panel, including any executive portion of any meeting.

3.6.3. Alternate members may vote on any matter coming before the Panel, so long as the member for whom the alternate serves is not present and does not vote.

3.6.4. The terms of alternate members shall be six years in length, and shall coincide with the terms of the regular Panel members for whom each alternate is appointed.

3.7. The Panel shall include ex officio members, who will be entitled to attend any regular or executive session of the Panel and to participate in Panel discussion, but will not vote on matters before the Panel for decision.

3.7.1. The Chair of the Occupational Pneumoconiosis Board or his or her designee shall sit as an ex officio member of the Panel.

3.7.2. The Chair of the Interdisciplinary Examining Board or his or her designee shall sit as an ex officio member of the Panel.

§85-26-4. Chair; vice chair, secretary.

4.1. The Commissioner shall annually appoint one member of the Panel to serve as its chair; the chair shall preside over the meetings of the Panel, communicate regularly with the Division and assure that all administrative functions of the Panel are performed; the chair is also authorized to select persons who are not members of the Panel to serve on HCAP subpanels.

4.2. The members of the Panel may elect a vice chair to serve the Panel from among its regular members, to preside over meetings in the absence of the chair and to assist the chair in administrative functions.

4.3. The Commissioner shall assign an employee of the Workers' Compensation Division to serve as

secretary to the Panel; the secretary shall assure that the minutes of Panel meetings are recorded and preserved, and that meetings of the Panel comply with all requirements for public notice.

§85-26-5. Meetings; conduct of business.

5.1. Public meetings of the Health Care Advisory Panel shall be held monthly; meetings may be held in conjunction with another Panel function, such as an educational program.

5.2. A quorum shall exist for a meeting if a simple majority of appointed Panel members or their respective alternates are present.

5.3. Matters before the Panel shall be decided through the consensus of the group, except that:

5.3.1. The chair may, at his or her discretion, invoke Robert's Rules of Order; or

5.3.2. A simple majority of the members present may vote to invoke Robert's Rules of Order; or

5.3.3. A simple majority of the members present may vote to override a decision by the chair to invoke Robert's Rules of Order.

5.4. The Health Care Advisory Panel is authorized to meet in executive session as permitted by statute; the minutes of the public meeting shall reflect the reason for the move to executive session.

5.5. Members of the Health Care Advisory Panel shall keep confidential any claimant specific information which is made available to them.

§85-26-6. Subpanels.

6.1. The Health Care Advisory Panel may establish subpanels to assist in conducting HCAP business.

6.2. The subpanel chair must be a regular member of the Health Care Advisory Panel.

6.3. The duties of the subpanel shall be defined by the Panel chair, with consensus of HCAP.

6.4. The HCAP chair shall appoint members of subpanels:

6.4.1. HCAP regular and alternate members may serve on subpanels;

6.4.2. At the discretion of the chair of the Health Care Advisory Panel, persons who are qualified by education and experience who are not regular nor alternate members of HCAP may be appointed to serve on a subpanel.

6.5. Subpanels shall meet on an ad hoc or scheduled basis, and may be discontinued upon determination by the HCAP that the functions for which the subpanel was established no longer require the subpanel.

6.6. Subpanels shall not have any independent decision-making authority, but shall serve in an advisory capacity to the Health Care Advisory Panel.

6.7. A Recommendation from a subpanel to the Health Care Advisory Panel will become effective only upon acceptance by HCAP.

§85-26-7. Resignation.

Resignation from HCAP by any member or alternate member shall be in writing to the Commissioner, with a copy to the chair, vice chair and secretary of HCAP.

ROBERT C. BYRD
HEALTH SCIENCES CENTER
OF WEST VIRGINIA UNIVERSITY
Division of Occupational Therapy

Phone 304 293-8828
Fax 304 293-7105

March 14, 1997

Ms. Carol Egnatoff, Counsel
Legal Services Division
Bureau of Employment Programs
PO Box 3922
Charleston, WV
25339-3922

Fax: 304-926-5414

Dear Ms. Egnatoff:

RE: Health Care Advisory Panel - Worker's Compensation

I am writing this letter regarding the composition of the Health Care Advisory Panel. I understand that the current proposal includes representatives from the medical profession but excludes membership from the occupational therapy profession. Given the current dearth of occupational therapists in the State of West Virginia it is easily understood how this may have occurred.

The State of West Virginia committed three years ago to the development of a Master's program in occupational therapy to address the critical shortage of therapists in the State. A program has been developed at West Virginia University to meet the current need. One of the areas of greatest need is in the area of rehabilitation and reintegration of the injured worker in West Virginia. The occupational therapy program at WVU has been tailored to meet this need through:

- the development of facilities that will provide flagship services to injured workers;
- the education of occupational therapy students in work injury prevention, rehabilitation, and reintegration as it applies to West Virginia;

- the on-going development of a research program that will help to address the critical issues - many of which are consistent with the issues that Worker's Compensation faces in West Virginia.

The profession of occupational therapy within the State is involved in Worker's Compensation programs at the clinical level. As the number of occupational therapists increases in the State and as services become more comprehensive in design, occupational therapy will play an ever increasing role in the evolution of Worker's Compensation rehabilitation and reintegration programs.

I firmly believe that the inclusion of occupational therapy on the Health Care Advisory Panel would be of benefit to the people of West Virginia. Occupational therapy is the only profession with the theoretical, research, and clinical knowledge that is specific to task analysis and functional reintegration. Other professions such as medicine, physical therapy, and nursing will approach worker's problems from a medical perspective and seek to rehabilitate workers from that point of view. Occupational therapy is unique in its ability to combine rehabilitation, functional/work programs, reintegration services, and work injury prevention.

I presume that the State's commitment to the development of an occupational therapy educational program is evidence of the need for occupational therapy to meet the needs of the residents of West Virginia. It is imperative that this commitment continue through to the policy and program arena - especially for those programs at the state level such as Worker's Compensation.

If I can be of further assistance in explaining the potential role and contribution of occupational therapy on Health Care Advisory Panel please do not hesitate to contact me. I look forward to hearing from you further on this matter.

Sincerely,

Reg Urbanowski, OTR/L
Chair & Associate Professor.

Employers Service Corporation

Corporate Office • P. O. Box 3389 • Charleston, WV 25333-3389 • 304 / 556-1100 • FAX 304 / 342-4036
Regional Office • P. O. Box 4580 • Lexington, KY 40544-4580 • 606 / 223-5288 • FAX 606 / 223-3248
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Regional Office • P. O. Box 1567 • Abingdon, VA 24212-1567 • 540 / 676-3603 • FAX 540 / 676-0152

Workers' Compensation / Unemployment Compensation
Federal Black Lung / Nursing Support Services
Loss Control Management / Short Term Disability

March 14, 1997

Ms. Carol A. Egnatoff
Legal Services Division
The Workers' Compensation Division
P. O. Box 3922
Charleston, WV 25339-3922

Re: 85 C.S.R. 26 Health Care Advisory Panel

Dear Ms. Egnatoff:

Thank you for the opportunity to submit our comments on the Title 85, Series 26, Rules & Regulations entitled "Health Care Advisory Panel." Employers Service Corporation believes Section 5.2 of the proposed rule, setting the number of members or alternates of the Panel necessary for a quorum, should be greater than four given the number of positions on the Health Care Advisory Panel. *Robert's Rules of Order* defines a quorum as ". . . a number competent to transact its business. Unless there is a special rule on the subject, the quorum of every assembly is a majority of all the members of the assembly." Recognizing that the promulgation of the rule meets the special rule statement, we believe it would be more appropriate to conduct the business of the Panel with a majority of members or alternates to better serve the interest of the Workers' Compensation Division, the employer, and the injured worker.

We agree that adding the Chair of the Occupational Pneumoconiosis Board and the Chair of the Interdisciplinary Examining Board will bring greater coordination among the various Boards and Panels. Information shared between these entities enhances the understanding necessary to provide consistent decisions for all parties.

In summary, we believe the promulgation of Rule 26, "Health Care Advisory Panel" with a change in Section 5.2 of a majority of members or alternates would better serve the interest of all parties.

We appreciate your consideration of our cements on this proposed rule.

Sincerely,

Ronald L. Casto
Vice President
Workers' Compensation
(304) 556-1144

RLC/dlh

G:\WORDPROC\ARCHIVES.WP\WC\RULE26.WPD

March 14, 1997

Ms. Carol Egnatoff, Counsel
Legal Services Division
Bureau of Employment Programs
PO Box 3922
Charleston WV 25339-3922

Fax: 304 926 5414

RE: HEALTH CARE ADVISORY PANEL

Dear Ms. Egnatoff,

I am writing in response to information I received regarding the composition of the Health Care Advisory Panel. It is my understanding that the panel is comprised of individuals representing various medical disciplines such medicine and physical therapy. I am concerned that there exists no representation from the discipline of occupational therapy on the panel.

Rehabilitation programs throughout the country rely heavily on comprehensive occupational therapy evaluation and mileau to rehabilitate and reintegrate the impaired or injured worker. Unfortunately, due to the critical shortage of occupational therapists in the state of West Virginia, accessibility of occupational therapy services is not always available to the industrial rehabilitation candidate.

The commitment of our state to expand and support occupational therapy services to our residents is evidenced by the development of a Master's level academic program in occupational therapy at West Virginia University. The presence and practice role of the occupational therapist in the domain of industrial rehabilitation and injury prevention will rapidly expand in our state as additional practitioners enter our regions health care workforce.

On behalf of the West Virginia Occupational Therapy Association's Executive Board, membership and constituency, I strongly urge the inclusion of occupational therapy on the Health Care Advisory Panel to help address the critical needs of Worker's Compensation programming and the residents of West Virginia.

Please do not hesitate to contact me if you have questions or if I can be of assistance in this matter.

Best Regards,

Molly O'Dell, OTR/L

Molly O'Dell, OTR/L
West Virginia Occupational Therapy Association- President

(606) 633-3294
(304) 523-2533

ORIGINAL

WEST VIRGINIA WORKERS' COMPENSATION DIVISION
BUREAU OF EMPLOYMENT PROGRAMS

RE: RULES 5, 17, 26 and 27

Transcript of proceedings had in the above-entitled matter held in Room 202, Civil Center, Charleston, West Virginia, on the 25th day of February, 1997, commencing at 10:11 a.m., pursuant to notice.

KARON L. VORHOLT
Certified Court Reporter
634 Pioneer Lane
Charleston, West Virginia 25312
(304) 984-1242

APPEARANCES: PERFORMANCE COUNCIL MEMBERS:

Thad D. Epps

Chris E. Jarrett

Fred Tucker

Everette Sullivan

Paul E. Thompson

David Harris

CHAIRMAN JARRETT: My name is Chris Jarrett. I am Vice-Chairman of the Workers' Comp Performance Council. Today we're here to address four rules, Rule 5, 17, 26 and 27.

Before we begin today, I'm going to ask those members of the Workers' Comp Council that are here to introduce themselves, starting from my left.

MR. SULLIVAN: I'm Everette Sullivan, and I represent the construction trades.

MR. EPPS: Thad Epps, representing the manufacturers.

MR. TUCKER: Fred Tucker, U.M.W.A.

MR. THOMPSON: Paul Thompson, industrial.

MR. HARRIS: I'm David Harris, small businesses.

CHAIRMAN JARRETT: According to the sign-in chart, I have seven people that have elected to make oral presentations.

What I would like to do is call upon the Legal Staff, John Kozak and Carol Egnatoff, to address each of them and give you a brief explanation what each one of them pertain to. I guess we'll just go in order, John, Rule 5 first.

MR. KOZAK: Just briefly on Series 5 Rule, the

Series 5 Rule that's in effect has been around since 1985. And the intention of the revision of it was mainly to reflect some changes that were made in Article 2 of the code a couple years ago.

The existing rule provides that appeals from the decision of the Commissioner to fine or not to fine or revoke of permission to be a self-insurer or not to be revoked go to the Article 5 process, which is the same hearing process that the claims go through. In other words, they would go before the Office of Judges.

That was fine in the old days, prior to the Office of Judges because the old Legal Division as existed then did all the hearings. It didn't matter what it was.

Article 2 of the Code was amended a couple years ago to provide in Section 17 a different appeals process for Article 2 matters. Those hearings have been done in accordance with the State's Administrative Procedures Act for contested cases and are to use a regular administrative law judge or contract lawyer for that, with the appeal from that they went up to Circuit Court. That's the primary change in the rule to reflect that change in the code.

There are a couple of other things I

attempted when I set out revision of the rule to make it somewhat clearer, particularly changed to the rule, Subsection 2.1.2.

The way it's currently written is that all of those provisions are in the current rule, but they're sort of jumbled together, and I thought that breaking them out that they would be more clearer as to just what the grounds are for refusing to honor a pay order without getting into trouble.

The other major change is to reflect some of the differences in the code now on authority within the Bureau of the Workers' Comp Division. The '95 amendment specifies that it's the Division, as an entity, that takes actions and no longer just the Commissioner, of the Commissioner that everything is done in the name of. It's the Division for Workers' Comp matters.

As a result, the preliminary process under the rule for informal investigations and that sort of thing, that's the investigatory powers in the initial decision making on its Executive Director.

Once it goes beyond the Executive Director and actually gets into a contested matter for hearing purposes, it then reverts to the Bureau and the

Commissioner to make a decision coming out of the hearing process.

The rule as drafted, which is also a change causes the Commissioner to have to solicit the input from the Performance Council following the hearing and their comments on his or her contended action.

There's been a couple comments in writing suggesting that that may be in conflict with Series 9, with the way Series 9 turned out, and I would suggest that when we get the comments and all this back, we'll have to look at whether or not the ultimate power to revoke the self-insurer status should be vested solely within the Council, which of course the Commissioner is the chair of, or whether to leave it as the draft of the rule is now presently written. There is a physical note that the financial reporting specialist put together on the note, attached to the package.

On the Series 17 Rule, the '95 legislation also provided that the Council, by rule, could enact a program requiring vendors to submit the bills to the Workers' Comp Division by electronic means rather than by paper.

It also provides that the Council, by rule,

can adopt a program to require the acceptance of electronic payment, rather than by check.

The Legislature did modify or put a caveat to the latter provision and said that we cannot require claimants to accept their benefits by checks. They have the option of doing so and there are a number of those claimants who actually take advantage of that and do get direct deposit from their banks.

What the rule does is require that any vender who in the prior year submitted in excess of 100 invoices totally more than $10,000 has to bill by electronic means as well as accept payment by electronic means.

The rule mentions in its definitions that the current system for doing that is referred to as ASAP, which is -- those are on Page 2 of the definitions of 3.2, at the very top. ASAP stands for Accelerated Systems and Processing.

That system has been in use at the Fund for at least five years that I'm aware of. It started when I was still Executive Secretary, and it's been used by a number of providers on a voluntary basis for the submission of payments. It is the same system as the Medicaid

program.

This was developed by an outfit called Consultech out of Atlanta, Georgia, and has been working extremely well, given any kind of electronic software, extremely well with occasional computer glitches. But overall it has worked extremely well.

The payments on the invoices would flow out of the Auditor's Office through the same mechanism that payroll checks are issued these days. The state employees, which get paid, as well as I mentioned before, a number of claimants. So that system is in place and seems to be working fairly well, as well.

With that, I'll turn to Ms. Egnatoff to express the other views.

MS. EGNATOFF: Series 26 is a -- both of these are new rules. Series 26 is with regard to the Health Care Advisory Panel, and it to some extent codifies or places in rule form some of the same practices already in place with regard to the Panel.

It does provide for appointments, not less than five members, and it establishes the different specialties which must be represented on the panel, and establishes the term of an appointment at six years. It

recognizes a chair, vice-chair and secretary. Determines that meetings will be held on a monthly basis and defines a quorum of at least four Panel members or alternates. Provides for sub-panels of the Health Care Advisory Panel, and notes the procedure for resignation from the Panel.

Series 27 again is also a new rule. I'm sorry, a physical note accompanies both of these. Is also a new rule. It relates to qualified rehabilitation provider.

This rule is to establish minimum preparation for persons who would provide rehabilitation services on behalf of the Division to claimants.

It sets forth the minimum educational requirements and makes a couple of tracks available to encompass practical experience for various educational programs.

It also sets forth minimum experience requirement and acceptable employment experience which would meet the minimum experience requirements. So it sets forth the term of experience and then the experience that must occur during that time.

Also required is continuing education and the types of topic materials that would count for

continuing education as set forth in the rule.

And finally, there is a transition period to allow persons who are presently providing rehabilitative services to continue to provide such services for a period of four years so that they may be able to meet the additional criteria set forth in the rule during that time and qualify as rehabilitation providers.

MR. KOZAK: Mr. Chairman, that's the end of our remarks, unless there's other questions.

CHAIRMAN JARRETT: All right. What we've addressed are the four rules we're going to take up today.

We'll remind everyone that we will still accept written comments up to 5 p.m., March 15th, even following today's hearing. If you don't have a copy of these rules, we have them available to you up here if you need extra copies.

What I understand, most of the people that want to comment today want to talk about Rule 5 and Rule 17. Is there anyone wanting to comment on any one other than 5 and 17?

(No response.)

CHAIRMAN JARRETT: That's my understanding. I'm just trying to get it in some kind of sequential order

here. So those are the only two that we're going to have public comment relating to.

I know of no other way than just go right down the list. If you would, I'll ask you to come forward. Sit down in front of the mike so that the reporter can get all the information.

Please state your name and your organization and the rule for which you want to address. First on the list, I have Rita Richardson.

MS. RICHARDSON: Good morning. My name is Rita Richardson. I'm the Regional Manager for Benefit Plans for Union Corporation.

Union Carbide has been and remains a self-insured employer in good standing with the Fund and supports the proper and prompt payment of our Workers' Compensation claims.

I want to thank you for the opportunity to be here today. I do have some concerns regarding two of the rules proposed and being heard today. The first regarding Series 5.

As a citizen of the State of West Virginia and as manager for Union Carbide Corporation, I expect the Workers' Compensation Division to use knowledge, discretion

and fairness in the serious evaluation of claims before a claim is approved and to use a process consistently applied and known to all.

The employer needs to have the ability to submit evidence, understand the facts of the situation, have access to information from the Employment Security quarterly records and have recourse to correct errors.

I have examples of errors we've experienced, including such things as a one-cent check, which while it may be proper, it doesn't make a lot of sense.

We also have an instance where a pay order was issued where the employee had a second injury and the records were not checked to reflect the correct dates of payment due.

In another instance, the benefit was ordered with a gross check amount of $150.66. The next check amount ordered was $18.51, instead of $107.14 it should have been. We need the ability in the rules to be able to correct such errors.

Regarding proposed changes to Sections 5-3.3.1 and 5-4.4.1, changes the responsibility from the Commissioner to "or his designee." It's important to us

that we keep that responsibility with the Commissioner, and I'd ask you to reconsider that.

Next, proposed changes to Sections 5-4 4.2 regarding revocation of an employer's self-insured status. It seems only logical that the same body that approved self-insurance would be the one to revoke it. And I ask you to reconsider the wording of this rule to reflect that.

My second area of concern is Series 17 which requires electronic submittal of invoices and receipt of payments for certain employers and vendors.

Please undertake a feasibility study before passing such a rule. In concept, I fully support the economies that can result from the use of technology.

However, our experience in the administration of health care claims through our third-party administrator who has an electronic claims process has indicated that an immense amount of pre-work is required before such a system is workable.

An equally large or perhaps even larger amount of resources are used in training and in maintaining the system after it is operational. It is not cheap to start up or to maintain such a system, and a prudent step would be to study the feasibility and the cost before

mandating such a process to determine what the impact is going to be on vendors and on the Fund.

We have issues in this section regarding systems compatible, establishing an interface with proper security and access control features, the planning and execution of system parameters, authorizations and approvals.

In addition, we have to be able to withstand an audit both internally and outside of the Union Carbide Corporation in the payments that we make. We need to be able to have a clear trail through the system.

I would want to note that the evaluation and review processes are included and adequate in electronic tracking system, as well as that ability to trace incorrect errors.

In the Kanawha Valley at the present time, Union Carbide spends about $460,000 a month for Workers' Compensation payments.

This money comes directly from operating profits and it speaks to the issue of being able to produce goods and services of high quality at low costs in order to compete in the marketplace.

We are talking about jobs. Over a year's

time, this amount of money would equate to employing another 125 to 140 people.

Employer Service Corporation represents Union Carbide in the Workers' Compensation matters, and I urge you to be responsive to their recommendations.

The bottom line, we all want the same thing. We want healthy, productive workers at work in a safe environment.

We know that injuries and illnesses do happen in spite of extensive efforts and many, many dollars are spent for training and responsible care. When a work-related injury or illness does occur, the employer community wants to accomplish the same thing you do, and that is pay the proper benefit, secure the appropriate treatment in a timely manner and insure a speedy return to work. And I thank you for your time this morning.

CHAIRMAN JARRETT: Ms. Richardson, we thank you very much. Now if you'll sit there just a moment and see if anyone on the panel would like to ask you any questions.

MR. TUCKER: Yes, ma'am. You say you have a problem with errors that have been accumulating with the tentative payments, you said a one-cent check?

MS. RICHARDSON: Yes.

MR. TUCKER: Have you had any conversation with anyone at the Division pertaining to these types of situation?

MS. RICHARDSON: Yes. Employer Service Corporation does represent us and they do investigate these claims and work with the Commission in order to resolve them.

MR. TUCKER: Do you have any idea how many of these type of errors that your corporation deals with on a monthly basis?

MS. RICHARDSON: No, sir, I'm sorry, I don't have the information.

MR. TUCKER: Rule 17, the implementation process, you said electronic transfer, would you enlighten me. Did I understand it, you said implementation may be a problem that needed to be worked out prior to making it mandatory?

MS. RICHARDSON: Absolutely.

MR. TUCKER: What kind of problems are you referring to?

MS. RICHARDSON: The security issues. Within the Union Carbide computer systems we need to have the compatibility, we need to have the system's parameters so that those things can be established prior to it being

mandated that we have to do it this way. We would like to be in compliance.

CHAIRMAN JARRETT: Just one question or two here. Is it a law we must issue a one-cent check or do we have any discretion at all to set a limit that says nothing under a dollar? I know in my county we don't do that. If it's less than a dollar, we don't cut a check because it costs --

MR. KOZAK: We limited size of checks one time and got an extreme outburst of negative responses from the claimant community, in particular, on size of the checks, down to a penny. I don't recall anything from medical community on that. It's more possible generally to aggregate their checks. So that's usually not a problem with medical folks.

I'll just mention now, and we can discuss it more. It was never my thought that this rule would apply to transactions between the self-insured community and the Fund as far as, say, reimbursements for improperly paid benefits and that sort of thing, some of the checks that go back and forth that way. But that is something I think we can discuss in committee. We can look at the whole rule.

If you look at definition of "vendor," for instance, where it talks about services and that sort of thing, we can play with that and deal with this kind of a problem, but that was never really my intention to deal with the transaction --

CHAIRMAN JARRETT: This is something that's discretionary within the Division itself, that the Division can address unexempt.

MR. KOZAK: You-all as adopting this rule can implement the program anyway you-all want to.

MR. TUCKER: Let me ask John a question. On this Series 5, on the self-insured, the performance measuring for self-insured, do we need to make a note to that effect, that we need to address that? I think the issue has come up whether or not the Commissioner or the Council has the outline authority.

MR. KOZAK: I mentioned that to Mr. Thompson before the meeting started, and I do think that since this rule went out before the Series 9 Rule actually came in to completion that we probably need to go back and check that.

I didn't change that in the -- from the original rule as it presently exist, but I do think that we need a change. I know that there's some discussion of that

at the ad hoc Steering Committee the other day for the implementation of Series 9 about how the revocation process would go. And I agree that we need to make them consistent.

MR. TUCKER: It is my understanding at the present time a petitioner petitions for self-insured status and they petition to the Division. The Division makes the proper inquiries and then they make their recommendation to the Council.

MR. KOZAK: That's correct.

MR. TUCKER: And then after an entity becomes self-insured they are subject to scrutiny as far as examination to see if they're doing what they're supposed to be doing as a self-insurer.

There is a check and balance system to that effect. In other words, the Division, for lack of a better word, audit the performance of a self-insured.

MR. KOZAK: I don't believe that there has ever been an actual formal audit program in place to this date from the Division's prospective, say on quality review process.

I know that Ed Staats, the Chief Financial Officer, has talked about wanting to implement something

like that either through the Division itself or perhaps through the Bureau's Management Analysis Division.

I'm not sure, but that is something that he has mentioned that he would like to do in addition to the annual financial review that you're already familiar with.

The only quality review process, as such, has either been written or telephonic complaints to various Division management personnel or through the existing Series 5 Rule.

I don't think any of those have actually ever gone to hearing, at least not in my time here, since '89. We've always been able to deal with those through the first part of resolving whatever the issue is.

MR. TUCKER: If the issue would come up, it would have to be -- under the present mode of operation, would be in the form of a complaint, right?

MR. KOZAK: Yes, correct. It would have to be a written complaint and we have received those. But the present rule allows the Commissioner, and the way the redraft would have it, the Executive Director to investigate that, conduct informal discussions to see if they can be resolved and then make a decision whether or not it's got any merits going to a formal hearing.

MR. TUCKER: Correct me if I'm wrong. What I understand you to say, in the absence of complaints, the Division does not get complaints, then there is no performance audit on anyone?

MR. KOZAK: That is correct. Up to today, as we sit here, there has been no formal program for that. But as I mentioned, Mr. Staats is at least beginning to talk about the need for that. And that is something I support him in.

But again, that would be something that would have to involve, I think, the Council generally with your interest in performance measures and that sort of thing. I'm sure that Ed would come to you-all before beginning such a process.

MR. TUCKER: Thank you, Mr. Kozak.

CHAIRMAN JARRETT: Ms. Richardson, one further question. Now you mentioned $460,000 a month, Carbide. Do you have that broken down any which way, or is that your total claims cost or does that include your fee cost to the Fund?

MS. RICHARDSON: I don't have it broken down -- I have it broken down by location.

CHAIRMAN JARRETT: That's fine. Thank you very

much.

MR. THOMPSON: In your presentation you mentioned the Commissioner or his designee.

MS. RICHARDSON: Yes.

MR. THOMPSON: Did you have any negative reaction in your comments that I didn't hear because you put emphasis on it?

MS. RICHARDSON: Yes, I did put emphasis on it. We do not want the "or designee." We want the Commissioner to maintain that responsibility.

MR. THOMPSON: I thought that's what you said.

MS. RICHARDSON: Thank you. I'd like to clarify that.

CHAIRMAN JARRETT: Thank you again, Ms. Richardson. Next is Ms. Randi Dick with Piston.

MS. DICK: Good morning. I was hoping we would have some name badges in case I got so nervous I forgot my name. I'm starting off on the wrong foot already.

My name is Randi Preston-Dick, and I represent Piston Coal which has a number of self-insured operations in West Virginia.

It is my privilege to address the Council on current regulatory issues facing self-insured employers

in the state, and specifically those regulations proposed in Series 5.

As self-insured employers it is our contention that there is no value added for claimants or employers or for the Division by mandating a pay order administrative system.

Currently an order is issued by the Division each and every time that any payment is required. Directing self-insured employers to pay compensation benefits and expenses resulting in tens of thousands of unnecessary orders each year.

The current pay order system results in inappropriate delays in the issuance of pay orders and, therefore, payments, frequently incorrect pay orders, complex and expensive record keeping by both the employer and the Division and the requirement of a formal process to resolve even the simplest of administrative errors.

Neighboring states with which we compete offer the advantages of a self-administration system while ensuring proper benefit delivery.

A self-administered system requires only that an initial agreement be executed by both the employer and the employee resulting in the issuance of an award.

This one award obligates employers to make appropriate payment.

Any formal dispute arising under a self-administered system is resolved in precisely the same manner as exists in our current pay order system.

A self-administered system provides faster delivery of benefits, increased accuracy of payments, reduced employer administrative expenses and would eliminate a large portion of the Division's regulatory burden and provides a faster and more responsive method for resolving issues.

Some argue that a pay order system is necessary. We disagree. It is economically advantageous for employers to deliver prompt and accurate benefit payments which, in turn, reduce litigation costs, reduce administrative expense as well as maintain positive employee relations.

Additionally, both the pay order and a self-administered system provides the same formal dispute resolution and policing mechanisms.

Responsible employers will act responsible, making proper payments without the necessity of pay orders. Irresponsible employers are not made responsible simply by

the issuance of a pay order.

For all these reasons, we can find no value in requiring the pay order system. And in fact, believe this system provides a distinct disadvantage for employers, the Division and most importantly our injured employees.

Gentlemen, before you add additional rules to an already burdensome system, I would ask that you review the necessities and the economics of maintaining our current pay order system. Thank you.

CHAIRMAN JARRETT: Keeping in line with our procedure here, if you'll wait just a moment. Go down the line, do you have any questions, Mr. Epps?

MR. HARRIS: I'd just like to thank you for your comments.

MS. DICK: Thanks.

CHAIRMAN JARRETT: Thank you very much. Next is Henry Bowen.

MR. BOWEN: Gentlemen, it is a pleasure to be back to have an opportunity to appear in front of you. I'm Henry Bowen.

I'm here today in my role as Executive Secretary of the West Virginia Self-Insurers Association. It is an association, as some of you may recall, that was

formed in 1985.

It has one mission only, and that's to deal with the West Virginia Workers' Compensation Division and self-insurance issues on behalf of those employers who have been authorized by the West Virginia Workers' Compensation Division to self-insure their liabilities under the Act.

I have had the privilege of appearing before you on a number of occasions to talk about regulatory issues, and you also know that I am a practicing defense attorney in defense of claims that become adjudicated before the Workers' Compensation Office of Judges. Also in matters that occasionally come before the Division on disputes and complaints that are filed under Article 2 of the Act.

I presented to Mr. Kozak this morning comments. I did not bring extra copies for the Performance Council itself, but particularly since Mr. Kozak has already clarified some of the points of confusion that I have when I went through the draft, perhaps it would be better if I filed some additional comments in clarifying one of the concerns.

And if I understood you, Mr. Chairman, I thought written comments were due today on the Series 5

regulation, and you made a comment about March 15 with the Series 26.

CHAIRMAN JARRETT: Correction, but I understand they're open till March 15th.

MR. KOZAK: All four rules are open until March 15th.

MR. BOWEN: I didn't read the rule in that fashion, but if that's the case, I will file additional filing with the Secretary of State's Office.

With respect to some of the issues that I'd like to briefly review, and if there are any questions, then I expect to answer those. But you have other individuals who wish to speak from companies that are self-insured and they bring to you examples of some of the issues they've been having to contend with, particularly in the last nine or ten months as the Division has undergone the continued transition within itself of moving into new automotive system which have caused it to do business a little differently than we did in past years.

And we have had perhaps the largest number of complaints brought to me in my role as Executive Secretary since last spring over the Division's practice of issuing pay orders without explanation of benefits or

without documentation that allows the self-insurer who is charged with the administration of his or her companies' Workers' Compensation accounts to know or to audit what the pay order is for.

Many times those have led to opportunities and dialogue with senior Division officials which have resulted in very favorable common sense resolutions of the issues.

Some of those, however, and have led to points of contention and actual exchanges between Division staff and self-insured employers that concluded on with Division making threats of penalty or revocation of self-insured privilege.

So at the outset we felt it's appropriate, and certainly Mr. Kozak is absolutely correct, this rule before you is a current rule adopted in 1985, prior to the promulgation of the language that led to the reorganization of the Bureau of Employment Programs. So it's completely proper that this rule be updated because of the current rule, that's everything in the authority of the Workers' Compensation Commissioner.

The Legislature did create, and the redefinition of Mr. Kozak's former position, in the

redesignation of Executive Secretary to the Executive Director being the Chief Operating Officer of the Division.

Perhaps it would make sense that that office be either recipient of the self-insured complaint, and our written comments included in the recommendation that the amended rule be revised further to require that if a decision is going to be made in a recommendation for revocation of self-insured privilege be made, that that recommendation come through either the Commissioner directly or through the Executive Director.

Even though the statutory language that Mr. Kozak refers to in the draft of the rule permits the Commissioner to appoint designees for different tasks that have to be done, we believe that it would be a very dangerous precedent to allow a Division staff level position the authority to make a penalty decision subject to the right of contest and hearing under the Series 7 Rules that you adopted in 1996.

And as Mr. Kozak accurately pointed out, this Series 5 complaint hearing process would have been in conflict and it makes sense to tie it to a Series 7 approach.

The inadequacy of that approach, or what

I'll call the Article 2 hearing dispute issues, is that Mr. Kozak and his staff, in effect, prosecuted on behalf of the Division the issue before the hearing officer appointed by the Commissioner or the Division under Series 7. And, therefore, that hearing officer makes a recommendation back to the Commissioner, who then adopts the recommendation, if there is some convoluted issue in that process that certainly suggest a due-process opportunity or concern.

Therefore, I think it's extremely important, and I realize the legal technical nature of these comments, that the Series 5 Rules be written in a way so as not to allow any confusion on how these processes come into place.

You are hearing this morning from people representing Union Carbide, Ravenswood Aluminum, some of the most major significant employers within the state.

Really what we're talking about, the Series 5, is a procedure by which a challenge can be brought to the attention of the Division if someone, a claimant or other interested party, believes they've been aggrieved by a self-insurer not processing and paying a benefit or expense correctly.

The problem is under this Series 5 draft,

it's not clear who the other interested party is. The current rule that's in effect now only allows a claimant to file a complaint. And the issues that we're talking about, it seems to me, should be clearly specified as to who has standing to bring a complaint so that just some third-party who chooses to file a complaint against a self-insurer would not be allowed to do so.

With regard to the rule, I have recommended some additional language that I have provided to Mr. Kozak. I have in that recommendation asked that "proper pay order" be defined in this rule.

The point of contention about which there can be no debate is that the current rule allows a self-insurer not to pay or honor a pay order that is not proper. The problem is, is there is no clear definition other than in the limited context that on its face it's wrong in amount or is issued in substantive error. There is no other language that will allow subjective interpretation of what that means.

This is an important issue and, therefore, it seems to me that "proper pay order" ought to be defined in a way that encompasses the same thing you are required to do in your assessment of so many of the issues in a way

that will be subject to generally accepted audit principles.

These men and women who administer self-insured programs for their companies have to be able to have within their companies, as you gentlemen from the business side know full well, and I'm sure the labor side just as well, you have to be able to have some internal process substantive to audit and the passing of the audit.

And if you simply continue the current practice of allowing the Division to render a pay order without documentation that allows the person who is responsible to honor that to know it's proper, then it is certainly nothing but chaos which results from complaint filed against that employer for failure to honor it even if it turns out after the complaint is filed and the review of the matter is taken, that an investigation shows that the pay order was proper.

So what I'm trying to say in a very wordy way, the Division's current practices includes issuance of pay orders without adequate documentation that allow a third person charged with responsibility of processing and paying those properly as required by the law. They simply don't have enough information to do that often.

A lot of the current problems we're seeing and about which there are complaints are driven off of these computer practices that have been implemented since April of 1996, some of which I know will be corrected. But until they are corrected, the Division has followed a policy, which at its highest level, is at best confusing.

Now, I represent a major utility in this state that has been self-insured for years. It layers its employees in blankets of benefits so that an employee off on a Workers' Compensation injury would ever be without benefits under the company's benefits plans.

And if it has had confusion presented to it by a pay order it thought was erroneous and did not honor it, it has seen itself now threatened six times with receipt from the Division of the memorandum issued by the Self-Insurance Division saying, "You honor the pay order first and then we'll just get it all straightened out later on."

That simply is not a responsible way of doing business. While the Division may have felt justified in adopting such a policy last spring, the Commissioner did not.

On one meeting that I had directly with the

Commissioner on behalf of the Association, I took to him 100 pay orders that had been erroneously issued. And he picked up the phone, called the Executive Director, said he was sending them back and asked for an explanation of benefits to accompany the pay orders.

In other words, they were simply a pay order paid to John Doe, benefit amount, no explanation of benefits, and it was because of computer glitch simply. There was no correspondence issuance of the explanation benefit contemporaneously.

So while we have these important business issues we're trying to deal with, we have still seen the employer community in this opportunity to find itself threatened with imposition of penalty or revocation of people who are well intended, just trying to get a job done and who simply don't have all the information in front of them.

I would like to endorse what Ms. Dick said with regard to self-administration. In 1995, the format had self-administration in it. It was deleted by the Legislature. Whether or not you feel on the basis of General Counsel's advice you would have regulatory authority already to allow further self-administration

isn't really in front of you today. But perhaps the better course of action would simply be to pull the Series 5 Rule back, rewrite it in conformity, assess the appropriateness of these additional definitions and sections to clarify forever what's appropriate for a self-insurer to do when it receives a pay order that it does not believe is fair and accurate.

Now in many of the complaints I've heard in the past properly made by you with regard to lawyers and their interaction in this system. If there is one place where there has been lawyer abuse on the outside is complaints filed against companies if third-party lawyers somehow feel the company is doing something inappropriate.

And Mr. Kozak could readily affirm, I would imagine, overwhelming majority of complaints with regard to the processing of pay orders in the last six to nine months have been generated by lawyers who believe their clients are being aggrieved in some process, even though they may have actual information in front of them knowing that the pay order is inaccurate.

It is fiduciarily irresponsible to require by regulation compliance with a pay order that's wrong. And there must be a mechanism that will allow a large

corporate entity, such as Union Carbide or another company, access to some way to get the matter fixed.

What you usually hear when we testify is what's wrong with the Division or what's wrong with particular people who are stakeholders in this process. But what you don't hear very often is what self-insurers do correctly.

One thing they do correctly is that they usually intervene immediately when their employees are injured, and they take extraordinary steps sometimes in providing the type of health care benefits that you would expect and demand of them in protecting the injured employees.

So I would hope that you in assessing property of this rule which needs to be updated would consider expanding the definition of "pay order," expanding clearly within the Rule when a pay order does not have to be honored. And we have provided language to Mr. Kozak which I believe conforms with the obligations imposed on us in the statute.

And I've said this before when I was commenting on the Series 9 regulations last May, if this statute has a requirement in it that's clear on its face,

you may not promulgate a regulation separate from it that conflicts with it.

On some of these issues there is no reason for us to go down that road. I believe we can do this on Series 5, and then would eliminate many of the problems that we're having to deal with on a daily basis.

Lastly, my last legal comment is that you adopted on December 21, Series 9. It became effective on February 6th. Mr. Kozak, I believe pointed out this rule was developed on February 4th. And the revocation proceedings in the Series 5 amended proposal in front of you conflicts with what you adopted with regard to revocation of self-insured privilege in the Series 9 Rule.

I know that the Series 9 rule making work was almost torturous for you to go through that long, length process. Hopefully, everyone concluded at the end of that process that you adopted a stronger, better set of rules in the Series 9 than you had when the process started.

My reaction to the Series 5 draft initially, quite frankly, was quite negative. It appeared to me that the staff having not prevailed on the Series 9 side of things wanted to take another shot at it and get

the revocation authority back.

The first act you-all did as a body in 1994 was to assume the responsibility of passing on the property of applications before the Division to become self-insured.

The very first official action this body took was to give itself the authority to pass on those applications. Surely it is not unreasonable for the employer community that supports this process, supports this body to have revocation, so important a decision to be made by this body, to be sure on recommendation by the staff, but to have the final decision vested in you and not subject to just some informative disclosure from the Commissioner has as in the form of draft.

Thank you. I would be happy to answer any questions you may have.

CHAIRMAN JARRETT: Thank you, Mr. Bowen. Any questions?

MR. SULLIVAN: Mr. Bowen, I certainly was impressed with your presentation of all the legal aspects and what might happen or what might not happen.

I know the biggest concern that you have, from what I gather, and I've not been able to absorb all your comments properly, but I understand that your biggest

concern is that these pay orders are improperly written and that you think there ought to be some way to correct those before the employer is required to pay the benefits.

If that is a proper assumption, my question is, how much of a delay would it be to correct the improper pay orders that have been issued by the Commissioner? Do you have any idea how long it would take to set up a mechanism to correct these inequities as far as the employer is concerned?

MR. BOWEN: If I could, I'd like to answer your question this way. There are others here who deal daily with the receipt and process of pay orders, and I do not on a daily basis, and so I would not want to make an answer that was erroneous with regard to time issue.

As I understand many of the complaints that are made by self-insurers, often the pay orders are issued without the decision that justifies the pay order being entered being made available to the party required to honor the pay order, whether it be through a designated third-party claims administrator. To me that's a process issue.

Mr. Kozak is involved in these issues within the Division. I don't mean to speak as if I have knowledge of their daily operations, but before the

conversion last April, we didn't see near the number of complaints that we have received since the new system took over. Some of that was due to data processing entry problems.

If the Division could fix some of those problems that they're experiencing with not being able to implement a practice that continues to generate the proper documentation, then many of the complaints would likely dissipate.

An example, perhaps not a good example, but one that readily comes to mind, for years and years, the Division would order payment of indemnity benefits, and a company with the order awarding benefits, the medical report upon which that decision was based, usually all of that proceeds the receipt of pay orders.

What we've experienced since last spring in many instances, the pay orders are sent and the other documentation has not been, so that the receiver doesn't have in front of it the information that allows it to know that this is not erroneous.

Because of the high volumes in those complaints, I believe that the Division did probably what it thought it had to do practically, which is simply to

issue a policy statement saying, "Honor this, and we'll sort it out later."

The problem is sorting it out later even if it leads to refund is you're still expending monies following policies that allow the stakeholder supplying the money to suggest there's got to be a better way dealing with this system.

One of the ways would be, of course, eliminating the pay order system. Another way would be to require the Division to address the deficiencies that it's currently experiencing so as to avoid these continued practices.

For example, one of the members of our association took to the Division on two occasions its business addresses -- they don't use the third-party claims administrator to receive and process the pay orders. And the Division, I don't know what the data processing error was, the Division continues to issue pay orders to wrong addresses.

There were a large numbers of these mistakes when the new system was implemented where the pay point that was on record is not input correctly, and the Division consequently was sending pay orders to company

locations that did not have responsibilities for processing West Virginia claims. And it was so absurd, if you will, that -- I mean, it would be like sending one of your sister union -- or brother union, excuse me, notice for something going on in West Virginia, but sending a notice to Pennsylvania and expecting them to respond because it may be the same union. I mean, it's that simplistic a problem that needed to be addressed.

While the Division is trying to address it -- and let me emphasize, at senior level, the Executive Director, his assistance, the Commissioner have been extremely supportive of trying to get the situation fixed. And they always have been supportive to the complaining employers.

The uncomfortableness with this new rule now is that once you update this and once we have this new procedure in place, if nothing else gets fixed, gentlemen, I suggest we're going to see a lot more argumentative activity within the Division where complaints will be made and they'll be processed and it will be a horribly wasteful resource.

It is not a win/win for the Division or the employers to be in Article 2 hearings on whether or not

employer properly refused to honor a pay order. So I hope I answered your question. I realize that it was a long paraphrase.

MR. SULLIVAN: I appreciate, Mr. Bowen, your answer. My concern is if we get into a process of denying a pay order then the employee suffers while this negotiation is going on.

An employee who is injured needs his benefits. I would be concerned about the time element of something being implemented that would cause the employee not to be properly paid for the injuries that he received while employed by the employer.

MR. BOWEN: I understand.

MR. EPPS: Mr. Bowen, as usual you have been very complete and very thorough. Two comments I'd like to make regarding your statement.

First, I think we got the message loud and clear about pay orders. I think we got the message pretty loud and clear about designees required to assess financial penalty, but you did make one comment back there somewhere about the third-party filing a complaint.

I'm assuming that you're going to provide some written language? I read through this and it looks

pretty clear to me, so I assume you're going to provide some written language to Mr. Kozak regarding that particular issue.

MR. BOWEN: Yes, sir, I intend to expand on my comments. I assume that what he intended -- since he's here he can correct me -- was that if there's a vendor complaint -- that's the others he was talking about. If my assumption was erroneous then I think we need to clarify that by asking them to state precisely what they had in mind with regard to the expansion of the scope of the rule.

MR. EPPS: As I said, it would be helpful. To make a comment on a couple of your comments toward the end of your presentation, Henry, and I say this -- this isn't so much for your benefit as it may be for some other people that are in the room. Everybody needs to understand the process that we're going through here with these rules.

The Performance Council decided along the way of our process that what we would do would have the Division write the proposed rules and without any particular action by any Council or either Committee Council, we would put the rules out for comment in their raw form. We found we were doing double work.

Previously the Division would put out the

rule, we would agonize through it, we'd get input, we'd play around with it and we'd put it out for public comment. We'd get more comments, we'd have to play the game all over again. So we decided that was not very efficient.

So what you see in terms of rules are always rules that have not been reviewed by either committee of the Council.

What we will do with these rules, Rules 5 and 17, once we get all the written comments and oral comments, will by taken up by my committee, the Finance Committee, and the other two rules will be taken up by Mr. Tucker's committee, and we will certainly incorporate all of the comments that have been suggested.

I wanted to ensure everybody that in many cases we will do an iteration in terms of the comments if it appears that comments we receive are in odds with the particular position the Division may take. We will, and we have ironed those out in our committee meetings.

And as a matter of fact, in particular Rule 9, there was some significant rewrite of Rule 9 as a result of the Council and the committees that was not necessarily language that the Division was initially in favor of. So I just want to make sure everybody understands the process

that we go through with these rules. That's all I have.

MR. TUCKER: Mr. Bowen, you made a reference to the penalty section and the hearing section. In representing your clients, could you give me a ball park figure or the frequency of where we actually get down to the hearing process and the appeal process, as far as a complaint against the self-insured association that you represent? Is this a magnitude of cases, incidents?

MR. BOWEN: No, sir. There's not a magnitude of complaints that are not resolved. As Mr. Kozak noted most of the complaints that I've been involved with have been resolved by the Division through its investigation and resolution of them.

I had one matter that proceeded to status conference before the Office of the Legal Division in which time settlement of the matter was agreed to and accepted by the General Counsel's Office as disposition of the complaint that led to formal withdraw of the complaint. I don't believe I've ever been through an Article 2 hearing under Series 7 on a self-insured complaint.

I would not anticipate a large number of those hearings following unless the Division is unable to make the corrections that it needs to make, Mr. Tucker, to

getting the documentation and the pay orders kind of issued contemporaneously.

MR. TUCKER: Can I assume by that statement, if a complaint is filed by someone out in the community pertaining to failure to pay by a self-insurer, that very few of those go to a hearing? Is that what you're telling me?

MR. BOWEN: Yes, sir. I think that's been the experience today. I'm unaware if any association members have gone to hearing. They haven't shared that information with me. I have not represented anyone through the complete hearing process with regard to such a complaint.

I have had, however, in the last month two clients of our firm who came to me after having had communications with Division level employees in the self-insured section of Employer Account Division who threatened them with monetary fine for each day that the employee contended they were not in compliance and who threatened revocation.

So upon my intervention, I simply reminded the employee that revocation was vested, in my opinion, with you-all, and that while that could be a process appropriately decided upon legally, I thought it was wrong

in continuation of cultural bias on the Division's part to react to a complaint instructing an employer, regardless of the validity of the complaint, to pay the pay order and worry about it later.

When I refer to cultural bias on pay orders, gentlemen, what I'm talking about is the Division's policies have been to instruct the employer to pay it. If it's wrong, we'll reimburse it later. The problem with that is that -- I mean, the same people who are paying it are the ones that are paying into the Fund. It is not acceptable as a fiduciary responsibility. It's not acceptable for the Division to adopt a policy which says we won't have to be accountable, but only the employer community is to be accountable.

MR. TUCKER: Well, I questioned that. But my inquiry further is this, if they haven't had the hearing process, you know, we don't have a magnitude of hearings, evidently then we're getting -- if your constituency has a complaint with the Division -- I think we've all been around long enough to know we've got a lot of people at times that exceed their authority and their taking positions and if it gets caught in the basket, you've got to keep it. But the Division probably has people just like

any other corporation, or whatever, that have people making irresponsible statements at times.

If someone from Union Carbide makes that statement, it don't necessarily make that Union Carbide's sole position for the things that they do. And we've got to deal with those on a case-by-case basis.

Prior to 1985, before this rule was adopted -- now it's my experience that we never have a rule, we never have a law unless there are violations, and there's a problem somewhere, you know, with the subject matter in which you're dealing with. If we didn't have a problem with self-insurers why did they come up with Rule 5?

MR. BOWEN: Well, Mr. Tucker, I disagree with your premise. Rules are promulgated to implement statutory mandates. The Division was mandated by the Legislature what it's required to do.

The Legislature authorized the self-insurers to be authorized under Article 2, but the Division is promulgated with the responsibility and administration of the Act to promulgate rules and regulations to implement the Act. You don't promulgate rules and regulations under the assumption that you need them because people are not legally complying, you do it to implement the statutory

scheme.

So if your premise is we wouldn't need rules if people didn't violate them, I don't ever intend to come before you and argue that some self-insurer in this state has not made a mistake or may not have done something that legally would not have permitted an allegation that they've done something illegally.

My only contention is, we're talking about processes here, and when we say to you, let's make revocation at the highest level, not the mid-level, we're simply saying a process that allows it to be objectively accessible in a way that it rises above the issue of whether there's conflict of interest or subjectivity in that regard.

MR. TUCKER: Everybody's entitled to their own point of view. What I'm getting at is this, you know, to me self-insured is a privilege.

MR. BOWEN: Yes, sir.

MR. TUCKER: It is a privilege that is bestowed upon the people. It's a privilege. And to earn that privilege there's certain things that you have to do, and the bottom line -- and I don't think the self-insured should be placed in a position by the Division or anybody

else that's unfavorable to that entity that's doing business. But also, the people that, you know, Workers' Comp was created for, for complaints, and the workers of this state also should have a right, you know, if there is a protest or disagreement over compensability, that they shouldn't have to sit back and suffer until we decide whether you're right, the Division's right.

We've got two people fighting and the claimant's bleeding to death. You know, that's what we have to guard against. I think that you have a right to expect that your constituency be dealt with in a fair and equitable manner. Just don't lose sight of who we're talking about here. We're talking about the claimants.

MR. BOWEN: Of course, sir. And there's no provision in this act or in any of the regulations, and certainly not Series 5, that stays the award of benefits if there's a dispute. And we long ago past that bridge in West Virginia where an employer's disputed benefits weren't paid. That's the old system. People were hurt by that system. That system's been gone.

What we're talking about is if someone feels that a self-insured didn't comply within the ten-day requirement upon receipt honoring a pay order, they can

file a formal complaint. I have no problem with a system that allows the complaint to be filed. All I'm asking is for the Council to keep in mind that some of these complaints are tied directly to changes in the process within the Division. And that if it's done correctly, you have every right to expect and demand from self-insurers compliance with the statute.

If there is a member in our association or any other authorized self-insurer that's not doing that, then there are in this Series 9 rules already adopted clear remedies that the Council can take to revoke that privilege. And all this rule does is provide the mechanism for the complaint process to lead to that result.

So really, the comments that we had with regard to Series 5 are not to scuttle the complaint process but to improve it so that it won't be subject to continued confusion that's currently before it.

MR. TUCKER: Thank you.

MR. BOWEN: Yes, sir.

MR. THOMPSON: In Series 5-2, there's a definition listed for a complaint procedure. If I heard you right, you're saying that Series 5 should be done away with because the complaint procedure isn't right. And the

complaint procedure only applies when you fail to offer or comply with a proper pay order. Are you saying that in the definition here that you want more items listed to comply as a definition?

MR. BOWEN: Yes, sir. The two things that we asked Council to consider in assessing the draft in front of you would be, under 85-5-2, is to include a definition of the term "pay order" and then in the complaint procedure 85-5-2, we provided to Mr. Kozak additional language which clarifies when a pay order would not have to be honored. That's what 85-5-2 does in its present form. And we simply have added some additional language to that and a new sub-part under the subsection dealing with that. That language is in front of Mr. Kozak. Again, it's not to eliminate any complaint process at all. It's simply to --

MR. THOMPSON: So you're wanting additions to be made under the definitions?

MR. BOWEN: Yes, sir, I do. I thought "proper pay order" should be defined. And then under the other subsection --

MR. THOMPSON: But you say you have given that to John?

MR. BOWEN: Yes, sir.

MR. THOMPSON: That's all.

MR. HARRIS: I haven't seen your comments, your written comments, but do they deal with time frame benefit rate and the definition of proper pay order?

MR. BOWEN: The proper pay order, and I suspect the other written comments that will be filed also will stab at it, the idea that I suggested in my definition that a pay order be accompanied with proper documentation that would pass scrutiny under generally accepted audit principles. Which simply means to ensure a practice that if the documentation that justifies the order to pay is filed.

It's that simplistic an issue that would allow a company itself when it's being audited for its payments internally to be able to have documentation to square the pay order with a claim and entitlement to the benefit.

MR. HARRIS: Thank you.

MR. THOMPSON: We're talking about the interpretation of definitions; is that right?

MR. BOWEN: I think it's a little broader than that. We're talking about expanding and clarifying in writing --

MR. THOMPSON: I withdraw my question if you give it to him in writing. Apparently you have done that. So we'll just have to wait to see.

MR. BOWEN: Okay.

CHAIRMAN JARRETT: Mr. Bowen, before you leave there, and not to prolong this thing and to give your voice a rest, I do have a couple things here just for clarification.

You indicated that your Association membership were experiencing problems in dealing with the Division in that they were receiving threats of penalty or the revocation of the self-insurance status. Are you indicating this is a wide-spread problem or this is one or two occurrences had within your membership? I'm not sure of the weight that you put on that.

MR. BOWEN: Well, I don't want to do disservice to anyone at the Division or do disservice by you by using language that's going to be misunderstood. I do not know that it is a prevalent practice that is so wide spread that I would allow you a conclusion that people within the Division are doing something wrong.

When I talk about cultural bias, I'm saying that the Division has a responsibility, gentlemen, to be

able to communicate a complaint to an employer without advocating a conclusion that the employer must have done something wrong and its failure to honor the pay order will lead to penalty of $5,000 per day or revocation of self-insure privilege.

That's happened all too often, and I don't mean to characterize it in a way that suggest that someone within Employer Accounts is doing something inappropriately. I'm just saying that's the information that the Association members say is happening to them, along with receipt of the one-page memorandum that was drafted last May, I believe, by Mr. Clark basically which just is a one-page memorandum saying we should pay the pay order. Mr. Kozak's familiar with the memorandum so he can explain in more detail.

CHAIRMAN JARRETT: I'm sure there's conversations that are going to occur between you and Mr. Kozak that maybe this Council's not familiar with.

Let me just clarify my position. I work for a utility. I deal with regulated industries, entities, i.e. Workers' Comp is one of ours as well as the Public Service District, the Public Service Commission, Department of Environmental Protection, Health Department, EPA, and on

and on and on. And I find that occasionally we deal with these bodies and we are told that well, you accept it or if you really want to push it, you go right ahead, but they'll be another day down the road type of approach.

What I was trying to get at is this. I know the Division is going through a transition, and you've been very complimentary of the Executive Director and right on down to the Commissioner and so forth as far as being courteous to your employers and making the extra effort, I guess, to satisfy anything that gets to that level. I guess, what I really was trying to get at, is there a magnitude of that type of problem or those types of occurrence within your association?

As I understand it, self-insured employers throughout the state of West Virginia totalled less than 100. Is that correct?

MR. KOZAK: That's not correct.

CHAIRMAN JARRETT: 180.

MR. KOZAK: 186.

CHAIRMAN JARRETT: 200 is not a number that's difficult to deal with, i.e. if you had 200 people in this room we could have every one of them in here and sit down and talk and set up something that was addressed, quote,

unquote, customer service, if you will, being more courteous and being more open and so on.

Would it be possible with your Association, you poll your Association members and you give us some information relevant to like a survey relative to those types of things? That's not the intent, I know, of the Commissioner, and not the intent of any of the higher-ups and so forth, but if there's problems out there, many times they don't get up here until they get so severe. And then by that time it's too late to address what happened six months ago. But if it's a concern with your Association, I would suggest to you, maybe you do a little survey and just get that information to us.

MR. BOWEN: I'd be happy to do that, sir.

MR. KOZAK: Mr. Chairman, if I may.

CHAIRMAN JARRETT: Sure, John.

MR. KOZAK: Just to follow up on that point. I do think that Division staff at times is too quick to drop the atomic bombs when they start talking about revocation and stuff. I do believe, however, that Commissioner Richardson until the Commissioner says otherwise, Commissioner Richardson has been very clear that only he had the authority to fine or revocate subscription of self-

insured status. I never had it in either role. Mr. Burdette doesn't have it at this time.

Beyond that, I would like to remind the Council on a couple points that were made here. As you-all know, when WCIS was put together, there was a lot of data conversion problems. And one of the big problems was the difference between mailing address, location address for employers and other places that they would go to. I know that was a struggle when they went from the Legacy System to the WCIS system, which Mr. Burdette and others were very well aware of. I know they struggled greatly with that.

In addition, I'm not sure if Mr. Bowen's comments deal with this or not, but one of the things that at least I would like to explore and invite the Association to maybe in its next set of written comments on this to explore is, there may be a difference that we want to draw in the definition of a pay order between indemnity benefits and other kinds of benefits.

I think the point that Mr. Sullivan was raising about the needed times -- wage replacement benefits out promptly has colored the entire pay order system to where you have to pay first and contest second.

There may be a distinction that the Council

may wish to draw on further reflection between how it wants indemnity wage replacement benefits pay orders to be dealt with and how it wants other pay orders to be dealt with.

You don't need to respond to that now, but think about that Mr. Bowen, and the rest of the folks here. And you-all can consider that.

As a follow up to that, it would be real interesting to get away from the antidotal types of one-cent checks in that thing and have some analysis that maybe the Self-Insured Association can do on the categories and problems.

Perhaps one of the things that I've been derelict in doing in my own shop is to follow up on information on that. I know I set up a process some time ago with PSC and Acordia and others by which they could call Ms. Egnatoff and Mr. Mancini in my office within the 10-day period of pay orders as to a specific problem that needed dealt with. Perhaps when Carol gets back she can check with Tom to see if there's anyway we can categorize those comments as well and get that information to you.

CHAIRMAN JARRETT: And again, I'm not going to prolong this, Mr. Bowen, but again something that you mentioned, I let it go, but I want to go back to it now.

You mentioned you represent a utility or a utility membership whereby they go ahead and pay the employee benefits and do not wait on a pay order from Workers' Comp or something to maintain. Okay, I'm familiar with that system. My individual company does that. You know, it can go 10 weeks, 12 weeks, or whatever. We do not make an employee wait on wages.

In your membership, could you survey them to see how many actually adhere to that process?

MR. BOWEN: I'd be happy to, sir.

CHAIRMAN JARRETT: Because that's an important point, because if you break it down the way you just suggested, and you've got 150 to 180 that have that type of a benefit package, then you're only talking 30 employers, not the whole 180. And I suspect there's a large number out there that really do go ahead and let the benefits continue and then the employees, when they get these benefits from Workers' Comp, some mechanism maybe even back or whatever you do; is that correct?

MR. BOWEN: Yes, sir.

CHAIRMAN JARRETT: I'll be interested in knowing, of that 180 -- I know you don't represent all 180, but of those that you do represent.

MR. BOWEN: I'd be happy to do that and perhaps PSC, Acordia and others that represent so many will assist their companies in benefit payment could elaborate on that as well.

CHAIRMAN JARRETT: Could you coordinate that --

MR. BOWEN: Sure.

CHAIRMAN JARRETT: -- or try to get that? Because that would be most helpful to this group here, particularly in that particular issue when John brings it up, maybe we break out the pay order issues between employee benefits and all other.

MR. BOWEN: I'd be happy to.

CHAIRMAN JARRETT: Mr. Bowen, thank you very much.

MR. BOWEN: Thank you, gentleman.

CHAIRMAN JARRETT: I'm taking the prerogative of the Chair, I want to go out of order here just a minute because we have four more people that want to speak. I understand three of them are from the same group. So what I'd like to do is skip down and go to Mr. Toothman of Ravenswood.

MR. TOOTHMAN: My name is Al Toothman. I'm the Manager of Administrative Services for Ravenswood Aluminum

Corporation. One of my responsibilities in that job is to administer the Workers' Comp program at Ravenswood.

With 2,200 employees, Ravenswood is one of the largest industrial employers in the state. We are also self-insured. We also use Employer Service as our third-party administrator.

We've got a lot of exciting things happening in Ravenswood, one of which you don't see a lot published on, is that fact that we've got 886 people working there today that didn't work there four years ago. So you look at the Toyotas and the different companies coming in to West Virginia, we've had 630 retirees that we've replaced. We've grown our business about 250 people. So we've got 886 good paying jobs that we've brought to the state and are glad of it.

We also work very hard in giving some priority and setting high expectations for ourself in the area of safety, and I think we're making safety a priority and it's working for us.

Just to give you a feel for it, in 1996, our new Work Comp claims were half of what they were in 1994, and approximately a third of what they were in 1993. So that's very, very positive for us. The bad news is the

cost don't really reflect the same downward trend.

I'd like to speak specifically to some Series 5 statistics, and that's what I want to talk about is the Series 5. Ravenswood received last year 1554 total indemnity pay orders in 1996. We found 115 of those to be in error. That's 7.4 percent or approximately ten a month.

Now I'm not in this kind of business, so I don't know if 7.4 percent is a good business or not, but I can tell you, in the aluminum business we wouldn't keep very many customers if we had a 7.4 percent reject rate. I don't know what's good or what's not good.

But what I'd like to do is just share with you a few of these. Now, I'm going to give you nine pieces of paper, Mr. Chairman, but there's only four issues. And I didn't go back and research those 115 issues. I just grabbed a few from the last two months.

CHAIRMAN JARRETT: Al, do you have this broken down between employer pay orders and other employee pay orders and other -- do you have any idea how many of these are relative to the 115 --

MR. TOOTHMAN: I don't have that but I can get that probably for you.

CHAIRMAN JARRETT: I don't mean to interrupt you

there.

MR. TOOTHMAN: Let me just try to stay with this. The first one, this is the one-cent pay order. I didn't know this was going to be a subject today, but it is. This is an employee who got a 2 percent award for $3,179.75. There's a note on the right-hand side there. And yet he received a one-cent pay order on 12-4-96.

Now, I don't know what a one-cent pay order cost to generate. I've asked that question several times, and I can you tell you've I've got as high as $50 down to really, not much, or I don't know what that is.

But the second piece of paper you get -- we didn't pay the first one. So we got it again. On 1-16-97, we got the exact same one-cent pay order a second time. So that's just -- the first two was the one-cent pay order issue.

The next issue, the third page, on 12-4-96, we received a $1,403.90 pay order, and that employee's claim was rejected on 11-12-96. Yet we received a pay order to pay this for that amount of money.

MR. EPPS: Is that an employee?

CHAIRMAN JARRETT: That is an employee.

MR. TOOTHMAN: Yes. Now, the next five pages are

all the same issue. Here's an employee who returned to work on December 5th of '96. We notify the Commission that he returned to work on December 16th, '96, and I can see maybe with the seven days, the 12-23 pay order is only seven days later. So that possibly could happen.

But yet you see the next four pages, we kept getting pay orders to continue to pay him 14 days each clear through February 3rd of 1997. Those five pay orders total in excess of $4,200 that we owe this employee. Yet he returned to work with us on December 5th.

And the last one there is a pay order, December 3rd, '96, for $3,142.80, and we have no record of this employee ever getting an award. Still as of February 24th, '97, we still haven't received a record that they got an award.

Now this just kind of highlights a few of them. I didn't go look and try to research the 115, but these are just some of the issues that concern us, in that we pay pay orders to employees who return to work. We pay pay orders to issues that we don't have a record of.

Here again, you know, we often initiate benefits without pay orders. I'm going to give you an estimate. I would say 10 percent of our employees receive

benefits before we ever get a pay order from the Fund, Division.

Let me just give you a couple examples, just last month. I just looked at a couple, but we started -- an employee was injured and we started his pay on 1-3-97, and we received the first pay order on 1-31-97. So we basically advanced him a month.

The second employee, we started his pay order on 1-10-97, received the first pay order on 2-7-97. So those are just two examples where we do that as a routine practice because we don't want to have our injured employees suffer a double jeopardy by one, getting in a problem with financial problems of not being able to pay his bills. So that's just the right thing to do, and we'll continue that practice.

That's the philosophy I have working with Employer Service. They give me courtesy calls but I've directed them that they do the right thing, that if they can't get a hold of me, I'll never criticize if they make a decision to pay someone if they're hurting for benefits.

We also have in our contract, and I'm not familiar with all the contracts around the state, but we have what is called an S & A Benefit, Sickness and Accident

Benefit provision, that anybody that's not able to work, as long as they're covered by a licensed physician authorizing their disability, they get approximately $300 -- it's based on different job classes -- approximately $300 a week S & A Benefit. We'll pay that as long as they have a licensed physician, and they sign a document that when and if they get Workers' Comp they pay us that back.

So we don't want employees going without benefits, and we do that as a routine practice. So I hope that other self-insureds do the same thing. I think that they do.

So we try in good faith, day in and day out to make proper pay orders to our injured employees. But it is difficult to accept incorrect pay orders. And where we're all subject to audit in our business, we need supporting documentation to pay people. We're required to do that. And it's just sound accounting principles that our auditors, when they come in, require that of us.

So we're concerned about Series 5 in a couple aspects. One is increased litigation cost. If we were to have 115 complaints on those 115 pay orders that we were felt in error and didn't pay, we think that's going to increase our litigation cost to go back and try to secure

that.

Second is, possible fines. We haven't been threatened to my knowledge, but that's there in the Rule. Or the possible revocation of our self-insure status. And like Mr. Tucker says, we believe that that is something that we value. So, you know, that's a concern for us.

So we can't afford to increase our Workers' Comp cost at Ravenswood. Our costs are extremely high. But we see the problems best resolved by a more less than formal resolution process. So with that, I conclude my comments and I'll certainly answer any questions you might have.

MR. SULLIVAN: I don't have any questions. I am just relating what your safety program, how much it's improved over the years. My point has been all along, we can employee people without injuries then we'd put us all out of business here. That's our aim. And I think you're working toward that goal, and I compliment you and your safety program.

MR. TOOTHMAN: Thank you.

MR. EPPS: I second that. I think not only the safety program but the employees. And I agree with you, I think we sometimes over emphasize all of our new friends

that come to town but we don't always give credit to our old friends that are doing good business. It has nothing to do with this hearing, but I think important.

We've heard this morning a lot of discussions on the pay order, and that's obviously a real issue, particularly with self-insured and I can assure you-all that we're going to be looking into that whole issue as part of our responsibilities as a Performance Council. But you don't have to answer this if you don't want to, but the question that I find curious, that I really have to ask is -- I'll ask both questions and you can ignore both if you want.

First question is, when you get this kind of thing, I would imagine that you try to complain to someone, and (a) if you do, what kind of response do you get?

MR. TOOTHMAN: We go through Employer Service first. That's our first contact that I would make, and they do make contacts within the system. So that is the first step that I take. And that's practice.

MR. EPPS: Thank you very much.

MR. TOOTHMAN: Yes, sir.

MR. TUCKER: Mr. Toothman, do you get your

problems resolved with these?

MR. TOOTHMAN: I'm sorry?

MR. TUCKER: Did you get your problem resolved with these?

MR. TOOTHMAN: I certainly hope so.

MR. TUCKER: This is the first time I've ever seen a pay order. They have a contact person on the bottom of every one of them. I guess the Employer Service made a contact with these individuals for you?

MR. TOOTHMAN: Yes, sir.

MR. TUCKER: That's all I have.

MR. THOMPSON: When an employee's off and you pay that employee under the S & A benefits, and he's off blank amount of time. Upon return to work, how do you recoup that payment?

MR. TOOTHMAN: Well, if he is subsequently paid Workers' Comp benefits, the Workers' Comp benefits is higher than the S & A benefit. So when we start paying him S & A, we know when he's out there if he's alleging an injury or he's sick, okay.

He's alleging an injury, and we haven't been able to resolve that issue yet, we'll start him S & A benefits immediately. Okay. But he signs a waiver that

when and if he gets a Workers' Comp benefits, he'll pay us back the difference in what he gets from Workers' Comp versus what he's paid in S & A. If he doesn't get Workers' Comp benefits, then he was entitled to the S & A benefit that he did receive.

MR. THOMPSON: So what if his time off after Comp he exceeds the S & A benefits, what happens to him then?

MR. TOOTHMAN: Well, I haven't experienced that. But I can tell you that anybody with more than ten years service at Ravenswood gets S & A benefits for 104 weeks. I would hope in two-years time we could resolve that issue.

MR. THOMPSON: Just for discussion, what if you didn't resolve it?

MR. TOOTHMAN: I really don't -- I've never had to handle that situation.

CHAIRMAN JARRETT: Mr. Toothman, thank you very much. Again, I'll echo some of the comments up here. That's a tremendous growth record for Ravenswood, and it doesn't get enough good press. I agree with that.

MR. TOOTHMAN: Thank you.

CHAIRMAN JARRETT: I have three representatives from Employer Services Corporation that want to speak. The first one I've got on my list, I think, and it's the only

three speakers I have left. Mr. Keener, I believe you're up first.

MR. KEENER: Good morning, gentlemen. I assume it is still morning. My name is Michael Keener. I'm vice-president of Operations for Employer Service Corporation.

My scope of responsibility is West Virginia, Virginia, Pennsylvania and Kentucky. And what I'd like to talk to you about today is really Rule 17, which is the EDI rule, as I call it.

What I'd like to bring to you is a little bit of practical experience and observations from a variety of states in which we work relative to EDI.

One state in which I work promulgated a rule, and then the Division of Workers' Claims had to scramble and respond thereafter. I think what you have before you postures you to do something dramatically different in that you can listen to my comments and observations and perhaps not set a date immediately, but to cause at least a feasibility study to be done first and then a comprehensive implementation plan to be presented before you, before you set a date.

Now there are some benefits to that. The one benefit I think is beneficial to all parties, and I

believe strongly in this, is that the feasibility study allows you to surface as many issues as possible before you install a program that has ramifications on a variety of constituencies.

It also, through the design and development of a comprehensive implementation plan will allow you to value or cost it before, in fact, you install it. I realize and recognize that there is a physical note attached to that, but based upon my experience, I'm not sure that that cost actually encompasses the true cost to the installation of EDI.

I want to talk to you about the four basic issues, and I'll hit them rather quickly so if there are questions, I'll certainly stand ready to answer the questions.

EDI is wonderful in that it will provide you the opportunity to reduce cost, but one of the things I have learned is that when all of those about you are pressing you for increased productivity, doing the wrong thing more quickly does not, in fact, increase or improve your service.

So one of the things I want to caution you about is that the receipt of medical bills more quickly

positions you to make errors more quickly. Specifically, I know that the normal sequence of Workers' Compensation claims is that you generally will receive a medical bill before in any instances you receive what is called the WC-123, Notification of Claim.

If, in fact, you choose to set up a claim on your system and pay the medical bill prior to the receipt of an adequate amount of information to make a correct judgment or at least a reasonable judgment, several consequences can occur. The first of which is you pay the bill erroneously. That is, that you may have back paid for medical that's unrelated to the compensable claim.

You may not, in fact, know that these claim was compensable in the first place and you paid for a condition that may not be related to a claim. And the consequences thereafter have a cost too. Believe me, I've observed this. You've got recovery time on behalf of the employer attempting to recover an expense that was paid erroneously.

In the event that you've got a situation that requires that you may have an additional expense, you also have the loss of time and use of money. And then, of course, you have to generate, in fact, the employer is a

subscriber to the Fund or if, in fact, you're a self-insurer to the Fund, as you made the payment erroneously, you have to give a refund or a credit.

Now, let me remind you that with the implementation of Rule 9, a credit, that is payments made in error can accumulate over time. It will have a multiplier effect on a rate. And I see some heads shaking, so you know the necessity of getting errors corrected as expeditiously as possible.

So in summary what I'm saying to you is that one of my observations has been is that -- one positive effect is that you have an opportunity to respond more quickly to the medical provider community, but you also have an opportunity to make errors more quickly.

So what I'm asking you to do is to do a feasibility study and do an implementation plan to make sure that you've addressed as many issues as possible up front rather than having to go in and do recovery after the fact. Two, access --

MR. KOZAK: Before you go on, I know you're talking from about five different states, but I'd be real curious about any examples where our system is telling folks to pay on a medical bill before the compensability is

ruled has gone out.

Now I'm not disputing that that may happen, but I do know that all of our systems are designed against that. If there's instances of that happening, then I know that we'd like to stop it.

MR. KEENER: We can do that for you.

MR. KOZAK: That would be appreciated.

MR. KEENER: We can do that for you. Two, is access to care. I was looking at your threshold and your threshold appears to me to be a bit low. And the reason I bring that to your attention, as you well know we're a rural state and in many areas of the state there's a limited number of willing providers who are willing to treat Workers' Compensation claims for a variety of reasons.

If some of those providers are mandated to forward their billings electronically, what you're actually saying is that you're incurring costs on their behalf. If they see the cost as being erroneous and prohibitive and/or prospectively the support unnecessary to support those systems as being difficult to maintain, they may, in fact, choose not to treat, and I would hate to see that.

Even with larger providers that are more

sophisticated such as the hospitals, believe it or not, I think that you will find even the more sophisticated hospitals may not have all their billings coming from the same specific entity within the hospital.

So you may, in fact, cause some consolidation costs in the hospitals. And I think that if you do an initial feasibility study and perhaps a survey of providers to find out what condition their condition is in, so to speak, and their ability to respond to this type of requirement, you would in fact surface those issues and be able to address them. And you would also probably be able to make it a lot easier on them respectively.

I understand that you currently have what I would call a pilot ongoing at this point and you probably are learning a bit about that. Those providers that are currently responding that way are probably your more enlightened medical practitioners and are ready and willing to respond electronically.

You're also creating an expectation with those providers and as you expand it further in the medical community, expanding that expectation further in the medical community, then if I give you a bill quicker, I expect to be paid quicker. At least that would be my

expectation. I don't know. In fact, that may be your hook to get them to respond to the desire to respond electronically. But I think that's an expectation that you need to consider as well, and I'll address that in just a moment.

Also, my third point is, I question from the point of view of cost whether, in fact, you have considered the support necessary to bring this plan up to speed, particularly given what you're currently facing with the multi-factor task that, in fact, the Workers' Compensation Division is experiencing now.

When you do this, you're impacting a variety of constituencies. One is the Division itself, the provider community, as well as the employer. And what I'm suggesting to you is, I'm not sure whether you have taken into consideration of the impact of the support necessary to install this program and the concurrent cost ongoing thereafter after you install and maintenance and integrations costs thereafter with unlike software programs. Believe me, I'm very much aware of that in that we have worked in EDI in Kentucky, and just in a modest stance, I have over 500 programmer hours devoted to that to date with it ongoing. The taxing unit, of course, is still

going, and I'm sure it will go on for a considerable amount of time.

You need programmer support. I don't know whether you've anticipated that, even with programs that are compatible, let alone those that may not be speaking the same language.

You also have opportunities within that support network for errors. Now let's speak about those. As you receive medical bills, there's a lot of information on the medical bill and you've got to map that information into the right bucket in order to allow your edits to work properly. I'm sure people have thought about this in advance.

But there are many opportunities for a "no-match." What are you going to do with those no-matches? Who is going to address those no-matches? They'll go into a mystery bucket that needs to be addressed by human beings. In fact, they become difficult to resolve, particularly when you're dealing with electronic record.

Audit tracking, I don't know whether you've anticipated the need for audit tracking and whether, in fact, you'll have an audit record so you can audit back against payments that have been made relative to

compensable claim, et cetera. I'm sure you thought about that.

Finally, I raise this question as a question. It's the fourth issues, and I want to be careful in asking you to consider the question because I don't want it to be perceived negatively. But I think from a fiduciary responsibility point of view, I think that you have that fiduciary responsibility to at least ask the question and determine the impact not from a negative point of view.

I want to ask the question about cash flow consequences of increased repetition of payment. I'm not inferring a desire not to pay a lone provider and I'm not inferring an intent to willfully cause a problem to employees who have received care.

I am simply asking the question that when you speed up payment from a cash flow perspective you need to consider the increment of change that it causes and whether, in fact, you have the cash on hand to pay those bills. That's just simply a component of business planning that you need to embed in your comprehensive implementation plan as far as increments of change and repetition of payment.

So in summary what I'd like to say to you is, there is several issues that I've discussed and several issues I probably haven't discussed. I don't want to take the time to discuss, but when you pull the trigger on this thing, there are known consequences and there are unknown consequences, and I'll illustrate that with a little story.

When I was a kid, I didn't know enough, obviously -- the basis of the story is the punch line. But my mother instructed me that I had a pair of blue jeans that I loved very much. And as kids will, they will wear the knees and seats out of their blue jeans. So being the kid that I was, I thought well, I can fix that. I took a pair of scissors and cut the hole out. Well, I cut the hole out but I wasn't aware of the consequence of my decision. So I'm asking you up front to consider what you don't know and try to surface those issues and try to respond to those issues in planning. Obviously, I didn't know enough as to the consequence to cut the hole out. I succeeded, but I also failed. So that's the end of my comments. Thank you very much.

CHAIRMAN JARRETT: Mr. Keener, thank you very much and don't go away. I notice in the written comments that we received, we do not have one --

MR. KEENER: I will supply it.

CHAIRMAN JARRETT: I would again encourage you to take those same comments and reduce them to writing for us.

MR. EPPS: I do have a question. Mike, both from you and from others that have testified, the idea that we need to do some sort of a feasibility study has been made very clear.

My question is this, while I recognize West Virginia is unique probably amongst all the states that you serve because of our particular system, I would also assume that you have -- you said that you have seen these kinds of efforts in other places.

Mr. Kozak and I were just talking about the idea of feasibility study, and my question would be, would you-all be willing to work with us a little bit on what that feasibility study ought to look like? I'd hate to see us reinvent a wheel here, and I think that certainly other states and other places have dealt with this issue. Obviously the whole name of the game is -- I mean, why are we doing it? Well, we're supposed to be doing it because it's going to save money and be more efficient. And if it isn't going to save somebody money and be more efficient then we ought not be doing it at all.

So I think it would be very helpful if you could work with some of the people, with the Division, with your expertise so that we did it right the first time on that.

MR. KEENER: We have a history of cooperating with the Division and trying to help. We are working with their Managed Care pilot project pretty extensively. We would be more than happy to participate in this process.

It's in our best interest to cooperate because we also think there's a cost savings to us as a company, as well as to the Division. And the more efficient and effective the Division is, of course, the happier we are as well. So, yes, we would be glad to cooperate and help.

MR. EPPS: Thank you. And I think everybody recognizes if we do it right, you know, claimants ought to be served quicker, more efficiently, and it ought to cost everybody less money, so let's try to do it right. Thank you.

MR. KEENER: Sure.

MR. THOMPSON: You mentioned 4-123.

MR. KEENER: Yes.

MR. THOMPSON: Do you have any negative comments?

MR. KEENER: I don't think I have any negative comments at all about it. I think it's a form that allows an opportunity for the gathering of basic information input in the system. Because it is a three-part form in one part, sometimes there can be a time lag.

I know that prospectively, I think what the Division is also looking forward to is perhaps electronic reporting of the initial report of the injury in addition to electronic billing, as well as electronic payments. That will speed up the process.

But the one thing I want to be cautious about is to afford the employer, all parties, as a matter of fact, an opportunity to take a look at the claim to determine whether, in fact, they have a concern with it and investigate it thoroughly and proceed thereafter.

I think you will hear from people who follow me relative to the pay order issue that our basic recommendation to our employers is if you receive a pay order, even though it may not be absolutely perfect on the face of it if, in fact, the claim is compensable, you have an obligation to pay. And as such we make every effort to pay correctly based upon the information we have and that we wrestle with the Division thereafter about any

difference that we may have.

So I think historically that has been our posture. We will continue to have that. I will also -- and you recognize as well, that when you're working with 1,000 employers, organizations have personalities just like people. And so you run into different styles of leadership. And since we work for the employer, even though we give them recommendations, sometimes those recommendations aren't received as we'd like them to be received.

MR. THOMPSON: What do you do about the doctor? Do you have any control over his answering his opinions within a prescribed time under 123? Most of them don't.

MR. KEENER: No, we do not. Frankly, what we like is an opportunity to talk to the provider. We think it's in the best interest of all parties, including the injured claimant, to be back to work as quickly as possible.

We find that when we can work with the provider and be in touch with the provider as quickly as possible, we have an action plan in place and the provider becomes a member of the team in attempting to reconcile the situation to put the injured employee back to work.

We would like, and we often reach out to the provider community, and make an effort to communicate as quickly as possible, as soon as we know a claimant's hurt.

MR. THOMPSON: You know that's been a bad problem for years?

MR. KEENER: Yes.

MR. THOMPSON: And I think from the results of discussion with some people it's still a problem.

MR. KEENER: Yes. It makes it difficult on the Division to make good decisions, it makes it difficult on the employer to make good decisions when, in fact, a critical members of the team hasn't provided information upon which to go forward.

MR. THOMPSON: Well, most of the complaints is not with the employer, it's with the doctor.

MR. KEENER: The doctor coming -- I may not be understanding your point.

MR. THOMPSON: His opinion, under 123. You know, he has to give an opinion.

MR. KEENER: Yes, I understand that.

MR. THOMPSON: Most of them delay giving that opinion. That's a problem.

MR. KEENER: Yes. A lot of the 123s received actually stem from the emergency room. And what we try to do is we try to go out and talk to -- and we are doing this now. We are attempting to create better relationships with the provider community in order to get the information from the treating physician, as well as establish a routine in the emergency rooms to know what the process is.

As a matter of fact, the Division is attempting through its Managed Care pilot project to develop a means of better communicating with the provider community and educate the provider community as to what to do and how to do it.

MR. THOMPSON: 123 was revised.

MR. KEENER: Yes.

MR. THOMPSON: It didn't help the situation.

MR. KEENER: I under that. And with every type of provider, just as with every type of individual there are different levels of responses from those individuals.

CHAIRMAN JARRETT: Mr. Toothman originally introduced these to every member here. And knowing the type of organization you represent and you are the gentleman that handles that, the question has been asked among some of the Board members up here what kind of effort

was made to get it corrected, and what kind of response. And again, let me make absolutely clear, we're not trying to go on a witch hunt by any means.

I think the Division, it is very much interested in correcting these things. Particularly the one where the checks just keep coming and the guy was working. And I know that somebody notified somebody that, "Hey, this gentleman's back to work." But they just kept getting checks -- or pay order, excuse me. I'm not a self-employer, so I'm not familiar with how this thing works, but I'm confident you've got some documentation, and maybe you could also pass that along to Mr. Kozak there. I think there's a sincere interest to try to address the situation, get them corrected.

MR. KEENER: Never have I talked to Mr. Richardson, never have I talked to the Executive Director, Mr. Burdette, have I ever walked away without feeling that we have put the issues on the table and we've had an opportunity for a fair hearing.

The next two people who are going to speak to you are people who specialize in dealing with the Division on these particular types of documents.

What they're going to bring to you is

additional information that you may find beneficial. They are much more attractive than me and they know a whole lot more than I do, so it may be in your best interest to get me off the floor, Mr. Chairman.

CHAIRMAN JARRETT: Will they be addressing these?

MR. KEENER: Maybe those specifically, as well as some others.

CHAIRMAN JARRETT: You mean there may have been some communication prior to this hearing?

MR. KEENER: Oh, yes. Definitely.

MR. KEENER: They bring these forward as examples of some of the things that we face working on a day-to-day basis, and I think some of those things may, in fact, have been snafus that occurred as a result, as Mr. Kozak indicated, difficulties with a hugh change in software. I'm not sure that people understand the magnitude of that change. But you're going to have some glitches.

CHAIRMAN JARRETT: Mr. Keener, thank you very much. Next I have Pam Ferris.

MS. FERRIS: I'm going to be bringing up Paige Stevens with me.

MS. FERRIS: I guess the good news is, we're the last two to go. I guess the not so good news is we're

going to echo a lot of the same comments that you heard, but we may have some specifics, as well.

My name is Pam Ferris, and I'm the Director of one of our Workers' Comp divisions within Employer Service Corporation.

I've been a member of the ESC staff for about 14, a little over 14 years now, and I've done a variety of things. But mainly what I'm doing now is overseeing our claims managers as well as our claims processors that handle payment, and I also oversee Paige Stevens department who handles the audit services that we provide to our employers, both self-insured and insured.

Paige has been with ESC for well over ten years and has been in a variety of audit jobs within Employer Service and has been the supervisor in this department for the last four years.

As we go through this, once again you're going to hear some of the same comments. I hope you'll not mind hearing them again from me, but we do have some examples we'd like to go over as well.

Just to give you a little background, Employer Service represents 132 self-insured employers within the state of West Virginia.

Now 132 versus the number of employers in the state may be a very small number, but that's a very large number of claims that go through the Workers' Comp system, but I just wanted to be sure that you understood that.

We're responsible for many things, but what Paige and I are going to talk about and concentrate today would be the audit and payment of both the medical and the indemnity benefits for injured workers, for those employers that we represent.

Last year in 1996, ESC processed 15,533 indemnity pay orders for those employers representing $40,025,258. And those were just for self-insured employers and indemnity benefits only.

I want you-all to realize that we're committed to honor all payments on a timely basis. We regularly run a quality assurance report describing the number of payments that we make within our time limit. We're all aware that we have a ten-day turnaround on those pay orders once they're received by the employer or by us, as their representative.

And what we found was that we are making proper payments on a timely basis on 99.96 percent of those

benefits that we issued. So obviously we're aware that that ten-day turnaround is very important for employers and the injured workers.

You heard some of this from Randi Preston-Dick earlier about regional experiences and we, of course, represent employers in various states and neighboring states. And we are the only state that actually issues and honors pay orders for those self-insured employers.

For a short time I did a little bit of work for an employer in Virginia, and basically in that state both the employee and the employer agree to the amount and benefit time period that that individual should receive benefit.

It's agreed upon, it's signed off on, and that individual gets those benefits, and that's it. There's not a pay order, there's nothing else but that agreed statement from both parties involved. So that's just an idea of what goes on around us.

In the state of West Virginia, because of the way the pay orders are set up, it's both time consuming as well as it creates quite an interaction between the self-insured employer or between us and the Workers' Comp Division on behalf of the self-insured employer.

We encourage our self-insured employers to make proper and prompt benefits to those injured workers. This was echoed by -- or I'm echoing, I guess, what Al Toothman said earlier. He has given us that authority, and based on the fact that we talk with injured workers, we know their situation, we talk to their physicians, we know that there's always a chance of a holdup from an administrative standpoint, we will suggest to that employer that they issue proper benefits in a timely fashion.

The only thing that's going to do is encourage that injured worker to get the proper treatment he needs and to continue to cooperate and hopefully return to work at the earliest possible point. So we approach this from a team prospective.

Additionally, in the area of medical treatment, and I'm just going to touch on that briefly, we frequently guarantee payment to providers for the necessary services to avoid a lengthy disability.

The longer someone sits out there, the longer it is and the harder it is to get them back to work. So obviously we're going to try and encourage treatment to take place as needed.

We most generally do not await the

authorization process through the Workers' Compensation. We're guaranteeing payment for their services much earlier than waiting for that to happen.

In dealing with the pay order process itself, we encounter several or many situations where the pay order is in error, either in whole or in part.

The ESC generally pays what is proper amount of that incorrect pay order and will do one of two things. We'll either just tell the Division that we've done this or we will actually return the pay order and ask them to regenerate another pay order.

In some cases, we can't tell what they're trying to pay because there are too many discrepancies, and we have to get verification from them. But generally, we're able to pay what's proper, and then we just let them know that we're doing that and then they can kind of fix their bookkeeping.

Now to get to Series 5 in the rule, I've got a few suggestions we would like to ask you-all to entertain.

The first is in 85-5-2, and this is the portion in which we're talking about the definition. And we're suggesting that the definition to be added for a

proper pay order to read: A proper pay order is a directive to a self-insured employer to pay proper compensation and expenses which are accurate as to: number one, the time frame; two, the benefit rate; and is substantiated by a proper order ruling and/or other such documentation as to permit the auditing of such payment so as to satisfy generally accepted accounting principles.

Paige has some examples. Again, you're going to get some copies of the pay orders and we thought we'd briefly go through a few of these as we go through this discussion to let you know what we're finding.

MS. STEVENS: Our first example is a permanent partial disability pay order, as you can see, was received in the office on 1-30-97, and we do not have an award letter or record of the award in our office to authorize payment for this pay order. And it goes back to what Pam says, where we need the proper documents for our records. As of 2-24-97, we still have not received the award letter.

I kind of compare it to a personal issue, if I would get a Visa bill for $500 and it wouldn't be itemized, I would know what I purchased, but the person paying the bill, my husband, may not know what I purchased.

Not to make light of it, you need the

proper documentation in order to be sure that what we're paying is what should be paid on behalf of the employer to the injured worker.

All right, our next example, a temporary total disability pay order. And as you can see with the note there, that the last thing we received in our office was the closure of 4-21-95.

He received two pay orders. He was paid from 3-6-95 to 3-7-96. And again, our goal is to honor and pay proper and promptly when we can. So you can see here, we've adjusted the pay where it paid through the last thing that we received in our office. We did not receive the reopening notice on this to authorize payment of this pay order.

Just to reiterate, we really feel that there needs to be proper documentation. And that would be explained under the definition that we're suggesting that you add to Series 5.

MS. FERRIS: Okay. She's going to go over those other examples as we go on, but if you don't mind, I'm going to go on to Section 85-5-2.1.2.

This is discussing three issues that have been outlined as to how and when we can return the pay

order if it is not proper. And basically, the three issues are, number one, has been promulgated an expense of error; number two, on its face is obviously an error to the amount due; and number three, orders the payment of temporary total disability benefits past the date in which the claimant returned to work.

We would like to suggest that you add to No. 3, "or released to return to work." That would be keeping in compliance with the current law that we have now. So we feel that "released" should be added.

We also have another issue we would like to add. Before I get into that, I just wanted to let you know that there are some situations involving pay orders where they are truly an error. And we have some instances directly with the Workers' Comp Division, that they have told us that we must honor that pay order and that if we're in disagreement with it, then we should file a protest.

Well, the problem we have with that is that the pay order is not a protestable order. It's simply a copy of what we should honor and what we should pay. So that to us is not an order that should be protested.

We find that sometimes it's difficult to obtain the information that we need from the Workers' Comp

Division to back up the pay order and, therefore, we feel like that it wouldn't be sound business practice to write a check for benefits or expenses that could not be substantiated by a proper document. And it is in the best interest of both Workers' Comp and any other party that such payment is not made.

So with that, I would like to suggest that we add one additional point to the reasons why we would return a pay order, and that would be No. 4, that it orders the payment of compensation and expenses where such order is in conflict with No. 1, the statute, rules and regulations and the treatment guidelines and/or the fee schedule.

This certainly provides a clear guidance in the terms of understanding when a pay order is improper and when it should be returned to the Workers' Comp Division. I guess Paige has a few more examples she wants to go over at this point.

MS. STEVENS: It's the pay order we have here. It's another temporary total disability payment, and we received an ALJ order dated 10-18-96, and that order reverses denial to reopen to TTD and now grants TTD from 12-18-95 through 3-4-96. And that's substantiated by

proper medical evidence.

As you can see the pay order's running from 12-19-95 to 5-20-96. We sent the notice of return to work to the Division, and the claimant returned to work on 12-19-95, and did not begin missing again until 12-29-95.

When we received this pay order, we contacted the Division to tell them, you know, to make sure they had on their records that the claimant returned to work those dates, and they had that on the records but we were stated that we had to honor the pay order as written because it came down in an ALJ order and we would have to protest at that time.

The next example, temporary total disability pay order. And this claimant is part-time. Workers' Comp has a minimum rate of pay and a maximum rate of pay and then an odd rate that falls in between. When a claimant is part-time they're paid at a lower rate. They don't bump them up to the minimum rate.

This employee's daily wage was $21.50 so, therefore, they should have been paid at a rate of 10.75. And as you can see, the daily rate on the pay order is $20.67125.

That is the old minimum based for Workers'

Comp. As of 7-1-94, they changed that to reflect the federal minimum wage. So we received, I think, five pay orders on this claimant. And for this pay order alone, it totalled 661.48, but we would have honored this at face value we would have had an overpayment of $317.48 on this claimant alone.

MR. KOZAK: Is that still occurring?

MS. STEVENS: We just recently received one, within the last -- probably the last week, week and a half.

MR. KOZAK: I'd like you to call Tom Mancini about that.

MS. FERRIS: To move on, the other sections of the rule that basically give authority to the Executive Director and the Commissioner and so on, I would just like to say that we're suggesting what the other speakers have said, that we feel that the self-insurance, it's branches by Performance Council, then that should be looked at by the Performance Council. So I really don't want to dwell on those issues. Those will be in our written comments, as well.

I guess there was one additional concern I'd like to bring out to you-all that we think you need to be aware of. And that's the Workers' Comp Division is

using the Department of Employment Security wage in computing the benefits rates for injured workers.

The new law permits this, and we don't have any problem with that, and we're in agreement with this working this way. However, we feel that the employers should have readily and immediate access to this same information as the Workers' Comp Division has.

For instance, we're getting pay orders, and Paige is going to go over that, that has a wage that's different than what was reported by the employer on the WC-123 form. And we have a very difficult time verifying that the wage on the pay order is proper because we don't have immediate access to the Employment Security records.

So I'm not sure that you can add this or address this in Series 5, but I would like for the Council to think about possibly entertaining how employers can have access to these records so that we, of course, can honor those pay orders properly and very timely. And right now Paige is having a difficult time in some cases getting that information from Workers' Comp Division.

CHAIRMAN JARRETT: If I may. Employers obviously have access to the information in that they submit that information. Is it the employer that you represent on

Workers' Comp that's not providing you with the same information they supply to everyone?

MS. STEVENS: They may have two or three employers that that employer's not aware of, then have two jobs and, therefore, Workers' Comp adds those together to come up with their daily rate of pay.

CHAIRMAN JARRETT: I understand.

MR. KOZAK: I just might mention, yes, some problem with the federal law and state law on the unemployment side of which we have access to. They're even more stringent to the WC side. And I'm not sure what the security ramifications would be on the state.

We'll probably have to talk to Tim Martin about that and be able to give these folks on behalf of their employers or the employers themselves direct access to that. It's a fundamental question with that system.

CHAIRMAN JARRETT: I didn't understand why an employee has two employers. And maybe one employer doesn't want it and you don't represent them at all.

MS. STEVENS: Right, we don't have any idea.

CHAIRMAN JARRETT: I was thinking the employer itself.

MS. STEVENS: I have one more example, and it's

concerning Employment Security, a concern we have. We have a temporary total disability pay order here and Workers' Comp used Employment Security wages in this situation. But if you will notice the date of injury is 10-11-96.

The law states that you can go back to acquire your work in the last four quarters used. And in this instance, the third quarter of '95 was used, which makes it the fifth quarter that the wages were picked up on. So, therefore, that made his daily rate of pay 63.515, which is the maximum daily rate. And based on the proper quarter that should have been used, it would have been 61.2466. And it's not off that much. We're talking $52 overpayment, but we find this in a lot of cases.

MR. KOZAK: Mr. Chairman, could I ask a question? What is your-all's experience in dealing with these kind of problems with the claims teams? It seems to me that the design of the claims teams should at least allow you to get to them and talk specifically about these kinds of issues. Is the problem access or a blank wall that they don't want to deal with it?

MS. STEVENS: Well, to be honest with you, we're finding a lot of problems where they are picking up the wrong quarter, incorrect quarter, or there are multiple

quarters. They may be adding them incorrectly on the system, but we don't know that until we get the information from the claims person.

Generally, when we contact the claims person they are very helpful to us, try to work through this and get a solution. We try to get a hold of them and they will fax us the information. But in some cases, you know we're not the only people trying to call Workers' Comp, so we may not be able to get hold of that person for three or four days. So, therefore, we're running into our tenth day. We don't know whether it's correct or not. And then when we do call them and if there is a problem, then we have to try to resolve that problem, you know, close to the tenth day. But I would like to add they are very helpful.

I was under the understanding they were supposed to be sending it on fiche but a lot of times they are not on the fiche.

MR. HARRIS: If I could, I would like to expand on Mr. Kozak's question to other third-party providers. Are you-all experiencing similar situations?

MS. ROBINSON: Yes. What I have found just really recent is, if I want to pre-pay somebody -- you

know, if it came -- it was a no-loss time claim when it went in, but in our research in trying to get the medical information and plus his condition progressed, went into a lost-time claim.

Well, I want that claim ruled on, and I want the information so I can go ahead and prepay him because he's out there, he's had surgery and everything. But 123 is sitting in the pile. It's not been assigned because it's a no-loss time claim. But if somebody's told that, they have to go through all this rigmarole to get it on the system. It can't be looked at as far as unemployment records until it's on the system.

So you're looking at a two- to four-week process trying to get someone to get that claim assigned so I can get the benefit level, so I can pay that person. And still, at this time, the person's been off three weeks. I've paid him for a full three weeks and have yet to receive a payment.

And those are the type of things that if you can't have that information readily available, then you can't pre-pay them.

CHAIRMAN JARRETT: All right, continue, please.

MS. FERRIS: Lastly, I would like to emphasize

the importance of communication and informal resolution of benefit issues. And I know, Mr. Sullivan, you asked this question earlier, how many actually go to a formal hearing process.

Really, few cases actually result in any kind of formal complaint that should continue as long as benefits are being paid properly. We would like to ask the Workers' Comp Division to consider a central source or group to be given the responsibility for the informal resolution of all the benefit questions. Currently a complaint can go to the Legal Service Division, it can go to the Claims Manager of that team, to the benefits group, et cetera.

By centralizing this process it would provide the consistency of handling the situation. It would help assure proper benefits are paid timely, and it would validate that the complaints are quickly recognized and a solution is found. So we would like to make that suggestion, which would help us in the process.

Finally, I would like to say thank you for the opportunity to talk with you. If you have any questions, we'll be glad to answer them for you and consider our comments today.

CHAIRMAN JARRETT: Thank you very much.

MR. EPPS: I have two questions to either one of you. First, Mr. Toothman gave us about a 7 percent, more or less -- around 7 percent reject as far as -- and you people deal with about 15,000/plus, you said, pay orders last year.

Do you have any feel for what percentage of those that there's something wrong with them, would you say? Do you have any idea? I don't mean to put on the spot.

MS. FERRIS: It's probably like his number. I think we need to note that it may not be so much the percentage but the dollar figure of error that we're talking about.

MR. EPPS: I understand that. The dollar figure is your concern and certainly the employer's concern. The Division's concern -- I mean, our concern would be the dollars, but would also be the process is what we're looking at.

The second question I have for you is -- a comment. And this isn't Beat Up on the Division Day, but I think you sort of responded to this before but I want to follow up on the question that was asked about -- John

asked, I guess, about the -- with the claims teams now. And I guess my question is a very simple question. In every one of these pay orders, which incidently is the first time I've ever seen one, there's a name at the bottom.

I guess my question is, you people deal with these all the time. What happens when you contact Lisa or Linda or whomever? What happens? It says down at the bottom, contact so-and-so at a certain number if you have any questions. What happens when you do that?

MS. STEVENS: Well, first of all I'd like to say our main problem is getting hold of the people, you know. It's very hard to get a hold of them. But once you get a hold of them, they're very helpful. You know, they want to work through the problem just as much as we do the majority of time. We find that they are very helpful.

I would like to add that the benefits area they're supervised by Diana -- they are a tremendous help. I mean, they help us a lot. A lot of times -- you know, one of the claims people may be confused and, you know, they're not sure what to do. We can contact that department and they will go to that person and try to explain to the employer or try to convey.

MR. EPPS: And then finally, Mr. Chairman, I would like to make a point and sort of ask a question of the group. I think it's been clear in all the testimony that we've heard this morning, and I'm saying this because it's my committee that has to deal with.

Certainly what we've heard from the collective words of the group are -- involving pay orders, there's sort of three messages.

The first message is, we'd really rather you didn't have them at all, but if you have them, they ought to be properly defined in the rule. And if you have them and they're properly defined, we still have a problem with the number of errors and how we deal with the improper ones. Those are the three messages I got there.

I certainly got the message in Rule 5 that we need to -- the Performance Council ought to be the taker away of the privilege, just like we are in Rule 9.

I also got the message that the designee shouldn't be able to assign the penalty, and those were kind of the -- there were a couple other messages, but those are the basic messages in this area.

I certainly got the message on 17 that we need to do some sort of a pilot on the audit, and Mr.

Keener is going to help us with that, or somebody is. But in the pay order area, let me make a comment about that.

This issue was discussed at a Council meeting when we were going through Rule 9. And there are some arguments that are made relative to retaining the pay order system. Some people have some arguments both within the Division and out of the Division.

Again, if there's anybody in the room where you deal -- and I realize that there's no states really like West Virginia, but it's sort of like the request I made with Mr. Keener. If you deal with self-insured in other states and they don't have a pay order system -- and I believe somebody mentioned Virginia as case in point. I realize their system is different. But it would be very helpful for us, I think, to have some sort of a write-up, if somebody could give it to us in terms of the pros and cons so that if, indeed, that were to be discussed either by us on the Council or with the Division, we would at least have some good arguments on both sides to evaluate that process. Because, as I say, it was discussed at one time and we let it alone. Thank you.

MR. TUCKER: I have one question. Anybody can answer it. Does the claimant get a copy of the pay order?

MS. STEVENS: Yes, he does.

MR. TUCKER: Fred gets a pay order from the Division saying they're going to pay me 4,200, okay. And you say I'm owed 2,200. Do you tell Fred that?

MS. FERRIS: Fred will get a check for 2,200. And is there an explanation? Not at this time because it's just been within the last six, eight months that we've had these problems. We are working on -- that will kick out a letter to explain to that person why their benefits have been adjusted.

MR. TUCKER: I ask that question, in order to keep from having a complaint -- maybe I'm only entitled to 2,200, okay. But if somebody from -- says I'm going to get 4,200, the ESC sends me 2,200, we've got a problem.

I've got a complaint. I make my complaint. Is there any feasibility that we could, you know, do this situation when we have a pay order -- if there's a dispute over it, add a step to that, you know, explanation to that person because if on January 2nd if I get a pay order notice from my employer, Valley Camp Coal, that they're supposed to send me $4,200 because they're self-insured. Ten days from that, I'm going to be looking for my check. ESC is wanting to take care of their business for them. I

think we need to -- you have a right to -- I think you ought to clarify every claim, payment or whatever, if it's under, over, whatever, but I think you need to communicate with everybody involved in it because if I'm expecting 4,200, and I get 2,200, then actually I'm mad.

I may be entitled to be getting 2,200. If the Division made an error, there ought to be some -- within the third-party administration, somebody ought to communicate this situation with the claimant. That's a process run. But other than just to send it and say, I'm expecting this but I get that.

That's what generates these complaints, if I'm not mistaken, you know. And then whatever the reason -- I notice on here we've got them where the amount of wages recorded, you know, the quarters involved, all the increment parts of it, I don't have no fault with you scrutinizing them. But if I'm a laboring under the apprehension I'm going to get something and I don't get it, you know, that makes me an unhappy camper, and then that leads to the deterioration.

And I'll tell you what it does, it deteriorates -- I hope you folks understand what I'm saying -- that working relationship that that employer -- I may be

the guy or the gal, but that employer just deals with the Al Toothman, the Human Resources on other matters.

Well, the first thing I know, I'm the guy that's got 22 when I thought I was going to get 42. That deteriorates maybe -- I don't think too good when I think somebody's taking something away from me. And it deteriorates the whole process.

MS. FERRIS: You're right, Mr. Tucker.

MR. TUCKER: I think we need to deal with that somehow, and I think you need to get with the Division. And I think as a member of the Council, I'm willing to sit down and deal with that.

I think that's a problem we need -- you know, I don't have no fault with the scrutiny. I think everybody ought to get what they're supposed to. If they're not entitled to it, you won't get it. But however the little gal over here or people with the Division come up with that, and I think we need to communicate that and get that situation done, because I think that is -- not only the incorrect amount that the pay order says, but there's other ramifications to this.

I've had about 30 years experience with that. You know, it's just like if you're trying to take up

a collection -- you don't ask somebody to make a contribution of somebody who that's a person who has been denied this, that or the other. You know, you go to somebody that you have a favorable response or whatever your situation is. But I think you need to take a look at that. Let's take a look at that and see how we can deal with that.

MS. FERRIS: When we return a pay order we send a letter back to the Division telling them why it wasn't honored at face value, that we've changed or corrected the amount or we're asking them to correct it. But we are going through the process of preparing letters so that we can send to the injured worker to let them know too that. Generally, they know if they went back to work that they shouldn't get paid two weeks beyond that.

MR. TUCKER: Right.

MS. FERRIS: But we're going through that process now internally so that we can develop letters and send out to those injured workers as well, so that they're aware of why their benefits may have been adjusted first as what it was on the payroll.

MR. TUCKER: If you've got a claimant out there that's going to be off, you know, just a first payment,

you're downhill from there. It muddies the relationship. If I'm informed that I'm going to get something then I get -- you're on a downhill tread there because you're getting off on the -- you know, the first impression is the last impression.

You know, he actually gets cussed, Ravenswood gets cussed, you know, everybody out to get me. And then when you try to work it out and settle about rehabilitation, you try to talk about settling the claim, you know, all your common sense approach is gone if you get off on the wrong foot. That's taking away from it.

I think we need to take a look at that. I think it's to the point -- like I say, I'll shut up, but I don't think -- third-party administrator or your employer, I think you have that right. But I think you need to convey it to the people that's going to be affected by it so that the Division -- if they disagree, they have a right to, you know, to find out, if they have to take it up, take it up with the Division, you know. I think you can resolve a whole lot more things if everybody's notified as to why the reason behind why we did what we did.

MR. THOMPSON: Are you contemplating including that letter in Article 2?

MS. FERRIS: No. We are currently working on that programming, and we're working on it right now.

MR. THOMPSON: Are you going to include the letter, and if they did include the letter, I thought that would probably resolve the problem. You've let the claimant know what the difference is.

MS. FERRIS: Many cases we're talking to the injured worker, as well, so he may know. Or the employer's talk to them. So I wouldn't say that everyone is out in the cold, but this will at least assure that everyone will know that their benefits have been adjusted and for what reason.

CHAIRMAN JARRETT: Just one question is all. The number of self-insured that you represent, 132 out of, I believe, the number was 185 in West Virginia, thereabouts, are all self-insured represented by a third-party administrator in West Virginia? Or do you know that? There are some that are totally independent and function independently, have their own --

MR. BOWEN: For example, American Electric Power, the largest utility in the state, is self-insured.

CHAIRMAN JARRETT: It can only be 53. I mean, there's only 53 that's not represented by ESC. I'm

assuming there are some other third-party administrators representing some self-insureds.

MR. THOMPSON: Big ones too.

MR. BOWEN: There are the Acordia and Frank Gates.

MS. ROBINSON: Frank Gates Service Company.

CHAIRMAN JARRETT: I was just curious. Certainly that's a large share of the market. Ladies, thank you very much.

I want to take the time to thank everyone that appeared today and those of you who took the opportunity to talk. We appreciate having you here.

Again, one last time, reiterate, that you do have until March 15th to put your comments in writing, and I would strongly encourage that you do so.

(Whereupon, the public hearing was concluded at 12:47 p.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to wit:

I, Karon L. Vorholt, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all the testimony adduced or proceedings had in the aforementioned case as set forth in the caption hereof.

Given under my hand this 5th day of March, 1997.

Karon L. Vorholt

Karon L. Vorholt
Certified Court Reporter

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
KARON L. VORHOLT
634 PIONEER LANE
CHARLESTON, WV 25312
My Commission Expires March 2, 1998

Employer's Pay Order Copy

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

.01 Not is due

KIS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001364704

DATE OF ISSUE

CODE	MO.	DAY	YR.
PP	12	04	96

	DOLLARS	CENTS
PAY $	0	01

THIS IS NOT A CHECK

PAY TO:
GARY G CLARK
04959 SR7
SO GALLIPOLIS, OH 45631

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001364704
Claim # : 950039882
Claimant Name : GARY G. CLARK
Claimant SSN : 285-38-5640
Compensation Type : PERMANENT PARTIAL
Payment Type : REGULAR
Pay From : 01/01/1997 Thru: 12/31/1996 Days: 0
Daily Pay Rate : $56.78129
Date of Injury : 02/13/1995
Policy Number : 89003571-201 Allocation %:100.00
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $0.01 DWF Amount : $0.00
Overpay Reduction : $0.00
Net Check Amt : $0.01

Already pd 270 = 3179.75

Rec'd .01 payord

Contact CURT WENDELL
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RECD
01-17-97
ESC-WV

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

3179.75

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001424104

DATE OF ISSUE

CODE	MO.	DAY	YR.
PP	01	16	97

DOLLARS	CENTS
0	01

PAY $ _____

THIS IS NOT A CHECK

PAY TO:
GARY G CLARK
04959 SR7
SO GALLIPOLIS, OH 45631

Andrew M. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001424104
Claim # : 950039882
Claimant Name : GARY G. CLARK
Claimant SSN : 285-38-5640
Compensation Type : PERMANENT PARTIAL
Payment Type : REGULAR
Pay From : 02/01/1997 Thru: 01/31/1997 Days: 0
Daily Pay Rate : $56.78129
Date of Injury : 02/13/1995
Policy Number : 89003571-201 Allocation %:100.00
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $0.01 DWF Amount : $0.00
Overpay Reduction : $0.00
Net Check Amt : $0.01

Already pd 2% * 3179.75
Recd .01 payorder
2nd time we recd .01 payorder

Contact CURT WENDELL Bev Will
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001362615

DATE OF ISSUE

CODE	MO.	DAY	YR.
PT	12	04	96

DOLLARS	CENTS
1403.	90

PAY $ _____

THIS IS NOT A CHECK

PAY TO: OMA LEE WESTMORELAND
C/O MARONEY THOMAS PATRICK
P.O. BOX 3918
CHARLESTON, WV 25339-3918

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001362615
Claim # : 780092626
Claimant Name : CHARLES WESTMORELAND ***
Claimant SSN : 233-34-6872
Compensation Type : PERMANENT TOTAL
Payment Type : REGULAR
Pay From : 01/01/1997 Thru: 01/31/1997 Days: 31
Daily Pay Rate : $46.15571
Date of Injury : 04/20/1978
Policy Number : 89003571-201 Allocation %:100.00
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $1403.90 DWF Amount : $0.00
Overpay Reduction : $0.00
Net Check Amt : $1403.90

C/M.
KES
11/12/96
Jan. monthly not due.

Contact BELINDA COWGILL
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

KIS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001389542

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	12	23	96

DOLLARS	CENTS
889	22

PAY TO:
CHARLES R. SMITH JR
RT.2 BOX 146 B
LETART, WV 25253

PAY $ _____
THIS IS NOT A CHECK

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control #	:	001389542
Claim #	:	970016137
Claimant Name	:	CHARLES R. SMITH JR
Claimant SSN	:	235-19-3261
Compensation Type	:	TEMPORARY TOTAL
Payment Type	:	REGULAR
Pay From	:	12/09/1996 Thru: 12/22/1996 Days: 14
Daily Pay Rate	:	$63.51571
Date of Injury	:	08/16/1996
Policy Number	:	89003571-201
Employer	:	RAVENSWOOD ALUMINUM CORP
Gross Check Amount	:	$889.22
Overpay Reduction	:	$0.00
Net Check Amt	:	$889.22

RTW 12/5/96 -
Continued to receive payorders after RTW.
BP Sent to WCO 12/16/96

Contact KIMBERLY BLIZZARD
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RECD
01-09-97
ESC-WV

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

KLS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001402065

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	01	06	97

DOLLARS 889 CENTS 22

PAY $ _____

THIS IS NOT A CHECK

PAY TO:
CHARLES R. SMITH JR
RT.2 BOX 146 B
LETART, WV 25253

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001402065
Claim # : 970016137
Claimant Name : CHARLES R. SMITH JR
Claimant SSN : 235-19-3261
Compensation Type : TEMPORARY TOTAL
Payment Type : REGULAR
Pay From : 12/23/1996 Thru: 01/05/1997 Days: 14
Daily Pay Rate : $63.51571
Date of Injury : 08/16/1996
Policy Number : 89003571-201
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $889.22
Overpay Reduction : $0.00
Net Check Amt : $889.22

Contact KIMBERLY BLIZZARD
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RECD
01-22-97
ESC-WV

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

KLS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001433240

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	01	20	97

DOLLARS	CENTS
889	22

PAY $ _____

THIS IS NOT A CHECK

PAY TO:
CHARLES R. SMITH JR
RT.2 BOX 146 B
LETART, WV 25253

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001433240
Claim # : 970016137
Claimant Name : CHARLES R. SMITH JR
Claimant SSN : 235-19-3261
Compensation Type : TEMPORARY TOTAL
Payment Type : REGULAR
Pay From : 01/06/1997 Thru: 01/19/1997 Days: 14
Daily Pay Rate : $63.51571
Date of Injury : 08/16/1996
Policy Number : 89003571-201
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $889.22
Overpay Reduction : $0.00
Net Check Amt : $889.22

RP

Contact KIMBERLY BLIZZARD
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

KLS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001448656

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	02	03	97

DOLLARS CENTS
PAY $ 698.67

THIS IS NOT A CHECK

PAY TO:
CHARLES R. SMITH JR
RT.2 BOX 146 B
LETART, WV 25253

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001448656
Claim # : 970016137
Claimant Name : CHARLES R. SMITH JR
Claimant SSN : 235-19-3261
Compensation Type : TEMPORARY TOTAL
Payment Type : REGULAR
Pay From : 01/20/1997 Thru: 01/30/1997 Days: 11
Daily Pay Rate : $63.51545
Date of Injury : 08/16/1996
Policy Number : 89003571-201
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $698.67
Overpay Reduction : $0.00
Net Check Amt : $698.67

Contact KIMBERLY BLIZZARD
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RAVENSWOOD ALUMINUM CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

KIS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001448655

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	02	03	97

DOLLARS CENTS
PAY $ 889.22

THIS IS NOT A CHECK

Andrew N. Richardson
COMMISSIONER

PAY TO:
CHARLES R. SMITH JR
RT.2 BOX 146 B
LETART, WV 25253

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001448655
Claim # : 970016137
Claimant Name : CHARLES R. SMITH JR
Claimant SSN : 235-19-3261
Compensation Type : TEMPORARY TOTAL
Payment Type : REGULAR
Pay From : 12/23/1996 Thru: 01/05/1997 Days: 14
Daily Pay Rate : $63.51571
Date of Injury : 08/16/1996
Policy Number : 89003571-201
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $889.22
Overpay Reduction : $0.00
Net Check Amt : $889.22

Contact KIMBERLY BLIZZARD
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

RECD 12-16-96

CHARLES E. WHITEHOUSE
RT 4 BOX 88
RIPLEY, WV 252610000

No awd Gave to Pam 12/16/96

KLS

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001351727

NOTE: This is NOT a check. Payment will be made to you by the employer.

CODE	DATE OF ISSUE MO.	DAY	YR.
PP	12	03	96

DOLLARS	CENTS
3142	80

PAY TO:
CHARLES E. WHITEHOUSE
RT 4 BOX 88
RIPLEY, WV 252610000

PAY $ _____ THIS IS NOT A CHECK

Drew N. Richardson
COMMISSIONER

EMPLOYER: RAVENSWOOD ALUMINUM CORP

If no award Recvd- RW. P.O.

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS OF** RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001351727
Claim # : 970009583
Claimant Name : CHARLES E. WHITEHOUSE
Claimant SSN : 233-64-1162
Compensation Type : PERMANENT PARTIAL
Payment Type : FIRST PAYMENT
Pay From : 06/30/1994 Thru: 09/15/1994 Days: 78
Daily Pay Rate : $40.29571
Date of Injury : 06/29/1994
Policy Number : 89003571-201 Allocation %:100.00
Employer : RAVENSWOOD ALUMINUM CORP
Gross Check Amount : $3142.80 DWF Amount : $0.00
Overpay Reduction : $0.00
Net Check Amt : $3142.80

No record of award returned Did not pay as of 2/24/97 Still have not recd.

Contact CURT WENDELL at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

OWENS-ILLINOIS INC
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001440494

DATE OF ISSUE

CODE	MO.	DAY	YR.
PP	01	28	97

DOLLARS CENTS
PAY $ 1024.00

THIS IS NOT A CHECK

Andrew N. Richardson
COMMISSIONER

PAY TO: NICHOLAS VUKOVICH
C/O WILSON CHARLES WILLIAM
122 COURT AVE
PO BOX 1310
WESTON, WV 26452-1966

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001440494
Claim # : 970021342
Claimant Name : NICHOLAS VUKOVICH
Claimant SSN : 234-09-5315
Compensation Type : PERMANENT PARTIAL
Payment Type : FIRST PAYMENT
Pay From : 04/16/1977 Thru: 06/10/1977 Days: 56
Daily Pay Rate : $18.28571
Date of Injury : 04/15/1977
Policy Number : 29000004-202 Allocation %:100.00
Employer : OWENS-ILLINOIS INC
Gross Check Amount : $1024.00 DWF Amount : $0.00
Overpay Reduction : $0.00
Net Check Amt : $1024.00

No award
As of 2/24/97 claimant has not filed award.

Contact LISA ROGERS
at 800-628-4265 if you have any questions concerning this payment.

(2)

Employer's Pay Order Copy

12-23-96

STONE & THOMAS INC
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

SAT

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001381246

DATE OF ISSUE			
CODE	MO.	DAY	YR.
TT	12	19	96

782.00
DOLLARS CENTS
PAY $ ~~1989~~ .00
THIS IS NOT A CHECK

Andrew M. Richardson
COMMISSIONER

PAY TO: DOLORES DRURY
C/O ALFORD JERRY
301-A MIDWAY ROAD
ALUM CREEK, WV 25003

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001381246
Claim # : 950021624
Claimant Name : DOLORES DRURY
Claimant SSN : 190-24-7142
Compensation Type : TEMPORARY TOTAL
Payment Type : ADVANCE/ONE T
Pay From : 03/06/1995 Thru: ~~06~~/30/1995 Days: 117
Daily Pay Rate : $17.00000
Date of Injury : 08/20/1994
Policy Number : 43000054-202
Employer : STONE & THOMAS INC
Gross Check Amount : $1989.00
Overpay Reduction : $0.00
Net Check Amt : $1989.00

4-20-95

4-21-95 526 Closur

Per Pam M. - No reopening. Pay upto Closure da

Contact LINDA L. HILL
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

STONE & THOMAS INC
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

SAT

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001381247

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	12	19	96

DOLLARS | CENTS
PAY $ 4267 | 00

THIS IS NOT A CHECK

Andrew M. Richardson
COMMISSIONER

PAY TO: DOLORES DRURY
C/O ALFORD JERRY
301-A MIDWAY ROAD
ALUM CREEK, WV 25003

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001381247
Claim # : 950021624
Claimant Name : DOLORES DRURY
Claimant SSN : 190-24-7142
Compensation Type : TEMPORARY TOTAL
Payment Type : ADVANCE/ONE T
Pay From : 07/01/1995 Thru: 03/07/1996 Days: 251
Daily Pay Rate : $17.00000
Date of Injury : 08/20/1994
Policy Number : 43000054-202
Employer : STONE & THOMAS INC
Gross Check Amount : $4267.00
Overpay Reduction : $0.00
Net Check Amt : $4267.00

4-21-95 closure
Per Pam M. retu-
pd up to date.

Contact LINDA L. HILL
at 800-628-4265 if you have any questions concerning this payment.

Employer's Pay Order Copy

NORTH WV REG-MORGANTOWN OP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

003

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001296325

NOTE: This is NOT a check. Payment will be made to you by the employer.

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	10	24	96

DOLLARS	CENTS
9549	99

PAY $ 9549.99

THIS IS NOT A CHECK

PAY TO:

MICHAEL ANTHONY HERMOSILLA
01221 FLEMING AVE
FAIRMONT, WV 265549466

Andrew N. Richardson
COMMISSIONER

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001296325
Claim # : 950025113
Claimant Name : MICHAEL A. HERMOSILLA JR
Claimant SSN : 236-84-9756
Compensation Type : TEMPORARY TOTAL
Payment Type : ADVANCE/ONE T
Pay From : 12/19/1995 Thru: 05/20/1996 Days: 154
Daily Pay Rate : $62.01292
Date of Injury : 11/23/1994
Policy Number : 39000006-202
Employer : NORTH WV REG-MORGANTOWN OP
Gross Check Amount : $9549.99
Overpay Reduction : $0.00
Net Check Amt : $9549.99

Contact BEVERLY DEAN-BOWLES
at 800-628-4265 if you have any questions concerning this payment.

4/18/96 ALJ revsd denial to reopen to TTD & order gets TTD 12/18/95 thru 3/4 (as subst. by [illegible] med)

Clmt RTW 12/19/95 & did not began missing again until 12/29/95 PO issued for full time period because of ALJ order

Employer's Pay Order Copy

RECD
02-05-97
ESCANED

K-MART CORP
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001446871

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	02	03	97

DOLLARS | CENTS
PAY $ 661 | 48

THIS IS NOT A CHECK

Andrew M. Richardson
COMMISSIONER

PAY TO:
ELIZABETH ANN MARCUM
PO BOX 59
KIAHSVILLE, WV 25534

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control #	: 001446871
Claim #	: 920028513
Claimant Name	: ELIZABETH A. MARCUM
Claimant SSN	: 233-06-5616
Compensation Type	: TEMPORARY TOTAL
Payment Type	: REGULAR
Pay From	: 11/07/1996 Thru: 12/08/1996 Days: 32
Daily Pay Rate	: $20.67125
Date of Injury	: 12/04/1991
Policy Number	: 49000165-201
Employer	: K-MART CORP
Gross Check Amount	: $661.48
Overpay Reduction	: $0.00
Net Check Amt	: $661.48

DW $21.50 (10.75 rate)
Clmt part-time
Being pd at old minimum.
SIB 344.00
Ovpt - $317.45

Contact RICK MARTIN
at 800-628-4265 if you have any questions concerning this payment.

(6)

Employer's Pay Order Copy

CITY OF WHEELING
C/O EMPLOYERS SERVICE CORPORATION
PO BOX 3389
CHARLESTON, WV 25333-3389

COW

BUREAU OF EMPLOYMENT PROGRAMS
WORKERS' COMPENSATION DIVISION

NOTE: This is NOT a check. Payment will be made to you by the employer.

STATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

PAY ORDER NO. 001386346

DATE OF ISSUE

CODE	MO.	DAY	YR.
TT	12	23	96

DOLLARS	CENTS
1460	86

PAY $ _____

THIS IS NOT A CHECK

Andrew N. Richardson
COMMISSIONER

PAY TO:
THOMAS J. PICCARD
129 HARDING AVENUE
WHEELING, WV 26003

IN PAYMENT OF BENEFIT AS SET OUT HEREIN THIS PAYORDER MUST BE HONORED WITHIN **10 DAYS** OF RECEIPT BY THE EMPLOYER OR HIS AGENT

THIS ORDER TO BE RETAINED BY EMPLOYER

W O R K E R S ' C O M P E N S A T I O N D I V I S I O N

Control # : 001386346
Claim # : 970022322
Claimant Name : THOMAS J. PICCARD
Claimant SSN : 135-56-2019
Compensation Type : TEMPORARY TOTAL
Payment Type : REGULAR
Pay From : 11/08/1996 Thru: 11/30/1996 Days: 23
Daily Pay Rate : ~~$63.51565~~
Date of Injury : 10/11/1996
Policy Number : ~~20000050-202~~
Employer : CITY OF WHEELING
Gross Check Amount : $1460.86
Overpay Reduction : $0.00
Net Check Amt : $1460.86

4th quarter 96

WCD using 3 quarters of '95 wages. This quarter cannot be used.

S/B 61.2464

Contact DANNY GRUDIER
at 800-628-4265 if you have any questions concerning this payment.

Underwood
Governor

William F. Vieweg
Commissioner

West Virginia Bureau of Employment Programs
• Job Service/Job Training Programs • Labor Market Information
• Unemployment Compensation • Workers' Compensation
an equal opportunity/affirmative action employer

May 20, 1997

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

Re: Exempt Legislative Rule
Title 85, Series 26
"Health Care Advisory Panel"

Dear Secretary Hechler:

Please consider this letter to be my written approval for the filing of the above noted 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,

William F. Vieweg
Commissioner

WFV:CAE:cdw

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

(Plus all the volunteer help we can get)

TO: JOHN KOZAK

AGENCY: WORKERS' COMPENSATION

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 24, 1997

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 26 TITLE: 85 WORKERS' COMPENSATION

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Carol A. Egnatoff

TITLE OF PERSON SIGNING: Senior Counsel, NCSR Legal Services Div.

DATE: 7/2/97

****

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.