

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 14 APPLICATIONS FOR ADMISSION AND PAYMENT OF BENEFITS FROM THE MAJOR MEDICAL INSURANCE FUND, THE MEDICAL DISASTER FUND AND REQUEST FOR BENEFITS FROM THE SUBSEQUENT INJURY FUND

14-1 APPLICATIONS FOR ADMISSION TO THE MAJOR MEDICAL INSURANCE FUND AND MEDICAL DISASTER FUND

- (A) All applications for admission shall be filed with the Division on the prescribed form along with copies of the payment history, orders, medical records and all available relevant documents that support the application for admission. Upon receipt of an application, the Director shall examine the claim file to determine whether the insurer has exhausted its \$20,000 limit of liability for medical benefits as provided in §8-49-101 C.R.S, 1973. Those applications not meeting this requirement shall be dismissed and the applicant will be so notified by the Director.
- (B) Applications meeting the above requirement shall be examined by the Director in accordance with the relevant provisions of the act. The Director may approve or disapprove an application for admission to/from the fund without conducting a hearing.

14-2 APPEAL OF ORDER DENYING ADMISSION OR DENYING BENEFITS TO THE MAJOR MEDICAL INSURANCE FUND AND MEDICAL DISASTER FUND

- (A) A party who is dissatisfied with an order dismissing or denying an application for admission or dissatisfied with a written denial of benefits may apply for a hearing with the Office of Administrative Courts within 30 days from the date of the order.
- (B) When a hearing is requested after a dismissal or denial of an application for admission or for a denial of benefits from the fund, the Director shall be listed as a party and served with all notices, pleadings, reports, and other documents. Where an attorney has entered an appearance for the Director in a case, such service shall be made upon that attorney.

14-3 TERMINATING BENEFITS FROM THE MAJOR MEDICAL INSURANCE FUND

- (A) When a party believes that further expenditures from the Major Medical Insurance Fund will not promote recovery, alleviate pain or reduce disability, that party, may file a request with the Director to issue an order to show cause why the Director should not issue a final order to cease payments from the Major Medical Insurance Fund.
- (B) Upon the discretion of the Director, an order to show cause why the claim should not be closed from the Major Medical Insurance Fund will be issued. If no response is filed to

the order to show cause within 30 days the Director shall issue an order to cease payments from the Major Medical Insurance Fund. If a response to the order to show cause is received within 30 days, the Director shall determine if an order to cease payments shall be issued.

- (C) If an order to cease payment is issued, and no objection is filed within 30 days of the order to cease payment, the case shall automatically be closed for payment of benefits from the Major Medical Insurance Fund.
- (D) If an objection is timely filed to the order to cease payment the objecting party shall set the case for hearing within 30 days of the date of the objection by filing an application for hearing with the Office of Administrative Courts. The Major Medical Insurance Fund shall continue medical benefits until an application is filed and the matter is resolved by order.

14-4 OFFSET OF LIABILITY TO SUBSEQUENT INJURY FUND FOR ACCIDENTS THAT OCCURRED PRIOR TO 7-1-93 AND OCCUPATIONAL DISEASES THAT OCCURRED PRIOR TO 4-1-94

- (A) Offset of liability to the Subsequent Injury Fund, shall be initiated by filing a request for offset with the Division upon the prescribed form and serving the Director with a copy of the request for offset. The party filing the request for offset with the Director shall also simultaneously file with the Director a copy of medical reports, orders and all available relevant documents that support the request for offset.
- (B) A request pursuant to §8-46-101, C.R.S., shall list, to the extent available by the requesting party, all prior or pending workers' compensation cases by name and number, a brief description of each injury and the award in each case.
- (C) A request pursuant to §8-41-304(2), C.R.S., shall indicate the types of exposures alleged, the approximate dates of each exposure, and the location and the name of the employer in whose employ each exposure allegedly occurred.
- (D) A request for offset shall be filed no later than the date the party requesting offset files an application for hearing or response to application for hearing, unless an administrative law judge rules that good cause has been shown for filing later. However, in no event shall a request for offset be filed after a determination, by admission or order, that a claimant is permanently and totally disabled under §8-46-101 or disabled under §8-41-304(2).
- (E) The party requesting offset shall also file a proposed order with the Office of Administrative Courts joining the Director as a party on behalf of the Subsequent Injury Fund. Sufficient copies of the order and pre-addressed envelopes for all parties shall also be filed.
- (F) The administrative law judge shall consider the proposed order to join the Director and response and rule on whether to join the Director as a party. The ruling shall be based on whether the procedural requirements of this Rule 14 have been met and whether the request states a sufficient basis upon which offset could be granted. Until the Director is joined, notices and orders are not binding on the Subsequent Injury Fund.

- (G) When the Director is joined as a party and when an attorney has entered an appearance on behalf of the Subsequent Injury Fund, copies of all reports, pleadings or other documents thereafter filed by any party shall be served upon that attorney.

14-5 STATUS OF DIRECTOR ON BEHALF OF THE SUBSEQUENT INJURY FUND, IN FATAL CASES

- (A) The Director shall be deemed to be an interested party in all fatal cases and shall be served with all pleadings, notices, reports, and documents as required for any party. Where an attorney has entered an appearance for the Director in a case, such service shall be made upon that attorney.
- (B) In the event a compensable injury results in a death which has not been reported to the Division, the Director may initiate a claim for the death benefits provided by statute.