

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 1	Amend
R20-5-101	Amend
R20-5-102	Repeal
R20-5-102	New Section
R20-5-103	Repeal
R20-5-103	New Section
R20-5-104	Amend
R20-5-105	Repeal
R20-5-105	New Section
R20-5-106	Amend
R20-5-107	Amend
R20-5-108	Amend
R20-5-109	Amend
R20-5-110	Amend
R20-5-112	Amend
R20-5-113	Amend
R20-5-114	Amend
R20-5-115	Repeal
R20-5-115	New Section
R20-5-116	Amend
R20-5-117	Amend
R20-5-118	Amend
R20-5-119	Amend
R20-5-121	Amend
R20-5-123	Amend
R20-5-124	Amend
R20-5-125	Amend
R20-5-126	Amend
R20-5-127	Amend
R20-5-128	Repeal
R20-5-128	New Section
R20-5-129	Amend
R20-5-130	Amend
R20-5-131	Amend
R20-5-133	Amend
R20-5-134	Amend
R20-5-136	Amend
R20-5-137	Amend
R20-5-138	Amend
R20-5-139	Amend
R20-5-140	Amend
R20-5-141	Amend
R20-5-142	Amend
R20-5-143	Amend
R20-5-144	Amend

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R20-5-145	Amend
R20-5-146	Repeal
R20-5-147	Amend
R20-5-148	Amend
R20-5-149	Amend
R20-5-150	Amend
R20-5-151	Amend
R20-5-152	Amend
R20-5-153	Amend
R20-5-154	Amend
R20-5-155	Amend
R20-5-156	Amend
R20-5-157	Amend
R20-5-158	Amend
R20-5-159	Amend
R20-5-160	Amend
R20-5-162	Amend
R20-5-163	Amend
R20-5-164	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 23-107(A)(1)

Implementing Statutes: A.R.S. §§ 23-908(A) and (B), 23-921(B); 23-930(E), 23-961(F), 23-1043.02(F), 23-1043.03(F), and 23-1067

3. The effective date of the rules:

August 17, 2001

4. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 2 A.A.R. 1107, March 1, 1996

Notice of Formal Rulemaking Advisory Committee: 2 A.A.R. 1109, March 1, 1996

Notice of Rulemaking Docket Opening: 7 A.A.R. 71, January 5, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 12, January 5, 2001

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Laura L. McGrory, Assistant Chief Counsel, Legal Division

Address: Industrial Commission of Arizona
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Phoenix, AZ 85007

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6. An explanation of the rule, including the agency's reason for initiating the rule:

The Industrial Commission of Arizona, in cooperation with the Workers' Compensation Rules Advisory Committee, initiated rulemaking to update the language of Article 1 and to improve the clarity and conciseness of the rules. In response to concerns and comments received from the workers' compensation community, amendments are also made that encourage informal resolution of discovery disputes, clarify the right and scope of inspection of Commission claims' files, and address parties' rights and obligations related to payment of disability benefits, issuance of notices, discovery, scheduling of medical examinations, exchange of medical reports, and other rules of procedure governing practice before the Commission in a workers' compensation hearing. The amendments also address the nature and scope of medical record requests, including the fee that may be charged by health care providers for the reproduction of the requested records. The amendments also include approval and practice requirements to maintain a claims office outside Arizona. The amendments also implement the requirements under A.R.S. § 23-1043.01 pertaining to hepatitis C.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The amendments do not diminish a previous grant of authority of a political subdivision of this state.

9. The summary of the economic, small business, and consumer impact statement:

The amendments concern primarily rules of procedure governing workers' compensation claims before the Industrial Commission of Arizona ("Commission"). The Commission does not anticipate or foresee an economic impact on individuals affected by Article 1 except as a result of amendments found in R20-5-113, R20-5-118, R20-5-128, R20-5-130, R20-5-137, R20-5-149, and R20-5-164 that are more fully described below.

Amendments are made to R20-5-113 that permit a workers' compensation insurance carrier, self-insured employer, and special fund division to refuse or delay payment to a physician for services rendered if the physician fails to submit the report required by this Section. If a physician complies with the requirements of R20-5-113, there is no economic impact and the physician will receive payment for services rendered. Timely submission of a medical report by a physician facilitates timely payment of disability benefits to an injured worker and promotes efficient claims processing by an insurance carrier, self-insured employer, or special fund division. In this regard, the benefits of the rule outweigh the impact that the proposed change may have upon physicians who fail to timely provide the required medical reports.

Amendments are made to R20-5-118 that require a carrier, self-insured employer, and special fund division to provide a claimant a copy of the medical report upon which a notice or determination is predicated. To the extent that a carrier, self-insured employer, and special fund division is not already providing the report (which is required to be provided upon request from a claimant), costs associated with the copying of these medical reports are expected to be incurred. The costs are anticipated to be minimal to moderate (zero to \$2,000) depending on the number of claims processed by the carrier, self-insured employer, and special fund division.

Amendments are made to R20-5-128 that limit the charge that physicians, physical therapists, and occupational therapists ("health care providers") can bill for copying medical records to \$.25 a page and \$10 dollars an hour for associated clerical costs. Some health care providers charge more than the charges set forth in R20-5-128. Some providers charge less. Some providers do not charge claimants anything for copying the claimant's medical records. The Commission believes that the limitation set forth in Section 128 is reasonable and reflects the value of services rendered when copies are made. From this perspective, there is no economic impact upon the health care provider as a result of the amendment to Section 128. On the other hand, if the impact of the rule is evaluated by comparing the charges set forth in Section 128 to the copy costs actually charged, some health care providers may experience an economic impact as a result of the rule change. From this perspective, the Commission believes that health care providers who charge a flat fee for the copying of records may experience a greater impact than those who charge per page. For those who charge a flat fee and accustomed to charging \$30 to \$40 for the reproduction of records (whether one page is produced or 200 pages are produced), the economic impact is expected to be none to moderate (receives 100% to 25% of current charges) depending on the number of records requested. For example, if two pages of records are copied, the health care provider would be paid \$10.50 under the new rule (receives 25%-30% of current charges if flat fee is \$30 to \$40). On the other hand, if 250 pages are copied, then the provider would be paid \$62.50 plus \$10 an hour for clerical time (more than the provider's current charges). For those who currently charge per page, the economic impact is expected to be minimal (receives 100% to 75% of current charges) as the current charges are comparable to the limitation set forth in Section 128.

The Commission believes that the amendment to R20-5-128 does not impose an unfair burden on health care providers. The cost limitation set forth in this Section reflects what is:

1. Required under the Industrial Commission's Physician Fee Schedule,
2. Considered "reasonable" in the context of subpoenas under A.R.S. § 12-351,
3. Consistent with the current copying charges of some health care providers, and
4. Consistent with generally accepted copying charges for public records.

By limiting copying charges, parties to Industrial Commission proceedings have increased access to records that the law entitles them to receive. This is particularly important since the injured worker's claim to medical and compensation benefits often depends on the information contained in medical reports. The Industrial Commission further believes that increasing access to medical records required for the discovery and litigation of workers' compensation cases constitutes a benefit that outweighs the impact experienced by those health care providers who currently charge more than \$.25 per page and \$10 per hour in associated clerical costs for the reproduction of medical records.

Under Section 130, workers' compensation carriers and self-insured employers (directly or through third party processors) have the right to request permission to process claims from an out-of-state claims office. Presently, (as well as under the amended rule), a carrier or self-insured employer is required to maintain an office in Arizona where workers' compensation claims files are maintained and from where claims are processed and paid. The current rule (and amended rule) does not permit the processing and paying of claims outside Arizona without the permission of the Commission. The present rule does not contain the criteria for the granting of that permission, except to say that permission shall not be unreasonably withheld if claims are being processed in an efficient and timely manner under the applicable laws and rules.

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For at least the past 10 years, the practice of the Commission has been to grant permission to process claims from an out-of-state office if the carrier, self-insured employer, or third party processor could process its claims from the out-of-state office without cost to a claimant. This required the carrier or self-insured employer to set up and maintain a toll-free telephone number to allow a claimant to call the carrier or self-insured employer without incurring long distance charges. The amendment to the current rule incorporates the current practice of the Commission. Consequently, all carriers, self-insured employers, and third party processors that are processing claims from an out-of-state office currently maintain a toll-free telephone number.

The real economic impact from this requirement is from the long distance charges incurred from claimants calling the carrier or self-insured. The larger companies will incur more long distance charges because they process more claims. Conversely, the smaller companies will incur less. Presently, the companies that process the largest number of out of state claims are notified of approximately 5,000 claims per year. Other companies' process as few as seven Arizona claims per year. Whatever may be the impact of maintaining a toll-free telephone number, that cost is unlikely to exceed the cost of setting up and maintaining an office in Arizona to process claims. Carriers, self-insured employers, and third-party processors request permission to process claims out-of-state because it is economically advantageous for them to do so. By processing claims from an out-of-state office, the carrier, self-insured employer, or third party processor saves the cost of renting or buying office space in Arizona, hiring staff to work in the Arizona office, and all the other expenses that go along with running a business in Arizona. Consequently, regardless of what the long distance charges may be, a carrier, self-insured employer, or third party processor is going to save money by processing claims out-of-state.

The amendment to Section 130 also requires that the toll-free number be printed on the notices and other determinations issued from the out-of-state office. Currently notices are required (under Section 106) to contain both the name and number of the issuing party. Therefore, the requirement under Section 118 is not a new requirement, as much as a clarification of which number is required to be printed on the notices or determinations issued. With respect to the majority of carriers and self-insured employers that are currently processing claims from an out-of-state office, the Commission does not believe that there is any economic impact as a result of the requirements of Section 130. For the few carriers or self-insured employers that have not printed their toll-free number on their forms, they may experience minimal economic impact (less than \$200) due to the reprinting or reformatting of forms.

The Commission believes that the economic impact associated with the amendment to Section 130 is outweighed by the advantage of having such a number. In addition to the money saved by not having to maintain an Arizona office, a toll free telephone number increases access of injured workers and client employers to the carrier, self-insured employer, or third party processor by eliminating long distance telephone charges.

Section 137 is amended to shift the burden of serving parties with a copy of a request for hearing from the Commission to the party filing the request for hearing. Since the parties will eventually receive notice from the Commission that a request for hearing has been filed (via a Notice of Hearing issued by an administrative law judge), the Commission does not consider it necessary to place a separate and additional notification burden upon the Commission. The estimated cost for the Commission to serve parties with copies of requests for hearing is \$6,900 annually. This cost is being shifted and spread among claimants, worker's compensation insurance carriers, and self-insured employers. The Commission believes that approximately 80% to 90% of hearing requests that are filed with the Commission are filed by claimants. For the claimant who protests a notice by filing a request for hearing, the claimant will incur the costs of copying and serving the request for hearing upon the other parties to the case, a cost not anticipated to exceed \$.75 (a minimal impact) if only one copy is required to be served. The cost will increase accordingly if there are multiple parties to the case. Currently, some claimants are already serving copies of their requests for hearing upon the parties. Therefore, they will incur no additional costs.

For worker' compensation insurance carriers and self-insured employers (including third party processors who may be processing claims on behalf of an insurance carrier or self-insured employer), the cost is greater since these entities are processing multiple claims (thus having the potential to file and service multiple hearing requests). The cost to copy and serve requests for hearing filed by these entities is expected to be less than \$25 per year.

The Commission considers the reallocation of the burden to serve a copy of a request for hearing fair. As stated previously, the Commission already provides all parties with notice of a hearing set in response to the request for hearing filed with the Commission. The benefit to the Commission in terms of dollars and resources saved outweighs the minimal cost impact to employees, workers compensation insurance carriers, and self-insured employers.

Section 149 is amended to enable a judge to assess hearing costs against a party who fails to appear at hearing without notice to the judge. These hearing costs could include the appearance fee of a court reporter (\$20-\$40), as well as appearance fees for witnesses (up to \$110 for a physician). The ability to impose hearing costs (which is unlikely to exceed \$150 for a single hearing) encourages parties to provide timely notice of an inability to appear at hearing. If such notice is provided, the judge has the ability to cancel the hearing, thus avoiding unnecessary hearing costs for the Administrative Law Judge Division. The Commission believes that the avoidance of unnecessary hearing costs constitutes a benefit to the agency that outweighs the minimal economic impact that may be incurred by a party.

R20-5-164 conforms the requirements of this Section to the requirements of 29 CFR 1910.1030 by requiring an employer to pay for the testing required by A.R.S. § 23-1043.02. R20-5-164 imposes no additional burden on employers, but clarifies the obligation of employers.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In addition to the miscellaneous correction of typographical and punctuation errors and technical changes suggested by Council staff, the Commission made the following changes to the proposed rules. Language that has been added after the proposed rules were published are indicated in this paragraph by bold underlined text. Language that has been stricken from the proposed rules are indicated in this paragraph by bold strike outs. The Commission's reason for the change is indicated in italics.

R20-5-112. Physician's Initial Report of Injury

C. If an injured worker uses form 102 to initiate a claim, either the injured worker or the injured worker's authorized representative shall sign the worker's portion of form 102. ~~**If signed, the injured worker or the injured worker's authorized representative shall comply with R20-5-107.**~~ Form 102 requests the following:

The second sentence has been removed as it is unnecessary in view of the language found in R20-5-107 and to eliminate any confusion that may arise from the use of the words "if signed." Language was added to the first sentence to clarify that a signature is required if form 102 is being used to initiate a workers' compensation claim

R20-5-117. Medical, Surgical, Hospital, and Burial Expenses

A. A carrier, self-insured employer, or special fund division, shall pay bills for medical, Medical, surgical, and hospital benefits provided under A.R.S. § 23-901 et seq. shall according to applicable be paid in accordance with the various medical and surgical fee schedules adopted by the Commission and in effect at the time the services were are rendered. The physician, Physician, nursing, hospital, drug or other medical services provider bills shall itemize and submit a bill be itemized and presented for payment only to the responsible carrier, self-insured employer, or special fund division employer, or if he is insured for medical, surgical or hospital benefits, to his insurance carrier.

B. The claimant injured employee shall not be responsible to pay for any disputed amounts between the medical provider of service and the insurance carrier, self-insured employer, or special fund division, or employer concerning these fees.

Subsection (A) provides that a medical provider shall submit its bill for services to the responsible carrier, self-insured employer, or special fund division. Subsection (B) provides that a claimant shall not be responsible to pay any disputed amounts between the medical provider and the carrier, self-insured employer, or special fund division. The intent of these subsections is to ensure that a claimant is not subjected to balance billing or any other problem associated with the payment for medical, surgical, or hospital services provided to an injured worker. To improve the clarity of this rule, the Commission inserted the word "only" into subsection (A) to make clear that a provider may only submit its bills to the entity responsible to pay the bill.

11. A summary of the principal comments and the agency response to them:

R20-5-104. Address of Claimant and Uninsured Employer

Principal Comment: Section 104 appears to have changed the notification of a change in address requirement from a continuing duty to a one-time duty.

Agency Response: The Commission disagrees. The change in subsection (A) is a non-substantive change intended to make the language of that subsection more clear and concise. The language is written in the active voice that states that an applicant is required to advise of the claimant's current address. If the claimant moves, then the new address becomes the current address, thus triggering the requirement to notify under Section 104.

R20-5-112. Physician's Initial Report of Injury

Principal Comment: The change in subsection (C) makes the employee's signature optional instead of mandatory. The signature should be mandatory.

Agency Response: The permissive language found in subsection (C) refers only to who may sign the worker's portion of the form, not that the signing is optional. In this regard, this subsection provides that a worker or the workers' authorized representative may sign the form. To eliminate any confusion that arises from the language "if signed," found in the second paragraph of subsection (C), the second sentence has been removed as it is unnecessary in view of the language found in R20-5-107. Additional language was added to the first sentence to clarify that a signature is required if form 102 is used to initiate a workers' compensation claim.

R20-5-113. Physician's Duty to Provide Signed Reports; Rating of Impairment of Function; Restriction Against Interruption or Suspension of Benefits; Change of Physician

Principal Comment: The language in subsection (B) should require a physician to rate the percentage of impairment. If a physician is going to treat a patient for a worker's compensation injury, then the physician should rate the impairment instead of having another physician doing it.

Agency Response: Subsection (B) does require a physician to determine whether a patient has sustained a permanent impairment related to the industrial injury. The permissive language found in subsection (B) refers to the use of the American Medical Association Guides to the Evaluation of Permanent Impairment in rating that impairment.

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R20-5-115. Request to Leave the State

Principal Comment: The effective date of a request to leave the state should be the date the Commission approves the request.

Agency Response: This comment reflects the principle set forth in *Hurley v. Industrial Commission*, 140 Ariz. 225, 681 P. 2d 377 (1984) (permission to leave the state relates back to date Commission first acted). In 1987, however, the Legislature amended A.R.S. § 23-1071 to provide that the effective date of a request to leave the state is the date an employee requests the written approval (when the Commission initially denied the request, but an administrative law judge subsequently approves the request.) As a result, *Hurley* no longer controls in that set of circumstances.

The amendment to A.R.S. § 23-1071 (like the *Hurley* case) only addresses the effective date of a request to leave the state when an ALJ approves a request to leave the state that was initially administratively denied by the Commission. Left unanswered is the effective date of an order approving or disapproving a request to leave the state when no appeal is taken. To promote uniformity and consistency with the applicable statute, the Commission amended Section 115 to provide that the effective date of a request to leave the state is the date an employee first requests the approval.

R20-5-117. Medical, Surgical, Hospital, and Burial Expenses

Principal Comment: This rule should expressly prohibit a medical provider from billing a claimant for charges not paid for by a carrier, self-insurer, or special fund division.

Agency Response: Subsection (A) provides that a medical provider shall submit its bill to the carrier, self-insured employer, or special fund division. Subsection (B) provides that a claimant shall not be responsible to pay any disputed amounts between the medical provider and the carrier, self-insured employer, or special fund division. The intent of these subsections was to ensure that a claimant is not subjected to the kind of problems described by the individual making this comment. To improve the clarity of this rule, the Commission inserted language into subsection (A) that a provider may submit its bills only to the entity responsible to pay the bill.

General comment applicable to Article as a whole:

Principal comment: Use of “carrier, self-insured employer, and special fund division” is not consistent throughout the rules. There are some rules where the list of three should have been, but was not, included.

Agency response: The comment fails to state the rules where the “standardized list” should have been included. When referring to this “standardized list”, the Commission assumes that the comment refers to the failure to include a reference to the “special fund division” in certain rules throughout Article 1. The Commission added a reference to the special fund division throughout the rules as it deemed appropriate, giving consideration to the fact that the special fund division is a division of the Commission, is processing “no insurance claims”, and is not a carrier. In view of its unique role and function, it was unnecessary and, in some instances, inappropriate to reference the special fund division in each rule where a carrier is referenced.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporation by reference and their location in the rules:

United States Abridged Life Tables, 1996, National Vital Statistics Reports, Vol. 47, Number 13. Incorporated by reference in R20-5-121(B).

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

~~ARTICLE 1. RULES OF PROCEDURE FOR WORKERS' COMPENSATION HEARINGS BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA~~

WORKERS' COMPENSATION PRACTICE AND PROCEDURE

Section

R20-5-101. Notice of Rules; Part of Record; Effective Date

R20-5-102. ~~Location of Office and Office Hours~~ Definitions

R20-5-103. ~~Time for Filing; Computation; Responses to Motions~~ Location of Industrial Commission Offices and Office Hours

R20-5-104. Address of Claimant and Uninsured Employer

R20-5-105. ~~Definitions~~ Filing Requirements; Time for Filing; Computation of Time; Response to Motion

R20-5-106. Forms Prescribed by the Commission

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- R20-5-107. Manner of Completion of Forms and Documents
- R20-5-108. ~~Confidentiality of a Commission Claims File; Reproduction an dInspection of a Commission Claims File Files~~
- R20-5-109. ~~Admission into Evidence of Documents Contained in a Commission Claims File Microfilmed Files~~
- R20-5-110. ~~Employer's Report; Report of Fatality Employer Duty to Report Fatality~~
- R20-5-112. Physician's Initial Report of Injury
- R20-5-113. ~~Physician's Duty to Provide Signed Subsequent Medical Reports; Rating of Impairment of Function; Restriction Against Interruption or Suspension of Benefits; Change of Physician; Employee's Obligation to Follow Treatment; Rating of Impairment of Function~~
- R20-4-114. Examination at Request of Commission, Carrier or Employer; Motion for Relief
- R20-5-115. ~~Requests for Out-of State Medical Treatment Request to Leave the State~~
- R20-5-116. ~~Payment of Claimant's Travel Transportation and Living Expenses of Employee When Directed to Report for Medical Examination or Treatment~~
- R20-5-117. Medical, ~~Surgical~~, Hospital, and Burial Expenses
- R20-5-118. ~~Effective Date of Notices Notice of Claim Status and Other Determinations; Attachments to Notices of Claim Status; Form of Notices of Claim Status~~
- R20-5-119. Notice of Third Party Settlement
- R20-5-121. Present Value ~~and~~; Basis of Calculation of Lump Sum Commutation Award
- R20-5-123. Rejection of ~~the Act Workers' Compensation Law~~
- R20-5-124. Rejection Not Applicable to New Employment
- R20-5-125. Rejection ~~Before an Employer Complies with A.R.S. §§ 23-961(A) and 23-906(D) Prior to Employers Securing Insurance~~
- R20-5-126. Revocation of Rejection
- R20-5-127. Insurance ~~Carrier Carrier's~~ Notification to Commission of Coverage
- R20-5-128. ~~Employer's Notification to Commission of Coverage~~Medical Information Reproduction Cost Limitation; Definition of Medical Information
- R20-5-129. ~~Carrier Carrier's or Workers' Compensation Pool~~ Determinations Binding upon its Insured ~~or Members~~; Self-Rater Exception
- R20-5-130. ~~Arizona~~ Claims Office Location and Function; Requirements of Maintaining an Out-of-State Claims Office;
- R20-5-131. Maintenance of Carrier and Self-insured Employer Claims Files File; Contents; Inspection and Copying; Exchange of Medical Reports; Authorization to Obtain Medical Records
- R20-5-133. Claimant's Employee's Petition to Reopen for Reopening of Claim
- R20-5-134. Petition For Rearrangement or Readjustment of Compensation Based Upon Increase or Reduction of Earning Capacity
- R20-5-136. Time Within Which Requests within which requests for Hearing Shall hearing shall be Filed filed
- R20-5-137. Service of a Request Requests for Hearing Timely Filed
- R20-5-138. Hearing Calendar and Assignment to Administrative Law ~~Judge Judges~~; Notification of Hearing
- R20-5-139. Administrative Resolution of Issues by Stipulation Before Filing a Request for Hearing
- R20-5-140. Informal Conferences
- R20-5-141. ~~Witnesses; Subpoena~~ Requests for Witnesses; Objection to Documents or Reports Prepared by Out-of-State Witness
- R20-5-142. ~~In-State Witnesses' Oral Depositions; In State~~
- R20-5-143. ~~Out-of-State Witnesses' Oral Depositions; Out-of-State~~
- R20-5-144. ~~Parties' Written Interrogatories~~
- R20-5-145. Refusal to Answer ~~or; Refusal to Attend; Motion to Compel; Sanctions Imposed~~
- R20-5-146. Use of Depositions of Answers to Interrogatories Repealed
- R20-5-147. Applicability; Videotape Recordings and Motion Pictures
- R20-5-148. Burden of Presentation of Evidence; Offer Offers of Proof
- R20-5-149. Presence of Claimant Applicant at Hearing; Notice of a Parties' Non-Appearance at Hearing; Assessment of Hearing Costs for Non-Appearance
- R20-5-150. Joinder of a Power to Join Interested Party
- R20-5-151. Special Appearance
- R20-5-152. Resolution of Issues by Stipulation After the Filing of a Request for Hearing Stipulations; Notice of Resolution; Assessment of Hearing Costs
- R20-5-153. Exclusion of Witnesses
- R20-5-154. Correspondence to Administrative Law Judge
- R20-5-155. Filing of Medical Reports and Non-Medical Reports Into Evidence; Request for Subpoena Right to Cross-examine Author of Report Submitted into Evidence; Failure to Timely Request Subpoena for Author
- R20-5-156. Continuance of Hearing
- R20-5-157. Sanctions

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- R20-5-158. Service of Awards and Other Matters
- R20-5-159. Record for Award or Decision on Review
- R20-5-160. Application Petitions to Set Attorney Fees Under A.R.S. § 23-1069
- R20-5-162. Legal Division ~~department~~ Participation
- R20-5-163. Bad Faith and Unfair Claim Processing Practices
- R20-5-164. Human Immunodeficiency Virus and Hepatitis C Significant Exposure; Employee Notification; Reporting; Documentation; Forms

~~ARTICLE 1. RULES OF PROCEDURE FOR WORKERS' COMPENSATION HEARINGS BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA~~
WORKERS' COMPENSATION PRACTICE AND PROCEDURE

R20-5-101. Notice of Rules; Part of Record; Effective Date

- A.** ~~This Article applies~~ These rules apply to all actions and proceedings before the Commission ~~pertaining to claims~~ resulting from:
 - 1. Injuries ~~injuries that which~~ occurred on or after January 1, 1969; and to
 - 2. Petitions to Reopen or Petitions for Readjustment or Rearrangement of Compensation filed on or after that date.
- B.** ~~This Article is and shall be deemed~~ a part of the record in each ~~such~~ action or proceeding without formal introduction of or reference to ~~the Article, the same.~~
- C.** ~~The Commission deems all~~ All parties are deemed to have knowledge of ~~this Article, these rules.~~
- D.** ~~The Commission shall provide a copy of this Article~~ the rules will be supplied upon request to any person free of charge ~~by the Commission.~~
- E.** ~~This Article is effective as provided in A.R.S. § 41-1031. These rules shall become effective March 1, 1987, and apply to all hearings held thereafter.~~

R20-5-102. ~~Location of Office and Office Hours~~ Definitions

~~The main office of The Industrial Commission of Arizona is located in Phoenix, Arizona. An office is also located in Tucson, Arizona. The offices are open for the transaction of business from eight o'clock A.M. until five o'clock P.M. every day except Saturdays, Sundays and legal holidays.~~

~~In this Article, unless the context otherwise requires:~~

"Act" means the Arizona Workers' Compensation Act, Arizona Revised Statutes, Title 23, Chapter 6, Articles 1 through 11.

"Authorized representative" means an individual authorized by law to act on behalf of a party who files with the Commission a written instrument advising of the individual's authority to act on behalf of the party.

"Carrier" or "insurance carrier" means the state compensation fund and every insurance carrier authorized by the Arizona Department of Insurance to underwrite workers' compensation insurance in Arizona.

"Claimant" means an employee who files a claim for workers' compensation.

"Filing" means actual receipt of a report, document, instrument, videotape, audiotape, or other written matter at a Commission office during office hours as set forth in R20-5-103.

"Physician" means a licensed physician or other licensed practitioner of the healing arts.

"Self-insured employer" means an employer or workers' compensation pool granted authority by the Commission to self-insure for workers' compensation.

"Uninsured employer" or "noncomplying employer" means an employer that is subject to and fails to comply with A.R.S. §§ 23-961 or 23-962.

"Working days" means all days except Saturdays, Sundays, and state legal holidays.

R20-5-103. ~~Time for Filing; Computation; Responses to Motion~~ Location of Industrial Commission Offices and Office Hours

- A.** All pleadings, reports, documents, instruments, and other written matters shall be filed with the Commission within the time required by law and these rules. The day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a holiday. Where a matter is required to be filed within a designated period of time prior to a hearing, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs to the next earlier day which is not a Saturday, Sunday, or a holiday. When the period of time prescribed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. Matters filed at any office of the Commission shall be considered as filed at the main office for purposes of computation of time.

~~B. Any party or any party sought to be joined may respond to any motion filed pursuant to these rules by filing a response to the motion within ten days after the motion is filed.~~

The main office of the Industrial Commission of Arizona is located in Phoenix, Arizona. An office is also located in Tucson, Arizona. The offices are open for business from 8:00 a.m. until 5:00 p.m. every day except Saturdays, Sundays, and state legal holidays.

R20-5-104. Address of Claimant and Uninsured Employer

~~A. It shall be the duty and obligation of a claimant to keep the The Industrial Commission of Arizona and carrier or self-insured employer advised of the claimant's current mailing his address and place of residence. If a claimant files a workers' compensation claim against an uninsured employer, the claimant shall advise the special fund division of the claimant's current mailing address and place of residence.~~

~~B. An uninsured employer against whom a claimant files a workers' compensation claim shall advise the special fund division of the uninsured employer's current mailing address and place(s) of residence.~~

~~C. Providing the The address of a the claimant's or uninsured employer's his attorney or authorized representative is shall not be sufficient to meet the requirements of this Section rule.~~

R20-5-105. Definitions Filing Requirements; Time for Filing; Computation of Time; Response to Motion

In these Rules of Procedure, unless the context otherwise requires, the following words and terms shall have the following meanings:

- ~~1. "Authorized representative" means only those persons authorized by law, including attorneys, to appear before the Commission who have filed with the Commission a written instrument advising of their authority to act on behalf of a party.~~
- ~~2. "Insurance carrier" or "carrier" means the State Compensation Fund and every insurance carrier authorized by the Department of Insurance to underwrite workers' compensation insurance in Arizona. It also applies to employers who have been granted authority to act as a self insurers by the Commission.~~
- ~~3. "Filing" means actual receipt of the document, instrument, or matter at the offices of the Commission during its regular hours of business on a day it is open for the transaction of business.~~
- ~~4. "Physician" means any licensed physician or other license practitioner of the healing arts.~~
- ~~5. "Working days" means all days except Saturdays, Sundays, and state legal holidays.~~

~~A. A report, document, instrument, videotape, audiotape, or other written matter required to be filed with the Commission under A.R.S. § 23-901 et seq. and this Article shall be filed at a Commission office within the time required by law and this Article.~~

~~B. For purposes of computing time under this Article, the following applies:~~

- ~~1. The Commission shall not include in the computation of time the day of the act or event from which the designated period begins to run.~~
- ~~2. The Commission shall include in the computation of time the last day of the designated period, unless the last day is a Saturday, Sunday, or state legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state legal holiday.~~
- ~~3. If this Article or other law requires that a report, document, instrument, videotape, audiotape, or other written matter be filed within a designated period of time before hearing, the Commission shall not include the day of the act or event from which the designated period of time begins to run. The Commission shall include the last day of the designated period unless that day is a Saturday, Sunday, or state legal holiday, in which event the period runs to the end of the next day that is not a Saturday, Sunday, or state legal holiday.~~
- ~~4. If the period of time prescribed is less than 11 days, the Commission shall not include intermediate Saturdays, Sundays, or state legal holidays in the computation of time.~~

~~C. The Commission shall deem a report, document, instrument, videotape, audiotape, or other written matter filed at the Tucson office as filed at the main office for purposes of computing time.~~

~~D. A person upon whom a motion to join is filed under this Article may file a response to the motion within 10 days after the motion is filed.~~

~~E. The Commission shall not consider a discovery motion unless the moving party attaches a separate statement to the discovery motion certifying that after good faith efforts to do so, the moving party has been unable to satisfactorily resolve the matter giving rise to the discovery motion with the opposing party.~~

R20-5-106. Forms Prescribed by the Commission

The Commission shall prescribe and provide forms required by the provisions of the Workers' Compensation Law and by this Article. The prescribed forms are available from the Commission upon request.

A. The following forms shall be used when applicable:

1. Employer's report of industrial injury (form 101) shall contain:
 - a. Employee, employer, and carrier identification;
 - b. Description of employment;
 - c. Description of accident and injury;

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- d. Description of medical treatment received by employee;
- e. Employee's wage data;
- f. Date, signature, and title of employer or the employer's representative; and
- g. Statement doubting the validity of the claim, if the employer doubts the validity of the claim.
2. The physician's portion of the worker's and physician's report of injury (form 102) shall contain:
 - a. Name and address of physician;
 - b. Information regarding preexisting conditions;
 - c. Information regarding the industrial injury, treatment, and prognosis;
 - d. Statement authorizing the attachment of a medical report that contains the information required in form 102; and
 - e. Physician's signature and date.
3. Notice of supportive medical benefits (form 103) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Description of authorized medical benefits;
 - c. Date the notice is mailed;
 - d. Name and telephone number of the individual issuing the notice; and
 - e. Statement regarding reopening and appeal rights including filing requirements.
4. Notice of claim status (form 104) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Status of the claim;
 - c. Date the notice is mailed;
 - d. Name and telephone number of the individual issuing the notice; and
 - e. Statement of a party's hearing and appeal rights including filing requirements.
5. Notice of suspension of benefits (form 105) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Effective date of the suspension;
 - c. Reasons for the suspension;
 - d. Date the notice is mailed;
 - e. Name and telephone number of the individual issuing the notice; and
 - f. Statement of a party's hearing and appeal rights including filing requirements.
6. Notice of permanent disability or death benefits (form 106) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Applicable statutory authority under which compensation is paid;
 - c. Disability and compensation information;
 - d. Date the notice is mailed;
 - e. Name and telephone number of the individual issuing the notice; and
 - f. Statement regarding hearing and appeal rights including filing requirements.
7. Notice of permanent disability and request for determination of benefits (form 107) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Type of disability;
 - c. Applicable statutory authority for designated disability;
 - d. Designation of dependents where death is involved;
 - e. Designation of advanced payments and amount of the advance;
 - f. Date the notice is mailed; and
 - g. Name and telephone number of the individual issuing the notice.
8. Carrier's recommended average monthly wage calculation (form 108) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Employment and wage history;
 - c. Designation of dependents; and
 - d. Carrier's calculations for the recommended average monthly wage and the basis for the calculation.
9. Notice of permanent compensation payment plan (form 111) shall contain:
 - a. Employee, employer, and carrier identification;
 - b. Amount of permanent compensation and description of payment plan;
 - c. Name of the responsible entity contracted by the carrier to administer the payment plan;
 - d. Statement that the carrier remains the responsible party for payment;
 - e. Statement regarding supportive care and reopening rights;
 - f. Date the notice is mailed; and
 - g. Name and telephone number of the individual issuing the notice.
10. Report of insurance coverage (form 0006) shall contain:
 - a. Name and address of the carrier;

- b. Legal name of entity that the carrier insures;
 - c. All other insured names or subsidiary entities under which the carrier's insured does business in Arizona;
 - d. Address of all insured entities with insurance policy information for each address; and
 - e. Employer Identification Number (EIN), Taxpayer Identification Number (TIN), or Federal Identification Number (FIN) assigned to each insured person or entity.
11. Report of significant work exposure to bodily fluids shall contain:
- a. The requirements set forth in A.R.S. §§ 23-1043.02(B) and 23-1043.03(B).
 - b. Employee identification;
 - c. Employer identification;
 - d. Details of the exposure including:
 - i. Date of exposure.
 - ii. Time of exposure.
 - iii. Place of exposure.
 - iv. How exposure occurred.
 - v. Type of bodily fluid(s).
 - vi. Source of bodily fluid(s).
 - vii. Part(s) of body exposed to bodily fluid(s).
 - viii. Presence of break or rupture in skin or mucous membrane, and
 - ix. Witnesses (if known); and
 - e. Dated signature of employee or the employee's authorized representative.
- C. The following forms may be used:
- 1. The workers' portion of the worker's and physician's report of injury (form 102) requests:
 - a. Employee, employer, insurance carrier, and physician identification;
 - b. Description of the accident, including date of injury; and
 - c. Date and signature of the employee or the employee's authorized representative.
 - 2. Worker's report of injury (form 407) requests:
 - a. Employee and employer identification.
 - b. Job title.
 - c. Employment description.
 - d. Employee's wage data.
 - e. Date of injury.
 - f. Accident and injury descriptions.
 - g. Medical treatment information.
 - h. Information concerning prior injuries of the employee.
 - i. Disability income, and
 - j. Date and signature of the employee or the employee's authorized representative.
 - 3. Worker's annual report of income (form 110-A) requests:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Employment and wage history for the preceding 12 months;
 - c. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information; and
 - d. Statement that failure to submit an annual report of income may result in a suspension of benefits by the carrier or self-insured employer.
 - 4. Notice of intent to suspend (form 110-B) requests:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Employment and wage history for the preceding 12 months;
 - c. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information;
 - d. Statement that failure to submit an annual report within 30 days of the date of the notice shall result in a suspension of benefits by the carrier or self-insured employer.
 - 5. Request for hearing requests:
 - a. Names of the employee, employer, and insurance carrier;
 - b. Claim identification
 - c. Identification of the award, notice, order, or determination protested and reason(s) for the protest;
 - d. Estimated length of time for hearing and city or town in which hearing is requested;
 - e. Name and address of any witness for whom a subpoena is requested; and
 - f. Date and signature of party or the party's authorized representative.
 - 6. Petition to reopen requests:
 - a. Names of the employee, employer, and insurance carrier;

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- b. Claim identification;
 - c. Identification or description of the new, additional, or previously undiscovered temporary or permanent disability or medical condition justifying the reopening of the claim; and
 - d. Employee's medical and employment history.
 - 7. Petition for rearrangement or readjustment of compensation requests:
 - a. Names of the employee, employer, and insurance carrier;
 - b. Claim identification;
 - c. Income and employment history;
 - d. Medical history; and
 - e. Statement of the basis for the increase or decrease in earning capacity.
 - 8. Claim for dependent's benefits-fatality form requests:
 - a. Identification of dependent filing claim;
 - b. Identification of deceased;
 - c. Date of death;
 - d. Date of injury, if different than date of death;
 - e. Name and address of employer at time of deceased's death;
 - f. Statement of cause of death;
 - g. Names and addresses of healthcare providers rendering treatment to deceased in two years before death;
 - h. Conditions treated by healthcare providers in the two years before deceased's death;
 - i. If claim is for spousal benefits, the form requests:
 - i. Name, address, and date of birth of spouse;
 - ii. Copy of marriage certificate;
 - iii. Date and place of marriage to deceased;
 - iv. History of prior marriages of deceased and deceased's spouse, including copies of divorce decrees; and
 - v. Statement of living arrangements at time of deceased's death, including reason for living apart at time of death, if applicable;
 - j. If claim is for a dependent child, the form requests:
 - i. Name, date of birth, and address of child at time of deceased's death;
 - ii. List of children in care and custody of current spouse; and
 - iii. Statement of whether unborn child is expected and date expected;
 - k. If claim is for dependent other than a child, the form requests:
 - i. Name and address of other dependent,
 - ii. Relationship of other dependent to deceased, and
 - iii. Statement of the nature and extent of dependency; and
 - l. Date, telephone number, and signature of dependent or authorized representative of dependent.
 - 9. Request to leave the state form requests:
 - a. Employee, insurance carrier, and claim identification;
 - b. Reason for requesting to leave Arizona;
 - c. Dates leaving and returning to Arizona;
 - d. Out-of state address;
 - e. Name and telephone number of attending physician; and
 - f. Date and signature of the employee or the employee's authorized representative.
 - 10. Request to change doctors form requests:
 - a. Employee, insurance carrier, and claim identification;
 - b. Reason for requesting change of doctor;
 - c. Name and phone number of claimant's current doctor;
 - d. Name and phone number of doctor claimant requests to change to; and
 - e. Date and signature of the employee or the employee's authorized representative.
 - 11. Complaint of bad faith and unfair claim processing practices requests:
 - a. Employee, employer, and insurance carrier identification;
 - b. Description of the alleged bad faith or unfair claim processing practices;
 - c. Date of the complaint; and
 - d. Name, address, and telephone number of the person signing the complaint.
 - 12. Certification of employer's drug and alcohol testing policy requests:
 - a. Employer's certification as described under A.R.S. § 23-1021 (F);
 - b. Name and federal identification number of the employer; and
 - c. Name of all subsidiaries and locations of the employer.
- D.** Optional use of a form described in subsection (C) does not affect any requirement under the Act or this Article.
- E.** Forms or format for the forms described in this Section are available from the Commission.

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F. Forms prescribed under this Section shall not be changed, amended, or otherwise altered without the prior written approval of the Commission.

R20-5-107. Manner of Completion of Forms and Documents

Prescribed forms must be filled out legibly, either in ink or by typewriter. All reports or instruments required to be signed shall be signed by the party or by the party's authorized representative, and typewritten or stamped signatures will not be accepted. Filing of an incomplete form or an instrument other than a form when a form is required, within the prescribed time period, will constitute a timely filing if the party complies with these rules by filing a properly completed and executed form within 14 days of the date notice was given by the Commission that the form was incomplete.

A. An individual completing a form or document shall fill out the form or document Prescribed forms must be filled out legibly, either in ink or by typewriter.

B. A party or a party's authorized representative shall sign any form or document that is All reports or instruments required by the Act, this Article, or other law to be signed, shall be signed by the party or by the party's authorized representative, and

C. Unless otherwise provided in this Article, if a party is required to sign a form or document, the Commission shall not accept a typewritten name or stamped signature. signatures will not be accepted.

D. If, within the time period prescribed by law, a party files Filing of an incomplete form or document, or files an instrument other than a form or document when a form or document is required, the Commission shall serve notice to the party that the form or document fails to comply with this Section. Within the prescribed time period, The Commission deems the report or document timely filed will constitute a timely filing if the party files complies with these rules by filing a properly completed and signed executed form or document within 14 days after the Commission serves the notice described in this subsection. of the date notice was given by the Commission that the form was incomplete.

R20-5-108. Confidentiality of a Commission Claims File; Reproduction and Inspection of a Commission Claims File Files

A. Except as provided in this Section, a The claims file files maintained by the Commission is and all matters contained therein shall be considered private and confidential and the Commission shall not make the claims file available for inspection and copying. For purposes of this Section, "claims file" means the official record maintained by the Commission for a claimant's industrial injury including the worker's report of injury, employer's report of injury, worker and physician's report of injury, and all other reports, records, instruments, videotapes, audiotapes, transcripts, and other matters scanned or otherwise placed into the file, and shall be available for inspection and copying only by an interested party to a proceeding before the Commission or the party's duly authorized representative.

B. Except as provided in subsections (D) and (E), the Commission shall make a Commission claims file Claims files of the Commission relating to a current present or prior claim claims of a claimant an employee shall be available for inspection and copying by any party to any proceeding currently presently or previously before the Commission involving the same claimant employee.

C. Except as provided in subsections (D) and (E), the Commission shall not make a Commission claims file The Commission's claims files shall be available to a non-party for copying and inspection and copying unless the Commission receives pursuant to a court order or written authorization signed by the affected claimant or the affected claimant's authorized representative, or subpoena

D. The Commission shall make a transcript contained in a Commission claims file available for inspection and copying if:

1. The person requesting to inspect and copy the transcript is a person authorized under subsections (B) or (C); and
2. The transcript concerns a hearing related to a claim that is not in litigation. Orders and awards of the Commission or an administrative law judge are matters of public record

E. The Commission shall make a transcript contained in a Commission claims file available only for inspection if:

1. The person requesting to inspect and copy the transcript is a person authorized under subsections (B) or (C); and
2. The transcript concerns a hearing related to a claim currently in litigation.

~~**F.**~~ The Commission shall provide copies Copies may be furnished upon request at a charge of \$.25 per page. Copies of transcripts of hearings will not be reproduced, but will be available for inspection.

~~**G.**~~ A Commission claims file The files of the Commission shall not be removed taken from a Commission the office of the Commission unless in the custody of an authorized representative of the Commission.

~~**G.**~~ The worker's report of injury requests the following:

1. Employee and employer identification;
2. Job Title;
3. Employment description;
4. Wage data;
5. Date of injury;
6. Accident and injury descriptions;
7. Medical treatment information;
8. Prior injury information;

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9. Disability income;
 10. Date and signature of the employee or the employee's authorized representative.
- H.** The employer's report of industrial injury requests the following:
1. Employee, employer, and carrier identification;
 2. Employment description;
 3. Industrial accident description;
 4. Injury description;
 5. Medical treatment information;
 6. Employee's wage data;
 7. Name and title of employer or the employer's representative with date of report;
 8. If the validity of the claim is doubted, a statement shall be included setting forth the basis thereof.
- I.** The carrier's recommended average monthly wage calculation shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Employment and wage history;
 3. Dependents information;
 4. Carrier's calculations concerning the recommended average monthly wage and the basis thereof.
- J.** The notice of supportive medical benefits form shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Description of authorized medical benefits;
 3. Date the notice is mailed;
 4. Name and telephone number of the issuing party;
 5. Statement regarding reopening and appeal rights with time designations as provided by law.
- K.** The worker's annual report of income requests the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Employment and wage history for the preceding 12 months;
 3. Date and signature of the employee or the employer's authorized representative attesting to the truthfulness of the employment and wage information.
 4. A statement that failure to submit an annual report of income may result in a suspension of benefits.
- L.** The notice of intent to suspend requests the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Employment and wage history for the preceding 12 months;
 3. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information;
 4. A statement that failure to submit an annual report within 30 days of the date of the notice shall result in a suspension of benefits.
- M.** The notice of suspension of benefits shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Effective date of the suspension;
 3. Reasons for the suspension;
 4. Date the notice is mailed;
 5. Name and telephone number of the issuing party;
 6. Statement regarding hearing and appeal rights with time designations as provided by law.
- N.** The notice of permanent disability or death benefits shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Applicable statutory authority;
 3. Disability and compensation information;
 4. Date the notice is mailed;
 5. Name and telephone number of the issuing party;
 6. Statement regarding hearing and appeal rights with time designations as provided by law.
- O.** The notice of permanent disability and request for determination of benefits shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Type of disability;
 3. Applicable statutory authority;
 4. Dependent information where death is involved;
 5. Advanced payments and the basis thereof;
 6. Date the notice is mailed;
 7. Name and telephone number of the issuing party.
- P.** The notice of permanent compensation payment plan shall contain the following:
1. Employee, employer and carrier identification;

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2. Amount of permanent compensation and description of payment plan;
3. Name of the responsible entity contracted by the insurance carrier to administer the payment plan;
4. Statement that the carrier remains the responsible party for payment;
5. Statement regarding supportive care and reopening rights;
6. Date the notice is mailed;
7. Name and telephone number of the issuing party.

R20-5-109. ~~Microfilmed Files~~ Admission into Evidence of Documents Contained in a Commission Claims File

- A.** ~~If a party or an administrative law judge considers a document~~ If additional documents contained in a Commission claims file, including a transcript transcripts of a prior proceeding, proceedings, are considered necessary or appropriate for administrative or formal hearing purposes by any of the interested parties, the administrative law judge shall receive a copy of the document into evidence if the document is otherwise admissible.
- B.** With the permission of the administrative law judge, instead of submitting a copy of the document into evidence, a party may refer to the document's location on the Commission's optical disk imaging system by providing an accurate description of the document that includes the claimant's claim number and image document identification number the Commission assigns to the document. such documents shall be obtained from the Commission microfilm claims file in accordance with the provisions of R20-5-108 and may be submitted in evidence.

R20-5-110. Employer's Report; Report of Fatality Employer Duty to Report Fatality

If Every employer, immediately upon the death of an employee dies as a the result of an injury by accident arising out of and in the course of his employment, the employer shall report the such death to the Commission's claims division Commission by telephone, or telegram, or electronic filing, no later than the next business day following the death. The report shall state stating the name of the employee, when, how, and where the accident occurred, and the nature of the condition causing the accident. This Section does not limit or affect an employer's duty to report a death to the Arizona Occupational Safety and Health Division of the Commission as required under R20-5-637.

R20-5-112. Physician's Initial Report of Injury

- A.** A physician shall complete and file with the Commission a Every physician's initial report of injury under pursuant to A.R.S. § 23-908(A) shall be made on Commission form 102 within eight days after first providing rendering treatment to an injured worker. The physician shall report the injury:
1. Using Commission form 102 (worker's and physician's report of injury), or
 2. Attaching to form 102 a medical report that contains the information required in form 102.
- B.** The physician shall sign and date form 102 or the medical report attached to form 102. The signature of the physician may be typewritten or stamped on this form. Form 102 is available from the Commission upon request. The prescribed form shall be signed and dated by the physician and may be signed by the employee or the employee's authorized representative. Except for the physician, no signatures shall be typewritten or stamped.
- C.** If a claimant uses form 102 to initiate a claim, either the injured worker or the injured worker's authorized representative shall sign the worker's portion of form 102. Form 102 requests the following:
1. Employee, employer, and insurance carrier identification;
 2. Description of the accident, including date of injury;
 3. Information regarding preexisting conditions the injury, treatment and prognosis.

R20-5-113. ~~Physician's Duty to Provide Signed Subsequent Medical Reports; Rating of Impairment of Function; Restriction Against Interruption or Suspension of Benefits; Change of Physician~~ Employee's Obligation to Follow Treatment; Rating of Impairment of Function

- A.** If a claimant's In every case where there is a disability which extends beyond seven days, every physician who attends, treats, or examines the claimant the employee shall provide personally sign (typewritten or stamped signature will not suffice) and forward to the insurance carrier, self-insured employer, or special fund division, at least once every 30 days while during the claimant's continuance of the disability continues, a personally signed report describing the:
1. Claimant's employee's condition, the
 2. Nature nature of treatment, the
 3. Expected expected duration of disability, and the
 4. Claimant's prognosis. Upon final discharge of the employee from treatment, the physician shall forward a final signed report to the insurance carrier.
- B.** Except as provided by law, an injured employee will not be permitted to voluntarily change from one hospital to another, or from one physician to another, without the written authorization of the insurance carrier, or the Commission. Except as provided in A.R.S. § 23-1070, this subsection does not apply if the injured employee did not select the hospital or physician in the first instance.
- B.** When a physician discharges a claimant from treatment, the physician:
1. Shall determine whether the claimant has sustained any impairment of function resulting from the industrial injury. The physician should rate the percentage of impairment using the standards for the evaluation of permanent impair-

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ment as published by the most recent edition of the American Medical Association in *Guides to the Evaluation of Permanent Impairment*, if applicable; and

2. Shall provide a final signed report to the insurance carrier, self-insured employer, or special fund division that details the rating of impairment and the clinical findings that support the rating.
- C.** A carrier, self-insured employer, and special fund division shall not interrupt or suspend a claimant's temporary disability compensation benefits because a physician fails to comply with any requirement of subsection (A).
- D.** Upon discharge from treatment the physician shall report any rating of any impairment of function as the result of the injury. Any rating of the percentage of impairment should be in accordance with standards for the evaluation of permanent impairment as published by the American Medical Association in *Guides to the Evaluation of Permanent Impairment*, if applicable. It shall include a clinical report in sufficient detail to support the percentage ratings assigned.
- D.** A carrier, self-insured employer, and special fund division may withhold payment to a physician for services rendered to a claimant until the physician complies with subsection (A).
- C.E.** Upon the Commission may, upon application of ~~a~~ an interested party or upon its own motion, the Commission shall authorize a change of physician if: ~~order a change of a physician or conditions of treatment~~
1. The Commission determines when there are reasonable grounds to believe that the health, life, or recovery of a claimant ~~any~~ employee is retarded, endangered, or impaired;
 2. The ~~thereby, or where the~~ attending physician agrees to the change or is unavailable to continue treatment;
 3. The Commission determines that the ~~or where the~~ relationship between the attending physician and claimant employee renders further progress or improvement unlikely; ~~or~~;
 4. The ~~where, in the judgment of the~~ Commission, determines that the claimant's ~~his~~ recovery may be expedited by a change of physician or conditions of treatment; or
 5. The insurance carrier agrees to the change.
- E.** Except as provided in A.R.S. § 23-1070 and this subsection, a claimant who is examined by a physician under A.R.S. § 23-908(E) is not required to obtain written authorization to change to another physician. If, however, the claimant continues to see, or treat with, a physician who the claimant initially saw or treated with under A.R.S. § 23-908(E), then that physician is an attending physician and the claimant shall obtain written authorization to change under A.R.S. § 23-1071(B) if the claimant seeks to change to another physician.

R20-4-114. Examination at Request of Commission, Carrier or Employer; Motion for Relief

- A.** If the ~~Commission or a party~~ Commission, carrier, or employer requests an examination of a claimant ~~the employee~~ by a physician, the party requesting the examination shall serve the claimant, or if represented, the claimant's attorney, with notice of the time, date, place, and physician ~~person~~ conducting the examination ~~shall be sent by the requesting party to the employee, and the employee's~~ his attorney of record at least 15 ten days ~~before~~ prior to the scheduled date of the examination.
- B.** If a claimant ~~an~~ employee unreasonably fails to attend or promptly advise of the claimant's ~~his~~ inability to attend an examination under ~~pursuant to this Section rule~~, the party requesting the examination may charge the claimant or deduct from the claimant's entitlement to present or future temporary or permanent disability compensation, any reasonable expense of the missed appointment, ~~shall be charged to the employee or may be deducted from any present or future entitlement to temporary or permanent disability compensation.~~
- C.** A party adverse to a party who schedules a medical examination may offer into evidence the report of any medical examination as provided in R20-5-155 or within five days after the adverse party receives the report, subject to the right of cross-examination by the party who scheduled the examination.
- D.** If a carrier, self-insured employer, or special fund division requests an examination of a claimant's mental or physical condition under A.R.S. § 23-1026, the carrier, self-insured employer, or special fund division shall immediately, upon receipt of the report of the examination, provide a copy of the report to the claimant or the claimant's authorized representative. If the mental condition of an unrepresented claimant is examined under A.R.S. § 23-1026, the carrier, self-insured employer, or special fund division may, in its discretion, provide the report to the claimant's treating physician rather than to the claimant.
- B.E.** To ~~Where justice requires to protect a claimant~~ an employee from annoyance, embarrassment, oppression, or undue burden or expense, the Commission may order, upon good cause shown, one or both of the following:
1. That the examination not be held; ~~or~~;
 2. That the examination may be conducted ~~had~~ only on specified terms and conditions, including a designation of the time, place, and examining physician.
- C.E.** A claimant requesting protection under subsection (E) ~~A motion for relief pursuant to subsection (B)~~ shall file a motion ~~be filed~~ with the presiding administrative law judge or chief administrative law judge if a judge has not been assigned to the case, within three days after the claimant receives the notice of the examination, ~~is received. The claimant shall serve a copy of the motion and served on all interested parties, their representatives. The party requesting the examination shall have three days after receiving the motion to file a response. The party shall serve the response on the claimant or, if represented, the claimant's attorney of record. If no request for hearing has been filed, then such motion shall be filed with the Chief Administrative Law Judge.~~

R20-5-115. ~~Requests for Out-of-State Medical Treatment~~ Request to Leave the State

- A.** An employee whose claim for benefits has been accepted by notice of claim status will not be permitted to leave the state for a period exceeding two weeks while he is receiving medical, surgical or hospital treatment except
1. By agreement of the carrier with the concurrence of the Commission or
 2. Upon a showing of compelling circumstances.
- Application for permission to leave the state because of compelling circumstances must be made to the Commission and the written authorization of the Commission must be obtained. This rule shall not apply where the logical or nearest medical facilities situated across a state border.
- B.** Failure to receive written authorization of the Commission shall result in forfeiture of the worker's rights to compensation and medical benefits during the time the worker is out of the state.
- C.** Any aggravation of an employee's disability by reason of his violation of this rule will not be compensated.
- D.** If permission has been granted for any employee to leave the state, a petition to reopen may be based on the medical reports or authorized out of state physicians in the same manner as for Arizona physicians pursuant to R20-5-133. Such reports will be considered as evidence unless objected to at least 20 days prior to the first scheduled hearing.
- A.** The effective date of an order granting or denying a request to leave the state under A.R.S. § 23-1071(A) is the date a claimant files a request to leave the state with the Commission.
- B.** For purposes of A.R.S. § 23-1071(A):
1. "While the necessity of having medical treatment continues" means the period of time in which a claimant asserts an entitlement to temporary compensation, or active medical, surgical, or hospital benefits;
 2. "Leave the state" means to travel across the state border, except when the logical or nearest medical facility is situated across the state border; and
 3. "From the date the employee first requested the written approval" means from the date the claimant's request is filed with the Commission.

R20-5-116. ~~Payment of Claimant's Travel Transportation and Living Expenses of Employee When Directed to Report for Medical Examination or Treatment~~

- A.** ~~If When a claimant is employees are directed by a the Commission, an insurance carrier, or self-insured employer, or special fund division an employer to report for a medical examination or treatment in a locality other than either the claimant's current their place of residence or employment, the carrier, self-insured employer, or special fund division shall pay, in advance, the claimant's travel expenses they shall be entitled to reimbursement for transportation expenses; from either the claimant's current place of residence or employment, whichever route of travel is required, and for living expenses, if any, incurred by reason of such travel. The employee's place of residence or employment shall be fixed as of the date of injury.~~
- B.** For purposes of this Section, "travel expenses" means those expenses required to be paid under A.R.S. § 23-1026.
- B-C.** The carrier, self-insured employer, or special fund division shall calculate travel Transportation and living expenses using shall be determined in accordance with the current rates applicable to state employees. Reimbursement of the expenses shall be made by the insurance carrier or employer C. Upon application by the employee and for good cause shown the Commission may order prepayment of the expenses as set forth in (B) above.

R20-5-117. ~~Medical, Surgical, Hospital, and Burial Expenses~~

- A.** ~~A carrier, self-insured employer, or special fund division, shall pay bills for medical, Medical, surgical, and hospital benefits provided under A.R.S. § 23-901 et seq. shall according to applicable be paid in accordance with the various medical and surgical fee schedules adopted by the Commission and in effect at the time the services are rendered. A physician or provider of, Physician, nursing, hospital, drug or other medical services bills shall itemize and submit a bill be itemized and presented for payment only to the responsible carrier, self-insured employer, or special fund division employer, or if he is insured for medical, surgical or hospital benefits, to his insurance carrier.~~
- B.** ~~A The claimant injured employee shall not be responsible to pay for any disputed amounts between the medical provider of service and the insurance carrier, self-insured employer, or special fund division, or employer concerning these fees.~~
- C.** ~~If a claimant pays In the event the employee or employer has paid a bill described in subsection (A) such items, the responsible carrier, self-insured employer, or special fund division shall reimburse the claimant reimbursement shall be made to the person paying them to the amount extent allowed by the fee schedules, provided that the claimant presents receipted vouchers or other proof of payment to support the bills are presented in support of a claim for reimbursement.~~
- D.** ~~If an insured employer pays a bill described in subsection (A), the responsible carrier or self-insured employer shall reimburse the employer the amount allowed by the fee schedules, provided that the employer presents receipted vouchers or other proof of payment to support the claim for reimbursement.~~
- B-E.** ~~An insurance carrier, self-insured employer, or special fund division may pay any Any authorized burial expenses expense may be paid directly by the insurance carrier to the funeral service professional undertaker.~~
- F.** ~~If an In the event the employee's dependent pays dependents or the employer has paid the burial expenses, the responsible carrier, self-insured employer, or special fund division shall reimburse the dependent the amount they shall be entitled to be reimbursed to the extent authorized by A.R.S. § 23-1046 law provided that the dependent presents upon presentation and proof of payment to support the carrier of the claim for reimbursement.~~

- G. If an insured employer pays burial expenses, the responsible carrier or self-insured employer shall reimburse the employer to the extent authorized by A.R.S. § 23-1046 provided that the employer presents proof of payment to support the claim for reimbursement.

R20-5-118. Effective Date of Notices of Claim Status and Other Determinations; Attachments to Notices of Claim Status; Form of Notices of Claim Status

- A. ~~If~~ Where a notice of claim status accepting a claim for benefits ~~is~~ has become final, any subsequent notice of claim status ~~that which~~ changes a the claimant's amount of, or entitlement to, compensation or medical, surgical, or hospital benefits shall not have a retroactive effect for more than 30 days from the date a carrier or self-insured employer issues the subsequent of issuance of such notice of claim status. ~~This subsection does not apply to a unless the subsequent notice that affects the entitlement to or amount of death benefits. The Commission may for good cause relieve a the carrier or self-insured employer of the effect of this subsection.~~
- B. If a notice ~~notices~~ of claim status or other ~~determination determinations~~ issued by a carrier, self-insured an employer, or special fund division ~~or carrier, is based are predicated upon a physician's the report of a physician:~~
1. ~~The carrier or self-insured employer shall attach a copy of the such physician's complete report to shall accompany the notice of claim status or other determination determinations sent to the Commission; and Commission.~~
 2. ~~The carrier, self-insured employer, or special fund division shall attach a copy of the physician's complete report to the notice of claim status or other determination served on a party, except as provided in R20-5-114(D). The physician's complete report shall be made available to the applicant upon request.~~
- C. ~~If a carrier, self-insured employer, or special fund division pays All claims where compensation to a claimant: has been paid~~
1. ~~The carrier or self-insured employer shall close the claim shall be closed by issuing issuance of a notice of claim status; and~~
 2. ~~The special fund division shall close the claim by issuing a notice of determination. If the claim is closed based upon the report of the physician, a copy of the physician's complete report shall be sent to the Commission together with the notice of claim status.~~
- D. ~~The inadvertent Inadvertent failure of a carrier, self-insured employer, or special fund division to comply with subsection (B) of this subsection shall not affect the validity of a notice or determination of claim status if the employer or carrier, self-insured employer, or special fund division issuing the notice or determination had in its possession at the time the notice or determination is issued a medical report consistent with the notice or determination.~~
- D. A notice of claim status shall contain the following:
1. Employee, employer, insurance carrier, and claim identification;
 2. Information regarding the status of the claim;
 3. Date the notice is mailed;
 4. Name and telephone number of the issuing party; and
 5. Statement regarding hearing and appeal rights with time designations provided by law.

R20-5-119. Notice of Third Party Settlement

- A. Except as otherwise provided by law, if an employer is insured for workers' compensation insurance and a claimant, an employee, or in the event of death, the claimant's dependent his dependents, elects to proceed against a third party, ~~the claimant he shall notify the Commission, and the appropriate workers' compensation carrier, or self-insured employer, of any settlement or judgment in the third party such suit and the basis upon which the claimant and third party agree to disburse the proceeds of the such settlement or judgment are agreed to be disbursed.~~
- B. ~~If an employer is uninsured for workers' compensation insurance and a claimant, or in the event of death, the claimant's dependent, elects to proceed against a third party, the claimant shall notify the special fund division of any settlement or judgment in the third party suit and the basis upon which the claimant and third party agree to disburse the proceeds of the settlement or judgment.~~
- B.C. ~~If a lawsuit is filed against a third party, it shall be the duty of the claimant employee or the claimant's his attorney shall to provide the workers' compensation carrier with copies of the pleadings and all offers of settlement to the workers' compensation carrier, self-insured employer, or special fund division to whom notice is required under subsections (A) and (B).~~

R20-5-121. Present Value and; Basis of Calculation of Lump Sum Commutation Awards

- A. ~~The Commission shall calculate the present value of an award that is Each award which is commuted to a lump sum under R20-5-122, shall be reduced to its present value. The Commission shall not include in the present value calculation compensation Compensation paid before prior to the filing of a lump sum request for a commutation petition, shall be excluded from the calculation of the present value of an award. The Commission shall use the filing date of a lump sum commutation petition to compute the present value of an award. Present value shall be computed as of the date following the filing of the request for commutation when the next succeeding installment of compensation would be payable under the terms of the award sought to be commuted.~~

B. ~~The Commission shall calculate~~ ~~Calculation of~~ the present value of an award, whether payable for a period of months or based upon the life of the employee, ~~shall be based upon~~ using the United States Abridged Life Tables, 1996, National Vital Statistics Reports, Vol. 47, Number 13, December 24, 1998 (incorporated by reference and on file with the Secretary of State) American Experience Table of Mortality or on such other tables as may be approved by the Commission and discounted at the rate established by the Commission. This incorporation does not include any later amendment or edition of the incorporated matter. A copy of this referenced material is available for review at the Commission and may be obtained from the U.S. Department of Health and Human Services, Centers for Disease Control. The discount rate is published in the minutes of the Commission meeting establishing the rate and is available upon request from the Commission. Approved Tables For Use under R20-5-121 are incorporated herein by reference and are on file in the office of the Secretary of State

R20-5-123. Rejection of the Act Workers' Compensation Law

If an employee serves upon an employer ~~a written notice under A.R.S. § 23-906, in duplicate,~~ rejecting the provisions of the Act Worker's Compensation Law, the employer shall ~~keep thereafter maintain~~ one copy of the rejection in the employer's as a part of its or its compensation carrier's business records.

R20-5-124. Rejection Not Applicable to New Employment

A. ~~An~~ ~~No~~ election by an employee to reject the Act provisions of the Workers' Compensation Law shall ~~is not be~~ binding upon the employee in a new employment by another employer or following re-employment by the same employer.

B. If an employee is continuously employed and the employer changes workers' compensation insurance carriers, or form of doing business, employer entity, the prior rejection ~~is shall be~~ valid and remains remain in full force and effect.

R20-5-125. Rejection Before an Employer Complies with A.R.S. §§ 23-961(A) and 23-906(D) Prior to Employers Securing Insurance

An employee's rejection of the Act Workers' Compensation Law by received by an employer before the employer complies with the requirements of A.R.S. §§ 23-961(A) or 23-906(D) is employees prior to the time that the employer has complied with the law shall be valid and continues in full force and effect whether the employer subsequently obtains workers' compensation coverage under A.R.S. § 23-961(A), posts the notice required under A.R.S. § 23-906(D), or makes available the forms required under A.R.S. § 23-906(D), provided the employer subsequently procures insurance and complies with the law by posting notices and keeping available forms required by law.

R20-5-126. Revocation of Rejection

A. An employee who ~~rejects has rejected~~ the Act provisions of the Workers' Compensation Law may revoke ~~that such~~ rejection by serving upon the employer's his employer an original and one copy of a written notice of revocation. The written revocation shall state in duplicate, that the employee revokes the employee's his prior rejection of the Act, provisions of the Workers' Compensation Law.

B. Within five days after receiving a written notice of revocation, an insured thereafter, the employer, ~~if insured,~~ shall file with the employer's his carrier, or workers' compensation pool, a the copy duplicate of the such notice of revocation. The After the serving of such notice upon the employer, the employee has shall have all rights to compensation and benefits provided by the Act Workers' Compensation Law for any injury that occurs after the employee serves the revocation notice upon the employer, occurring thereafter.

R20-5-127. Insurance Carrier Carrier's Notification to Commission of Coverage

A. Every insurance carrier authorized to underwrite workers' compensation insurance in Arizona shall, within five days after undertaking to insure an employer, report that information to inform the Commission ~~of this fact. The carrier shall provide the information~~ This report shall be made on or in the same format as Commission form 0006 006. Form 0006 006 is available upon request from the Commission.

B. Form 006 or a form in the same format shall contain the following:

1. Name and address of the carrier;
2. Legal name of entity that the carrier is insuring;
3. All other insured names or subsidiary entities under which the carrier's insured is doing business in Arizona;
4. Address of all insured entities with insurance policy information for each address.

~~C.B.~~ Failure to comply with this Section does rule shall not affect the validity of coverage.

R20-5-128. Employer's Notification to Commission of Coverage Medical Information Reproduction Cost Limitation; Definition of Medical Information

If an employer has been insured with an insurance carrier and that insurance is canceled or terminated for any reason, the employer shall, prior to the effective date of any cancellation, file a certificate with the Commission designating his new insurance carrier or other satisfactory proof of compliance with the requirements of the Workers' Compensation Law.

A. A health care provider shall not charge more than \$.25 per page plus \$10 per hour in associated clerical costs for reproduction of medical information when a party, an authorized representative of a party, or an entity that is authorized by a claimant in a workers' compensation matter makes a request for that information under A.R.S. § 23-908(C).

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- B.** This Section applies to all A.R.S. § 23-908(B) health care providers providing medical services to injured claimants including health care providers that contract with copying services, recordkeeping services, or other similar services for the reproduction of medical information. For purposes of this Section, fees for reproduction of medical information charged by these services are considered the same as if the reproduction fees are charged by a health care provider.
- C.** For purposes of this Section, “medical information” means:
1. A communication recorded in any form or medium and maintained for the purpose of patient care, diagnosis, or treatment, including a report, note, order, test result, photograph, videotape, X-ray, and billing record;
 2. A report of an independent medical examination that describes patient care or treatment;
 3. A psychological record;
 4. A medical record held by a health care provider including a medical record prepared by another provider; and
 5. A recorded communication between emergency medical personnel and medical personnel concerning the care or treatment of a person.
- D.** For purposes of this Section, “medical information” does not include:
1. Materials that are prepared in connection with utilization review, peer review, or quality assurance activities, including records that a health care provider prepares under A.R.S. §§ 36-441, 36-445 or 36-2402; and
 2. Recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity.

R20-5-129. Carrier’s or Workers’ Compensation Pool Determinations Binding upon its Insured or Member; Self-Rater Exception

- A.** The Commission deems an ~~The insurance carrier or workers’ compensation pool of an insured employer shall be deemed~~ the agent of ~~an the~~ employer insured by the carrier or workers’ compensation pool.
- B.** The Commission also deems any action or determination ~~and any actions or determinations~~ taken or made by the insurance carrier or workers’ compensation pool shall be binding upon the employer. The ~~and the~~ employer may not ~~shall have~~ no right to protest or petition the Commission for relief concerning an action or determination ~~such actions~~ taken by the employer’s ~~its~~ insurance carrier or workers’ compensation pool unless, within the time limit prescribed by A.R.S. § 23-947, the employer notifies the carrier or workers’ compensation pool, and the Commission in writing that the employer he disagrees with the carrier’s or worker’s compensation pool’s action or determination within the time described in A.R.S. § 23-947.
- ~~**C.** This Section ~~rule~~ does not apply to employers insured under a Self-Rating Insurance Plan.~~

R20-5-130. Arizona Claims Office Location and Function; Requirements of Maintaining an Out-of-State Claims Office;

- A.** Except as provided in subsection (B), each ~~Each~~ insurance carrier ~~that which is authorized to underwrite workers’ compensation insurance and~~ has or is actually underwriting workers’ compensation ~~such~~ insurance in Arizona, and each employer and workers’ compensation pool that ~~who~~ has been granted authority to act as a self-insurer by the Commission ~~Industrial Commission~~, shall maintain a workers’ compensation claims office in Arizona. A carrier, self-insured employer, and self-insured workers’ compensation pool shall process and pay workers’ compensation claims and maintain where the workers’ compensation claims files described in R20-5-131 in its Arizona office. A ~~shall be maintained and~~ where claims shall be processed and paid pursuant to A.R.S. § 23-1062, subsection (C). The carrier, self-insured employer, and self-insured workers’ compensation pool shall notify the claims division of the Commission of the address of the Arizona ~~its~~ claims office. No processing or paying of claims shall occur outside the state of Arizona without the permission of the Commission. Permission will not be unreasonably withheld if claims are being processed in an efficient and timely manner pursuant to the workers’ compensation law and these Rules of Procedure.
- B.** Except as provided in subsections (C) and (D), a carrier or self-insured employer may request authorization from the Commission to maintain an out-of-state claims office. The Commission shall grant a carrier or self-insured employer authorization to maintain an out-of-state claims office no later than 20 days after the carrier or self-insured employer provides satisfactory evidence of the following:
1. Existence of a toll-free telephone line to the out-of-state claims office.
 2. Completion of Commission claims division’s training by the individuals responsible for claims processing at the out-of-state office, and
 3. Designation of a financial institution located in Arizona that will cash on demand checks issued by the out-of-state claims office.
- C.** The Commission shall not permit a self-insured workers’ compensation pool to maintain a claims office out-of-state.
- D.** The Commission shall rescind its authorization to maintain an out-of-state claims office if a carrier or self-insured employer no longer meets the requirements of subsection (B) or fails to process and pay claims as required under the Act and this Article.
- E.** A carrier or self-insured employer maintaining an out-of-state claims office shall print the carrier’s or self-insured employer’s toll-free telephone number to the out-of-state claims office on all notices of claim status or other determina-

tions issued by the out-of-state claims office. Failure to print the toll-free telephone number on a notice or other determination as required by this subsection does not affect the validity of the notice or determination.

~~B-F.~~ For claims processing purposes, unless permission is granted by the Commission, a carrier, self-insured employer, or self-insured workers' compensation pool may have more than one designated representative provided the carrier, self-insured employer, or self-insured workers' compensation pool:

1. Notifies the Commission at the time an insurance policy is issued or authorization to self-insure is granted; and
2. Notifies the Commission each time that the insurance policy or authorization to self-insure is renewed, there shall be no more than one designated representative for each insurance carrier or self-insured employer. Permission will not be unreasonably withheld if claims are being processed in an efficient and timely manner pursuant to the workers' compensation law and these Rules of Procedure.

R20-5-131. Maintenance of Carrier and Self-insured Employer Claims Files; Contents; Inspection and Copying; Exchange of Medical Reports; Authorization to Obtain Medical Records

~~A.~~ A carrier and self-insured employer shall maintain a workers' compensation claims file for each claimant. A carrier and self-insured employer shall include in a workers' compensation claims file ~~There shall be maintained at the claims office referred to in R20-5-130 a claims file which shall be the repository of all employer's reports, medical and hospital reports, awards, orders, notices of claims status, wage data, and all other items affecting the claim required by law to be maintained by a the carrier or self-insured employer.~~

~~B.~~ Subject to the provisions of subsection (C) of this rule, all parties, authorized representatives of parties, and authorized representatives of the Commission may inspect and copy items contained filed in a carrier's or self-insured employer's the claims file referred to shall be available for inspection and copying within five working days from the date the item is filed in the claims file. filing by all interested parties, their authorized representatives or authorized representatives of the Industrial Commission.

~~C.~~ If a carrier or self-insured employer maintains a claims file at an out-of-state claims office, the carrier or self-insured employer shall make the claims file available for copying and inspection to the persons listed in subsection (B) within 10 days after receiving a request for the file at a location in Arizona designated by the carrier or self-insured employer.

~~D.~~ A carrier or self-insured employer shall furnish copies of a claims file. Copies shall be furnished within 10 days after receiving a upon, request from any party, authorized representative of a party, and authorized representative of the Commission at a charge not to exceed \$.25 25-cents per page. A carrier or self-insured employer may require prepayment of the copying charges if the requester or authorized representative has an account with the carrier or self-insured employer that is more than 30 days overdue.

~~E.~~ A carrier or self-insured employer is not required to maintain in a claims file, or produce for inspection and copying:

1. Documents Documents or matters representing the work product of the insurance carrier or self-insured employer, or
2. Documents or matters representing the work product of a carrier's or self-insured's its attorney, or
3. Investigation and investigation and rehabilitation reports, shall not be considered subject to inspection and copying as provided in subsection (B) hereof and need not be maintained in the claims file.

~~D.~~ If a carrier or employer requests a medical examination of an employee a copy of the report of the examination shall, upon request, be furnished to the employee his attorney. The claimant or his attorney shall furnish to the insurer or employer, upon request, all medical reports of examinations made of the claimant's mental or physical condition which are or may thereafter be in their possession. If such reports are not in his possession, the employee shall provide the employer or carrier with releases authorizing all attending, treating or examining physicians to provide such reports.

~~F.~~ All medical records concerning a claimant's mental or physical condition that are in a party's possession shall be furnished, upon request, to another party in the same Commission proceeding.

~~G.~~ Within 10 days of a request, a claimant shall provide to a party in a Commission proceeding involving the claimant, a release of information authorizing any attending, treating, or examining physician to provide records described in A.R.S. § 23-908(C).

R20-5-133. Claimant's Employee's Petition to Reopen for Reopening of Claim

~~A.~~ A form for a petition to reopen filed with the Commission under A.R.S. § 23-1061(H) Based on New, Additional or Previously Undiscovered Disability or Condition is available upon request from the Commission. The petition shall be in writing, signed, and dated by the claimant employee or the claimant's employee's authorized representative, and shall be accompanied by a statement from a physician setting forth the physical condition of the employee relating to the claim. A petition to reopen form is available from the Commission upon request.

~~B.~~ The form requests the following:

1. Employee, employer, insurance carrier, and claim identification;
2. Disability or medical condition justifying the reopening of the claim;
3. Medical and employment history.

~~C.~~ A Petition to Reopen Based on New, Additional or Previously Undiscovered Disability or Condition not accompanied by a statement from a physician shall not be considered filed until the date of the medical report is received by the Commission.

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B. A claimant shall provide to the Commission a copy of a medical report supporting the disability or condition justifying the reopening of the claim.

~~**D.C.**~~ If the Commission does not receive the medical report described in subsection (B) ~~statement of the physician is not received within 14 days of~~ after the receipt of a petition to reopen ~~Petition to Reopen Based on New, Additional or Previously Undiscovered Disability or Condition,~~ the Commission shall notify ~~in writing all parties, in writing,~~ that it has received a petition to reopen ~~has been received without the required medical report physician's statement. A carrier or self-insured employer is not required to act on a petition to reopen that is received without the required medical report. No action on the petition shall be required of the insurance carrier or employer.~~

~~**E.D.**~~ If the Commission receives a medical report ~~statement of a physician~~ in support of a petition to reopen ~~is received and a claimant does not file a~~ no ~~petition to reopen is filed within 14 days from the date of receipt of the~~ medical report, physician's statement, the Commission shall forward the medical report physician's statement ~~shall be forwarded to the insurance carrier or self-insured employer for information purposes only,~~ A carrier or self-insured employer and no action is not ~~shall be required to take any action upon receipt of the medical report, of the insurance carrier or employer.~~

~~**F.E.**~~ If the Commission receives a medical report ~~the physician's report~~ in support of a ~~the~~ petition to reopen is made from an out-of-state ~~a physician residing outside of the state of Arizona and a party objects to the report timely objection is made at least 20 days before a~~ prior to the date of any scheduled hearing to the consideration of the report, the Commission shall not consider the report or place the report in evidence ~~such report shall not be considered or placed in evidence unless the party submitting the report produces the author of the report for cross-examination either at the a hearing or at a deposition, held pursuant to these rules. The party submitting into evidence the medical report prepared by an out-of-state physician shall pay the expenses of a deposition under this subsection. Expenses of any deposition shall be borne by the party requesting such deposition.~~

R20-5-134. Petition for Rearrangement or Readjustment of Compensation Based Upon Increase or Reduction of Earning Capacity

A. ~~A~~ A form for a petition ~~Petition for rearrangement Rearrangement or readjustment Readjustment of compensation Compensation filed with the Commission under A.R.S. § 23-1044(F) based upon an increase or reduction of earning capacity is available upon request from~~ shall be in writing the Commission. A form is available from the Commission upon request.

B. This form requests the following:

1. ~~Employee, employer, insurance carrier, and claim identification;~~
2. ~~Income and employment history;~~
3. ~~Medical history;~~

~~**C.B.**~~ A party or a party's authorized representative shall sign a petition for rearrangement or readjustment and include in the ~~The petition:~~

1. ~~A shall be signed by the employee or the employee's authorized representative, the employer, or, in the case of an insurance carrier, by its authorized representative, and shall include a statement of the basis upon which the rearrangement or readjustment of compensation is sought, and~~
2. Documentation in support of the petition, accompanied by supportive documentary evidence.

~~**D.C.**~~ No Change.

~~**E.D.**~~ If a self-insured ~~an employer, or insurance carrier, special fund division, or uninsured employer~~ requests a hearing ~~protesting from~~ the Commission's determination under A.R.S. § 23-1044(F) and the claimant employee ~~resides outside of Arizona, the Commission may, in its discretion, order the self-insured employer, or insurance carrier, special fund division, or uninsured employer to pay the claimant's employee's transportation and living expenses to attend for attendance at any scheduled schedule hearing.~~

R20-5-136. Time Within Which Requests within which requests for Hearing Shall hearing shall be Filed filed

All requests for hearing ~~shall must~~ be filed with the Commission as required under A.R.S. § 23-947 or other applicable law. ~~within 90 days after the date of mailing of a determination by an insurance carrier, employer or the Commission.~~

R20-5-137. Service of a Request Requests for Hearing Timely Filed

A party filing a request for hearing shall serve a copy of the party's request for hearing upon ~~Upon the filing of a request for hearing complying with the requirement of R20-5-135 and R20-5-136, the Commission shall immediately notify all other interested parties at the same time that the party files the request for hearing with the Commission, and their authorized representatives of the filing by mailing a copy of the request to them at the their last known address. The failure to serve a copy of a request for hearing upon other parties does not affect the validity of the hearing request.~~

R20-5-138. Hearing Calendar and Assignment to Administrative Law Judge Judges; Notification of Hearing

A. The chief administrative law judge shall maintain a hearing calendar. The chief administrative law judge shall ensure that a request Requests for hearing filed in accordance eompliance with this Article is:

1. Placed these rules shall be placed on the hearing calendar, and

~~2. Assigned and shall be assigned to an administrative law judge who is shall thereafter be designated as the presiding administrative law judge.~~

~~B. A The presiding administrative law judge may hold a shall set the matter for hearing and notify all interested parties and attorneys of record of the time and place set for the hearing. Notice shall be given at least 20 days in advance of the hearing except in cases concerning suspension of benefits in which case ten days prior notice shall be given. Notice shall be given by mail to the parties' last known address. The hearing may be held at an any earlier date than required under A.R.S. § 23-941(D), however, if all interested parties to in the proceeding proceedings agree.~~

R20-5-139. Administrative Resolution of Issues by Stipulation Before Filing a Request for Hearing

~~A. At any time before prior to the filing of a request Request for hearing Hearing, the parties may resolve issues by written stipulation. enter into a written stipulation resolving any issue, provided The parties shall they file the such stipulation with the Commission for approval or such other action as may be appropriate.~~

~~B. Upon the filing of such a stipulation If the Commission determines that a written stipulation is reasonably supported by the facts, the Commission may approve the stipulation or enter an appropriate award without the necessity of a request for hearing or a formal hearing.~~

R20-5-140. Informal Conferences

~~A. A presiding administrative law judge may hold an informal conference to:~~

- ~~1. Resolve and dispose of disputed issues.~~
- ~~2. Narrow or limit the scope of the issues to be considered at a subsequent hearing.~~
- ~~3. Simplify the method of proof at a hearing, or~~
- ~~4. Eliminate the need for hearing if the facts appear to be uncontested.~~

~~B. A If a party may request believes that a pending hearing may be disposed of by an informal conference, by filing a written the party shall advise the presiding administrative law judge of this fact, in writing, and request that:~~

- ~~1. Specifies the purpose for the conference consistent with subsection (A), and~~
- ~~2. Does not contain any argument regarding the merits of the case. an informal conference be convened. If the presiding administrative law judge determines that an informal conference is appropriate, he shall notify the parties and their authorized representative in writing of the time and place of such conference. Whether or not requested by the parties, the presiding administrative law judge in his discretion may schedule an informal conference upon giving five days notice in writing to the parties of the time and place of the informal conference. This notice requirement may be waived by agreement of the parties and the presiding administrative law judge. Where requested and approved by the presiding administrative law judge, the informal conference may be conducted by telephone.~~

~~C. If the presiding administrative law judge determines that an informal conference is appropriate, the judge shall give notice to the parties of the time and place of the conference. The presiding administrative law judge may, without a request from a party, schedule an informal conference by giving five days notice to the parties of the time, place, and subject matter of the informal conference. The parties may waive the five day notice requirement of this subsection.~~

~~B. If convened, such informal conference shall be for the purpose of resolving and disposing of the issues in controversy; narrowing or limiting of the scope of the matters to be considered at any subsequent formal hearing, simplifying the method of proof at a hearing and eliminating the need for hearing where the facts appear to be uncontested.~~

~~C.D. If a presiding administrative law judge disposes of issues the matters in controversy are disposed of at an the informal conference, the presiding administrative law judge may enter an award without the necessity of convening a formal hearing.~~

~~D.E. If a presiding administrative law judge disposes of, narrows, or limits Where some, but not all issues matters in controversy dispute, are resolved or narrowed or limited, the presiding administrative law judge shall prepare and mail to the parties a statement setting forth the issues remaining to be resolved at a formal hearing. The presiding administrative law judge shall limit the formal hearing shall be limited to the issues contained in the statement unless at the formal hearing all interested parties and, with the concurrence of the presiding administrative law judge, agree that the judge may to consider issues beyond the scope of the statement.~~

~~E.F. Upon request If requested by a party or upon a presiding administrative law judge's own motion, the presiding administrative law judge may order the parties to file a joint statement listing the disputed issues to be considered at formal hearing. The presiding administrative law judge shall give the parties at least 10 days to file the statement and shall order the parties to file the statement three to 10 days before the first scheduled hearing, and ordered by administrative law judge, upon ten days written notice to the parties by the administrative law judge, the parties shall file a joint statement setting forth the issues which they believe are to be contested. The joint statement provided for herein shall be filed with the Industrial Commission no sooner than ten days not later than three working days prior to the first scheduled hearing.~~

R20-5-141. Witnesses; Subpoena Requests for Witnesses; Objection to Documents or Reports Prepared by Out-of-State Witness

~~A. Subpoena requests for witnesses.~~

- ~~1. Subpoena request for non-medical witness. A party may request a presiding administrative law judge to issue a subpoena A request for subpoenas to compel the appearance of a non-medical nonmedical witness by filing a written~~

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~~request with at a hearing shall be made in writing to the presiding administrative law judge at and filed with the Administrative Law Judge Division at least 10 ten days before prior to the date of upon which the first scheduled hearing is scheduled to be held.~~

2. Subpoena request for expert medical witness. A party may request a presiding administrative law judge to issue a subpoena to compel the appearance of an ~~A~~ request for subpoenas for expert medical witness witnesses by filing a written request with the presiding administrative law judge shall be filed at least 20 days before prior to the date of the first scheduled hearing.
 3. Statement of expected testimony. ~~In the discretion of the presiding administrative law judge, the~~ Upon request of the presiding administrative law judge may order; the party requesting a ~~that the~~ subpoena to file within five days of the order be issued shall present a written statement summarizing stating the substance of the testimony expected of the witness.
 4. Issuance of Subpoena. A presiding administrative law judge shall issue a subpoena requested under this Section if the judge determines that the testimony of the witness is material and necessary and, if applicable:
 - a. The party files a timely statement under subsection (A)(3); or ~~If a party fails to respond to such request by the presiding administrative law judge within five days, the witness shall not be subpoenaed unless the~~
 - b. The party shows can show at or before the first scheduled hearing that good cause exists for the party's failure to respond timely to the judge's order under subsection (A)(3), within the pertinent time limit and that the witness is material and necessary. If such testimony appears to be material and necessary; the presiding administrative law judge shall issue the subpoena.
 5. Service of a subpoena. ~~The Commission may serve a subpoena Service may be made by mail unless in all cases except where the party person requesting issuance of the subpoena requests personal service. If a party requests personal service of a subpoena, the Commission shall prepare the subpoena and the party requesting personal service shall:~~
 - a. Ensure that the subpoena is served ~~Service of a subpoena by personal service shall be made by and at the expense of the party requesting same and may be made in the same manner as in a any civil action, and~~
 - b. Pay all expenses of the service.
- B.** A presiding administrative law judge shall not grant a party ~~There shall be no right to a continued hearing because on the a subpoenaed witness fails failure of a subpoenaed witness to appear at hearing unless the party filed a timely request for subpoena as required by has been made in accordance with the provisions of subsection (A) hereof. If a party timely requested a subpoena for a witness who fails to appear at a scheduled hearing, the The presiding administrative law judge may, in his discretion, grant a continued hearing if the party requesting the subpoena demonstrates that:~~
1. The testimony of the witness is material and necessary, and
 2. Good cause is shown as to why the witness failed to appear, based upon failure of the subpoenaed witness to appear on good cause shown.
- C.** Witness Fees.
1. If a non-medical witness requests a witness fee, the party requesting the subpoena shall pay the ~~If requested, non-medical witness nonmedical witnesses shall receive the fees and mileage provided for witnesses in civil actions in the Superior Court. The fees shall be paid by the party requesting the subpoena. If more than one party subpoenas the same a witness, the parties fees shall divide the witness fee equally. be divided between the requesting parties.~~
 2. The Commission shall pay the witness fee to a medical witness under ~~Medical witness fees paid by the Industrial Commission shall only be in accordance with the Commission's Industrial Commission's medical fee schedule after the presiding administrative law judge approves the fee, and must be approved by the presiding administrative law judge.~~
- D.** Objection to an out-of-state physician's report.
1. A presiding administrative law judge shall not consider or place into evidence a ~~A~~ timely filed physician's report, authored by from a physician residing outside the state of Arizona if to which a party files an timely objection to that report has been made at least 20 days before the prior to the date of any scheduled hearing, shall not be considered or placed in evidence unless the party submitting the report produces the author for cross-examination either at the a hearing or at a deposition, held pursuant to these rules.
 2. Nothing in R20-5-143(G) precludes a party from taking or submitting into evidence a deposition of a physician taken under this subsection.
 3. The party submitting into evidence a report of an out-of-state physician shall pay the expenses ~~Expenses of a deposition taken under any depositions taken pursuant to this subsection, rule shall be borne by the party requesting such deposition~~
- E.** Objection to document prepared by out-of-state non-medical witness.
1. A presiding administrative law judge shall not consider or place into evidence a ~~A~~ timely filed document prepared by a non-medical nonmedical witness who resides outside the state of Arizona if a party files an objection to that document to which objection is made at least seven 15-days before the prior to the date of any scheduled hearing shall not

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~~be considered or placed in evidence unless the party submitting the document produces the author for cross-examination either at the hearing or at a deposition held pursuant to these rules.~~

2. ~~Nothing in R20-5-143 precludes a party from taking or submitting into evidence a deposition within the time limits set by a presiding administrative law judge.~~

3. ~~The party submitting into evidence a document prepared by an out-of-state non-medical witness shall pay the expenses. Expenses of a any deposition taken under pursuant to this subsection. rule shall be borne by the party requesting the deposition.~~

F. ~~If In lieu of the procedures prescribed in subsections (D) and (E) of this rule and with the approval of a the presiding administrative law judge approves, the testimony of a party's out-of-state non-medical or expert medical witness, either lay or expert, who reside outside the state may be taken telephonically.~~

R5-20-142. ~~In-State Witnesses~~² Oral Depositions; ~~In-State~~

A. ~~After a request for hearing has been filed with the Commission, any A interested party may desiring to take the oral deposition of another any other interested party or a witness residing in within the state of Arizona by serving a shall file with the presiding administrative law judge, in duplicate, Notice of Taking Deposition by Oral Examination. Copies of such notice shall be served at least ten days prior to the date of the deposition upon the deponent and upon every interested party and his authorized representative, at least 10 days before the date of the by the party desiring to take the oral deposition and at least 40 days before the first scheduled hearing. No Notice of Taking Deposition pursuant to this rule shall be filed nor any deposition taken unless the notice of taking deposition is filed at least 40 days prior to the first scheduled hearing.~~

B. ~~A party may file with the presiding administrative law judge a written objection to the taking of an oral deposition within five days after service of the Notice of the Taking of Deposition is served, objections to the taking of any oral deposition may be filed with the presiding administrative law judge. If no request for hearing has been filed, a party shall file the written objection with the chief administrative law judge. The party objecting to the deposition shall:~~

1. ~~State the basis for objecting to the deposition, and~~

2. ~~Serve a copy of the party's objections and served on all interested parties, and their authorized representatives. The objections must set forth the basis of the opposition to the deposition. If no request for hearing has been filed, then such objection shall be filed with the chief administrative law judge.~~

C. ~~The oral deposition shall not commence until the presiding administrative law judge rules on the written objection. The presiding administrative law judge shall rule on the written objection objections to the taking of an oral deposition within seven ten days after a party files a the filing of the written objection by: objections. The taking of the oral deposition shall be held in abeyance pending the ruling of the presiding administrative law judge. The presiding administrative law judge shall either order~~

1. ~~Ordering the deposition to proceed,~~

2. ~~Ordering order that the deposition shall not be taken, or~~

3. ~~Entering enter any such other appropriate protective order as may be appropriate.~~

D. ~~No change.~~

E. ~~No change.~~

F. ~~A presiding administrative law judge shall not cancel or continue a hearing because a party fails to take or complete a deposition under this Section. No scheduled hearing shall be cancelled or continued for failure to take or complete a deposition taken pursuant to the provisions of this rule.~~

G. ~~A deposition taken under pursuant to the provisions of this Section rule shall only be used to impeach for impeachment of a witness during a hearing, except that, in the exercise of discretion, the presiding administrative law judge may admit a deposition into evidence for another purpose if: unless~~

1. ~~The the deponent is deceased at the time of the scheduled hearing, or, in the discretion of the presiding administrative law judge, upon the concurrence of~~

2. ~~All all parties involved agree,; may be used for any purpose, in which event it shall be admitted into evidence.~~

H. ~~A party may take a telephonic deposition under this Section Depositions by telephonic communications may be permitted. Telephonic depositions may be conducted either by agreement of the parties or by order of the presiding administrative law judge in the exercise of the judge's his sound discretion.~~

R20-5-143. ~~Out-of-State Witnesses~~² Oral Depositions; ~~Out-of State~~

A. ~~After a request for hearing is filed with the Commission, A any party shall obtain desiring to permission from a presiding administrative law judge before taking an out-of-state take the oral deposition of another any other interested party or a witness residing without the state of Arizona by filing a written request with the presiding administrative law judge that contains; shall file with the presiding administrative law judge, in duplicate, a request for permission to take the deposition. Such request shall show~~

1. ~~The the name and address of the party or witness to be deposed, and shall set forth the~~

2. ~~Each reason why the party's or witness' testimony is necessary, for an adjudication of the claim.~~

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- B.** ~~The party requesting permission to take the out-of-state deposition shall serve a copy of the request. Copies of the request shall be served upon each interested party, and his authorized representative by the party requesting permission to take the deposition.~~
- C.** ~~If no objection to the request for permission to take the deposition is filed under as provided in subsection (D) (B) hereof, the presiding administrative law judge shall may, within seven ten days from the date of the request, in his discretion, grant or deny the permission to take the deposition. If the presiding administrative law judge permits the taking of the deposition, the party proceed in the manner provided by and subject to the limitations of R20-5-142, subsections (A), (D), (E), and (F).~~
- B-D.** ~~A party may file with the presiding administrative law judge a written objection to the taking of an out-of-state oral deposition. Objections to the taking of the oral deposition of the party or witness shall be filed with the presiding administrative law judge within five days after being served with a the request to take the out-of state deposition is served. The party objecting to the out-of state deposition shall:~~
- ~~1. State the basis for objecting to the deposition, and~~
 - ~~2. Serve a copy of the party's objections on each party. Objections shall be served on all other parties, and their authorized representatives. Written objections shall must set forth the basis for the opposition to the deposition. If no request for hearing has been filed then such objection shall be filed with the chief administrative law judge.~~
- C-E.** ~~The oral deposition shall not commence until the presiding administrative law judge rules on the written objection. The presiding administrative law judge shall rule on the written objection objections to the taking of an out-of-state oral deposition within seven ten days after a party files the filing of the written objection by: objections. The taking of the oral deposition shall be held in abeyance pending the ruling of the presiding administrative law judge. The presiding administrative law judge shall either:~~
- ~~1. Ordering order the deposition to proceed,~~
 - ~~2. Ordering order that the deposition not be taken, or~~
 - ~~3. Entering enter any such other appropriate protective order, as may be appropriate. Depositions shall be taken in the manner provided by and subject to the limitations of R20-5-133(E), R20-5-141(D) and R20-5-142(A), (D), (E) and (F).~~
- D-E.** ~~A party shall not take more than two. Each party is limited to the taking of two depositions per hearing under pursuant to this Section rule unless a presiding administrative law judge, more are approved upon a showing of good cause, approves the taking of additional depositions, by the presiding administrative law judge.~~
- E-G.** ~~In the exercise of discretion, the presiding administrative law judge may admit into evidence a Any deposition taken under pursuant to the provisions of this Section if the transcript of the deposition is rule shall be filed with the Commission at least five days before prior to the hearing date of any scheduled hearing or as unless otherwise directed by the presiding administrative law judge, and may be admitted into evidence. If the transcript of the deposition is not timely filed within the time prescribed under this subsection, the administrative law judge herein, it shall not consider the deposition be considered for any purpose unless the parties and the administrative law judge agree that the deposition may be considered, except by stipulation of all interested parties, and then only with the concurrence of the presiding administrative law judge.~~
- F-H.** ~~Parties may take telephonic depositions under this Section. Depositions by telephonic communications may be permitted. Telephonic depositions may be conducted either by agreement of the parties or by order of a the presiding administrative law judge in the exercise of the administrative law judge's his sound discretion.~~
- I.** ~~A party taking a deposition taken under this Section shall comply with R20-5-142(A), (D), (E) and (F).~~

R20-5-144. Parties² Written Interrogatories

- A.** ~~After a party files a request for hearing is filed with the Commission, any party may serve desiring to propound to another party written interrogatories upon another party. A party shall serve written interrogatories at least 40 days before the scheduled hearing, shall file with the presiding administrative law judge a notice of service of interrogatories.~~
- B.** ~~A party shall not serve more than 25 The written interrogatories, including subsections, submitted pursuant to this rule shall be limited to 25 in number with no subsections. Copies of such interrogatories shall be served upon the party and his authorized representative by the party submitting the written interrogatories. All notices of service of written interrogatories shall be filed at least 40 days prior to any scheduled hearing.~~
- B-C.** ~~A party shall serve answers Answers to the interrogatories shall not be filed with the Commission but shall upon be served on all interested parties by the party answering the interrogatories, or within 10 ten days after service of the interrogatories. A party shall not file answers to the interrogatories with the Commission, or within ten days after a ruling by the presiding administrative law judge that the interrogatories be answered.~~
- C-D.** ~~A presiding administrative law judge shall not cancel or continue a hearing because a party fails to answer interrogatories under this Section. No scheduled hearing shall be cancelled or continued for failure to answer interrogatories propounded pursuant to the provisions of this rule.~~
- D-E.** ~~A party shall only use written Written interrogatories served under propounded for discovery pursuant to the provisions of this Section rule shall only be used to impeach for impeachment of a witness during a hearing, except that, in the exercise of discretion, the presiding administrative law judge may admit the interrogatory answers into evidence for another pur-~~

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pose if ~~unless~~ the party answering the interrogatories is deceased at the time of the scheduled hearing, ~~in which event they may be admitted into evidence.~~

R20-5-145. Refusal to Answer or; Refusal to Attend; Motion to Compel; Sanctions Imposed

- A. If a party or ~~other~~ deponent refuses to answer any question ~~asked propounded~~ at a deposition ~~under pursuant to R20-5-142 or and R20-5-143, the party asking the question the deposition shall either complete the deposition be completed~~ in other matters or adjourn the deposition, ~~adjourned at the option of the proponent of the question. With~~ On reasonable notice to all persons affected by the deponent's refusal to answer a question, thereby, the party asking proponent of the question may apply to the presiding administrative law judge for an order compelling the deponent to an answer the question.
- B. If a party ~~refuses~~ Upon the refusal of a deponent to answer an interrogatory ~~submitted under R20-5-144, the party serving proponent of the interrogatory question may submit the original of the interrogatory interrogatories to the presiding administrative law judge and apply make application for an order compelling the an answer.~~
- C. If a presiding administrative law judge issues an order compelling an answer the motion under subsection (A) or (B) is granted and if presiding administrative law judge finds that a refusal to answer is the refusal was without substantial justification, the presiding administrative law judge shall require the party or witness refusing to answer or party or deponent and the authorized representative party or attorney advising that the party or witness not deponent to refuse to answer, or both of them, to pay to the examining party asking the question: the amount of the
1. ~~Reasonable reasonable~~ attorney's fees incurred to obtain in obtaining the order compelling the answer, and the
 2. ~~Reasonable reasonable~~ expenses that expense which will be incurred to obtain the requested answer answers.
- D. If a presiding administrative law judge denies a motion to compel an answer under subsection (A) or (B), and the motion is denied and if the presiding administrative law judge finds that the motion was made without substantial justification, the presiding administrative law judge shall require the examining party filing the motion, or the parties' authorized representative attorney advising that the party to make the motion, or both of them, to pay to the party or witness refusing to answer, party or witness the amount of the reasonable attorney's fees incurred in opposing the motion.
- ~~B.E.~~ In addition to the sanctions authorized under R20-5-157, a presiding administrative law judge may, upon a party's motion, impose the following sanctions upon a party if the If a party, or an officer or managing agent of that a party, willfully fails to appear for a before an officer who is to take his deposition after being served with the proper notice of the deposition, or fails to serve answers to interrogatories after proper service of the such interrogatories; the presiding administrative law judge on motion and notice may
1. Strike strike out all or any part of a document filed by the party; the pleading, of that party,
 2. Dismiss dismiss the action or proceeding, or any part of the action or proceeding; thereof,
 3. Order order the suspension or forfeiture of compensation; or;
 4. Preclude or preclude the introduction of evidence.
- ~~C.F.~~ The party filing a motion under subsections (A), (B), or (E) shall attach to the motion:
1. The statement required under R20-5-105(E) and
 2. A proposed order that includes the relief requested and a service page with the names and addresses of all parties served.

R20-5-146. Use of Depositions of Answers to Interrogatories Repealed

~~Oral depositions and answers to written interrogatories taken pursuant to this rule may only be used for the purposes set forth in and as provided by these rules.~~

R20-5-147. Applicability, Videotape Recordings and Motion Pictures

- A. A Any party proposing to offer a videotape recording or motion picture into evidence at a Commission hearing shall provide written notice to the Commission and all parties at least 40 days before prior to the first scheduled hearing, notify in writing the Commission and all interested parties and their authorized representatives.
- B. If a party serves a written request to view a videotape recording or motion picture upon the party proposing to submit the videotape recording or motion picture into evidence. Upon written request, the party proposing to offer the videotape recording or motion picture into evidence shall provide the necessary facilities and equipment to allow the other party to view the such videotape recording recordings or motion picture pictures no later less than 25 days before prior to the first scheduled hearing.
- C. A presiding administrative law judge may admit into evidence a videotape recording Videotape recordings or motion picture if the videotape recording or motion picture: pictures may be admitted into evidence when they are
1. Is A reasonable and accurate faithful representation of the scene, person, object, or action portrayed; and when
 2. Will they would aid in the understanding of the issues before the presiding administrative law judge.
- D. The party submitting the videotape recording or motion picture into evidence shall ensure that commentary Commentary, interrogation, dialogue, or testimony are shall not a be part of the such videotape recording recordings or motion picture pictures.
- ~~D.E.~~ A presiding administrative law judge shall not cancel or continue a hearing because a party fails to view a videotape recording or motion picture as provided in this Section. No scheduled hearing shall be cancelled or continued for failure to view the videotape recordings or motion pictures within the time provided by this rule.

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~~E-F.~~ This Section does ~~rule shall~~ not apply to:

1. ~~Videotape the videotape~~ recordings or motion pictures obtained by surveillance, ~~or~~
2. ~~Videotape videotape~~ recordings or motion pictures of medical procedures performed by a physician licensed physician.

R20-5-148. Burden of Presentation of Evidence; ~~Offer~~ Offers of Proof

- A. ~~A Each~~ party shall rest at the conclusion of the presentation of the party's ~~their~~ evidence. If there is a dispute as to which party ~~has the burden of proof shall go forward with the evidence,~~ the presiding administrative law judge shall direct who ~~has the burden of proof. shall go forward with the evidence.~~
- B. If ~~a the~~ presiding administrative law judge ~~prohibits a witness from answering a question sustains an objection thereby prohibiting a party from obtaining an answer from a witness,~~ the presiding administrative law judge party shall permit be permitted to make an offer of proof either in the form of an avowal or in writing.

R20-5-149. Presence of ~~Claimant Applicant~~ at Hearing; Notice of a Parties' Non-Appearance at Hearing; Assessment of Hearing Costs for Non-Appearance

- A. A claimant ~~The employee,~~ whether or not represented by an attorney, shall appear personally at any hearing without the necessity of subpoena unless excused by the presiding administrative law judge.
- B. Subject to subsection (A), at least three days before a scheduled hearing a party shall notify the presiding administrative law judge of any non-appearance by a party or party's authorized representative that requires the judge to cancel or reschedule the hearing.
- C. If a party fails to notify the presiding administrative law judge as required under subsection (B), the presiding administrative law judge may order the party or the party's authorized representative to reimburse the Commission for hearing expenses and costs incurred by the Commission including fees of expert medical witnesses and other witness fees.

R20-5-150. Joinder of a ~~Power to Join~~ Interested Party

- A. An administrative law judge may join as a party ~~applicant or party defendant~~ any person, firm, ~~or~~ corporation, ~~or other entity~~ in favor of whom or against whom a right to relief may ~~appear to~~ exist and over whom the Commission may acquire jurisdiction.
- B. ~~Joinder The joinder~~ may be made upon application of any ~~interested party~~ or upon the presiding administrative law judge's own motion, ~~if such joinder appears appropriate.~~
- C. A Any party seeking to join another person, firm, corporation, or other entity other parties shall file a motion requesting joinder with the presiding administrative law judge at least 30 days before hearing. The moving party shall serve a copy of the motion upon the person, firm, corporation, or other entity for whom joinder is requested, and upon all other parties. make application and serve a copy on the party to be joined. Such application shall be filed with the presiding administrative law judge at least 30 days prior to the date set for any hearing.
- D. If the requirements of this Section are met, the Notice of joinder shall be sent by the presiding administrative law judge shall join as a party the person, firm, corporation, or other entity for whom joinder is requested and shall issue a notice advising the parties of the joinder to the party and such party shall appear and may participate in the proceedings as any other party.

R20-5-151. Special Appearance

Any party against whom a claim ~~before the Industrial Commission of Arizona may appear to exist~~ under the Act, or against whom a contingent liability may ~~appear to exist~~ under the Act, and over whom the Commission has not acquired jurisdiction, may enter a special appearance. A special Any appearance made under pursuant to the provisions of this Section does rule shall not operate to invoke the jurisdiction of the Commission.

R20-5-152. Resolution of Issues by Stipulation After the Filing of a Request for Hearing ~~Stipulations~~; Notice of Resolution; Assessment of Hearing Costs

- A. Subject to the requirement of subsection (D), parties Subsequent to the filing of a request for hearing, the parties may stipulate to any fact facts or issue issues after a party files a request for hearing. The Such stipulation may be in writing and made prior to a hearing or may be made orally at the time of hearing.
- B. A Any such stipulation is shall be considered binding upon the parties unless a the presiding administrative law judge or the Commission grants the parties permission to withdraw the stipulation, therefrom.
- C. If a stipulation is not reasonably supported by the evidence, a The presiding administrative law judge or the Commission, if he or it feels that the stipulation is not reasonably supported by the facts in evidenece, may set aside or refuse to accept the any stipulation and proceed to determine ascertain the true facts.
- D. A party shall notify a presiding administrative law judge of any stipulation, compromise or settlement agreement, or withdrawal of a hearing request that makes a hearing unnecessary at least three days before a scheduled hearing. Where the written stipulation is not filed with the presiding administrative law judge three working days before the date of a scheduled hearing resolving the issues for which the hearing is has been scheduled, or where the request for hearing has been withdrawn less than three working days before the date of a scheduled hearing,

~~E. The presiding administrative law judge may order a designate the party or parties to reimburse the Commission for liability for payment of hearing expenses and costs; incurred by the Commission including which shall include the fees of expert medical witnesses and other witness fees if a party fails to notify the presiding administrative law judge as required under subsection (D).~~

R20-5-153. Exclusion of Witnesses

Any party may request that all other witnesses except the parties be excluded from the hearing until called to testify. The presiding administrative law judge may, in ~~the judge's~~ his discretion, grant or deny the request. If the request is granted, the presiding administrative law judge shall admonish ~~each witness~~ the witnesses not to discuss ~~the witness's~~ their testimony with anyone other than attorneys on the case.

R20-5-154. Correspondence to Administrative Law Judge

~~A person submitting Copies of any correspondence, including subpoena requests, request for subpoenas directed to an administrative law judge concerning a matter claim pending before the administrative law judge, him shall be sent contemporaneously serve a copy of the correspondence upon to all other interested parties, or if represented, the parties' and authorized representatives. The administrative law judge shall not consider Such correspondence or subpoena requests shall not be deemed to be evidence except by agreement of all parties to the matter proceeding.~~

R20-5-155. Filing of Medical Reports and Non-Medical Reports Into Evidence; Request for Subpoena Right to Cross-examine Author of Report Submitted into Evidence; Failure to Timely Request Subpoena for Author

- ~~A. Except as provided in R20-5-114(C), a party filing a medical report Medical reports or hospital record into evidence ("medical report") that is records sought to be relied on and not already contained in the Commission's claims claim file prior to filing of the request for hearing, shall file the medical report with the presiding administrative law judge shall be filed at least 25 days before prior to the date of the first any first scheduled hearing.~~
- ~~B. A party filing into evidence a document, report, instrument, or other written matter not described in subsection (A) ("non-medical report") that is not already contained in the Commission's claims file, shall file the non-medical report with the presiding administrative law judge at least 15 days before the first scheduled hearing.~~
- ~~C. The party filing a medical or non-medical report into evidence shall serve a copy of the report and copies shall be provided to all other interested parties, or their authorized representatives.~~
- ~~D. A presiding administrative law judge shall not receive into evidence any medical or non-medical Any report or hospital record that is not filed so submitted as required under this Section. If shall not be received in evidence and if such the report or record has been placed in the Commission's claims file, the presiding administrative law judge it shall remove the report from the Commission's claims file be removed and return the report returned to the filing party submitting it.~~
- ~~E. The presiding administrative law judge may suspend the requirements The effect of this Section:
 - 1. Upon a showing of good cause, or
 - 2. If the parties agree that the judge may accept the medical or non-medical report into evidence. rule may be suspended in the sound discretion of the presiding administrative law judge.~~
- ~~F. The party filing a medical or non-medical report or hospital record under pursuant to this Section rule shall file a cover letter with the report stating:
 - 1. The party's identity,
 - 2. The reports filed, and
 - 3. Proof of service of the reports upon the other parties, contemporaneously record his identity and proof of service of copies.~~
- ~~B. All other documents, reports, instruments, and other written matters upon which a party wishes to rely at a scheduled hearing, if not already contained in the claims file, shall be filed with the Commission at least 15 days prior to the date of the first scheduled hearing. Copies shall be sent to all other interested parties or their authorized representatives. The party filing same shall record his identity and proof of service of copies.~~
- ~~C.G.A Any party seeking desiring to cross-examine the author of any medical or non-medical document, report; instrument or other written matters so filed into evidence shall request a subpoena under in accordance with the provisions of R20-5-141.~~
- ~~D.H.If a party fails to timely request a for subpoena is not made under pursuant to this Section rule and the provisions of R20-5-141, the party waives the right to cross-examine the author of any medical or non-medical report; document, report, instrument, or other written filed into evidence matters shall be deemed waived and the presiding administrative law judge shall admit the medical or non-medical report document may be considered to be in evidence.~~

R20-5-156. Continuance of Hearing

- ~~A. A party may request a continuance of a scheduled hearing. If a party shows good cause, a presiding administrative law judge may grant a request that a hearing be continued. The granting of a continuance of a hearing shall be discretionary with the administrative law judge.~~
- ~~B. If at the conclusion of a hearing a any interested party seeks to continue the desires a further hearing to introduce additional for the purpose of introducing further evidence, the party shall state specifically and in detail;~~

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1. ~~The~~ the nature and substance of the additional evidence.
 2. ~~The~~ ~~desired to be produced,~~ the names and addresses of ~~the~~ additional witnesses, and
 3. ~~The~~ the reason ~~why~~ the party was unable to produce ~~the~~ such evidence ~~or~~ ~~and~~ ~~such~~ witnesses at ~~the~~ time of the hearing.
- C.** ~~A presiding administrative law judge may deny a request for a continuance under subsection (B) if it appears to the presiding administrative law judge determines that, with the exercise of due diligence, the~~ such evidence or testimony could have been produced or ~~the~~ ~~that~~ evidence or testimony would ~~should~~ be cumulative, immaterial, or unnecessary. ~~he may deny the request for a continued hearing.~~
- D.** ~~A presiding administrative law judge~~ He may, on ~~the judge's~~ his own motion, continue a hearing and order ~~such~~ further examinations or investigations ~~that as, in the judge determines are his discretion, appear~~ warranted.
- ~~C.~~E.** ~~If more than 40 days before the first scheduled hearing, a presiding administrative law judge reschedules the hearing date is reset,~~ discovery and filing deadlines under this Article ~~these rules~~ shall be calculated with respect to the new hearing date.
- F.** ~~If less than 40 days before the first scheduled hearing, a presiding administrative law judge reschedules the hearing date is reset,~~ discovery and filing deadlines under this Article shall be calculated with respect to the original hearing date.

R20-5-157. Sanctions

- A.** ~~A presiding administrative law judge may impose the following sanctions against any~~ Any interested party or authorized representative of a party who fails to comply ~~abide with the provisions of this Article or fails to comply with an order of the presiding administrative law judge or Commission:~~
1. Dismissal of the party's request for hearing.
 2. Refusal to permit the introduction of evidence by the party, or
 3. Assessment of reasonable attorney's fees and costs against the sanctioned party or authorized representative of a party. ~~these rules shall not be permitted to present any evidence at any of the proceedings before the Commission on the claim, or the request for hearing may be dismissed in the discretion of the presiding administrative law judge. The presiding law judge or the Commission may, in his or its sound discretion, relieve the party of the sanctions imposed for his failure to comply with these rules for good cause shown.~~
- B.** ~~Sanctions may be granted where an interested party fails to comply with discovery or fails to comply with an order of the presiding administrative law judge or the Commission. Sanctions may include the assessment of reasonable attorney fees and costs or the party may be restricted from presenting evidence as provided in subsection (A) of this rule. If a party shows good cause, a presiding administrative law judge or the Commission may relieve a party of sanctions imposed under subsection (A).~~

R20-5-158. Service of Awards and Other Matters

- A.** ~~An~~ Service of any award, decision, order, subpoena, notice, document, or any other matter required by the Act, this Article, or other law or these rules to be served shall be made upon ~~an~~ interested party or, if represented, and the party's his authorized representative. Service upon the authorized representative is ~~shall be deemed~~ service upon the party.
- B.** ~~Service of any of the matters referred to in subsection (A) hereof may be made~~ and is deemed complete by: enclosing the same, or a copy thereof, in a sealed envelope and
1. Depositing ~~depositing the document or matter the same~~ in the United States mail, with postage prepaid, addressed to the party served at the address ~~Such service may be made to the address of such party as shown by the records of the Commission; or Commission. Service shall be deemed complete when the matter to be served is so deposited.~~
 2. Personal service
- ~~C.~~** ~~Service of any of the matters referred to in subsection (A), unless otherwise required by law, may also be made personally in the same manner as a summons is served in a civil action, and in such event service shall be deemed complete at the time service is made.~~
- ~~D.~~C.** ~~Proof of service may be made by~~ an ~~the~~ affidavit ~~certificate~~ or oral testimony of the person making such service.

R20-5-159. Record for Award or Decision on Review

- A presiding administrative ~~Administrative law judge's judge~~ award or decision awards or decisions upon review under issued pursuant to A.R.S. § 23-942 or award or decision upon review under A.R.S. § 23-943 shall be based upon:
1. ~~The~~ the record as it exists at the conclusion of the final ~~hearings, held in a proceeding together with and~~
 2. Any memoranda as provided under A.R.S. § 23-943(E) by A.R.S. § 23-943(D) or requested by and such memoranda which may be submitted at the discretion of the presiding administrative law judge.

R20-5-160. Application Petitions to Set Attorney Fees Under A.R.S. § 23-1069

- A.** ~~If a claimant or his attorney desires that the Commission set an attorney's fee, application shall be filed prior to a final disposition of the claim. For purposes of A.R.S. § 23-1069, "final disposition of a case" occurs when all compensation benefits have been released to a claimant.~~

- B.** A claimant or attorney filing an application for attorney's fees under A.R.S. § 23-1069 shall serve notice of the application to all parties, including if applicable, ~~Notice of such application shall be sent to the insurance carrier, self-insured employer, or special fund division.~~
- C.** Upon the filing of such an application, the attorney and claimant shall, upon the request of the Commission or its authorized representative, provide the information to the Commission required to enable the Commission to award reasonable ~~set a just and adequate attorney's fees fee.~~
- D.** Attorney's fees awarded ~~The attorney's fee under this Section shall~~ may be set by the Commission, ~~an~~ the administrative law judge, or other authorized representative of the Commission.

R20-5-162. Legal Division department Participation

The chief counsel ~~Chief Counsel~~ and other members of the legal staff of the Commission who participate in administrative proceedings or matters under the Act and this Article ~~these rules or at hearings shall~~ do so on behalf of the Commission.

R20-5-163. Bad Faith and Unfair Claim Processing Practices

- A.** For purposes of A.R.S. § 23-930, an employer, self-insured employer, insurance carrier, or claims processing representative ~~commits is deemed to have committed~~ "bad faith" if ~~the employer, self-insured employer, insurance carrier, or claims processing representative it has either:~~
 - 1. ~~Institutes instituted~~ a proceeding or ~~interposes interposed~~ a defense ~~that which~~ is not:
 - a. ~~Well-grounded well-grounded~~ in fact; and
 - b. ~~Warranted warranted~~ by existing law; or is not
 - c. ~~A a~~ good faith argument for the extension, modification, or reversal of existing law;
 - 2. ~~Unreasonably delays; unreasonably delayed~~
 - a. ~~Payment payment~~ of benefits; or the
 - b. ~~Authorization authorization~~ for, or receipt of, medical benefits or treatment;
 - 3. ~~Unreasonably underpays unreasonably underpaid~~ benefits;
 - 4. ~~Unreasonably terminates unreasonably terminated~~ benefits;
 - 5. ~~Intentionally misleads intentionally misled~~ a claimant as to applicable statutes of limitation, or benefits, or remedies available to the claimant under the Act ~~A.R.S. Title 23, Chapter 6~~ or under this Article ~~Chapter~~; or
 - 6. ~~Unreasonably interferes unreasonably interfered~~ with or ~~obstructs obstructed~~ the claimant's right to choose ~~the claimant's his or her~~ attending physician, except in cases involving a self-insured employer ~~under within the meaning of~~ A.R.S. § 23-1070.
- B.** For purposes of A.R.S. § 23-930, an employer, self-insured employer, insurance carrier, or claims processing representative ~~commits is deemed to have committed~~ "unfair claim processing practices" if ~~the employer, self-insured employer, insurance carrier, or claims processing representative it has either:~~
 - 1. ~~Unreasonably issues a unreasonably issued any~~ notice of claim status without adequate supporting information in its possession or available to it;
 - 2. ~~Unreasonably fails unreasonably failed~~ to acknowledge ~~and act reasonably and promptly upon~~ communications from the Commission, an unrepresented claimant, or a claimant's attorney with respect to a claim;
 - 3. ~~Fails to act reasonably and promptly upon communications from the Commission, an unrepresented claimant, or a claimant's attorney with respect to a claim;~~
 - 3.4. ~~Directly advises directly advised~~ a claimant not to consult or obtain the services of an attorney; or
 - 4.5. ~~Communicates communicated~~ directly, ~~for an improper purpose,~~ with a claimant represented by an attorney ~~for an improper purpose.~~
- C.** A ~~person~~ ~~complaint~~ alleging bad faith or unfair claim processing practices ("~~complainant~~") shall ~~file a written complaint be in writing, signed by the complainant or the authorized representative, and filed with the claims manager of the Commission. The complainant, or the complainant's authorized representative, shall sign the complaint. A copy of the complaint shall be mailed to the person or entity named in the complaint, and to that party's attorney, if its representation is apparent in the particular case. The complaint form is available on request from the Commission.~~
- D.** The complaint shall describe the specific actions of the employer, self-insured employer, insurance carrier, or claims processing representative, ~~that which~~ are alleged to constitute bad faith or unfair claim processing practices. ~~A complaint form is available upon request from the Commission.~~
- E.** Upon receipt of a complaint under this subsection, the ~~The~~ claims manager of the ~~Commission Industrial Commission~~ shall ~~forthwith~~ serve the complaint upon all interested parties, ~~and their counsel.~~
- D.E.** If the Commission acts on its own motion ~~under pursuant to~~ A.R.S. § 23-930(A), the claims manager shall mail a notice of alleged bad faith or unfair claim processing practices to the ~~claimant or the claimant's authorized representative and the:~~
 - 1. ~~Employer employer,~~
 - 2. ~~Self-insured self-insured~~ employer,
 - 3. ~~Insurance insurance~~ carrier, or-
 - 4. ~~Claims claims~~ processing representative, ~~and either to the claimant, or to the claimant's attorney, if the claimant is represented by an attorney.~~

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- ~~E-G.~~ The person or entity named in a complaint or notice served under A.R.S. § 23-930 and this Section ~~An employer, self-insured employer, insurance carrier, or claims processing representative shall file with the claims manager a written response to the complaint or notice, with a copy to the claimant or the claimant's attorney to a complaint filed with the claims manager within 30 days after service by the Commission of the complaint or notice.~~
- ~~H.~~ The person or entity filing a written response shall serve a copy of the response upon the complainant, or the complainant's authorized representative, if represented, ~~received pursuant to subsection (C) or (D) of this rule.~~
- ~~I.~~ If the person or entity named in a complaint or notice served under A.R.S. § 23-930 and this Section fails to file a written response, the Commission shall consider ~~Where no written response is filed within 30 days, the absence of such a response shall be taken as a denial of the allegations of the complaint or notice.~~
- ~~J.~~ Upon receipt of a written response, or upon the expiration of 30 days if no response is filed, the Commission ~~The Commission shall enter an forthwith the award as it deems, in its discretion, appropriate under A.R.S. §§ 23-930(B) or (C).~~

R20-5-164. Human Immunodeficiency Virus and Hepatitis C Significant Exposure; Employee Notification; Reporting; Documentation; Forms

- ~~A.~~ An employer ~~Employers~~ subject to the provisions of ~~Act Title 23, Chapter 6, Arizona Revised Statutes,~~ shall notify its ~~their~~ employees of the requirements of A.R.S. § 23-1043.02 and § 23-1043.03 by posting the Commission notice ~~titled entitled "Work Exposure to Bodily Fluids"; in a conspicuous place This notice shall be conspicuously posted immediately next adjacent to the "Notice to Employees" notice required under by A.R.S. § 23-906(D).~~
- ~~B.~~ A properly posted ~~The "Work Exposure to Bodily Fluids" notice constitutes, when posted, shall constitute sufficient notice to employees of the requirements of a prima facie case under A.R.S. § 1043.02(B) and § 23-1043.03(B).~~
- ~~C.~~ An employer's ~~The insurance carrier, or claims processor, or workers' compensation pool shall provide the "Work Exposure to Bodily Fluids" notice to the employer. This notice is also available from the Commission upon request.~~
- ~~B-D.~~ An employer ~~Employers~~ shall make readily available to its employees ~~the Commission a supply of Commission form described in R20-5-106 forms titled entitled "Report of Significant Work Exposure to Bodily Fluids"; the content of which is described in subsection (D): An employer's The insurance carrier, or claims processor, or workers' compensation pool shall provide the "Report of Significant Work Exposure to Bodily Fluids" these forms to the employer. This form is These forms are also available from the Commission upon request.~~
- ~~C-E.~~ If an employee sustains ~~In the event of a significant exposure as defined in A.R.S. § 23-1043.02(G) or § 23-1043.03(G), the employee shall complete, date, and sign a "Report of Significant Work Exposure to Bodily Fluids" form. The employee or employee's authorized representative shall give to the employer the be completed, dated, and signed form, and given to the employer by the employee or the employee's authorized representative. The employer shall return one copy of the completed form to the employee or to the employee's authorized representative. Nothing in this subsection limits shall be construed to limit the requirements to report of reporting an injury or file filing a claim under the Act, pursuant to Title 23, Chapter 6, Arizona Revised Statutes.~~
- ~~D.~~ In addition to stating the requirements of A.R.S. § 23-1043.02(B), the "Report of Significant Work Exposure to Bodily Fluids" requires the following information:
- ~~1- Employee identification;~~
 - ~~2- Employer identification;~~
 - ~~3- Details of the Exposure: Date, time and place of exposure, how exposure occurred, type of bodily fluid(s), source of bodily fluid(s), part(s) of body exposed to bodily fluid(s), presence of break/rupture in skin or mucous membrane, and witnesses (if known);~~
 - ~~4- Dated signature of employee or the employee's authorized representative.~~
- ~~E-F.~~ If an employee submits a ~~employee written report of a significant exposure to which is filed with an the employer, but does is not use on the Commission form titled entitled "Report of Significant Work Exposure to Bodily Fluids", the employer shall provide the employee with the Commission form within five calendar days after from the receiving the employee's initial written employer's receipt of the report.~~
- ~~G.~~ The date of the receipt by the employer or its authorized representative of the employee's initial report ~~is the date shall be used to compute the time period prescribed in A.R.S. § 23-1043.02(B)(2) and § 23-1043.03(B)(2) if: so long as~~
- ~~1. The information contained in the initial report contains the information required in the "Report of Significant Work Exposure to Bodily Fluids" form, meets the requirements of subsection (D) or~~
 - ~~2. The the employee gives to the employer the completed Commission form within 10 ten calendar days after the employee's receipt of the Commission form.~~
- ~~H.~~ Failure or refusal by the employer to provide the Commission form to the employee shall not be a defense to a prima facie claim ~~under pursuant to A.R.S. § 23-1043.02(B) and § 23-1043.03(B).~~
- ~~F-I.~~ In investigating the circumstances and facts surrounding an employee's report to ~~an the employer of a significant exposure to bodily fluids under pursuant to A.R.S. § 23-1043.02(C) and § 23-1043.03(C), the employer, or its carrier, or any of their employees, agents or contractors of either the employer or carrier, shall not disclose to any person, except as authorized or required by law, that the reporting employee who made the report of a significant exposure to bodily fluids, or any witness or alleged source of exposure, may have or did contract the human immunodeficiency virus, or acquired immune deficiency syndrome, or hepatitis C. However, an employer, its carrier or their respective attorneys, may;~~

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1. ~~Direct~~ ~~direct~~ an ~~investigating~~ agent to investigate the employee's report of significant exposure to bodily fluids, and ~~may~~
 2. ~~Communicate~~ ~~communicate~~ with the investigating agent about the conduct and results of the investigation.
- J.** As required under the federal Occupational Safety and Health Standard for Bloodborne Pathogens, 29 CFR 1910.1030, an employer shall pay for the testing required by A.R.S. § 23-1043.02.