

# DEPARTMENT OF LABOR AND EMPLOYMENT

## Division of Workers' Compensation

7 CCR 1101-3

### WORKERS' COMPENSATION RULES OF PROCEDURE

#### **Rule 7      Closure of Claims, Approval of Settlement Agreements and Petitions to Reopen**

##### 7-1      CLOSURE OF CLAIMS

- (A)      A claim may be closed by order, final admission, or pursuant to paragraph (C) of this section.
  
- (B)      A Final Admission of Liability may be filed based on abandonment of the claim if the claimant:
  - (1)      Is not receiving temporary disability benefits; and
  - (2)      has not attended two or more consecutive scheduled medical appointments; and
  - (3)      has failed to respond within 30 days to a letter from the insurer or the insured asking if the claimant requires additional medical treatment or is claiming permanent impairment. The letter shall be sent to the claimant and the claimant's attorney if the claimant is represented. The letter must also advise the claimant in bold type and capital letters that failure to respond to the letter within 30 days will result in a final admission being filed. If the claimant timely responds to the letter the insurer may not file a Final Admission of Liability pursuant to this rule.
  
- A.      If a claim is abandoned and a Final Admission of Liability is filed pursuant to this rule, an MMI date should not be included.
  
- B.      A copy of the letter sent to the claimant must be attached to the final admission of liability.
  
- C.      If the claimant timely objects to a final admission of liability filed pursuant to this rule the insurer must withdraw the final admission and provide an opportunity for the claimant to attend a medical appointment(s).
  
- (C)      When no activity in furtherance of prosecution has occurred in a claim for a period of at least 6 months, a party may request the claim be closed.
  - (1)      The request to close the claim shall include a separate, properly captioned proposed order to show cause and prepared certificate of mailing, along with addressed, stamped envelopes for the claimant, insurer and each attorney of record who has entered an appearance in the case.
  
  - (2)      Following receipt of a request to close a claim, the Director may issue the order to show cause why the claim should not be closed. If no response is mailed or delivered within 30 days of the date the order was mailed, the claim shall be closed automatically, subject to the reopening provisions of §8-43-303, C.R.S. If

a response is timely received, the Director will determine whether the claim should remain open.

- (D) An application for hearing or for a Division Independent Medical Examination without further action does not automatically constitute prosecution.

## 7-2 CONTENT AND APPROVAL OF SETTLEMENT AGREEMENTS

- (A) When the parties enter into a full and final settlement of a claim, they shall use the appropriate form settlement agreement prescribed by the Division of Workers' Compensation. The parties shall not alter the prescribed form, except as set out in subparagraphs (1) and (2) below. Parties who are settling a claim for a fatality are not required to use the Division's prescribed form settlement agreement.
  - (1) When the claimant is represented by counsel the parties shall use the "Workers' Compensation Claim(s) Settlement Agreement: Represented Claimant." The parties may include terms in Paragraph 9(A) that are both specific to that agreement and involve an issue or matter that falls within the Workers' Compensation Act. The parties may attach other written agreements to the prescribed form and may refer to these agreements in Paragraph 9(B) of the settlement agreement. These other written agreements may include a Workers' Compensation Medicare Set-Aside Arrangement (WCMSA), an agreement involving employment, or a waiver of bad faith. These other written agreements attached to a settlement agreement shall not be reviewed and approval of the settlement agreement does not constitute approval of any written agreement attached to the settlement agreement. If a represented claimant does not wish to waive the right to an appearance before the Director to review the terms of the agreement, a settlement proceeding shall be scheduled with the Division's Pre-Hearing Unit.
  - (2) When the claimant is unrepresented the parties shall use the "Pro Se (Unrepresented) Workers' Compensation Claim(s) Settlement Agreement." The parties may include terms in Paragraph 9(A) that are both specific to that agreement and involve an issue or matter that falls within the Workers' Compensation Act. The parties may attach a Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) to the prescribed form and may refer to the WCMSA in Paragraph 9(B) of the settlement agreement. The parties shall not attach any other written agreement to the settlement agreement. A settlement proceeding shall be scheduled with the Division's Pre-Hearing Unit to consider approval of this agreement.
- (B) The parties shall file the original, with all original signatures, plus two copies of a settlement agreement and a completed settlement routing sheet. The settlement agreement must be signed by all parties with the claimant's signature verified by a Notary Public consistent with the Notaries Public Act. A proposed order in the form prescribed by the Division must also be provided.
- (C) Parties requesting approval of a stipulation resolving one or more issues in dispute shall submit a motion for approval of joint stipulation to the Director or an ALJ and should not use the Division's prescribed form settlement agreement.

## 7-3 PETITIONS TO REOPEN

- (A) A claimant or insurer may request to reopen a claim, pursuant to §8-43-303, C.R.S. by submitting a request to reopen on the Division prescribed form. The request must be

provided to the other party and all attorneys of record. The request shall state the basis for reopening, and supporting documentation must accompany the request.

- (1) If the other party agrees to reopen the claim the Division must be notified by the insurer in writing or by admission.
  - (2) Upon request to reopen the requesting party may file an Application for Hearing with the Office of Administrative Courts.
- (B) For those injuries arising after July 2, 1987 at 4:16 p.m. and prior to July 1, 1991, a Petition to Reopen shall be filed when a claimant is requesting a redetermination of the original permanent partial disability award pursuant to Section §8-42-110(3), C.R.S., (repealed 7/1/91). The petition shall be filed with a statement outlining the circumstances of termination from employment.