

Proposed Regulations as Amended in Light of Public Comments

Title 14

INDEPENDENT AGENCIES

Subtitle 09 WORKERS' COMPENSATION COMMISSION

Notice of Proposed Action

[21-098-P]

The Maryland Workers' Compensation Commission proposes to:

- (1) Amend Regulations **.01—, .04, .08, and .09** under **COMAR 14.09.01 General Administrative**;
- (2) Amend Regulations **.01—, .04, .06, and .07** and adopt new Regulation **.08** under **COMAR 14.09.02 Requirements for Filing and Amending Claims**;
- (3) Amend Regulations **.02—, .05, .07—, .09, and .11—, .14**, repeal existing Regulation **.15**, and adopt new Regulations **.15** and **.16** under **COMAR 14.09.03 Hearing Procedures**;
- (4) Amend Regulations **.01—, .03** under **COMAR 14.09.04 Legal Representation and Fees**;
- (5) Amend Regulations **.01, .03, and .07** under **COMAR 14.09.05 Uninsured Employers' Fund Claims**;
- (6) Amend Regulation **.04** under **COMAR 14.09.06 Payment of Awards and Assessments and Termination of Benefits**;
- (7) Amend Regulations **.02** and **.07** under **COMAR 14.09.07 Vocational Rehabilitation**;
- (8) Amend Regulations **.02** and **.04** under **COMAR 14.09.09 Guide for Evaluation of Permanent Disability**;
- (9) Amend Regulation **.02** under **COMAR 14.09.10 Settlements and Lump Sum Payments**;
- (10) Amend Regulations **.02—, .04** under **COMAR 14.09.11 Judicial Review Procedures**;
- (11) Amend Regulations **.02, .03, and .07** and adopt new Regulation **.08** under **COMAR 14.09.12 Responsibilities of Insurers**;
- (12) Amend Regulations **.01, .02, .08, and .12** under **COMAR 14.09.13 Individual Employer Self-Insurer**;
- (13) Amend Regulations **.01-1** and **.03** under **COMAR 14.09.14 Governmental Group Self-Insurance**;
- (14) Amend Regulation **.01** under **COMAR 14.09.15 Open Meetings**;
- (15) Amend Regulations **.03, .07—, .09, .13, and .15**, repeal existing Regulation **.11**, and adopt new Regulations **.11** and **.17** under **COMAR 14.09.16 Public Information Act Requests**; and
- (16) Amend Regulation **.03** under **COMAR 14.09.17 Emergency Powers of Chairman of the Commission**.

This action was considered at an open meeting of the Commission held on June 10, 2021, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Change certain filing and submission methods to facilitate full integration of CompHub, the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims; make minor style and language changes; and remove redundancies. (14.09.01)
- (2) Repeal certain filing and submission instructions which no longer apply in CompHub, the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims; make minor style and language changes; remove redundancies; and to clarify filing instructions in CompHub for employers and insurers represented by counsel. (14.09.02)
- (3) Change certain subpoena procedures to align them with current court practices; update certain hearing procedures to reflect current Commission practices; to repeal certain references to forms; make minor style and language changes; and remove redundancies. **The change to the reimbursement rate for a missed medical examination from a flat fee to *reasonable* expenses and costs *actually incurred because of the* missed examination, is intended to provide for the reimbursement of reasonable *medical* expenses and costs actually incurred. The limitation on "reasonable" expenses and costs is intended to provide the Commission discretion in awarding expenses and costs.** (14.09.03)
- (4) Change certain requirements for maintaining current contact information in CompHub, the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims; update award of attorney's fee in light of UEF v. Danner, 388 Md. 649 (2005) interpreting Labor and Employment Art. § 9-734, Annotated Code of Maryland; update the maximum fee allowed in settlements; and make minor style and language changes. **The Commission does not intend any change in this chapter to alter the award of attorneys' fees where no compensation has been awarded. The change to 14.09.04.02C, incorporating the explanatory language of UEF v. Danner, 388 Md. 649 (2005), is a change in style and is not intended to provide for the award of attorneys' fees in the absence of sanctionable conduct by a party.** (14.09.04)
- (5) Make minor style and language changes; and remove redundancies. (14.09.05)

- (6) Make minor style and language changes. (14.09.06)
- (7) Clarify the reporting and continuing education requirements for practitioners licensed or certified by another State licensing board or commission; make minor style and language changes; and remove redundancies regarding the continuing education requirements for practitioners licensed or certified by another State licensing board or commission. (14.09.07)
- (8) Make minor style and language changes, and to clarify when a stipulation becomes binding on the Commission. (14.09.09)
- (9) Change certain filing and submission methods to facilitate full integration of CompHub, the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims; and make minor style and language changes. (14.09.10)
- (10) Make minor style and language changes; and remove redundancies. (14.09.11)
- (11) Change certain registration, filing and submission methods for insurers to facilitate full integration of CompHub, the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims; make minor style and language changes; and remove redundancies. (14.09.12)
- (12) Define responsibilities of third-party administrators who handle and adjust claims in the State for self-insurers; change certain filing and submission methods by self-insurers to facilitate full integration of CompHub, the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims; and make minor style and language changes. (14.09.13)
- (13) Make minor style and language changes; and update citations. (14.09.14)
- (14) Clarify that the chapter applies to meetings of the Commission as a whole (with a quorum present) and not to sessions, hearings or other proceedings, which instead are governed by Labor and Employment Article, §§9-307(b) and 9-308, Annotated Code of Maryland. (14.09.15)
- (15) Make minor style and language changes; update the substance to align with the latest changes to the Public Information Act and in light of the latest guidance of the Attorney General; and add a definition of "sociological information." (14.09.16)
- (16) Clarify that the Chairman may order hearings and meeting to be conducted electronically, by video or by telephone; and remove redundancies and inefficient reporting requirements. (14.09.17)

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Amy Lackington, Administrator, Workers' Compensation Commission, 10 E. Baltimore Street, Baltimore, MD 21202, or call 410-864-5300, or email to alackington@wcc.state.md.us, or fax to 410-864-5301. Comments will be accepted through August 30, 2021. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Workers' Compensation Commission during a public meeting to be held on September 16, 2021 at 9:30 a.m., at 10 E. Baltimore Street, Baltimore, MD 21202.

14.09.01 General Administrative

Authority: Health-General Article, §4-303; Insurance Article, §§19-405 and 19-406; Labor and Employment Article, §§9-307, 9-309, 9-310.2, 9-314, 9-404, 9-405, 9-410, 9-602, 9-603, 9-610.1, 9-625, 9-635, 9-689, 9-701, 9-709, 9-710, 9-711, 9-721, 9-731, 9-736, 9-739, and 9-6A-07; State Government Article, §10-1103; Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) *"Automatic award" means the order finding the claim compensable when:*

(a) The employer or insurer files no response to an employee's claim form by the consideration date in accordance with Labor and Employment Article, §9-713, Annotated Code of Maryland;

(b) The employer or insurer files a response that the claim does not involve lost time; or

(c) The employer or insurer files a response that the employer or insurer does not contest the claim.

[(2)] (3)—[(5)] (6) (text unchanged)

(7) *"Consideration date" means the day by which the employer or its insurer must begin paying temporary total disability benefits, or file with the Commission any issue to contest the claim in accordance with Labor and Employment Article, §9-713, Annotated Code of Maryland.*

(8) “Contact information” means the name of a person submitting a document or of a person on whose behalf a document is being submitted, telephone numbers, personal or business addresses, email addresses, employer identification and address, or similar facts that make it possible for another to contact a person who is named in a document.

[(6)] (9) (text unchanged)

(10) File.

(a) “File” means to submit to the Commission a written claim, motion, request, or other document for action by the Commission.

(b) “File” does not include a submission rejected by the Commission.

[(7)] (11)—[(24)] (28) (text unchanged)

[(25)] “Web-Enabled File Management System” or “WFMS” means the Commission’s legacy subscriber-based web-enabled electronic file management system designed to facilitate the filing and adjudication of workers’ compensation claims. Until the transition from WFMS to CompHub is complete, references to CompHub include WFMS.]

.02 Commission Forms [and Documents].

A. [Forms prepared by the Commission, and made] *Use of Commission forms*, available on the Commission’s website or through CompHub, [are] *is* mandatory [and shall be used for filing claims, notices, requests, motions, and other papers as required by law, or by these regulations]. *Use of Commission forms for any purpose for which they are not intended may result in delay or denial of the relief sought.*

B.—C. (text unchanged)

.03 Service of Papers.

A. Service by Commission.

(1) The Commission shall serve [notice of its] *all notices*, orders, and decisions, by:

[(a)] Electronic means, if the party’s attorney of record consents or, if the party is unrepresented, the party consents; or

(b) First class mail to the last known address of each party’s attorney of record or, if the party is unrepresented, to the unrepresented party.]

(a) *Electronic means:*

(i) *To each party’s attorney of record who has registered with CompHub and consents; and*

(ii) *To each unrepresented party who has registered with CompHub and consents; or*

(b) *First-class mail.*

[(2)] Parties and attorneys of record shall notify the Commission promptly of a change of address.

(3) For all other notices, where service by electronic means has not been authorized by statute or regulation, the Commission shall serve notice by first class mail.]

(2) *Commission notices, awards, orders, and decisions are sent by electronic means or mailed by first-class mail on the date of issue shown on the notice, award, order, or decision.*

B. Service by Parties.

(1)—(4) (text unchanged)

(5) Service by electronic means is complete upon sending the [receipt of] electronic filing or service, *but service is not effective if the person who filed with the Commission or the person who sent by electronic means learns that the paper did not reach the person to be served. This regulation does not make the Commission responsible for notifying a person who filed the paper with CompHub that an attempted transmission by CompHub failed. But a filer who learns that the transmission failed is responsible for making effective service.*

(6) (text unchanged)

.04 Filing Forms and Documents with the Commission.

Forms and documents may be filed with the Commission by one of the following methods:

A. (text unchanged)

B. In person *at the Commission’s principal office in Baltimore City*; or

C. (text unchanged)

.08 Referral for Fraud.

A. (text unchanged)

B. A party requesting a referral to the Insurance Fraud Division shall complete [the Fraud Referral] *a fraud referral* form provided by the Commission.

.09 CompHub Conditions of Use.

A. A subscriber shall:

(1) Provide the Commission with current contact information and *promptly* update this information as it changes; and

(2) (text unchanged)

B. *Continued use of CompHub constitutes agreement to abide by the terms of the CompHub service agreement.*

[B.] C. A subscriber’s CompHub subscription may be suspended or terminated if the subscriber:

(1) Fails to provide the Commission with [a] current [email address and] contact information;

(2) Fails to protect the subscriber’s [user name] *username* and password;

(3)—(5) (text unchanged)

14.09.02 Requirements for Filing and Amending Claims

Authority: Labor and Employment Article, §§9-309, 9-314, 9-402, 9-404, 9-602, 9-701, 9-709—9-711, and 9-736; State Government Article, §10-1103; Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(6) (text unchanged)

[(7) “Notarized” means signed by the person or persons authorized or required to sign the document, the signing of which was witnessed by a notary public, accompanied by the notary’s official notary seal.]

[(8)] (7)—[(9)] (8) (text unchanged)

.02 Requirements for Filing and Amending Claims.

A. Claim for Benefits.

(1)—(2) (text unchanged)

[(3) If the information set forth in §A(2) of this regulation is unavailable or does not exist the claimant shall:

(a) Enter all zeros (0) in the spaces provided for the information; and

(b) Attach a signed statement certifying that the information is unavailable or does not exist.]

(3) *Parties and attorneys of record shall notify the Commission of any change in their contact information within 30 days of the change. The Commission may rely on the latest information received by it for service of any papers.*

(4)—(9) (text unchanged)

B.—C. (text unchanged)

.03 [Amendment of Claim to Add an Additional Party, Including the Subsequent Injury Fund and Uninsured Employers’ Fund] *Adding or Impleading a Party.*

A. A party may amend a claim to add another party by filing a [Request to Implead a Party] *request to implead a party* form.

B. (text unchanged)

C. Impleading the Subsequent Injury Fund.

(1) A party impleading the Subsequent Injury Fund more than 30 days before a scheduled hearing date shall file a [Request to Implead a Party] *request to implead a party* form and shall serve the SIF with a copy of the form.

(2) A party impleading the SIF within 30 days of a scheduled hearing date shall:

(a) File a [Request to Implead a Party] *request to implead a party* form;

(b)—(c) (text unchanged)

(3) Within 10 days of filing the [Request to Implead a Party] *request to implead a party* form, and any other required documents, the impleading party shall provide the following to the SIF and all other parties to the claim:

(a)—(b) (text unchanged)

(c) A certification providing that a copy of the [Request to Implead a Party] *request to implead a party* form, along with all required information and documents, have been served on the SIF and all other parties to the claim.

(4) (text unchanged)

.04 Death and Funeral Benefits.

A.—B. (text unchanged)

C. Claim for Funeral Benefits Only.

(1)—(2) (text unchanged)

[(3) When the information set forth in §D(2) of this regulation is unavailable or does not exist, the claimant shall:

(a) Enter all zeros (0) in the spaces provided for the information; and

(b) Attach a signed statement certifying that the information is unavailable or does not exist.]

[(4)] (3) (text unchanged)

.06 Claim for Unpaid Compensation of Deceased Claimant.

A. A person seeking unpaid compensation payments as a dependent of a deceased covered employee under Labor and Employment Article, §9-632, 9-640, or 9-646, Annotated Code of Maryland, shall file an [Issue Form] *issue form* in the same claim.

B. (text unchanged)

.07 Notice of Claim to [Employer/Insurer of Claim] *Employer and Insurer.*

A. After a claim is filed, the Commission shall send a [Notice of Claim] *notice of claim* to all parties listed on the claim form and identified through the Commission’s database of insurers and employers.

B. Insurer Identified.

(1) If an insurer has been identified, the Commission shall send a [Response to Employee’s Claim] *response to employee’s claim* form to the insurer for completion.

(2) The insurer shall file a completed [Response to Employee's Claim] *response to employee's claim* form with the Commission.

C. No Insurer Identified.

(1) If no insurer has been identified, the Commission shall send a [Response to Employee's Claim] *response to employee's claim* form to the employer.

(2) The employer shall file a completed [Response to Employee's Claim] *response to employee's claim* form with the Commission.

(3) If an employer is not insured, the Commission shall send a [Response to Notification to Employer for Insurance Information] *response to notification to employer for insurance information* form to the employer and a questionnaire to the claimant.

(4)—(6) (text unchanged)

D. If no [Response to Employee's Claim] *response to employee's claim* form is filed by the consideration date an automatic *award* order will be issued finding the claim compensable.

.08 Electronic Filing by Employer and Insurer.

After a claim is filed, an employer and insurer who is represented by counsel shall file any response and any subsequent paper electronically through CompHub.

14.09.03 Hearing Procedures

Authority: Health-General Article, §§4-303 and 4-305; Labor and Employment Article, §§9-309, 9-310, 9-311, 9-602, 9-625, 9-635, 9-701, 9-717, 9-720, 9-721, 9-726, 9-731, and 9-739; Annotated Code of Maryland

.02 Filing and Withdrawing Issues.

A. At the beginning of the claim, the employer or insurer may raise issues by filing the [Response to Employee's Claim form (C40) Response to Employee's Claim form (C40)] *response to employee's claim form*.

B. After the claim has commenced, any party may raise an issue by filing an [Issues] *issues* form, available on the Commission website.

C. The following kinds of issues may be raised by filing an [Issues] *issues* form:

(1)—(16) (text unchanged)

D. On the [Issues] *issues* form, the party shall state with clarity issues to be determined and shall, if relevant:

(1)—(5) (text unchanged)

E. The party who has raised issues may withdraw those issues by:

(1) Filing a [Request for Action on Filed Issues] *request for action on filed issues* form; or

(2) (text unchanged)

F.—G. (text unchanged)

H. A party may request an exemption from the prohibition against refiling issues within the 90-day period by filing a [Request for Hearing on Previously Withdrawn Issues] *request for hearing on previously withdrawn issues* form. Any supporting documentation shall be attached to the form.

I.—J. (text unchanged)

.03 Hearing Notices.

A. The Commission shall schedule a hearing on the issues identified on the [Issues] *issues* form, or on the [Response to Employee's Claim] *response to employee's claim* form [(C40)], unless a hearing is already scheduled or set to be scheduled, and shall send written notice to all parties of the scheduled hearing date.

B. A hearing notice issued by the Commission shall contain:

(1) The date the notice was issued; *and*

(2) The date, time and place of the hearing; *and*

(3) A statement providing information concerning the procedures for making a request for an accommodation or an interpreter].

.04 Interpreters and Other Accommodations.

A. (text unchanged)

B. Request Required.

(1) Within 10 days of the date the [Notice of Hearing is issued] *Commission provides notice that issues have been filed*, an individual requiring an interpreter or other accommodation shall make a request to the Commission Interpreter Program Office that specifies:

(a) (text unchanged)

(b) Date and location of hearing, *if known*;

(c)—(e) (text unchanged)

(2) [A] *Unless represented by counsel or registered with CompHub, an individual requiring an interpreter or other accommodation shall request [for] an interpreter or other accommodation [may be made] by:*

(a) Telephoning the [Commission's LEP] *Commission Interpreter Program Office* telephone line available on the Commission website; or

[(b) Sending an email to the email address for the Commission Interpreter Program Office available on the Commission website; or]

[(c) (b) (text unchanged)]

(3) *If represented by counsel or registered with CompHub, an individual requiring an interpreter or other accommodation shall request an interpreter or other accommodation by using CompHub.*

[(3)] (4) Upon receipt of a timely request for services, the Commission Interpreter Program Office shall:

[(a) Issue a reservation number to the requesting individual; and]

[(b) (i) (a)—[(ii) (b) (text unchanged)]

C. (text unchanged)

D. Notification of Cancellation and Fees.

[(1)] An individual who has [received a reservation number] *scheduled an interpreter or accommodation service* under §B(2) of this regulation may cancel the requested service by notifying the Commission Interpreter Program Office, in the manner prescribed by the Commission, that the requested service is no longer required.

E.—F. (text unchanged)

.05 Subpoenas.

A. (text unchanged)

B. Procedure for Obtaining Subpoena.

(1) [On the request of an attorney] *A CompHub subscriber* entitled to the issuance of a subpoena [the Commission shall issue a subpoena signed and sealed but otherwise blank that shall be filled in before service] *shall obtain a subpoena by using CompHub.*

(2) On the request of [a non-attorney] *an individual who is* entitled to the issuance of a subpoena *and who is not a CompHub subscriber*, the Commission shall provide a blank form of the subpoena which shall be filled in and returned to the Commission clerk to be signed and sealed before service.

(3) [To the extent practicable] *Unless impracticable*, subpoenas shall be served at least 10 days before the hearing.

C. (text unchanged)

D. Medical Records [Subpoenas] *and Financial Records.*

(1) *Medical Records.*

(a) Every subpoena seeking the production of medical records shall comply with Health General Article, §4-306, Annotated Code of Maryland.

[(2)] (b) A party seeking medical records by subpoena shall *certify that the party has complied with the notice provisions of Health General Article, §§4-305—4-307, Annotated Code of Maryland[:].*

[(a) Complete the Notice of Intent to Subpoena Medical Records and Certificate of Service form; and

(b) Send by certified mail a copy of the Notice of Intent to Subpoena Medical Records to the person in interest and his or her counsel.]

(2) *Financial Records or Information Derived from Financial Records.*

(a) *Every subpoena seeking the production of financial records or information derived from financial records shall comply with Financial Institutions Article, §1-304, Annotated Code of Maryland.*

(b) *A party seeking financial records or information derived from financial records by subpoena shall certify that the party has complied with the notice provisions of Financial Institutions Article, §1-304, Annotated Code of Maryland.*

(3) Within 30 days of the date that [the Notice of Intent to Subpoena Medical Records] *notice of intent to subpoena medical records* was mailed, a person in interest may oppose the disclosure of [his or her] *their* medical records by:

(a) Filing [the Objection to Subpoena of Medical Records] *an objection using the appropriate* form with the Commission; and

(b) [Sending] *Serving* a copy of the [Objection form] *objection* to all parties [by first class mail].

(4) Upon receipt of an [Objection to Subpoena of Medical Records] *objection to subpoena of medical records*, the Commission shall schedule a hearing to determine:

(a)—(c) (text unchanged)

E. Service of Subpoenas.

(1) Subpoenas may be served [by]:

(a) [Personal delivery by an individual 18 years old or older who is not a party to the proceeding or related by blood or marriage to a party to the proceeding] *In accordance with the Maryland Rules; or*

(b) [Certified mail to the person at the address specified in the subpoena request] *By certified mail to an unrepresented individual.*

(2) The subpoena may not be enforced pursuant to Labor and Employment Article, §9-717, Annotated Code of Maryland, absent proof of service [by certified mail or personal delivery].

(3) Costs of [certified mailing or personal delivery] *service* of the subpoena are the responsibility of the person requesting the service.

(4) Proof of service [by certified mail or personal delivery is the responsibility of] *shall be filed with the Commission* by the person requesting the subpoena.

F.—G. (text unchanged)

H. Enforcement of Subpoenas.

- (1) (text unchanged)
 - (2) The request shall:
 - (a) (text unchanged)
 - (b) Be accompanied by copies of the subpoena[,] and any [certificate] *proof* of service, return receipt, or affidavit.
 - (3) (text unchanged)
- I. (text unchanged)

.07 Disclosure of Medical Information.

A.—B. (text unchanged)

C. Motion to Compel Medical Authorization.

(1) Upon the failure of a party to provide an executed medical authorization, the party seeking the medical authorization may file a [Motion to Compel Medical Authorization] *motion to compel medical authorization* form.

(2) A [Motion to Compel Medical Authorization] *motion to compel medical authorization form* shall:

- (a) (text unchanged)
- (b) Be served [by hand delivery or facsimile] on all parties of record; and
- (c) (text unchanged)

(3) A party may oppose the motion by filing a [Response to Motion to Compel Medical Authorization] *response to motion to compel medical authorization* form.

(4) A [Response to Motion to Compel Medical Authorization] *response to motion to compel medical authorization form* shall:

- (a)—(b) (text unchanged)
- (c) Be served [by hand delivery or facsimile] on all parties of record; and
- (d) (text unchanged)
- (5) (text unchanged)

.08 Medical Examinations.

A. (text unchanged)

B. Medical Examination Requested by a Party.

(1)—(5) (text unchanged)

(6) If a claimant fails to appear at, refuses to submit to, or fails to cooperate with the medical examination, without good cause, the Commission may order the claimant to attend a medical examination and order reimbursement of reasonable expenses and costs [at a rate not to exceed \$125 per] *actually incurred because of the* missed examination.

C. (text unchanged)

.09 Hearing Exhibits and Witnesses.

A. Mandatory Exchange of Hearing Exhibits.

[(1) At least 3 business days prior to the scheduled hearing date, each party shall send to the other parties, including the Subsequent Injury Fund and the Uninsured Employers' Fund, copies of all medical exhibits that the party intends to introduce at the time of hearing that were not previously produced to the other party in accordance with Regulation 14.09.03.07A.]

(1) *Parties shall file exhibits, prepared in accordance with §D of this regulation, with the Commission through CompHub at least 3 business days prior to each hearing, with the following exceptions:*

- (a) *Exhibits intended solely for impeachment; and*
- (b) *Exhibits previously filed with the Commission.*

(2) *Parties shall exchange exhibits by electronic means with all other parties at least 3 business days prior to each hearing.*

[(2)] (3) (text unchanged)

B.—G. (text unchanged)

.11 Request for Emergency Hearing.

A. A party may request an emergency hearing by filing a [Request for Emergency Hearing] *request for emergency hearing* form.

B.—C. (text unchanged)

D. A [Request for Emergency Hearing] *request for emergency hearing* on temporary total disability shall contain a detailed statement showing that any delay will cause the claimant undue financial hardship.

E. Unless exceptional circumstances are demonstrated, the Commission shall deny a [Request for Continuance] *request for continuance* made by the party upon whose request the emergency hearing was scheduled.

F. A [Request for Emergency Hearing] *request for emergency hearing* will be decided based on the papers filed.

.12 Request for Continuance.

A. Prior to filing a [Request for Continuance] *request for continuance* of a scheduled hearing, the party seeking the continuance shall contact the other parties to the case and seek their consent.

B. A party seeking a continuance shall file a [Request for Continuance] *request for continuance* form setting forth the reasons for the continuance at least 30 days prior to the scheduled hearing.

C. [Requests for Continuance] A *request for continuance* filed more than 30 days prior to a scheduled hearing, to which the parties have consented, shall routinely be granted.

D. A [Request for Continuance] *request for continuance* filed less than 30 days before the hearing may be granted subject to the discretion of the Commissioner.

E. A [Request for Continuance] *request for continuance* will be decided based on the papers filed *without a hearing*.

.13 [Motion] Request for Modification.

A. A party seeking modification of a prior finding or order shall file the [form captioned Motion for Modification] *request for modification form* and simultaneously file an [Issues] *issues* form identifying the issue to be resolved.

B. A party seeking modification [must] *shall* file a [Motion for Modification] *request for modification form* within 5 years of the later of the date of the accident, the date of disablement, or the date of the last compensation payment.

C. The [motion] *request* shall state specifically the finding or order that the party wishes modified and the facts and law upon which the party is relying as grounds for the modification.

D. (text unchanged)

.14 [Motion] Request for Rehearing.

A. Within 15 days after the date of decision, a party seeking reconsideration of a decision shall file a [Motion for Rehearing] request for rehearing form, available on the Commission's website.

B. If the [motion] *request* is based on an alleged error of law, the [motion] *request* shall state specifically the error and the applicable case and statutory law.

C. If the [motion] *request* is based on newly discovered evidence, the [motion] *request* shall describe specifically the newly discovered evidence and the reasons why that evidence was not known and could not have been discovered by due diligence at the time of the prior hearing.

D. The [motion] *request* shall be accompanied by copies of all documentary evidence upon which the [motion] *request* is based.

E. An answer to a [motion] *request* for rehearing may be filed with the Commission within 10 days after the [motion] *request* is filed.

F. The Commission may decide the [motion] *request* with or without a hearing.

.15 Video Remote Hearings.

A. *Except as provided in COMAR 14.09.17, video remote hearings are available at the discretion of the Commission.*

B. *Consent Required. A party requesting a video remote hearing shall seek consent of all parties. If there is no consent to a video remote hearing, the request shall be denied.*

C. *Request for Video Hearing Form Required. A party wishing to request a video remote hearing shall file a request for video hearing form through CompHub.*

D. *Continuances. A party wishing to continue a video remote hearing shall file a continuance of hearing form which shall include a statement that all parties consent to the hearing being reset as a video remote hearing. If there is no consent to the hearing being reset as a video remote hearing, the hearing will be reset in the normal course as in-person.*

E. *Required Information. The request for video hearing form shall contain the following information:*

(1) *A statement that all parties consent to a video remote hearing;*

(2) *The name, email address, and telephone number of each party;*

(3) *The name, email address, and telephone number of each witness;*

(4) *Whether a language interpreter is required and for which languages; and*

(5) *A statement of the reasons for requesting a video remote hearing.*

F. *Exhibits. Parties shall file and exchange exhibits at least 3 business days prior to the video remote hearing in the same manner as provided in Regulation .09A of this chapter.*

.16 Hearings En Banc.

A. *At the request of a party, or on the Commission's own initiative, a matter may be set in for hearing en banc before three Commissioners selected by the Chairman.*

B. *In any examination or hearing held by the Commission under Labor and Employment Article, §§9-405 and 9-406, Annotated Code of Maryland, the matter shall be set in for hearing en banc before a majority of the Commissioners.*

14.09.04 Legal Representation and Fees

Authority: Labor and Employment Article, §§9-309, 9-721, [and] 9-731, and 9-734, Annotated Code of Maryland

.01 Legal Representation.

A. (text unchanged)

B. Attorney Registration with Commission.

(1)—(2) (text unchanged)

(3) *Attorneys registered for CompHub shall maintain current contact information with the Commission and shall notify the Commission of any change in their contact information within 30 days of the change.*

C. Entry of Appearance.

(1) (text unchanged)

(2) *Except as provided in §C(1) of this regulation, an attorney representing a party in a claim shall complete and file an [Entry of Appearance] entry of appearance form with the Commission to establish an attorney of record.*

(3) [Within] *If an insurer does not yet have an attorney of record, within 10 days of the filing of issues by any party, an insurer shall have an attorney complete and file an [Entry of Appearance] entry of appearance form with the Commission to establish an attorney of record.*

(4) After an [Entry of Appearance] *entry of appearance* form has been filed by an attorney on behalf of the insurer, all papers filed on behalf of the insurer shall be filed by the attorney of record until the claim becomes undisputed.

D. Notices.

(1) (text unchanged)

(2) An employer may designate a person who shall receive a courtesy copy of each [Notice of Employee's Claim] *notice of employee's claim* filed against the employer.

E. (text unchanged)

.02 Attorney's Fee, Medical Evaluation Fee, and Costs — Application or Petition for Approval.

A. Request for Attorney's Fee Not in Excess of Schedule.

(1) An attorney seeking approval of an attorney's fee that does not exceed the maximum amount set forth in Regulation .03 of this chapter, shall request approval of the fee by filing the [Claimant's Consent to Pay Fees and Costs] *claimant's consent to pay fees and costs* form.

(2) A completed [Claimant's Consent to Pay Fees and Costs] *claimant's consent to pay fees and costs* form shall:

(a)—(c) (text unchanged)

(d) Include any appeal fee requested under Regulation [.03B(9)] *.03B(8)* of this chapter.

(3) An attorney shall substantiate a request for a medical evaluation fee, costs, or a fee under Regulation [.03B(9)] *.03* of this chapter by:

(a)—(b) (text unchanged)

(4)—(8) (text unchanged)

B. (text unchanged)

C. Unreasonable Proceeding — Attorney Fee Award.

(1) Pursuant to Labor and Employment Article, §9-734, Annotated Code of Maryland, the Commission may award [to an opposing party] a reasonable attorney's fee in any proceeding [that the Commission determines not to have been brought on a] *as a sanction against the conduct of a party acting without reasonable ground.*

(2)—(3) (text unchanged)

.03 Schedule of Attorney's Fees.

A. (text unchanged)

B. Schedule of Fees.

(1) (text unchanged)

(2) Fee in Excess of Limits — *Exceptional Circumstances.* The Commission may approve an attorney's fee in excess of the limits set forth in this section only if exceptional circumstances are shown *under Regulation .02B of this chapter.*

(3)—(6) (text unchanged)

(7) Settlement Agreements.

(a)—(d) (text unchanged)

(e) The total amount of an attorney's fee in a case in which an agreement of final compromise and settlement is approved may not exceed [20] 25 times the State average weekly wage.

(f)—(g) (text unchanged)

(8)—(9) (text unchanged)

C. Attorney's Fee [Not] Allowed — *Exceptional Circumstances.*

(1) [Absent] *In exceptional circumstances as shown under Regulation .02B of this chapter, the Commission may [not] approve an attorney's fee in a case in which it is determined that the claimant is not entitled to any compensation or benefits. Nothing in this regulation prohibits the Commission from awarding an attorney's fee under Regulation .02C of this chapter.*

(2) [Absent] *In exceptional circumstances as shown under Regulation .02B of this chapter, the Commission may [not] approve an attorney's fee in a case involving issues such as medical care and treatment, or vocational rehabilitation, in which the claimant does not receive any monetary award. Nothing in this regulation prohibits the Commission from awarding an attorney's fee under Regulation .02C of this chapter.*

14.09.05 Uninsured Employers' Fund Claims

Authority: Labor and Employment Article, §§9-309, 9-6A-04, 9-6A-07, and 9-1002, Annotated Code of Maryland

.01 Notification and Response of Uninsured Employer and Claimant.

A. If a workers' compensation claim is received by the Commission and the Commission's records indicate that the employer is uninsured, the Commission shall notify the employer of the claim by sending the employer:

(1) A [Notice of the Claim] *notice of the claim* form;

(2)—(3) (text unchanged)

B. The Commission shall send a copy of the [Notice of the Claim] *notice of the claim* form to all parties of record.

C. Within 21 days of the date the [Notice of the Claim] *notice of the claim* form was sent by the Commission:

(1) The uninsured employer shall:

(a) (text unchanged)

(b) File a [Response to Employee's Claim] *response to employee's claim* form [(C40)], if the employer contests the claim;

and

(2) (text unchanged)

D. Within 21 days of the date the Commission sends the [Notice of the Claim] *notice of the claim* form to the parties of record, the claimant shall complete and file the claimant's questionnaire in accordance with COMAR 14.09.02.

.03 Review of Uncontested Claims.

If an uninsured employer does not contest the claim by filing the [Response to Employee's Claim] *response to employee's claim* form [(C30)] within 21 days after the Commission served the [Notice of the Claim] *notice of the claim* form to the employer, the Commission may:

A.—B. (text unchanged)

.07 Notification and Response of Impleaded Employer or Insurer.

A. If the UEF impleads an employer or insurer the Commission shall serve the impleaded party a copy of the [Notice of the Claim] *notice of the claim* form.

B. (text unchanged)

14.09.06 Payment of Awards and Assessments and Termination of Benefits

Authority: Labor and Employment Article, §§9-309, 9-605, 9-713, 9-727—
9-731, Annotated Code of Maryland

.04 Termination of Temporary Total Disability and Medical Benefits.

A. Termination of Monetary Benefits Requiring Notice.

(1) Prior to terminating payment of temporary total disability benefits, an insurer shall give written notice to the claimant by:

(a) Completing the [Insurer's Termination of Temporary Total Disability Benefits] *insurer's termination of temporary total disability benefits* form; and

(b) (text unchanged)

(2) The [Insurer's Termination of Temporary Total Disability Benefits] *insurer's termination of temporary total disability benefits* form may be used to provide notice to the claimant of the termination of disability benefits when:

(a)—(e) (text unchanged)

B.—C. (text unchanged)

14.09.07 Vocational Rehabilitation

Authority: Labor and Employment Article, §§9-309, 9-6A-04, and 9-6A-07, Annotated Code of Maryland

.02 Application Procedures for Registration.

A. (text unchanged)

B. Automatic Registration.

(1)—(3) (text unchanged)

(4) *A health care provider who is licensed or certified by an applicable State licensing board or commission and is automatically registered with the Commission under this regulation shall maintain their license or certificate in good standing in order to maintain automatic registration as a practitioner with the Commission. If the practitioner's license or certificate expires or otherwise ceases to remain in good standing, the practitioner shall immediately notify the Director.*

C.—D. (text unchanged)

E. Term and Renewal of Registration.

(1)—(2) (text unchanged)

(3) Requirements for Renewal of Registration.

(a) Continuing Education Requirements — *Renewal of Registration. Except for a practitioner automatically registered under §B of this regulation, a practitioner shall meet the following continuing education requirements for registration renewal:*

(i) [In order to qualify for renewal of a provider's registration, the provider shall participate in a] A minimum of 12 hours of continuing education credits in workers' compensation related programs within the 3-year period preceding the application for renewal[.]; *and*

(ii) At least six of the credits specified in §E(3)(a)(i) of this regulation shall be in training or information classes given *or approved* by the Commission.

[(iii) The Commission shall accept credit hours for workers' compensation related programs approved by the Commission.]

(b)—(c) (text unchanged)

.07 Procedures for Hearings on Complaints.

- A.—D. (text unchanged)
- E. Rehearing.
 - (1) (text unchanged)
 - (2) Unless otherwise ordered, a rehearing or a [motion] *request* for rehearing does not stay the enforcement of the Commission's order, or excuse the persons affected by it for failure to comply with its terms.
 - (3) The Commission may decide the [motion] *request* with or without a hearing.
- F. (text unchanged)

14.09.09 Guide for Evaluation of Permanent Disability

Authority: Labor and Employment Article, §§9-309, 9-701, 9-721, and 9-731, Annotated Code of Maryland

.02 Filing Issues.

- A. A claimant alleging permanent disability shall file with the Commission an [Issues Form] *issues form* that:
 - (1)—(3) (text unchanged)
- B. Prior to filing an [Issues Form] *issues form* raising permanent disability, the party filing the issue shall have obtained a written evaluation of permanent impairment prepared by a physician, psychologist, or psychiatrist in accordance with Regulation .03 of this chapter.

.04 Stipulation for Permanent Disability.

- A. A written stipulation to an award for permanent disability shall be filed using the [Stipulation of Parties and Award of Compensation] *stipulation of parties and award of compensation* form and contain the following information:
 - (1)—(8) (text unchanged)
- B. (text unchanged)
- C. The stipulation is not binding on the Commission *unless approved by the Commission*.

14.09.10 Settlements and Lump Sum Payments

Authority: Labor and Employment Article, §§9-309, 9-402, 9-403, 9-405, and 9-406, 9-701, and 9-722, Annotated Code of Maryland

.02 Agreements for Final Compromise and Settlement.

- A. General Requirements. An agreement for final compromise and settlement of a claim that is submitted to the Commission for approval as required by Labor and Employment Article, §9-722, Annotated Code of Maryland, shall *be submitted electronically and* contain the following:
 - (1)—(12) (text unchanged)
 - (13) A completed copy of the [Settlement Worksheet] *settlement worksheet* form, available on the Commission website, attached to the settlement.
- B.—F. (text unchanged)

14.09.11 Judicial Review Procedures

Authority: Labor and Employment Article, §§9-309, 9-701, 9-731(c) and (d), 9-737, 9-739, and 9-742, Annotated Code of Maryland

.02 Transcript of Proceedings.

- A. (text unchanged)
- B. The first petitioner shall file [with the Court Reporter Division] a written request that the transcript be prepared containing:
 - (1)—(5) (text unchanged)
- C.—D. (text unchanged)

.03 Circuit Court Proceedings.

- A.—B. (text unchanged)
- C. If a hearing is required, the prevailing party shall file an [Issues Form] *issues form* with the cover sheet.
- D. (text unchanged)

.04 Appellate Proceedings.

- A.—B. (text unchanged)
- C. If a hearing is required, the prevailing party shall file an [Issues] *issues form* with the cover sheet.
- D. (text unchanged)

14.09.12 Responsibilities of Insurers

Authority: Insurance Article, §19-406; Labor and Employment Article, §§9-309, 9-404, 9-405, 9-409, 9-410, and 9-744; Annotated Code of Maryland

.02 Notices of Insurance, Cancellation, Reinstatement, and Election of Coverage.

A. Notice of Insurance. When an insurance policy is issued or renewed, the insurer issuing or renewing it shall file a [Notice of Insurance] *notice of insurance* with the Commission designee within 45 days after the effective date of the policy.

B. Notice of Cancellation.

(1) Required Filing. When an insurance policy is cancelled by the insurer or by the insured, the insurer shall file a [Notice of Cancellation] *notice of cancellation* with the Commission designee.

(2) Time for Filing.

(a) Cancellation by Insurer.

(i) If the insurer cancels the insurance policy for nonpayment of premium, the [Notice of Cancellation] *notice of cancellation* shall be filed at least 10 days before the effective date of the cancellation, in compliance with Insurance Article, §19-406(f), Annotated Code of Maryland.

(ii) If the insurer cancels the insurance policy for any other reason, the [Notice of Cancellation] *notice of cancellation* shall be filed at least 45 days before the effective date of the cancellation, in compliance with Insurance Article, §19-406(a), Annotated Code of Maryland.

(b) Cancellation by Insured. When the cancellation is initiated by the insured, the [Notice of Cancellation] *notice of cancellation* shall be filed by the insurer within 15 days after the effective date of the cancellation.

C. Notice of Reinstatement — Time of Filing. When an insurance policy is reinstated, the insurer shall file a [Notice of Reinstatement] *notice of reinstatement* with the Commission designee within 15 days after the effective date of the reinstatement.

D. (text unchanged)

E. Notice of Election of Inclusion or Exemption of Coverage.

(1) A person may elect to be a covered employee by filing a [Notice of Election] *notice of election* with the Commission and with the insurer.

(2) (text unchanged)

(3) A person may elect to be exempt from coverage as an employee by filing a [Notice of Election] *notice of election* with the Commission and the insurer.

(4) (text unchanged)

(5) If an employer changes insurers, a person [must] *shall* file a new [Notice of Election] *notice of election* with the Commission and with the new insurer.

.03 Handling and Adjusting Disputed Claims.

A.—B. (text unchanged)

C. Within 10 days of an insurer filing issues to dispute a claim, the insurer shall have an attorney complete and file an [Entry of Appearance] *entry of appearance* form in accordance with COMAR 14.09.04.01C(2).

D. Each insurer shall register with the Commission the [name, address, telephone number, and email address of] *contact information for a designated representative who can identify the competent individual handling and adjusting each disputed claim.*

E.—G. (text unchanged)

H. *An insurer that provides workers' compensation insurance in Maryland shall register with CompHub to file and receive papers with the Commission.*

.07 Appeal.

An appeal from a decision made under this chapter shall be made **on the record** in accordance with Maryland [Rules 7-200, et seq. and COMAR 14.09.11] *Rule 7-206.1(b).*

.08 Report of Payroll.

A. *In accordance with Labor and Employment Article, §9-316(g), Annotated Code of Maryland, each insurer shall file an annual report of insured payroll to the Commission electronically and as directed by the Commission.*

B. *Any unexcused failure to file an accurate annual report of insured payroll to the Commission as required under Labor and Employment Article, §9-316(g), Annotated Code of Maryland, may result in an inaccurate assessment, delays in any refund due as a result of inaccurate reporting, or both.*

14.09.13 Individual Employer Self-Insurer

Authority: Labor and Employment Article, §§9-309, 9-402, 9-403, 9-405, and 9-406, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(9) (text unchanged)

(10) *“Third-party administrator” means a company that handles and adjusts workers' compensation claims under contract to a self-insurer.*

.02 Application.

A. Requirements.

(1) An initial application for individual self-insurance shall be submitted to the Commission on forms prescribed by the Commission and shall include all required information and documentation required by the Commission. *A corporation shall submit a resolution of its board of directors authorizing and directing the corporation to apply to become self-insured.*

(2)—(3) (text unchanged)

(4) *If a third-party administrator is used or intended to be used, the applicant shall provide a copy of the contract between the parties demonstrating that the third-party administrator agrees to do the following:*

(a) *Have in the State competent individuals who possess the knowledge and experience to handle and adjust each disputed claim in an efficient manner; and*

(b) *Handle and adjust each disputed workers' compensation claim on behalf of the self-insurer in accordance with Maryland law.*

[(4)] (5) (text unchanged)

B.—C. (text unchanged)

.08 Reporting Requirements.

A. Financial Reports.

(1) A self-insurer shall file an annual *certified*, audited financial report and 10K reports, if applicable, with the Commission within 120 days of the end of the reporting period. An extension may be granted upon written request of the Commission.

(2) (text unchanged)

(3) *Financial reports shall be filed with the Commission electronically and as directed by the Commission.*

B. Claims Reports.

(1)—(2) (text unchanged)

(3) *Claims reports shall be filed with the Commission electronically and as directed by the Commission.*

C.—E. (text unchanged)

F. Bankruptcy and Closure. A current or former self-insurer shall notify the Commission within 10 days by certified mail, return receipt requested, of a petition for bankruptcy or closure filing and shall provide an updated claims report as defined in [Regulation .08B] §B of this regulation.

.12 Confidentiality of Information.

The Commission may not release to the public any information concerning a self-insurer *or third-party administrator* other than confirmation that an employer is individually self-insured, its address, the effective date of the insurance program, and the name of the claims *or third-party administrator*, unless by order of a court, or as required by State or federal law.

14.09.14 Governmental Group Self-Insurance

Authority: Labor and Employment Article, §§9-309, 9-402, and 9-404, Annotated Code of Maryland

.01-1 Application.

A.—B. (text unchanged)

C. Additional Requirements. The application, as submitted by the initial board of trustees of self-insurers' fund, shall be accompanied by all of the following:

(1)—(6) (text unchanged)

(7) A confirmation of excess insurance by an authorized carrier in an acceptable amount and which complies with the requirements in Regulation [.08] .07 of this chapter.

(8)—(15) (text unchanged)

.03 Members Admission and Termination.

A. (text unchanged)

B. Individual members may elect to terminate their participation in a governmental group self-insurers' program or be subject to cancellation by the governmental group fund pursuant to the bylaws of the fund. However, termination or cancellation may not take place for at least 30 days after notice [of] *to* the Commission of the termination or cancellation from the governmental group fund.

14.09.15 Open Meetings

Authority: General Provisions Article, §§3-101—3-501; Labor and Employment Article, §9-309(a); Annotated Code of Maryland

.01 Scope.

This chapter applies to open meetings of the Workers' Compensation Commission *at which a quorum of a majority of Commissioners is present. This chapter does not apply to proceedings of the Commission conducted in accordance with Labor and Employment Article, §§9-307 and 9-308, Annotated Code of Maryland.*

14.09.16 Public Information Act Requests

Authority: General Provisions Article, §§4-101—4-601; Labor and Employment Article, §9-309(a); Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Applicant" [means a person or governmental unit that asks to inspect a public record] *has the meaning stated in General Provisions Article, §4-101(b), Annotated Code of Maryland.*

(3) "Chairman" [means the Chairman of the Workers' Compensation Commission] *has the meaning stated in Labor and Employment Article, §9-303, Annotated Code of Maryland.*

(4) "Commission" means the Workers' Compensation Commission *and has the meaning stated in Labor and Employment Article, §9-301, Annotated Code of Maryland.*

(5) "Custodian" [means an authorized individual who has physical custody and control of a public record of the Commission] *has the meaning stated in General Provisions Article, §4-101(d), Annotated Code of Maryland.*

(6) "Indigent" *has the meaning stated in General Provisions Article, §4-206(a)(2), Annotated Code of Maryland.*

(7) "Metadata" *has the meaning stated in General Provisions Article, §4-205(a), Annotated Code of Maryland.*

[(6)] (8) "Official custodian" [means an officer or employee of the State or of a political subdivision who, regardless of whether the officer or employee has physical custody and control of a public record, is responsible for keeping the public record] *has the meaning stated in General Provisions Article, §4-101(f), Annotated Code of Maryland.*

[(7)] (9) [Public Record.] "Public Access Ombudsman" *means the official appointed under General Provisions Article, Title 4, Subtitle 1B, Annotated Code of Maryland, to resolve disputes under the Act.*

[(a)] (10) "Public record" [means all papers, correspondence, forms, books, photographs, photostats, films, microfilms, sound recordings, maps, drawings, or other written documents, regardless of physical form or characteristics] *has the meaning stated in General Provisions Article, §4-101(j), Annotated Code of Maryland.*

[(b)] "Public record" includes all copies that have been made by the Commission or received by the Commission in connection with the transaction of public business and includes the salaries of all employees of the Commission.]

(11) "Reasonable Fee" *has the meaning stated in General Provisions Article, §4-206(a)(3), Annotated Code of Maryland.*

(12) "Secretary" *has the meaning stated in Labor and Employment Article, §9-305(b), Annotated Code of Maryland.*

[(8)] (13) "Working day" [means a day other than Saturday, Sunday, or a State holiday] *has the meaning stated in Labor and Employment Article, §9-307, Annotated Code of Maryland.*

[(9)] "Written documents" means all books, papers, maps, photographs, cards, tapes, recordings, computerized records, and other documentary materials, regardless of physical form or characteristics.]

.07 Contents of Written Request.

A written request shall:

A. Contain the applicant's [name and address] *contact information; and*

[B. Be signed by the applicant; and]

[C.] B. (text unchanged)

.08 Addressee.

A request to inspect or copy a public record of the Commission shall be addressed to the custodian of the *record or to the Secretary, the Commission's representative for public records requests as designated under General Provisions Article, §4-503, Annotated Code of Maryland.* If the custodian is unknown, the request may be addressed to the Chairman.

.09 Response to Request.

A. *Grant of Request.*

(1) If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection:

[(1)] (a)—[(2)] (b) (text unchanged)

(2) *If the custodian reasonably believes that it will take more than 10 working days to produce the public record, the custodian shall indicate in writing or by electronic mail within 10 working days after receipt of the request:*

(a) *The amount of time that the custodian anticipates it will take to produce the public record;*

(b) *An estimate of the range of fees that may be charged to comply with the request for public records; and*

(c) *The reason why it will take more than 10 working days to produce the records.*

B. Denial of Request.

[(1)] If the custodian decides to deny a request for inspection, the custodian shall:

[(a)] (1) [Do so] *Deny the request* within 30 days after the request; and

[(b)] (2) (text unchanged)

[(2)] C. If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 working days, a written statement that gives:

[(a)] (1) The reasons for the denial[;], *including, for records denied under General Provisions Article, §4-343, Annotated Code of Maryland, a brief explanation of:*

(a) *Why the denial is necessary, i.e., why disclosure of the public record would be contrary to the public interest; and*

(b) *An explanation of why redacting information would not address the reasons for the denial;*

[(b)] (2) The legal authority for the denial; [and]

(3) Without disclosing the protected information, a brief description of the undisclosed record(s) that will enable the applicant to assess the applicability of the legal authority for the denial; and

[(c)] (4) (text unchanged)

[C.] D. (text unchanged)

[D.] E. [With the consent of the applicant, any] Any time limit imposed by §§A—C of this regulation may be extended:

(1) With the consent of the applicant, for an additional period of up to 30 days; and

(2) For the period of time during which a dispute initiated by the applicant is pending before the Public Access Ombudsman.

.11 Electronic Records.

A. Except as provided in §§C and D of this regulation, the custodian shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:

(1) The public record is in a searchable and analyzable electronic format;

(2) The applicant requests a copy of the public record in a searchable and analyzable electronic format; and

(3) The custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose information that is exempt from disclosure under the Act.

B. The custodian shall provide a portion of the public record in a searchable and analyzable electronic format if:

(1) Requested by the applicant; and

(2) The custodian is able to do so by using the existing functions of the database or software program that contains the searchable and analyzable data.

C. The custodian is not required to:

(1) Create or reconstruct a public record in an electronic format if the public record is not available in an electronic format;

(2) Release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained; or

(3) Create, compile, or program a new public record.

D. The custodian may remove metadata from an electronic document before providing the electronic record to an applicant by:

(1) Using a software program or function; or

(2) Converting the electronic record into a different searchable and analyzable format.

.13 Availability of Judicial and Administrative Review [of Denial].

If the custodian denies a request to inspect or copy a public record of the Commission, the applicant[, within 30 days after receipt of the notice of denial, may file an appropriate action in the circuit court under the Act] may file an action for judicial enforcement under General Provisions Article, §4-362, Annotated Code of Maryland, without pursuing the remedies set forth in General Provisions Article, Subtitles 1A and 1B, Annotated Code of Maryland.

.15 Fees.

A. [The] Except as provided in §§B and C of this regulation, the fee schedule for copying and certifying copies of public records of the Commission is [provided in §§B and C of this regulation.] as follows:

[B. Copies.]

(1) The fee for each copy made by a standard printer or a photocopying machine within the Commission is [50] 25 cents per page[.];

(2) The fee for each copy made otherwise than by a standard printer or a photocopying machine shall be based on the actual cost of reproduction[.]; and

[C.] (3) [Certification of Copies. If a person requests that a copy of] For a public record [be] certified as a true copy, an additional fee of \$1 per page (or if appropriate, per item) shall be charged.

B. Minimum Fee. A charge may not be made if the total fee is \$1 or less.

[D.] C. [Notwithstanding §§A—C of this regulation, if] If the fee for copies or certified copies of any public record of the Commission is specifically set by a law other than the Act or this regulation, the custodian shall charge the prescribed fee.

[E.] D. (text unchanged)

[F.] E. Before copying a public record of the Commission, the custodian shall estimate both the cost of reproduction and the search and preparation fee under §F of this regulation and either:

(1) (text unchanged)

(2) Demand prepayment of all or a portion of the cost.

[G.] F. Search and Preparation Fee.

(1) Except as provided in [§H] §G of this regulation, the custodian may charge a reasonable fee for time that an official or employee of the Commission spends to:

[(1)] (a) [To search] Search for requested public records; [or]

(b) Review requested public records for potential disclosure; and

[(2)] (c) [To prepare] Prepare public records for inspection and copying.

(2) The custodian shall determine the fee under §F(1) of this regulation by multiplying actual time attributable to the search for, review of, and preparation of public records for inspection and/or copying by \$100 per hour for clerical staff time and \$200 per hour for information technology staff time.

[H.] G. The custodian may not charge a search or preparation fee *under §F of this regulation* for the first 2 hours [that an official or employee of the Commission spends to respond to a request for public records] *needed to search for and prepare a public record for inspection.*

[I.] H. Waiver or Reduction of Fee.

(1) The official custodian may waive or reduce any fee set under this regulation if:

(a) (text unchanged)

(b) *Either:*

(i) The custodian determines that the waiver or reduction is in the public interest; or

(ii) *The applicant is indigent and files an affidavit verifying the facts that support a claim of indigency.*

(2) [The official] *In determining whether a fee waiver is in the public interest, the custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.*

[J.] I. (text unchanged)

.17 Sociological Information.

A. *For purposes of this regulation, "sociological information" means:*

(1) *Social Security number;*

(2) *Personal street address;*

(3) *Personal phone number;*

(4) *Personal email address; and*

(5) *Date of birth.*

B. *Except for use in carrying out the custodian's governmental functions or except as further provided in §C of this regulation, a custodian may not disclose under the Act, and shall deny a request for inspection or copying of, any part of a public record that contains sociological information relating to an individual.*

C. *A custodian may disclose sociological information:*

(1) *To other public employees in the performance of their public duties;*

(2) *To parties to a claim filed with the Commission;*

(3) *To the person in interest or the agent or representative of the person in interest;*

(4) *With the consent of the person in interest;*

(5) *Pursuant to a duly issued subpoena;*

(6) *Pursuant to a court order;*

(7) *If disclosure is otherwise required by law; or*

(8) *If the Chairman or the Commission determines the disclosure to be in the public interest.*

14.09.17 Emergency Powers of Chairman of the Commission

Authority: Labor and Employment Article, §§9-105(f), 9-206(d), 9-302(f)(7), 9-309(a), 9-311(c), 9-314(b), 9-316(g)(2), 9-402.1(j), 9-404(a), 9-663(a)(1) and (2), 9-6A-04, 9-6A-07, 9-6A-11, 9-6A-16, 9-701, 9-720(a), and 9-721(a), Annotated Code of Maryland

.03 Authority of Chairman.

A. Generally. Upon a determination by the Chairman of the Commission that an emergency or other event within the scope of Regulation .01 of this chapter significantly affects access to or the operations of one or more Commission hearing locations or other Commission facilities or the ability of the Commission to operate effectively, the Chairman, by Administrative Order, may, to the extent necessary:

[(1) Amend and superintend existing Continuity of Operations (COOP) plans;]

[(2)] (1) (text unchanged)

(2) *Direct that hearings or meetings be conducted remotely by electronic means, video or telephone, if existing facilities become inaccessible or unusable;*

(3)—(10) (text unchanged)

B.—C. (text unchanged)

D. Notice and Posting of Directives. To the extent practicable, a copy of all directives and orders issued under §A of this regulation following a declaration of emergency by the Governor shall be sent to the Governor [, the Director of the Maryland Emergency Management Agency, and, in a catastrophic health emergency, the Secretary of Health,] and shall be posted on the Commission website.

Notices may be sent electronically and may be posted through Commission social media accounts as appropriate.

R. KARL AUMANN
Chairman
Workers' Compensation Commission