

ORDER OF THE INDUSTRIAL COMMISSION
ADOPTING, AMENDING AND REPEALING RULES

Pursuant to the authority invested in the Industrial Commission by section 101.10 (7) Wis. Stats., the Industrial Commission hereby repeals, amends and adopts rules as follows:

1. The first sentence of Ind 80.02 (1) is amended to read:

"Employers under the provisions of the workmen's compensation act within one day after the fatal termination of an accident or industrial disease shall make a brief report of this occurrence to the Industrial Commission by telegraph, telephone, or by letter."

2. Ind 80.02 (2) (b) is amended to read:

"Make another supplementary report immediately when payments are stopped for any reason. This report must be accompanied by an explanatory memorandum, with a copy being furnished to the injured claimant if there is a dispute with the injured man."

3. Ind 80.12 and 80.13 are repealed.

4. Ind 80.14 (1) (a) (b) are amended to read:

"80.14 (1) (a) Prior to the commencement of an action to review its order or its award, the commission may furnish to any party a copy of such testimony or proceedings upon payment of the sum of 20 cents per folio and 5 cents per folio for each additional copy thereof."

"80.14 (1) (b) After the commencement of such action or proceeding, a copy of such testimony will be furnished to the plaintiff, or to his attorney, upon payment of the sum of 20 cents per folio and 5 cents per folio for each additional copy thereof and all other parties will be furnished copies upon payment of 5 cents per folio."

✓ 5. Ind 80.18 (1) (f) is amended by adding to the end of the first sentence, a comma and the words "including charges for necessary medical examinations and reports."

6. Ind 80.22 is amended to omit quotation of the statute in the opening paragraph and to substitute therefor, the following:

"see subsection 102.17 (1) (as) Wis. Stats."

7. Ind 80.22 (2) is amended to add to the end thereof, a comma and the words "provided the reporting doctor is available for cross examination."

8. Ind 80.22 (4) is amended to add to the end of the first sentence, the words "or certified."

9. Ind 80.24 is amended by inserting the following sentence after the first sentence and by changing the second sentence as indicated below:

"When such statement is taken by a recording device and is not immediately reduced to writing, a copy of the entire statement must be given to the employe or to his attorney within a reasonable time after application for hearing is filed, and the actual recording must be available as an exhibit if formal hearing is held. Failure on the part of the employer or insurance carrier to comply with the above will preclude the use of such statement in any manner in connection with that claim."

10. The last paragraph of III of Ind 80.25 is amended to read:

"Therefore, those individuals who have removed themselves for six months or longer from their noisy working areas can have a final determination made of their hearing. When rule Ind 80.25 was adopted, it was intended that the examiners and commissioners have discretion in determining the extent of hearing impairment whenever audiometric readings* were taken by two or more persons. When several audiometric examinations are made under similar conditions, at closely spaced intervals by the same person, the best average reading obtained by that person at any one time shall be used. In other words, the best average decibel reading

from any single audiometric examination shall be used as the reading of that operator. It is considered that the commission and its examiners should not be bound by either the lowest or the highest audiometric reading, but shall have discretion in evaluating the actual loss at or between the highest and the lowest readings by different persons. Independent medical examination is to be available where there is doubt in a loss of hearing claim."

(For those claims filed under the statutory provisions in effect previous to the creation of section 102.555 which became effective July 1, 1955 and where the claimant continued to work in noisy environment, the audiometric and hearing evaluations should be made after a 48 hour removal from the noisy areas. In addition, five decibels should be deducted from the average decibel ratings of 500, 1,000 and 2,000 frequencies to allow for the recovery factor).

* This is the reading of the so-called hearing loss or hearing level dial of an audiometer which is calibrated according to the American Standard Z-24, 5-1951 or an equivalent recognized and accepted standard. Readings from an audiometer calibrated to different standard shall be adjusted to the equivalent of the American Standard Z-24, 5-1951.)

11. Ind 80.31 is created to read as follows:

"The commission shall observe the same rules and procedures and may use the same forms in processing and determining claims made under Chapter 66 as are used under Chapter 102."

12. Ind 80.32 is created to include the contents of Table 5 *read* *RGintz*

with the following heading: ~~(see page 130 of 1963 text)~~

"Permant Disabilities: Percentages of Loss of Use for Losses of Motion as Compared with Amputations at the Involved Joints."

(1) Shoulder

- Total ankylosis at the shoulder with arm at side, scapula fixed --- 75%
- Total ankylosis at the shoulder with arm at side, scapula free ---- 55%
- Limitation of active elevation to 45° but otherwise normal ----- 35%
- Limitation of active elevation in all directions to 90°, but otherwise normal ----- 20%
- Limitation of active elevation to 135° but otherwise normal ----- 5%

(2) Elbow

- Ankylosis of elbow joint at 45° less than full extension (radio-ulnar motion destroyed, hand 45° less than fully pronated)----- 60%
- Total ankylosis of arm at elbow at right angles
 - With radio-ulnar motion intact ----- 50%
 - With radio-ulnar motion destroyed (hand 45° less than fully pronated) ----- 70%
- Ankylosis of arm at elbow at 45° less than full extension with radio-ulnar motion intact ----- 45%

Limitation of motion of elbow joint (radio-ulnar motion unaffected)

Remaining range, 90° - 135° ----- 20%

Remaining range, 135° - 180° ----- 35%

Ankylosis of radius and ulna, estimated at elbow joint (hand 45° less than fully pronated) ----- 20%

(3) Wrist

Ankylosis, straight position ----- 25%

(4) Fingers

(a) Complete ankylosis

| Thumb | Mid-position | Complete Extension |
|--|--------------|--------------------|
| Distal joint only ----- | 25% | 35% |
| Proximal joint only ----- | 15% | 20% |
| Distal and proximal joints -- | 35% | 65% |
| Distal, proximal and carpo-metacarpal joints ----- | 85% | 100% |
| Fingers | | |
| Distal joint only ----- | 25% | 35% |
| Middle joint only ----- | 75% | 85% |
| Proximal joint only ----- | 40% | 50% |
| Distal and middle joints ---- | 85% | 100% |
| Distal, middle and proximal joints ---- | 100% | 100% |

(b) Loss of Motion

| Fingers | Loss of flexion | Loss of Use | Loss of Extension | Loss of Use |
|-------------------------|-----------------|-------------|-------------------|-------------|
| Distal joint only ----- | 10% | = 1% | 10% | = 2% |
| | 20% | = 2% | 20% | = 4% |
| | 30% | = 3% | 30% | = 6% |
| | 40% | = 5% | 40% | = 8% |

| Loss of flexion | Loss of Use | Loss of Extension | Loss of Use |
|-----------------|-------------|-------------------|-------------|
| 50% | = 10% | 50% | = 15% |
| 60% | = 15% | 60% | = 20% |
| 70% | = 20% | 70% | = 30% |
| 80% | = 25% | 80% | = 40% |
| | | 100% | = 60% |

Middle joint only -----

| Loss of Flexion | Loss of Use | Loss of Extension | Loss of Use |
|-----------------|-------------|-------------------|-------------|
| 10% | = 5% | 10% | = 2½% |
| 20% | = 10% | 20% | = 5% |
| 30% | = 15% | 30% | = 10% |
| 40% | = 25% | 40% | = 15% |
| 50% | = 40% | 50% | = 30% |
| 60% | = 50% | 60% | = 50% |
| 70% | = 60% | 70% | = 70% |
| 80% | = 70% | 80% | = 90% |
| | | 100% | = 100% |

Proximal joint only -----

| | | | |
|-----|-------|-----|--------|
| 10% | = 5% | 10% | = 2½% |
| 20% | = 10% | 20% | = 5% |
| 30% | = 15% | 30% | = 15% |
| 40% | = 20% | 40% | = 20% |
| 50% | = 25% | 50% | = 25% |
| 60% | = 30% | 60% | = 40% |
| 70% | = 35% | 70% | = 75% |
| 80% | = 40% | 80% | = 85% |
| | | 90% | = 100% |

(5) Thumb

Distal joint same as for fingers.

Proximal joint 40% of the loss of use indicated for fingers

(6) Hip

Ankylosis in alignment for normal standing position ----- 50%

Shortening of leg (no posterior or lateral angulation,
age 50 or less)

1 inch ----- 7%

1½ inches ----- 14%

2 inches ----- 22%

(7) Knee

Ankylosis at 170° ----- 40%

Limitation of motion, remaining range 135° - 180° ----- 20%

(8) Ankle

Ankylosis - favorable position 10 to 15 degrees equinus without
loss of inversion and eversion ----- 30%

Ankylosis - favorable position with loss of inversion and
eversion ----- 40%

Loss of inversion and eversion with full dorsi and plantar
flexion remaining ----- 15%

13. Ind 80.33 is created to ^{read} ~~include the footnote relating~~ *R. Gintz*

~~to fingertip amputations with the following heading:~~

"Permanent Disabilities: Fingertip Amputations."

Unless otherwise affirmatively established, in estimating permanent disability as a result of finger tip amputations, amputation of the distal one-third or less shall be considered the equivalent of 45 per cent loss of use of the distal phalanx, amputation of not more than the distal two-thirds but more than the distal one-third shall be considered the equivalent of 80 per cent loss of use of the distal phalanx, and amputation of more than the distal two-thirds shall be considered as 100 per cent loss of the distal phalanx, provided there is no added disability as a result of malformed nail or tissue. In no case shall the allowance be greater than it would have been for amputation of the entire distal phalanx.

14. The following procedural changes are adopted without hearing having been scheduled on their adoption.

A. The identity of all forms shall be preceded by WC rather than A in rules Ind 80.02 and 80.27.

✓ B. Amendment is made to Ind 80.18 as follows: (1) (a) In all cases where disability extends beyond the three-day waiting period or permanent disability results, the first report of injury on form WC-12 is to be submitted to the Industrial

Commission by the employing department.

- ✓ Subsection 5 is created as follows: Where payment of medical expense is authorized by the employing department under the provisions of subsection 102.42 (8) Wis. Stats., up to a gross of \$50 for each injury, form WC-7-c is to be sent to the commission enumerating thereon the amounts of the expenses being authorized for payment and a voucher is to be sent to the Bureau of Finance with itemized statements of expenses incurred attached thereto.

Dated at Madison, Wisconsin this 15th
day of September, A. D., 1965.

Joseph C. Fagan

Carl E. Lauri

Gene A. Rowland

Commissioners