

Chapter Ind 80

WORKMEN'S COMPENSATION

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Ind 80.01 General. The rules of practice at hearings before the department will conform generally to the rules of practice before courts of equity. The aim is to secure the facts in as direct and simple a manner as possible.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.02 Reports. (1) 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 department by telegraph, telephone or by letter. They shall also make a report on form WC-12 on the fourth day after the accident or beginning or disability from occupational disease upon every accident or disease causing death or a disability which exists beyond the third day after the employe leaves work as a result of the accident.

(2) Self-insured employers and insurance companies on all accidents which require a first report must:

(a) Make a supplementary report on form WC-13 on the eleventh day following that on which the accident occurred.

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

(c) Make a final report on form WC-13 when final payment of compensation has been made, which must be accompanied by a copy of the final receipt signed by the injured employe, and a report from a physician, if the disability exceeds 3 weeks or if there is any permanent disability, unless there has been a hearing before the department.

(d) Supply to the employe copy of final report on form WC-13 in all cases at the time of final payment, and final physician's report in cases where disability has extended beyond 3 weeks following the date of injury, or where permanent disability has resulted.

(e) Make immediate report of any amputation which requires an artificial member or appliance.

History: 1-2-56; am. (1) and (2), Register, October, 1965, No. 118, eff. 11-1-66; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.03 Compromise. In any case where an accident and injury to an employe occurs of which the department has jurisdiction under the compensation act, and a compromise of liability thereunder is made directly by such employer and employe, the same shall be made in writing in the presence of one or more disinterested witnesses who shall sign such compromise, and copies of all such compromises shall be mailed immediately to the department by the employer. All compromises may be reviewed, set aside, modified or confirmed by the department upon application of either party within one year from the date of the compromise. (section 102.16, Wis. Stats.)

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.04 Place of hearing. The department at its discretion may from time to time hold public sessions other than in the state capitol.

History: 2-1-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.05 Procedure on claim. (1) In case of disputes in matters coming under the jurisdiction of the department, either party to the disput may apply to the department for relief and the department shall make such order or award as shall be lawful and just in the premises.

(2) In all such cases the party complaining shall file his application with the department, with copies to be served on the adverse party. The department shall thereupon serve such adverse party with a copy of such application and such adverse party shall file his answer thereto with the department with 10 days after such service and likewise serve a copy of such answer on the party making application. The department will thereupon notify the parties of the time and place of hearing, at least 10 days prior to such hearing. (section 102.17, Wis. Stats.)

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.06 Parties. The parties to the controversy shall be known as the applicant and the respondent. The party filing the application for relief shall be known as the applicant and the adverse party as the respondent. Either party may appear in person or by an attorney or agent.

Ind 80.07 Service. All service of papers, unless otherwise directed by the department or by law, may be made by mail and proof of such mailing shall be prima facie proof of such service. Time within which service shall be made shall be the same as in courts of record unless otherwise specified by rule or order of the department.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

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Ind 80.08 Amendments. Amendment may be made to any pleading upon application to the department and cause shown. The department may on its own motion, modify or change its order, finding or award at any time within 20 days from the date thereof if it shall discover any mistake therein.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.09 Extension of time and postponement. The department may grant extensions of time in which to comply with any rule when it shall deem such extension of time reasonable and it may likewise grant adjournments of hearings.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.10 Stipulations. Parties to a controversy may stipulate the facts in writing, and the department may thereupon make its order or award. Stipulations must set forth in detail the manner of computing the compensation due and must be accompanied by a report from a physician stating the extent of the disability.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.11 Depositions. At the discretion of the department depositions may be taken and used upon any hearing where the convenience of the witness or parties may so require. Such depositions shall be taken in the same manner as in courts of record. Depositions for the purpose of discovery before hearing are specifically prohibited by law, with certain exceptions as provided by section 102.17 (1) (bm), Wis. Stats.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.12 Designated carrier wrap-up. Where the department by one or more written orders specifically consents to the issuance of one or more policies covering only the liability incurred on a construction project, and where the owner designates the insurance carrier and pays for each such policy, the owner shall reimburse the department within 30 days after written request or requests by the department a sum determined in the discretion of the department not to exceed 2% of the total audited worker's compensation premium charged, with payment not to exceed 1% of the estimated worker's compensation premium upon initial request. If additional levy is determined necessary, request shall be made for a sum that results in a total charge not to exceed 2% of the total audited worker's compensation premium charged. The department shall be reimbursed for those expenses incurred because of the designated carrier wrap-up program.

History: Cr. Register, August, 1976, No. 248, eff. 9-1-76.

Ind 80.14 Transcripts. (1) Transcripts of testimony taken or proceedings had before the department will be furnished to the applicant or respondent or their attorneys in accordance with the following provisions:

(a) After the commencement of an action to review its order a copy of such testimony will be furnished to plaintiff or his attorney upon payment of the sum of 40 cents per folio and 10 cents per folio for each additional copy thereof and all other parties will be furnished copies upon payment of 10 cents per folio.

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(b) In other cases transcript may be provided under such conditions and terms as are mutually agreed upon.

(c) Upon proper showing of financial inability to pay for copies of such testimony or proceedings, the department in its discretion will furnish copies of the same on such terms as may be agreed upon.

History: 1-2-56; am. (1) (a) and (b), Register, October, 1965, No. 118, eff. 11-1-65; am. Register, November, 1970, No. 179, eff. 12-1-70; am. (1) (a), Register, April, 1971, No. 184, eff. 5-1-71.

Ind 80.15 Exemption from insurance; conditions. **History:** 1-2-56; r. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.16 Exemptions from insurance; automatic. The state and all of its political subdivisions and all state and national banks are exempt from insurance of their liability under the compensation act, without further order of this commission, if such liability is not insured in some company authorized to insure such liability. Partial insurance or divided insurance of the risk of the state and any of its political subdivisions may also be carried without further order of this commission, including agreements entered into for the joint operation of a fire or police department of other unit engaged in rescue or in the enforcement of peace or in the pursuit and capture of those charged with crime, whether composed wholly or partly of volunteers, provided the arrangement for such partial or divided insurance coverage will not result in confusion as between the separately insured and exempted portions of the employer's liability. In the event that dispute arises as to the responsibility for payment, the employer assumes full responsibility to immediately make all payments of compensation and medical expenses as may be required in any given injury case pending a final determination as to the liability.

History: 1-2-56; r. and recr. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.17 Excess insurance. An employer who has been granted exemption from insuring his risk under the workmen's compensation act may carry excess insurance in accordance with rules of the insurance commissioner without further order of this department, and such excess insurance shall not be deemed full coverage.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.18 Procedure in state cases. (1) The following reports and statements are required in claims for compensation or medical aid by an employe of the state.

(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 department by the employing department.

(b) In all cases in which any disability results or medical expense is involved, a statement by the employe on form to be supplied by the department that he was injured in the course of his employment, reciting time and place of injury, the reasons for its occurrence, the nature of injury and stating all expenditures incurred for medical, surgical, hospital treatment, and medicines, to the time of the claim; whether claim is made for disability; if so, what period of temporary disability and what permanent disability is claimed, and what salary

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has been paid by the state during the period of disability. If bills have been paid by the injured, receipts are to be attached.

(c) A report from the attending physician showing the nature of injury and the extent of disability. This may be made on form supplied by the department.

(d) Bill from physician and/or hospital itemizing services rendered and charges made. This need not be verified.

(e) A statement from the employing department stating whether injury occurred in the course of employment, and whether treatment is believed necessary as claimed. This will be made in conjunction with employe's statement and on the same form. If the department is unable to make statement, the reason is to be stated.

(f) A state employe who sustains an accidental injury may select his own physician; and if the case is compensable, the department will order reimbursement for reasonable medical, surgical, and hospital care, including charges for necessary medical examinations and reports. The employing department has no authority to incur any liability for medical or surgical treatment or hospital care. The

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