



Sen. John G. Mulroe

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LRB098 07552 DRJ 46393 a

1 AMENDMENT TO HOUSE BILL 3390

2 AMENDMENT NO. _____. Amend House Bill 3390, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Workers' Compensation Act is amended by
6 changing Sections 9, 14, 15a, 19, 19a, and 20 as follows:

7 (820 ILCS 305/9) (from Ch. 48, par. 138.9)

8 Sec. 9. Any employer or employee or beneficiary who shall
9 desire to have such compensation, or any unpaid part thereof,
10 paid in a lump sum, may petition the Commission, asking that
11 such compensation be so paid. If, upon proper notice to the
12 interested parties and a proper showing made before such
13 Commission or any member thereof, it appears to the best
14 interest of the parties that such compensation be so paid, the
15 Commission may order the commutation of the compensation to an
16 equivalent lump sum, which commutation shall be an amount which

1 will equal the total sum of the probable future payments
2 capitalized at their present value upon the basis of interest
3 calculated at the maximum rate of interest payable by member
4 banks of the Federal Reserve System on passbook savings
5 deposits as published in Regulation Q or its successor or, if
6 Regulation Q or its successor is repealed, then the rate in
7 effect on the date of repeal. Prior to approval of any pro se
8 Settlement Contract Lump Sum Petition, the Commission or an
9 Arbitrator thereof shall determine if the unrepresented
10 employee, if present, is able to read and communicate in
11 English. If not, it shall be the responsibility of the
12 Commission to provide a qualified, independent interpreter at
13 the time such Petition is heard, unless the employee has
14 provided his or her own interpreter.

15 In cases indicating complete disability no petition for a
16 commutation to a lump sum basis shall be entertained by the
17 Commission until after the expiration of 6 months from the date
18 of the injury.

19 Where necessary, upon proper application being made, a
20 guardian or administrator, as the case may be, may be appointed
21 for any person under disability who may be entitled to any such
22 compensation and an employer bound by the terms of this Act and
23 liable to pay such compensation, may petition for the
24 appointment of the public administrator, or guardian, where no
25 legal representative has been appointed or is acting for such
26 party or parties so under disability.

1 The payment of compensation in a lump sum to the employee
2 in his or her lifetime upon order of the Commission, shall
3 extinguish and bar all claims for compensation for death if the
4 compensation paid in a lump sum represents a compromise of a
5 dispute on any question other than the extent of disability.

6 Subject to the provisions herein above in this paragraph
7 contained, where no dispute exists as to the fact that the
8 accident arose out of and in the course of the employment and
9 where such accident results in death or in the amputation of
10 any member or in the enucleation of an eye, then and in such
11 case the arbitrator or Commission may, upon the petition of
12 either the employer or the employee, enter an award providing
13 for the payment of compensation for such death or injury in
14 accordance with the provisions of Section 7 or paragraph (e) of
15 Section 8 of this Act.

16 (Source: P.A. 83-1362.)

17 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

18 Sec. 14. The Commission shall appoint a secretary, an
19 assistant secretary, and arbitrators and shall employ such
20 assistants and clerical help as may be necessary. Arbitrators
21 shall be appointed pursuant to this Section, notwithstanding
22 any provision of the Personnel Code.

23 Each arbitrator appointed after June 28, 2011 ~~after~~
24 ~~November 22, 1977~~ shall be required to demonstrate in writing
25 ~~and in accordance with the rules and regulations of the~~

1 ~~Illinois Department of Central Management Services~~ his or her
2 knowledge of and expertise in the law of and judicial processes
3 of the Workers' Compensation Act and the Occupational Diseases
4 Act.

5 A formal training program for newly-hired arbitrators
6 shall be implemented. The training program shall include the
7 following:

8 (a) substantive and procedural aspects of the
9 arbitrator position;

10 (b) current issues in workers' compensation law and
11 practice;

12 (c) medical lectures by specialists in areas such as
13 orthopedics, ophthalmology, psychiatry, rehabilitation
14 counseling;

15 (d) orientation to each operational unit of the
16 Illinois Workers' Compensation Commission;

17 (e) observation of experienced arbitrators conducting
18 hearings of cases, combined with the opportunity to discuss
19 evidence presented and rulings made;

20 (f) the use of hypothetical cases requiring the trainee
21 to issue judgments as a means to evaluating knowledge and
22 writing ability;

23 (g) writing skills;

24 (h) professional and ethical standards pursuant to
25 Section 1.1 of this Act;

26 (i) detection of workers' compensation fraud and

1 reporting obligations of Commission employees and
2 appointees;

3 (j) standards of evidence-based medical treatment and
4 best practices for measuring and improving quality and
5 health care outcomes in the workers' compensation system,
6 including but not limited to the use of the American
7 Medical Association's "Guides to the Evaluation of
8 Permanent Impairment" and the practice of utilization
9 review; and

10 (k) substantive and procedural aspects of coal
11 workers' pneumoconiosis (black lung) cases.

12 A formal and ongoing professional development program
13 including, but not limited to, the above-noted areas shall be
14 implemented to keep arbitrators informed of recent
15 developments and issues and to assist them in maintaining and
16 enhancing their professional competence. Each arbitrator shall
17 complete 20 hours of training in the above-noted areas during
18 every 2 years such arbitrator shall remain in office.

19 Each arbitrator shall devote full time to his or her duties
20 and shall serve when assigned as an acting Commissioner when a
21 Commissioner is unavailable in accordance with the provisions
22 of Section 13 of this Act. Any arbitrator who is an
23 attorney-at-law shall not engage in the practice of law, nor
24 shall any arbitrator hold any other office or position of
25 profit under the United States or this State or any municipal
26 corporation or political subdivision of this State.

1 Notwithstanding any other provision of this Act to the
2 contrary, an arbitrator who serves as an acting Commissioner in
3 accordance with the provisions of Section 13 of this Act shall
4 continue to serve in the capacity of Commissioner until a
5 decision is reached in every case heard by that arbitrator
6 while serving as an acting Commissioner.

7 Notwithstanding any other provision of this Section, the
8 term of all arbitrators serving on the effective date of this
9 amendatory Act of the 97th General Assembly, including any
10 arbitrators on administrative leave, shall terminate at the
11 close of business on July 1, 2011, but the incumbents shall
12 continue to exercise all of their duties until they are
13 reappointed or their successors are appointed.

14 On and after the effective date of this amendatory Act of
15 the 97th General Assembly, arbitrators shall be appointed to
16 3-year terms as follows:

17 (1) All appointments shall be made by the Governor with
18 the advice and consent of the Senate.

19 (2) For their initial appointments, 12 arbitrators
20 shall be appointed to terms expiring July 1, 2012; 12
21 arbitrators shall be appointed to terms expiring July 1,
22 2013; and all additional arbitrators shall be appointed to
23 terms expiring July 1, 2014. Thereafter, all arbitrators
24 shall be appointed to 3-year terms.

25 Upon the expiration of a term, the Chairman shall evaluate
26 the performance of the arbitrator and may recommend to the

1 Governor that he or she be reappointed to a second or
2 subsequent term by the Governor with the advice and consent of
3 the Senate.

4 Each arbitrator appointed on or after the effective date of
5 this amendatory Act of the 97th General Assembly and who has
6 not previously served as an arbitrator for the Commission shall
7 be required to be authorized to practice law in this State by
8 the Supreme Court, and to maintain this authorization
9 throughout his or her term of employment.

10 ~~The All arbitrators shall be subject to the provisions of~~
11 ~~the Personnel Code, and the performance of all arbitrators~~
12 ~~shall be reviewed by the Chairman on an annual basis. The~~
13 ~~changes made to this Section by this amendatory Act of the 97th~~
14 ~~General Assembly shall prevail over any conflict with the~~
15 ~~Personnel Code.~~ The Chairman shall allow input from the
16 Commissioners in all such reviews.

17 The Commission shall assign no fewer than 3 arbitrators to
18 each hearing site. The Commission shall establish a procedure
19 to ensure that the arbitrators assigned to each hearing site
20 are assigned cases on a random basis. No arbitrator shall hear
21 cases in any county, other than Cook County, for more than 2
22 years in each 3-year term.

23 The Secretary and each arbitrator shall receive a per annum
24 salary of \$4,000 less than the per annum salary of members of
25 The Illinois Workers' Compensation Commission as provided in
26 Section 13 of this Act, payable in equal monthly installments.

1 The members of the Commission, Arbitrators and other
2 employees whose duties require them to travel, shall have
3 reimbursed to them their actual traveling expenses and
4 disbursements made or incurred by them in the discharge of
5 their official duties while away from their place of residence
6 in the performance of their duties.

7 The Commission shall provide itself with a seal for the
8 authentication of its orders, awards and proceedings upon which
9 shall be inscribed the name of the Commission and the words
10 "Illinois--Seal".

11 The Secretary or Assistant Secretary, under the direction
12 of the Commission, shall have charge and custody of the seal of
13 the Commission and also have charge and custody of all records,
14 files, orders, proceedings, decisions, awards and other
15 documents on file with the Commission. He shall furnish
16 certified copies, under the seal of the Commission, of any such
17 records, files, orders, proceedings, decisions, awards and
18 other documents on file with the Commission as may be required.
19 Certified copies so furnished by the Secretary or Assistant
20 Secretary shall be received in evidence before the Commission
21 or any Arbitrator thereof, and in all courts, provided that the
22 original of such certified copy is otherwise competent and
23 admissible in evidence. The Secretary or Assistant Secretary
24 shall perform such other duties as may be prescribed from time
25 to time by the Commission.

26 (Source: P.A. 97-18, eff. 6-28-11; 97-719, eff. 6-29-12.)

1 (820 ILCS 305/15a) (from Ch. 48, par. 138.15a)

2 Sec. 15a. ~~The Beginning January 1, 1981, the~~ Commission
3 shall prepare and publish a handbook in readily understandable
4 language in question and answer form containing all information
5 as to the rights and obligations of employers and employees
6 under the provisions of this Act.

7 ~~Upon receipt of first report of injury, as provided for in~~
8 ~~subsection (b) of Section 6 of this Act, the Commission shall~~
9 ~~determine that a copy of the handbook has been forwarded to the~~
10 ~~injured employee or his beneficiary.~~

11 The handbook shall be made available free of charge to the
12 general public and be maintained on the Commission's Internet
13 website.

14 The Commission shall provide informational assistance to
15 employers and employees regarding their rights and obligations
16 under this Act and the process and procedure before the
17 Commission.

18 (Source: P.A. 86-998.)

19 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

20 Sec. 19. Any disputed questions of law or fact shall be
21 determined as herein provided.

22 (a) It shall be the duty of the Commission upon
23 notification that the parties have failed to reach an
24 agreement, to designate an Arbitrator.

1 1. Whenever any claimant misconceives his remedy and
2 files an application for adjustment of claim under this Act
3 and it is subsequently discovered, at any time before final
4 disposition of such cause, that the claim for disability or
5 death which was the basis for such application should
6 properly have been made under the Workers' Occupational
7 Diseases Act, then the provisions of Section 19, paragraph
8 (a-1) of the Workers' Occupational Diseases Act having
9 reference to such application shall apply.

10 2. Whenever any claimant misconceives his remedy and
11 files an application for adjustment of claim under the
12 Workers' Occupational Diseases Act and it is subsequently
13 discovered, at any time before final disposition of such
14 cause that the claim for injury or death which was the
15 basis for such application should properly have been made
16 under this Act, then the application so filed under the
17 Workers' Occupational Diseases Act may be amended in form,
18 substance or both to assert claim for such disability or
19 death under this Act and it shall be deemed to have been so
20 filed as amended on the date of the original filing
21 thereof, and such compensation may be awarded as is
22 warranted by the whole evidence pursuant to this Act. When
23 such amendment is submitted, further or additional
24 evidence may be heard by the Arbitrator or Commission when
25 deemed necessary. Nothing in this Section contained shall
26 be construed to be or permit a waiver of any provisions of

1 this Act with reference to notice but notice if given shall
2 be deemed to be a notice under the provisions of this Act
3 if given within the time required herein.

4 (b) The Arbitrator shall make such inquiries and
5 investigations as he or they shall deem necessary and may
6 examine and inspect all books, papers, records, places, or
7 premises relating to the questions in dispute and hear such
8 proper evidence as the parties may submit.

9 The hearings before the Arbitrator shall be held in the
10 vicinity where the injury occurred after 10 days' notice of the
11 time and place of such hearing shall have been given to each of
12 the parties or their attorneys of record.

13 The Arbitrator may find that the disabling condition is
14 temporary and has not yet reached a permanent condition and may
15 order the payment of compensation up to the date of the
16 hearing, which award shall be reviewable and enforceable in the
17 same manner as other awards, and in no instance be a bar to a
18 further hearing and determination of a further amount of
19 temporary total compensation or of compensation for permanent
20 disability, but shall be conclusive as to all other questions
21 except the nature and extent of said disability.

22 The decision of the Arbitrator shall be filed with the
23 Commission which Commission shall immediately send to each
24 party or his attorney a copy of such decision, together with a
25 notification of the time when it was filed. As of the effective
26 date of this amendatory Act of the 94th General Assembly, all

1 decisions of the Arbitrator shall set forth in writing findings
2 of fact and conclusions of law, separately stated, if requested
3 by either party. Unless a petition for review is filed by
4 either party within 30 days after the receipt by such party of
5 the copy of the decision and notification of time when filed,
6 and unless such party petitioning for a review shall within 35
7 days after the receipt by him of the copy of the decision, file
8 with the Commission either an agreed statement of the facts
9 appearing upon the hearing before the Arbitrator, or if such
10 party shall so elect a correct transcript of evidence of the
11 proceedings at such hearings, then the decision shall become
12 the decision of the Commission and in the absence of fraud
13 shall be conclusive. The Petition for Review shall contain a
14 statement of the petitioning party's specific exceptions to the
15 decision of the arbitrator. The jurisdiction of the Commission
16 to review the decision of the arbitrator shall not be limited
17 to the exceptions stated in the Petition for Review. The
18 Commission, or any member thereof, may grant further time not
19 exceeding 30 days, in which to file such agreed statement or
20 transcript of evidence. Such agreed statement of facts or
21 correct transcript of evidence, as the case may be, shall be
22 authenticated by the signatures of the parties or their
23 attorneys, and in the event they do not agree as to the
24 correctness of the transcript of evidence it shall be
25 authenticated by the signature of the Arbitrator designated by
26 the Commission.

1 Whether the employee is working or not, if the employee is
2 not receiving or has not received medical, surgical, or
3 hospital services or other services or compensation as provided
4 in paragraph (a) of Section 8, or compensation as provided in
5 paragraph (b) of Section 8, the employee may at any time
6 petition for an expedited hearing by an Arbitrator on the issue
7 of whether or not he or she is entitled to receive payment of
8 the services or compensation. Provided the employer continues
9 to pay compensation pursuant to paragraph (b) of Section 8, the
10 employer may at any time petition for an expedited hearing on
11 the issue of whether or not the employee is entitled to receive
12 medical, surgical, or hospital services or other services or
13 compensation as provided in paragraph (a) of Section 8, or
14 compensation as provided in paragraph (b) of Section 8. When an
15 employer has petitioned for an expedited hearing, the employer
16 shall continue to pay compensation as provided in paragraph (b)
17 of Section 8 unless the arbitrator renders a decision that the
18 employee is not entitled to the benefits that are the subject
19 of the expedited hearing or unless the employee's treating
20 physician has released the employee to return to work at his or
21 her regular job with the employer or the employee actually
22 returns to work at any other job. If the arbitrator renders a
23 decision that the employee is not entitled to the benefits that
24 are the subject of the expedited hearing, a petition for review
25 filed by the employee shall receive the same priority as if the
26 employee had filed a petition for an expedited hearing by an

1 Arbitrator. Neither party shall be entitled to an expedited
2 hearing when the employee has returned to work and the sole
3 issue in dispute amounts to less than 12 weeks of unpaid
4 compensation pursuant to paragraph (b) of Section 8.

5 Expedited hearings shall have priority over all other
6 petitions and shall be heard by the Arbitrator and Commission
7 with all convenient speed. Any party requesting an expedited
8 hearing shall give notice of a request for an expedited hearing
9 under this paragraph. A copy of the Application for Adjustment
10 of Claim shall be attached to the notice. The Commission shall
11 adopt rules and procedures under which the final decision of
12 the Commission under this paragraph is filed not later than 180
13 days from the date that the Petition for Review is filed with
14 the Commission.

15 Where 2 or more insurance carriers, private self-insureds,
16 or a group workers' compensation pool under Article V 3/4 of
17 the Illinois Insurance Code dispute coverage for the same
18 injury, any such insurance carrier, private self-insured, or
19 group workers' compensation pool may request an expedited
20 hearing pursuant to this paragraph to determine the issue of
21 coverage, provided coverage is the only issue in dispute and
22 all other issues are stipulated and agreed to and further
23 provided that all compensation benefits including medical
24 benefits pursuant to Section 8(a) continue to be paid to or on
25 behalf of petitioner. Any insurance carrier, private
26 self-insured, or group workers' compensation pool that is

1 determined to be liable for coverage for the injury in issue
2 shall reimburse any insurance carrier, private self-insured,
3 or group workers' compensation pool that has paid benefits to
4 or on behalf of petitioner for the injury.

5 (b-1) If the employee is not receiving medical, surgical or
6 hospital services as provided in paragraph (a) of Section 8 or
7 compensation as provided in paragraph (b) of Section 8, the
8 employee, in accordance with Commission Rules, may file a
9 petition for an emergency hearing by an Arbitrator on the issue
10 of whether or not he is entitled to receive payment of such
11 compensation or services as provided therein. Such petition
12 shall have priority over all other petitions and shall be heard
13 by the Arbitrator and Commission with all convenient speed.

14 Such petition shall contain the following information and
15 shall be served on the employer at least 15 days before it is
16 filed:

17 (i) the date and approximate time of accident;

18 (ii) the approximate location of the accident;

19 (iii) a description of the accident;

20 (iv) the nature of the injury incurred by the employee;

21 (v) the identity of the person, if known, to whom the
22 accident was reported and the date on which it was
23 reported;

24 (vi) the name and title of the person, if known,
25 representing the employer with whom the employee conferred
26 in any effort to obtain compensation pursuant to paragraph

1 (b) of Section 8 of this Act or medical, surgical or
2 hospital services pursuant to paragraph (a) of Section 8 of
3 this Act and the date of such conference;

4 (vii) a statement that the employer has refused to pay
5 compensation pursuant to paragraph (b) of Section 8 of this
6 Act or for medical, surgical or hospital services pursuant
7 to paragraph (a) of Section 8 of this Act;

8 (viii) the name and address, if known, of each witness
9 to the accident and of each other person upon whom the
10 employee will rely to support his allegations;

11 (ix) the dates of treatment related to the accident by
12 medical practitioners, and the names and addresses of such
13 practitioners, including the dates of treatment related to
14 the accident at any hospitals and the names and addresses
15 of such hospitals, and a signed authorization permitting
16 the employer to examine all medical records of all
17 practitioners and hospitals named pursuant to this
18 paragraph;

19 (x) a copy of a signed report by a medical
20 practitioner, relating to the employee's current inability
21 to return to work because of the injuries incurred as a
22 result of the accident or such other documents or
23 affidavits which show that the employee is entitled to
24 receive compensation pursuant to paragraph (b) of Section 8
25 of this Act or medical, surgical or hospital services
26 pursuant to paragraph (a) of Section 8 of this Act. Such

1 reports, documents or affidavits shall state, if possible,
2 the history of the accident given by the employee, and
3 describe the injury and medical diagnosis, the medical
4 services for such injury which the employee has received
5 and is receiving, the physical activities which the
6 employee cannot currently perform as a result of any
7 impairment or disability due to such injury, and the
8 prognosis for recovery;

9 (xi) complete copies of any reports, records,
10 documents and affidavits in the possession of the employee
11 on which the employee will rely to support his allegations,
12 provided that the employer shall pay the reasonable cost of
13 reproduction thereof;

14 (xii) a list of any reports, records, documents and
15 affidavits which the employee has demanded by subpoena and
16 on which he intends to rely to support his allegations;

17 (xiii) a certification signed by the employee or his
18 representative that the employer has received the petition
19 with the required information 15 days before filing.

20 Fifteen days after receipt by the employer of the petition
21 with the required information the employee may file said
22 petition and required information and shall serve notice of the
23 filing upon the employer. The employer may file a motion
24 addressed to the sufficiency of the petition. If an objection
25 has been filed to the sufficiency of the petition, the
26 arbitrator shall rule on the objection within 2 working days.

1 If such an objection is filed, the time for filing the final
2 decision of the Commission as provided in this paragraph shall
3 be tolled until the arbitrator has determined that the petition
4 is sufficient.

5 The employer shall, within 15 days after receipt of the
6 notice that such petition is filed, file with the Commission
7 and serve on the employee or his representative a written
8 response to each claim set forth in the petition, including the
9 legal and factual basis for each disputed allegation and the
10 following information: (i) complete copies of any reports,
11 records, documents and affidavits in the possession of the
12 employer on which the employer intends to rely in support of
13 his response, (ii) a list of any reports, records, documents
14 and affidavits which the employer has demanded by subpoena and
15 on which the employer intends to rely in support of his
16 response, (iii) the name and address of each witness on whom
17 the employer will rely to support his response, and (iv) the
18 names and addresses of any medical practitioners selected by
19 the employer pursuant to Section 12 of this Act and the time
20 and place of any examination scheduled to be made pursuant to
21 such Section.

22 Any employer who does not timely file and serve a written
23 response without good cause may not introduce any evidence to
24 dispute any claim of the employee but may cross examine the
25 employee or any witness brought by the employee and otherwise
26 be heard.

1 No document or other evidence not previously identified by
2 either party with the petition or written response, or by any
3 other means before the hearing, may be introduced into evidence
4 without good cause. If, at the hearing, material information is
5 discovered which was not previously disclosed, the Arbitrator
6 may extend the time for closing proof on the motion of a party
7 for a reasonable period of time which may be more than 30 days.
8 No evidence may be introduced pursuant to this paragraph as to
9 permanent disability. No award may be entered for permanent
10 disability pursuant to this paragraph. Either party may
11 introduce into evidence the testimony taken by deposition of
12 any medical practitioner.

13 The Commission shall adopt rules, regulations and
14 procedures whereby the final decision of the Commission is
15 filed not later than 90 days from the date the petition for
16 review is filed but in no event later than 180 days from the
17 date the petition for an emergency hearing is filed with the
18 Illinois Workers' Compensation Commission.

19 All service required pursuant to this paragraph (b-1) must
20 be by personal service or by certified mail and with evidence
21 of receipt. In addition for the purposes of this paragraph, all
22 service on the employer must be at the premises where the
23 accident occurred if the premises are owned or operated by the
24 employer. Otherwise service must be at the employee's principal
25 place of employment by the employer. If service on the employer
26 is not possible at either of the above, then service shall be

1 at the employer's principal place of business. After initial
2 service in each case, service shall be made on the employer's
3 attorney or designated representative.

4 (c) (1) At a reasonable time in advance of and in
5 connection with the hearing under Section 19(e) or 19(h), the
6 Commission may on its own motion order an impartial physical or
7 mental examination of a petitioner whose mental or physical
8 condition is in issue, when in the Commission's discretion it
9 appears that such an examination will materially aid in the
10 just determination of the case. The examination shall be made
11 by a member or members of a panel of physicians chosen for
12 their special qualifications by the Illinois State Medical
13 Society. The Commission shall establish procedures by which a
14 physician shall be selected from such list.

15 (2) Should the Commission at any time during the hearing
16 find that compelling considerations make it advisable to have
17 an examination and report at that time, the commission may in
18 its discretion so order.

19 (3) A copy of the report of examination shall be given to
20 the Commission and to the attorneys for the parties.

21 (4) Either party or the Commission may call the examining
22 physician or physicians to testify. Any physician so called
23 shall be subject to cross-examination.

24 (5) The examination shall be made, and the physician or
25 physicians, if called, shall testify, without cost to the
26 parties. The Commission shall determine the compensation and

1 the pay of the physician or physicians. The compensation for
2 this service shall not exceed the usual and customary amount
3 for such service.

4 (6) The fees and payment thereof of all attorneys and
5 physicians for services authorized by the Commission under this
6 Act shall, upon request of either the employer or the employee
7 or the beneficiary affected, be subject to the review and
8 decision of the Commission.

9 (d) If any employee shall persist in insanitary or
10 injurious practices which tend to either imperil or retard his
11 recovery or shall refuse to submit to such medical, surgical,
12 or hospital treatment as is reasonably essential to promote his
13 recovery, the Commission may, in its discretion, reduce or
14 suspend the compensation of any such injured employee. However,
15 when an employer and employee so agree in writing, the
16 foregoing provision shall not be construed to authorize the
17 reduction or suspension of compensation of an employee who is
18 relying in good faith, on treatment by prayer or spiritual
19 means alone, in accordance with the tenets and practice of a
20 recognized church or religious denomination, by a duly
21 accredited practitioner thereof.

22 (e) This paragraph shall apply to all hearings before the
23 Commission. Such hearings may be held in its office or
24 elsewhere as the Commission may deem advisable. The taking of
25 testimony on such hearings may be had before any member of the
26 Commission. If a petition for review and agreed statement of

1 facts or transcript of evidence is filed, as provided herein,
2 the Commission shall promptly review the decision of the
3 Arbitrator and all questions of law or fact which appear from
4 the statement of facts or transcript of evidence.

5 In all cases in which the hearing before the arbitrator is
6 held after December 18, 1989, no additional evidence shall be
7 introduced by the parties before the Commission on review of
8 the decision of the Arbitrator. In reviewing decisions of an
9 arbitrator the Commission shall award such temporary
10 compensation, permanent compensation and other payments as are
11 due under this Act. The Commission shall file in its office its
12 decision thereon, and shall immediately send to each party or
13 his attorney a copy of such decision and a notification of the
14 time when it was filed. Decisions shall be filed within 60 days
15 after the Statement of Exceptions and Supporting Brief and
16 Response thereto are required to be filed or oral argument
17 whichever is later.

18 In the event either party requests oral argument, such
19 argument shall be had before a panel of 3 members of the
20 Commission (or before all available members pursuant to the
21 determination of 7 members of the Commission that such argument
22 be held before all available members of the Commission)
23 pursuant to the rules and regulations of the Commission. A
24 panel of 3 members, which shall be comprised of not more than
25 one representative citizen of the employing class and not more
26 than one representative citizen of the employee class, shall

1 hear the argument; provided that if all the issues in dispute
2 are solely the nature and extent of the permanent partial
3 disability, if any, a majority of the panel may deny the
4 request for such argument and such argument shall not be held;
5 and provided further that 7 members of the Commission may
6 determine that the argument be held before all available
7 members of the Commission. A decision of the Commission shall
8 be approved by a majority of Commissioners present at such
9 hearing if any; provided, if no such hearing is held, a
10 decision of the Commission shall be approved by a majority of a
11 panel of 3 members of the Commission as described in this
12 Section. The Commission shall give 10 days' notice to the
13 parties or their attorneys of the time and place of such taking
14 of testimony and of such argument.

15 In any case the Commission in its decision may find
16 specially upon any question or questions of law or fact which
17 shall be submitted in writing by either party whether ultimate
18 or otherwise; provided that on issues other than nature and
19 extent of the disability, if any, the Commission in its
20 decision shall find specially upon any question or questions of
21 law or fact, whether ultimate or otherwise, which are submitted
22 in writing by either party; provided further that not more than
23 5 such questions may be submitted by either party. Any party
24 may, within 20 days after receipt of notice of the Commission's
25 decision, or within such further time, not exceeding 30 days,
26 as the Commission may grant, file with the Commission either an

1 agreed statement of the facts appearing upon the hearing, or,
2 if such party shall so elect, a correct transcript of evidence
3 of the additional proceedings presented before the Commission,
4 in which report the party may embody a correct statement of
5 such other proceedings in the case as such party may desire to
6 have reviewed, such statement of facts or transcript of
7 evidence to be authenticated by the signature of the parties or
8 their attorneys, and in the event that they do not agree, then
9 the authentication of such transcript of evidence shall be by
10 the signature of any member of the Commission.

11 If a reporter does not for any reason furnish a transcript
12 of the proceedings before the Arbitrator in any case for use on
13 a hearing for review before the Commission, within the
14 limitations of time as fixed in this Section, the Commission
15 may, in its discretion, order a trial de novo before the
16 Commission in such case upon application of either party. The
17 applications for adjustment of claim and other documents in the
18 nature of pleadings filed by either party, together with the
19 decisions of the Arbitrator and of the Commission and the
20 statement of facts or transcript of evidence hereinbefore
21 provided for in paragraphs (b) and (c) shall be the record of
22 the proceedings of the Commission, and shall be subject to
23 review as hereinafter provided.

24 At the request of either party or on its own motion, the
25 Commission shall set forth in writing the reasons for the
26 decision, including findings of fact and conclusions of law

1 separately stated. The Commission shall by rule adopt a format
2 for written decisions for the Commission and arbitrators. The
3 written decisions shall be concise and shall succinctly state
4 the facts and reasons for the decision. The Commission may
5 adopt in whole or in part, the decision of the arbitrator as
6 the decision of the Commission. When the Commission does so
7 adopt the decision of the arbitrator, it shall do so by order.
8 Whenever the Commission adopts part of the arbitrator's
9 decision, but not all, it shall include in the order the
10 reasons for not adopting all of the arbitrator's decision. When
11 a majority of a panel, after deliberation, has arrived at its
12 decision, the decision shall be filed as provided in this
13 Section without unnecessary delay, and without regard to the
14 fact that a member of the panel has expressed an intention to
15 dissent. Any member of the panel may file a dissent. Any
16 dissent shall be filed no later than 10 days after the decision
17 of the majority has been filed.

18 Decisions rendered by the Commission and dissents, if any,
19 shall be published together by the Commission. The conclusions
20 of law set out in such decisions shall be regarded as
21 precedents by arbitrators for the purpose of achieving a more
22 uniform administration of this Act.

23 (f) The decision of the Commission acting within its
24 powers, according to the provisions of paragraph (e) of this
25 Section shall, in the absence of fraud, be conclusive unless
26 reviewed as in this paragraph hereinafter provided. However,

1 the Arbitrator or the Commission may on his or its own motion,
2 or on the motion of either party, correct any clerical error or
3 errors in computation within 15 days after the date of receipt
4 of any award by such Arbitrator or any decision on review of
5 the Commission and shall have the power to recall the original
6 award on arbitration or decision on review, and issue in lieu
7 thereof such corrected award or decision. Where such correction
8 is made the time for review herein specified shall begin to run
9 from the date of the receipt of the corrected award or
10 decision.

11 (1) Except in cases of claims against the State of
12 Illinois other than those claims under Section 18.1, in
13 which case the decision of the Commission shall not be
14 subject to judicial review, the Circuit Court of the county
15 where any of the parties defendant may be found, or if none
16 of the parties defendant can be found in this State then
17 the Circuit Court of the county where the accident
18 occurred, shall by summons to the Commission have power to
19 review all questions of law and fact presented by such
20 record.

21 A proceeding for review shall be commenced within 20
22 days of the receipt of notice of the decision of the
23 Commission. The summons shall be issued by the clerk of
24 such court upon written request returnable on a designated
25 return day, not less than 10 or more than 60 days from the
26 date of issuance thereof, and the written request shall

1 contain the last known address of other parties in interest
2 and their attorneys of record who are to be served by
3 summons. Service upon any member of the Commission or the
4 Secretary or the Assistant Secretary thereof shall be
5 service upon the Commission, and service upon other parties
6 in interest and their attorneys of record shall be by
7 summons, and such service shall be made upon the Commission
8 and other parties in interest by mailing notices of the
9 commencement of the proceedings and the return day of the
10 summons to the office of the Commission and to the last
11 known place of residence of other parties in interest or
12 their attorney or attorneys of record. The clerk of the
13 court issuing the summons shall on the day of issue mail
14 notice of the commencement of the proceedings which shall
15 be done by mailing a copy of the summons to the office of
16 the Commission, and a copy of the summons to the other
17 parties in interest or their attorney or attorneys of
18 record and the clerk of the court shall make certificate
19 that he has so sent said notices in pursuance of this
20 Section, which shall be evidence of service on the
21 Commission and other parties in interest.

22 ~~The Commission shall not be required to certify the~~
23 ~~record of their proceedings to the Circuit Court, unless~~
24 ~~the party commencing the proceedings for review in the~~
25 ~~Circuit Court as above provided, shall pay to the~~
26 ~~Commission the sum of 80¢ per page of testimony taken~~

1 ~~before the Commission, and 35¢ per page of all other~~
2 ~~matters contained in such record, except as otherwise~~
3 ~~provided by Section 20 of this Act. Payment for photostatic~~
4 ~~copies of exhibit shall be extra.~~ It shall be the duty of
5 the Commission upon receipt of the summons from the Circuit
6 Court such payment, or failure to pay as permitted under
7 Section 20 of this Act, to prepare a true and correct
8 ~~typewritten~~ copy of such testimony and a true and correct
9 copy of all other matters contained in such record and
10 certified to by the Secretary or Assistant Secretary
11 thereof. The changes made to this subdivision (f)(1) by
12 this amendatory Act of the 98th General Assembly apply to
13 any Commission decision received after the effective date
14 of this amendatory Act of the 98th General Assembly.

15 ~~No~~ In its decision on review the Commission shall
16 ~~determine in each particular case the amount of the~~
17 ~~probable cost of the record to be filed as a part of the~~
18 ~~summons in that case and no request for a summons may be~~
19 ~~filed and no~~ summons shall issue unless the party seeking
20 to review the decision of the Commission shall exhibit to
21 the clerk of the Circuit Court ~~proof of payment by filing a~~
22 receipt showing notice of the intent to file an appeal or
23 an affidavit by an attorney setting forth notice of the
24 intent to file an appeal has been received by payment or an
25 ~~affidavit of the attorney setting forth that payment has~~
26 ~~been made of the sums so determined to the Secretary or~~

1 Assistant Secretary of the Commission, ~~except as otherwise~~
2 ~~provided by Section 20 of this Act.~~

3 (2) No such summons shall issue unless the one against
4 whom the Commission shall have rendered an award for the
5 payment of money shall upon the filing of his written
6 request for such summons file with the clerk of the court a
7 bond conditioned that if he shall not successfully
8 prosecute the review, he will pay the award and the costs
9 of the proceedings in the courts. The amount of the bond
10 shall be fixed by any member of the Commission and the
11 surety or sureties of the bond shall be approved by the
12 clerk of the court. The acceptance of the bond by the clerk
13 of the court shall constitute evidence of his approval of
14 the bond.

15 Every county, city, town, township, incorporated
16 village, school district, body politic or municipal
17 corporation against whom the Commission shall have
18 rendered an award for the payment of money shall not be
19 required to file a bond to secure the payment of the award
20 and the costs of the proceedings in the court to authorize
21 the court to issue such summons.

22 The court may confirm or set aside the decision of the
23 Commission. If the decision is set aside and the facts
24 found in the proceedings before the Commission are
25 sufficient, the court may enter such decision as is
26 justified by law, or may remand the cause to the Commission

1 for further proceedings and may state the questions
2 requiring further hearing, and give such other
3 instructions as may be proper. Appeals shall be taken to
4 the Appellate Court in accordance with Supreme Court Rules
5 22(g) and 303. Appeals shall be taken from the Appellate
6 Court to the Supreme Court in accordance with Supreme Court
7 Rule 315.

8 It shall be the duty of the clerk of any court
9 rendering a decision affecting or affirming an award of the
10 Commission to promptly furnish the Commission with a copy
11 of such decision, without charge.

12 The decision of a majority of the members of the panel
13 of the Commission, shall be considered the decision of the
14 Commission.

15 (g) Except in the case of a claim against the State of
16 Illinois, either party may present a certified copy of the
17 award of the Arbitrator, or a certified copy of the decision of
18 the Commission when the same has become final, when no
19 proceedings for review are pending, providing for the payment
20 of compensation according to this Act, to the Circuit Court of
21 the county in which such accident occurred or either of the
22 parties are residents, whereupon the court shall enter a
23 judgment in accordance therewith. In a case where the employer
24 refuses to pay compensation according to such final award or
25 such final decision upon which such judgment is entered the
26 court shall in entering judgment thereon, tax as costs against

1 him the reasonable costs and attorney fees in the arbitration
2 proceedings and in the court entering the judgment for the
3 person in whose favor the judgment is entered, which judgment
4 and costs taxed as therein provided shall, until and unless set
5 aside, have the same effect as though duly entered in an action
6 duly tried and determined by the court, and shall with like
7 effect, be entered and docketed. The Circuit Court shall have
8 power at any time upon application to make any such judgment
9 conform to any modification required by any subsequent decision
10 of the Supreme Court upon appeal, or as the result of any
11 subsequent proceedings for review, as provided in this Act.

12 Judgment shall not be entered until 15 days' notice of the
13 time and place of the application for the entry of judgment
14 shall be served upon the employer by filing such notice with
15 the Commission, which Commission shall, in case it has on file
16 the address of the employer or the name and address of its
17 agent upon whom notices may be served, immediately send a copy
18 of the notice to the employer or such designated agent.

19 (h) An agreement or award under this Act providing for
20 compensation in installments, may at any time within 18 months
21 after such agreement or award be reviewed by the Commission at
22 the request of either the employer or the employee, on the
23 ground that the disability of the employee has subsequently
24 recurred, increased, diminished or ended.

25 However, as to accidents occurring subsequent to July 1,
26 1955, which are covered by any agreement or award under this

1 Act providing for compensation in installments made as a result
2 of such accident, such agreement or award may at any time
3 within 30 months, or 60 months in the case of an award under
4 Section 8(d)1, after such agreement or award be reviewed by the
5 Commission at the request of either the employer or the
6 employee on the ground that the disability of the employee has
7 subsequently recurred, increased, diminished or ended.

8 On such review, compensation payments may be
9 re-established, increased, diminished or ended. The Commission
10 shall give 15 days' notice to the parties of the hearing for
11 review. Any employee, upon any petition for such review being
12 filed by the employer, shall be entitled to one day's notice
13 for each 100 miles necessary to be traveled by him in attending
14 the hearing of the Commission upon the petition, and 3 days in
15 addition thereto. Such employee shall, at the discretion of the
16 Commission, also be entitled to 5 cents per mile necessarily
17 traveled by him within the State of Illinois in attending such
18 hearing, not to exceed a distance of 300 miles, to be taxed by
19 the Commission as costs and deposited with the petition of the
20 employer.

21 When compensation which is payable in accordance with an
22 award or settlement contract approved by the Commission, is
23 ordered paid in a lump sum by the Commission, no review shall
24 be had as in this paragraph mentioned.

25 (i) Each party, upon taking any proceedings or steps
26 whatsoever before any Arbitrator, Commission or court, shall

1 file with the Commission his address, or the name and address
2 of any agent upon whom all notices to be given to such party
3 shall be served, either personally or by registered mail,
4 addressed to such party or agent at the last address so filed
5 with the Commission. In the event such party has not filed his
6 address, or the name and address of an agent as above provided,
7 service of any notice may be had by filing such notice with the
8 Commission.

9 (j) Whenever in any proceeding testimony has been taken or
10 a final decision has been rendered and after the taking of such
11 testimony or after such decision has become final, the injured
12 employee dies, then in any subsequent proceedings brought by
13 the personal representative or beneficiaries of the deceased
14 employee, such testimony in the former proceeding may be
15 introduced with the same force and effect as though the witness
16 having so testified were present in person in such subsequent
17 proceedings and such final decision, if any, shall be taken as
18 final adjudication of any of the issues which are the same in
19 both proceedings.

20 (k) In case where there has been any unreasonable or
21 vexatious delay of payment or intentional underpayment of
22 compensation, or proceedings have been instituted or carried on
23 by the one liable to pay the compensation, which do not present
24 a real controversy, but are merely frivolous or for delay, then
25 the Commission may award compensation additional to that
26 otherwise payable under this Act equal to 50% of the amount

1 payable at the time of such award. Failure to pay compensation
2 in accordance with the provisions of Section 8, paragraph (b)
3 of this Act, shall be considered unreasonable delay.

4 When determining whether this subsection (k) shall apply,
5 the Commission shall consider whether an Arbitrator has
6 determined that the claim is not compensable or whether the
7 employer has made payments under Section 8(j).

8 (l) If the employee has made written demand for payment of
9 benefits under Section 8(a) or Section 8(b), the employer shall
10 have 14 days after receipt of the demand to set forth in
11 writing the reason for the delay. In the case of demand for
12 payment of medical benefits under Section 8(a), the time for
13 the employer to respond shall not commence until the expiration
14 of the allotted 30 days specified under Section 8.2(d). In case
15 the employer or his or her insurance carrier shall without good
16 and just cause fail, neglect, refuse, or unreasonably delay the
17 payment of benefits under Section 8(a) or Section 8(b), the
18 Arbitrator or the Commission shall allow to the employee
19 additional compensation in the sum of \$30 per day for each day
20 that the benefits under Section 8(a) or Section 8(b) have been
21 so withheld or refused, not to exceed \$10,000. A delay in
22 payment of 14 days or more shall create a rebuttable
23 presumption of unreasonable delay.

24 (m) If the commission finds that an accidental injury was
25 directly and proximately caused by the employer's wilful
26 violation of a health and safety standard under the Health and

1 Safety Act in force at the time of the accident, the arbitrator
2 or the Commission shall allow to the injured employee or his
3 dependents, as the case may be, additional compensation equal
4 to 25% of the amount which otherwise would be payable under the
5 provisions of this Act exclusive of this paragraph. The
6 additional compensation herein provided shall be allowed by an
7 appropriate increase in the applicable weekly compensation
8 rate.

9 (n) After June 30, 1984, decisions of the Illinois Workers'
10 Compensation Commission reviewing an award of an arbitrator of
11 the Commission shall draw interest at a rate equal to the yield
12 on indebtedness issued by the United States Government with a
13 26-week maturity next previously auctioned on the day on which
14 the decision is filed. Said rate of interest shall be set forth
15 in the Arbitrator's Decision. Interest shall be drawn from the
16 date of the arbitrator's award on all accrued compensation due
17 the employee through the day prior to the date of payments.
18 However, when an employee appeals an award of an Arbitrator or
19 the Commission, and the appeal results in no change or a
20 decrease in the award, interest shall not further accrue from
21 the date of such appeal.

22 The employer or his insurance carrier may tender the
23 payments due under the award to stop the further accrual of
24 interest on such award notwithstanding the prosecution by
25 either party of review, certiorari, appeal to the Supreme Court
26 or other steps to reverse, vacate or modify the award.

1 (o) By the 15th day of each month each insurer providing
2 coverage for losses under this Act shall notify each insured
3 employer of any compensable claim incurred during the preceding
4 month and the amounts paid or reserved on the claim including a
5 summary of the claim and a brief statement of the reasons for
6 compensability. A cumulative report of all claims incurred
7 during a calendar year or continued from the previous year
8 shall be furnished to the insured employer by the insurer
9 within 30 days after the end of that calendar year.

10 The insured employer may challenge, in proceeding before
11 the Commission, payments made by the insurer without
12 arbitration and payments made after a case is determined to be
13 noncompensable. If the Commission finds that the case was not
14 compensable, the insurer shall purge its records as to that
15 employer of any loss or expense associated with the claim,
16 reimburse the employer for attorneys' fees arising from the
17 challenge and for any payment required of the employer to the
18 Rate Adjustment Fund or the Second Injury Fund, and may not
19 reflect the loss or expense for rate making purposes. The
20 employee shall not be required to refund the challenged
21 payment. The decision of the Commission may be reviewed in the
22 same manner as in arbitrated cases. No challenge may be
23 initiated under this paragraph more than 3 years after the
24 payment is made. An employer may waive the right of challenge
25 under this paragraph on a case by case basis.

26 (p) After filing an application for adjustment of claim but

1 prior to the hearing on arbitration the parties may voluntarily
2 agree to submit such application for adjustment of claim for
3 decision by an arbitrator under this subsection (p) where such
4 application for adjustment of claim raises only a dispute over
5 temporary total disability, permanent partial disability or
6 medical expenses. Such agreement shall be in writing in such
7 form as provided by the Commission. Applications for adjustment
8 of claim submitted for decision by an arbitrator under this
9 subsection (p) shall proceed according to rule as established
10 by the Commission. The Commission shall promulgate rules
11 including, but not limited to, rules to ensure that the parties
12 are adequately informed of their rights under this subsection
13 (p) and of the voluntary nature of proceedings under this
14 subsection (p). The findings of fact made by an arbitrator
15 acting within his or her powers under this subsection (p) in
16 the absence of fraud shall be conclusive. However, the
17 arbitrator may on his own motion, or the motion of either
18 party, correct any clerical errors or errors in computation
19 within 15 days after the date of receipt of such award of the
20 arbitrator and shall have the power to recall the original
21 award on arbitration, and issue in lieu thereof such corrected
22 award. The decision of the arbitrator under this subsection (p)
23 shall be considered the decision of the Commission and
24 proceedings for review of questions of law arising from the
25 decision may be commenced by either party pursuant to
26 subsection (f) of Section 19. The Advisory Board established

1 under Section 13.1 shall compile a list of certified Commission
2 arbitrators, each of whom shall be approved by at least 7
3 members of the Advisory Board. The chairman shall select 5
4 persons from such list to serve as arbitrators under this
5 subsection (p). By agreement, the parties shall select one
6 arbitrator from among the 5 persons selected by the chairman
7 except that if the parties do not agree on an arbitrator from
8 among the 5 persons, the parties may, by agreement, select an
9 arbitrator of the American Arbitration Association, whose fee
10 shall be paid by the State in accordance with rules promulgated
11 by the Commission. Arbitration under this subsection (p) shall
12 be voluntary.

13 (Source: P.A. 97-18, eff. 6-28-11.)

14 (820 ILCS 305/19a) (from Ch. 48, par. 138.19b)

15 Sec. 19a. Money received by the Commission pursuant to
16 subsection (f) of Section 19 of this Act shall be paid into a
17 trust fund outside the State Treasury and shall be held in such
18 fund until completion of the record for which the payment was
19 made. The Secretary of the Commission shall be ex-officio
20 custodian of such trust fund which shall be used only for the
21 purpose specified in this section. Upon completion of the
22 record the Secretary shall pay the amount so held to the person
23 entitled thereto for preparation of the record. Within 60 days
24 after the effective date of this amendatory Act of the 98th
25 General Assembly, the Secretary of the Commission shall

1 transfer all remaining funds to the Injured Workers' Benefit
2 Fund for the purpose of paying claims from injured employees
3 who have received a final award for benefits from the
4 Commission against the employer in Fiscal Year 2013.

5 (Source: Laws 1967, p. 324.)

6 (820 ILCS 305/20) (from Ch. 48, par. 138.20)

7 Sec. 20. If the Commission shall, before or after any
8 hearing, proceeding, or review to any court, be satisfied that
9 the employee is a poor person, and unable to pay the costs and
10 expenses provided for by this Act, the Commission shall permit
11 such poor person to have all the rights and remedies provided
12 by this Act, including the issuance and service of subpoenas; a
13 transcript of testimony and the record of proceedings,
14 including photostatic copies of exhibits, at hearings before an
15 Arbitrator or the Commission; ~~the right to have the record of~~
16 ~~proceedings certified to the circuit court;~~ the right to the
17 filing of a written request for summons; and the right to the
18 issuance of summons, without the filing of a bond for costs and
19 without the payment of any of the costs provided for by this
20 Act. If an award is granted to such employee, or settlement is
21 made, the costs and expenses chargeable to the employee as
22 provided for by this Act shall be paid by the employer out of
23 the award herein granted, or settlement, before any of the
24 balance of the award or settlement is paid to the employee.

25 (Source: P.A. 86-998.)

1 Section 10. The Workers' Occupational Diseases Act is
2 amended by changing Sections 19, 19a, and 19.5 as follows:

3 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

4 Sec. 19. Any disputed questions of law or fact shall be
5 determined as herein provided.

6 (a) It shall be the duty of the Commission upon
7 notification that the parties have failed to reach an agreement
8 to designate an Arbitrator.

9 (1) The application for adjustment of claim filed with
10 the Commission shall state:

11 A. The approximate date of the last day of the last
12 exposure and the approximate date of the disablement.

13 B. The general nature and character of the illness
14 or disease claimed.

15 C. The name and address of the employer by whom
16 employed on the last day of the last exposure and if
17 employed by any other employer after such last exposure
18 and before disablement the name and address of such
19 other employer or employers.

20 D. In case of death, the date and place of death.

21 (2) Amendments to applications for adjustment of claim
22 which relate to the same disablement or disablement
23 resulting in death originally claimed upon may be allowed
24 by the Commissioner or an Arbitrator thereof, in their

1 discretion, and in the exercise of such discretion, they
2 may in proper cases order a trial de novo; such amendment
3 shall relate back to the date of the filing of the original
4 application so amended.

5 (3) Whenever any claimant misconceives his remedy and
6 files an application for adjustment of claim under this Act
7 and it is subsequently discovered, at any time before final
8 disposition of such cause, that the claim for disability or
9 death which was the basis for such application should
10 properly have been made under the Workers' Compensation
11 Act, then the provisions of Section 19 paragraph (a-1) of
12 the Workers' Compensation Act having reference to such
13 application shall apply.

14 Whenever any claimant misconceives his remedy and
15 files an application for adjustment of claim under the
16 Workers' Compensation Act and it is subsequently
17 discovered, at any time before final disposition of such
18 cause that the claim for injury or death which was the
19 basis for such application should properly have been made
20 under this Act, then the application so filed under the
21 Workers' Compensation Act may be amended in form, substance
22 or both to assert claim for such disability or death under
23 this Act and it shall be deemed to have been so filed as
24 amended on the date of the original filing thereof, and
25 such compensation may be awarded as is warranted by the
26 whole evidence pursuant to the provisions of this Act. When

1 such amendment is submitted, further or additional
2 evidence may be heard by the Arbitrator or Commission when
3 deemed necessary; provided, that nothing in this Section
4 contained shall be construed to be or permit a waiver of
5 any provisions of this Act with reference to notice, but
6 notice if given shall be deemed to be a notice under the
7 provisions of this Act if given within the time required
8 herein.

9 (b) The Arbitrator shall make such inquiries and
10 investigations as he shall deem necessary and may examine and
11 inspect all books, papers, records, places, or premises
12 relating to the questions in dispute and hear such proper
13 evidence as the parties may submit.

14 The hearings before the Arbitrator shall be held in the
15 vicinity where the last exposure occurred, after 10 days'
16 notice of the time and place of such hearing shall have been
17 given to each of the parties or their attorneys of record.

18 The Arbitrator may find that the disabling condition is
19 temporary and has not yet reached a permanent condition and may
20 order the payment of compensation up to the date of the
21 hearing, which award shall be reviewable and enforceable in the
22 same manner as other awards, and in no instance be a bar to a
23 further hearing and determination of a further amount of
24 temporary total compensation or of compensation for permanent
25 disability, but shall be conclusive as to all other questions
26 except the nature and extent of such disability.

1 The decision of the Arbitrator shall be filed with the
2 Commission which Commission shall immediately send to each
3 party or his attorney a copy of such decision, together with a
4 notification of the time when it was filed. As of the effective
5 date of this amendatory Act of the 94th General Assembly, all
6 decisions of the Arbitrator shall set forth in writing findings
7 of fact and conclusions of law, separately stated, if requested
8 by either party. Unless a petition for review is filed by
9 either party within 30 days after the receipt by such party of
10 the copy of the decision and notification of time when filed,
11 and unless such party petitioning for a review shall within 35
12 days after the receipt by him of the copy of the decision, file
13 with the Commission either an agreed statement of the facts
14 appearing upon the hearing before the Arbitrator, or if such
15 party shall so elect a correct transcript of evidence of the
16 proceedings at such hearings, then the decision shall become
17 the decision of the Commission and in the absence of fraud
18 shall be conclusive. The Petition for Review shall contain a
19 statement of the petitioning party's specific exceptions to the
20 decision of the arbitrator. The jurisdiction of the Commission
21 to review the decision of the arbitrator shall not be limited
22 to the exceptions stated in the Petition for Review. The
23 Commission, or any member thereof, may grant further time not
24 exceeding 30 days, in which to file such agreed statement or
25 transcript of evidence. Such agreed statement of facts or
26 correct transcript of evidence, as the case may be, shall be

1 authenticated by the signatures of the parties or their
2 attorneys, and in the event they do not agree as to the
3 correctness of the transcript of evidence it shall be
4 authenticated by the signature of the Arbitrator designated by
5 the Commission.

6 Whether the employee is working or not, if the employee is
7 not receiving or has not received medical, surgical, or
8 hospital services or other services or compensation as provided
9 in paragraph (a) of Section 8 of the Workers' Compensation Act,
10 or compensation as provided in paragraph (b) of Section 8 of
11 the Workers' Compensation Act, the employee may at any time
12 petition for an expedited hearing by an Arbitrator on the issue
13 of whether or not he or she is entitled to receive payment of
14 the services or compensation. Provided the employer continues
15 to pay compensation pursuant to paragraph (b) of Section 8 of
16 the Workers' Compensation Act, the employer may at any time
17 petition for an expedited hearing on the issue of whether or
18 not the employee is entitled to receive medical, surgical, or
19 hospital services or other services or compensation as provided
20 in paragraph (a) of Section 8 of the Workers' Compensation Act,
21 or compensation as provided in paragraph (b) of Section 8 of
22 the Workers' Compensation Act. When an employer has petitioned
23 for an expedited hearing, the employer shall continue to pay
24 compensation as provided in paragraph (b) of Section 8 of the
25 Workers' Compensation Act unless the arbitrator renders a
26 decision that the employee is not entitled to the benefits that

1 are the subject of the expedited hearing or unless the
2 employee's treating physician has released the employee to
3 return to work at his or her regular job with the employer or
4 the employee actually returns to work at any other job. If the
5 arbitrator renders a decision that the employee is not entitled
6 to the benefits that are the subject of the expedited hearing,
7 a petition for review filed by the employee shall receive the
8 same priority as if the employee had filed a petition for an
9 expedited hearing by an arbitrator. Neither party shall be
10 entitled to an expedited hearing when the employee has returned
11 to work and the sole issue in dispute amounts to less than 12
12 weeks of unpaid compensation pursuant to paragraph (b) of
13 Section 8 of the Workers' Compensation Act.

14 Expedited hearings shall have priority over all other
15 petitions and shall be heard by the Arbitrator and Commission
16 with all convenient speed. Any party requesting an expedited
17 hearing shall give notice of a request for an expedited hearing
18 under this paragraph. A copy of the Application for Adjustment
19 of Claim shall be attached to the notice. The Commission shall
20 adopt rules and procedures under which the final decision of
21 the Commission under this paragraph is filed not later than 180
22 days from the date that the Petition for Review is filed with
23 the Commission.

24 Where 2 or more insurance carriers, private self-insureds,
25 or a group workers' compensation pool under Article V 3/4 of
26 the Illinois Insurance Code dispute coverage for the same

1 disease, any such insurance carrier, private self-insured, or
2 group workers' compensation pool may request an expedited
3 hearing pursuant to this paragraph to determine the issue of
4 coverage, provided coverage is the only issue in dispute and
5 all other issues are stipulated and agreed to and further
6 provided that all compensation benefits including medical
7 benefits pursuant to Section 8(a) of the Workers' Compensation
8 Act continue to be paid to or on behalf of petitioner. Any
9 insurance carrier, private self-insured, or group workers'
10 compensation pool that is determined to be liable for coverage
11 for the disease in issue shall reimburse any insurance carrier,
12 private self-insured, or group workers' compensation pool that
13 has paid benefits to or on behalf of petitioner for the
14 disease.

15 (b-1) If the employee is not receiving, pursuant to Section
16 7, medical, surgical or hospital services of the type provided
17 for in paragraph (a) of Section 8 of the Workers' Compensation
18 Act or compensation of the type provided for in paragraph (b)
19 of Section 8 of the Workers' Compensation Act, the employee, in
20 accordance with Commission Rules, may file a petition for an
21 emergency hearing by an Arbitrator on the issue of whether or
22 not he is entitled to receive payment of such compensation or
23 services as provided therein. Such petition shall have priority
24 over all other petitions and shall be heard by the Arbitrator
25 and Commission with all convenient speed.

26 Such petition shall contain the following information and

1 shall be served on the employer at least 15 days before it is
2 filed:

3 (i) the date and approximate time of the last exposure;

4 (ii) the approximate location of the last exposure;

5 (iii) a description of the last exposure;

6 (iv) the nature of the disability incurred by the
7 employee;

8 (v) the identity of the person, if known, to whom the
9 disability was reported and the date on which it was
10 reported;

11 (vi) the name and title of the person, if known,
12 representing the employer with whom the employee conferred
13 in any effort to obtain pursuant to Section 7 compensation
14 of the type provided for in paragraph (b) of Section 8 of
15 the Workers' Compensation Act or medical, surgical or
16 hospital services of the type provided for in paragraph (a)
17 of Section 8 of the Workers' Compensation Act and the date
18 of such conference;

19 (vii) a statement that the employer has refused to pay
20 compensation pursuant to Section 7 of the type provided for
21 in paragraph (b) of Section 8 of the Workers' Compensation
22 Act or for medical, surgical or hospital services pursuant
23 to Section 7 of the type provided for in paragraph (a) of
24 Section 8 of the Workers' Compensation Act;

25 (viii) the name and address, if known, of each witness
26 to the last exposure and of each other person upon whom the

1 employee will rely to support his allegations;

2 (ix) the dates of treatment related to the disability
3 by medical practitioners, and the names and addresses of
4 such practitioners, including the dates of treatment
5 related to the disability at any hospitals and the names
6 and addresses of such hospitals, and a signed authorization
7 permitting the employer to examine all medical records of
8 all practitioners and hospitals named pursuant to this
9 paragraph;

10 (x) a copy of a signed report by a medical
11 practitioner, relating to the employee's current inability
12 to return to work because of the disability incurred as a
13 result of the exposure or such other documents or
14 affidavits which show that the employee is entitled to
15 receive pursuant to Section 7 compensation of the type
16 provided for in paragraph (b) of Section 8 of the Workers'
17 Compensation Act or medical, surgical or hospital services
18 of the type provided for in paragraph (a) of Section 8 of
19 the Workers' Compensation Act. Such reports, documents or
20 affidavits shall state, if possible, the history of the
21 exposure given by the employee, and describe the disability
22 and medical diagnosis, the medical services for such
23 disability which the employee has received and is
24 receiving, the physical activities which the employee
25 cannot currently perform as a result of such disability,
26 and the prognosis for recovery;

1 (xi) complete copies of any reports, records,
2 documents and affidavits in the possession of the employee
3 on which the employee will rely to support his allegations,
4 provided that the employer shall pay the reasonable cost of
5 reproduction thereof;

6 (xii) a list of any reports, records, documents and
7 affidavits which the employee has demanded by subpoena and
8 on which he intends to rely to support his allegations;

9 (xiii) a certification signed by the employee or his
10 representative that the employer has received the petition
11 with the required information 15 days before filing.

12 Fifteen days after receipt by the employer of the petition
13 with the required information the employee may file said
14 petition and required information and shall serve notice of the
15 filing upon the employer. The employer may file a motion
16 addressed to the sufficiency of the petition. If an objection
17 has been filed to the sufficiency of the petition, the
18 arbitrator shall rule on the objection within 2 working days.
19 If such an objection is filed, the time for filing the final
20 decision of the Commission as provided in this paragraph shall
21 be tolled until the arbitrator has determined that the petition
22 is sufficient.

23 The employer shall, within 15 days after receipt of the
24 notice that such petition is filed, file with the Commission
25 and serve on the employee or his representative a written
26 response to each claim set forth in the petition, including the

1 legal and factual basis for each disputed allegation and the
2 following information: (i) complete copies of any reports,
3 records, documents and affidavits in the possession of the
4 employer on which the employer intends to rely in support of
5 his response, (ii) a list of any reports, records, documents
6 and affidavits which the employer has demanded by subpoena and
7 on which the employer intends to rely in support of his
8 response, (iii) the name and address of each witness on whom
9 the employer will rely to support his response, and (iv) the
10 names and addresses of any medical practitioners selected by
11 the employer pursuant to Section 12 of this Act and the time
12 and place of any examination scheduled to be made pursuant to
13 such Section.

14 Any employer who does not timely file and serve a written
15 response without good cause may not introduce any evidence to
16 dispute any claim of the employee but may cross examine the
17 employee or any witness brought by the employee and otherwise
18 be heard.

19 No document or other evidence not previously identified by
20 either party with the petition or written response, or by any
21 other means before the hearing, may be introduced into evidence
22 without good cause. If, at the hearing, material information is
23 discovered which was not previously disclosed, the Arbitrator
24 may extend the time for closing proof on the motion of a party
25 for a reasonable period of time which may be more than 30 days.
26 No evidence may be introduced pursuant to this paragraph as to

1 permanent disability. No award may be entered for permanent
2 disability pursuant to this paragraph. Either party may
3 introduce into evidence the testimony taken by deposition of
4 any medical practitioner.

5 The Commission shall adopt rules, regulations and
6 procedures whereby the final decision of the Commission is
7 filed not later than 90 days from the date the petition for
8 review is filed but in no event later than 180 days from the
9 date the petition for an emergency hearing is filed with the
10 Illinois Workers' Compensation Commission.

11 All service required pursuant to this paragraph (b-1) must
12 be by personal service or by certified mail and with evidence
13 of receipt. In addition, for the purposes of this paragraph,
14 all service on the employer must be at the premises where the
15 accident occurred if the premises are owned or operated by the
16 employer. Otherwise service must be at the employee's principal
17 place of employment by the employer. If service on the employer
18 is not possible at either of the above, then service shall be
19 at the employer's principal place of business. After initial
20 service in each case, service shall be made on the employer's
21 attorney or designated representative.

22 (c) (1) At a reasonable time in advance of and in
23 connection with the hearing under Section 19(e) or 19(h), the
24 Commission may on its own motion order an impartial physical or
25 mental examination of a petitioner whose mental or physical
26 condition is in issue, when in the Commission's discretion it

1 appears that such an examination will materially aid in the
2 just determination of the case. The examination shall be made
3 by a member or members of a panel of physicians chosen for
4 their special qualifications by the Illinois State Medical
5 Society. The Commission shall establish procedures by which a
6 physician shall be selected from such list.

7 (2) Should the Commission at any time during the hearing
8 find that compelling considerations make it advisable to have
9 an examination and report at that time, the Commission may in
10 its discretion so order.

11 (3) A copy of the report of examination shall be given to
12 the Commission and to the attorneys for the parties.

13 (4) Either party or the Commission may call the examining
14 physician or physicians to testify. Any physician so called
15 shall be subject to cross-examination.

16 (5) The examination shall be made, and the physician or
17 physicians, if called, shall testify, without cost to the
18 parties. The Commission shall determine the compensation and
19 the pay of the physician or physicians. The compensation for
20 this service shall not exceed the usual and customary amount
21 for such service.

22 The fees and payment thereof of all attorneys and
23 physicians for services authorized by the Commission under this
24 Act shall, upon request of either the employer or the employee
25 or the beneficiary affected, be subject to the review and
26 decision of the Commission.

1 (d) If any employee shall persist in insanitary or
2 injurious practices which tend to either imperil or retard his
3 recovery or shall refuse to submit to such medical, surgical,
4 or hospital treatment as is reasonably essential to promote his
5 recovery, the Commission may, in its discretion, reduce or
6 suspend the compensation of any such employee; provided, that
7 when an employer and employee so agree in writing, the
8 foregoing provision shall not be construed to authorize the
9 reduction or suspension of compensation of an employee who is
10 relying in good faith, on treatment by prayer or spiritual
11 means alone, in accordance with the tenets and practice of a
12 recognized church or religious denomination, by a duly
13 accredited practitioner thereof.

14 (e) This paragraph shall apply to all hearings before the
15 Commission. Such hearings may be held in its office or
16 elsewhere as the Commission may deem advisable. The taking of
17 testimony on such hearings may be had before any member of the
18 Commission. If a petition for review and agreed statement of
19 facts or transcript of evidence is filed, as provided herein,
20 the Commission shall promptly review the decision of the
21 Arbitrator and all questions of law or fact which appear from
22 the statement of facts or transcripts of evidence. In all cases
23 in which the hearing before the arbitrator is held after the
24 effective date of this amendatory Act of 1989, no additional
25 evidence shall be introduced by the parties before the
26 Commission on review of the decision of the Arbitrator. The

1 Commission shall file in its office its decision thereon, and
2 shall immediately send to each party or his attorney a copy of
3 such decision and a notification of the time when it was filed.
4 Decisions shall be filed within 60 days after the Statement of
5 Exceptions and Supporting Brief and Response thereto are
6 required to be filed or oral argument whichever is later.

7 In the event either party requests oral argument, such
8 argument shall be had before a panel of 3 members of the
9 Commission (or before all available members pursuant to the
10 determination of 7 members of the Commission that such argument
11 be held before all available members of the Commission)
12 pursuant to the rules and regulations of the Commission. A
13 panel of 3 members, which shall be comprised of not more than
14 one representative citizen of the employing class and not more
15 than one representative citizen of the employee class, shall
16 hear the argument; provided that if all the issues in dispute
17 are solely the nature and extent of the permanent partial
18 disability, if any, a majority of the panel may deny the
19 request for such argument and such argument shall not be held;
20 and provided further that 7 members of the Commission may
21 determine that the argument be held before all available
22 members of the Commission. A decision of the Commission shall
23 be approved by a majority of Commissioners present at such
24 hearing if any; provided, if no such hearing is held, a
25 decision of the Commission shall be approved by a majority of a
26 panel of 3 members of the Commission as described in this

1 Section. The Commission shall give 10 days' notice to the
2 parties or their attorneys of the time and place of such taking
3 of testimony and of such argument.

4 In any case the Commission in its decision may in its
5 discretion find specially upon any question or questions of law
6 or facts which shall be submitted in writing by either party
7 whether ultimate or otherwise; provided that on issues other
8 than nature and extent of the disablement, if any, the
9 Commission in its decision shall find specially upon any
10 question or questions of law or fact, whether ultimate or
11 otherwise, which are submitted in writing by either party;
12 provided further that not more than 5 such questions may be
13 submitted by either party. Any party may, within 20 days after
14 receipt of notice of the Commission's decision, or within such
15 further time, not exceeding 30 days, as the Commission may
16 grant, file with the Commission either an agreed statement of
17 the facts appearing upon the hearing, or, if such party shall
18 so elect, a correct transcript of evidence of the additional
19 proceedings presented before the Commission in which report the
20 party may embody a correct statement of such other proceedings
21 in the case as such party may desire to have reviewed, such
22 statement of facts or transcript of evidence to be
23 authenticated by the signature of the parties or their
24 attorneys, and in the event that they do not agree, then the
25 authentication of such transcript of evidence shall be by the
26 signature of any member of the Commission.

1 If a reporter does not for any reason furnish a transcript
2 of the proceedings before the Arbitrator in any case for use on
3 a hearing for review before the Commission, within the
4 limitations of time as fixed in this Section, the Commission
5 may, in its discretion, order a trial de novo before the
6 Commission in such case upon application of either party. The
7 applications for adjustment of claim and other documents in the
8 nature of pleadings filed by either party, together with the
9 decisions of the Arbitrator and of the Commission and the
10 statement of facts or transcript of evidence hereinbefore
11 provided for in paragraphs (b) and (c) shall be the record of
12 the proceedings of the Commission, and shall be subject to
13 review as hereinafter provided.

14 At the request of either party or on its own motion, the
15 Commission shall set forth in writing the reasons for the
16 decision, including findings of fact and conclusions of law,
17 separately stated. The Commission shall by rule adopt a format
18 for written decisions for the Commission and arbitrators. The
19 written decisions shall be concise and shall succinctly state
20 the facts and reasons for the decision. The Commission may
21 adopt in whole or in part, the decision of the arbitrator as
22 the decision of the Commission. When the Commission does so
23 adopt the decision of the arbitrator, it shall do so by order.
24 Whenever the Commission adopts part of the arbitrator's
25 decision, but not all, it shall include in the order the
26 reasons for not adopting all of the arbitrator's decision. When

1 a majority of a panel, after deliberation, has arrived at its
2 decision, the decision shall be filed as provided in this
3 Section without unnecessary delay, and without regard to the
4 fact that a member of the panel has expressed an intention to
5 dissent. Any member of the panel may file a dissent. Any
6 dissent shall be filed no later than 10 days after the decision
7 of the majority has been filed.

8 Decisions rendered by the Commission after the effective
9 date of this amendatory Act of 1980 and dissents, if any, shall
10 be published together by the Commission. The conclusions of law
11 set out in such decisions shall be regarded as precedents by
12 arbitrators, for the purpose of achieving a more uniform
13 administration of this Act.

14 (f) The decision of the Commission acting within its
15 powers, according to the provisions of paragraph (e) of this
16 Section shall, in the absence of fraud, be conclusive unless
17 reviewed as in this paragraph hereinafter provided. However,
18 the Arbitrator or the Commission may on his or its own motion,
19 or on the motion of either party, correct any clerical error or
20 errors in computation within 15 days after the date of receipt
21 of any award by such Arbitrator or any decision on review of
22 the Commission, and shall have the power to recall the original
23 award on arbitration or decision on review, and issue in lieu
24 thereof such corrected award or decision. Where such correction
25 is made the time for review herein specified shall begin to run
26 from the date of the receipt of the corrected award or

1 decision.

2 (1) Except in cases of claims against the State of
3 Illinois, in which case the decision of the Commission
4 shall not be subject to judicial review, the Circuit Court
5 of the county where any of the parties defendant may be
6 found, or if none of the parties defendant be found in this
7 State then the Circuit Court of the county where any of the
8 exposure occurred, shall by summons to the Commission have
9 power to review all questions of law and fact presented by
10 such record.

11 A proceeding for review shall be commenced within 20
12 days of the receipt of notice of the decision of the
13 Commission. The summons shall be issued by the clerk of
14 such court upon written request returnable on a designated
15 return day, not less than 10 or more than 60 days from the
16 date of issuance thereof, and the written request shall
17 contain the last known address of other parties in interest
18 and their attorneys of record who are to be served by
19 summons. Service upon any member of the Commission or the
20 Secretary or the Assistant Secretary thereof shall be
21 service upon the Commission, and service upon other parties
22 in interest and their attorneys of record shall be by
23 summons, and such service shall be made upon the Commission
24 and other parties in interest by mailing notices of the
25 commencement of the proceedings and the return day of the
26 summons to the office of the Commission and to the last

1 known place of residence of other parties in interest or
2 their attorney or attorneys of record. The clerk of the
3 court issuing the summons shall on the day of issue mail
4 notice of the commencement of the proceedings which shall
5 be done by mailing a copy of the summons to the office of
6 the Commission, and a copy of the summons to the other
7 parties in interest or their attorney or attorneys of
8 record and the clerk of the court shall make certificate
9 that he has so sent such notices in pursuance of this
10 Section, which shall be evidence of service on the
11 Commission and other parties in interest.

12 ~~The Commission shall not be required to certify the~~
13 ~~record of their proceedings in the Circuit Court unless the~~
14 ~~party commencing the proceedings for review in the Circuit~~
15 ~~Court as above provided, shall pay to the Commission the~~
16 ~~sum of 80 cents per page of testimony taken before the~~
17 ~~Commission, and 35 cents per page of all other matters~~
18 ~~contained in such record, except as otherwise provided by~~
19 ~~Section 20 of this Act. Payment for photostatic copies of~~
20 ~~exhibit shall be extra. It shall be the duty of the~~
21 Commission upon receipt of the summons from the Circuit
22 Court such payment, or failure to pay as permitted under
23 Section 20 of this Act, to prepare a true and correct
24 ~~typewritten~~ copy of such testimony and a true and correct
25 copy of all other matters contained in such record and
26 certified to by the Secretary or Assistant Secretary

1 thereof. The changes made to this subdivision (f)(1) by
2 this amendatory Act of the 98th General Assembly apply to
3 any Commission decision received after the effective date
4 of this amendatory Act of the 98th General Assembly.

5 ~~No~~ In its decision on review the Commission shall
6 determine in each particular case the amount of the
7 probable cost of the record to be filed as a return to the
8 summons in that case and no request for a summons may be
9 filed and no summons shall issue unless the party seeking
10 to review the decision of the Commission shall exhibit to
11 the clerk of the Circuit Court ~~proof of payment by filing a~~
12 receipt showing notice of the intent to file an appeal or
13 an affidavit by an attorney setting forth notice of the
14 intent to file an appeal has been received by ~~payment or an~~
15 ~~affidavit of the attorney setting forth that payment has~~
16 ~~been made of the sums so determined to~~ the Secretary or
17 Assistant Secretary of the Commission.

18 (2) No such summons shall issue unless the one against
19 whom the Commission shall have rendered an award for the
20 payment of money shall upon the filing of his written
21 request for such summons file with the clerk of the court a
22 bond conditioned that if he shall not successfully
23 prosecute the review, he will pay the award and the costs
24 of the proceedings in the court. The amount of the bond
25 shall be fixed by any member of the Commission and the
26 surety or sureties of the bond shall be approved by the

1 clerk of the court. The acceptance of the bond by the clerk
2 of the court shall constitute evidence of his approval of
3 the bond.

4 Every county, city, town, township, incorporated
5 village, school district, body politic or municipal
6 corporation having a population of 500,000 or more against
7 whom the Commission shall have rendered an award for the
8 payment of money shall not be required to file a bond to
9 secure the payment of the award and the costs of the
10 proceedings in the court to authorize the court to issue
11 such summons.

12 The court may confirm or set aside the decision of the
13 Commission. If the decision is set aside and the facts
14 found in the proceedings before the Commission are
15 sufficient, the court may enter such decision as is
16 justified by law, or may remand the cause to the Commission
17 for further proceedings and may state the questions
18 requiring further hearing, and give such other
19 instructions as may be proper. Appeals shall be taken to
20 the Appellate Court in accordance with Supreme Court Rules
21 22(g) and 303. Appeals shall be taken from the Appellate
22 Court to the Supreme Court in accordance with Supreme Court
23 Rule 315.

24 It shall be the duty of the clerk of any court
25 rendering a decision affecting or affirming an award of the
26 Commission to promptly furnish the Commission with a copy

1 of such decision, without charge.

2 The decision of a majority of the members of the panel
3 of the Commission, shall be considered the decision of the
4 Commission.

5 (g) Except in the case of a claim against the State of
6 Illinois, either party may present a certified copy of the
7 award of the Arbitrator, or a certified copy of the decision of
8 the Commission when the same has become final, when no
9 proceedings for review are pending, providing for the payment
10 of compensation according to this Act, to the Circuit Court of
11 the county in which such exposure occurred or either of the
12 parties are residents, whereupon the court shall enter a
13 judgment in accordance therewith. In case where the employer
14 refuses to pay compensation according to such final award or
15 such final decision upon which such judgment is entered, the
16 court shall in entering judgment thereon, tax as costs against
17 him the reasonable costs and attorney fees in the arbitration
18 proceedings and in the court entering the judgment for the
19 person in whose favor the judgment is entered, which judgment
20 and costs taxed as herein provided shall, until and unless set
21 aside, have the same effect as though duly entered in an action
22 duly tried and determined by the court, and shall with like
23 effect, be entered and docketed. The Circuit Court shall have
24 power at any time upon application to make any such judgment
25 conform to any modification required by any subsequent decision
26 of the Supreme Court upon appeal, or as the result of any

1 subsequent proceedings for review, as provided in this Act.

2 Judgment shall not be entered until 15 days' notice of the
3 time and place of the application for the entry of judgment
4 shall be served upon the employer by filing such notice with
5 the Commission, which Commission shall, in case it has on file
6 the address of the employer or the name and address of its
7 agent upon whom notices may be served, immediately send a copy
8 of the notice to the employer or such designated agent.

9 (h) An agreement or award under this Act providing for
10 compensation in installments, may at any time within 18 months
11 after such agreement or award be reviewed by the Commission at
12 the request of either the employer or the employee on the
13 ground that the disability of the employee has subsequently
14 recurred, increased, diminished or ended.

15 However, as to disablements occurring subsequently to July
16 1, 1955, which are covered by any agreement or award under this
17 Act providing for compensation in installments made as a result
18 of such disablement, such agreement or award may at any time
19 within 30 months after such agreement or award be reviewed by
20 the Commission at the request of either the employer or the
21 employee on the ground that the disability of the employee has
22 subsequently recurred, increased, diminished or ended.

23 On such review compensation payments may be
24 re-established, increased, diminished or ended. The Commission
25 shall give 15 days' notice to the parties of the hearing for
26 review. Any employee, upon any petition for such review being

1 filed by the employer, shall be entitled to one day's notice
2 for each 100 miles necessary to be traveled by him in attending
3 the hearing of the Commission upon the petition, and 3 days in
4 addition thereto. Such employee shall, at the discretion of the
5 Commission, also be entitled to 5 cents per mile necessarily
6 traveled by him within the State of Illinois in attending such
7 hearing, not to exceed a distance of 300 miles, to be taxed by
8 the Commission as costs and deposited with the petition of the
9 employer.

10 When compensation which is payable in accordance with an
11 award or settlement contract approved by the Commission, is
12 ordered paid in a lump sum by the Commission, no review shall
13 be had as in this paragraph mentioned.

14 (i) Each party, upon taking any proceedings or steps
15 whatsoever before any Arbitrator, Commission or court, shall
16 file with the Commission his address, or the name and address
17 of any agent upon whom all notices to be given to such party
18 shall be served, either personally or by registered mail,
19 addressed to such party or agent at the last address so filed
20 with the Commission. In the event such party has not filed his
21 address, or the name and address of an agent as above provided,
22 service of any notice may be had by filing such notice with the
23 Commission.

24 (j) Whenever in any proceeding testimony has been taken or
25 a final decision has been rendered, and after the taking of
26 such testimony or after such decision has become final, the

1 employee dies, then in any subsequent proceeding brought by the
2 personal representative or beneficiaries of the deceased
3 employee, such testimony in the former proceeding may be
4 introduced with the same force and effect as though the witness
5 having so testified were present in person in such subsequent
6 proceedings and such final decision, if any, shall be taken as
7 final adjudication of any of the issues which are the same in
8 both proceedings.

9 (k) In any case where there has been any unreasonable or
10 vexatious delay of payment or intentional underpayment of
11 compensation, or proceedings have been instituted or carried on
12 by one liable to pay the compensation, which do not present a
13 real controversy, but are merely frivolous or for delay, then
14 the Commission may award compensation additional to that
15 otherwise payable under this Act equal to 50% of the amount
16 payable at the time of such award. Failure to pay compensation
17 in accordance with the provisions of Section 8, paragraph (b)
18 of this Act, shall be considered unreasonable delay.

19 When determining whether this subsection (k) shall apply,
20 the Commission shall consider whether an arbitrator has
21 determined that the claim is not compensable or whether the
22 employer has made payments under Section 8(j) of the Workers'
23 Compensation Act.

24 (k-1) If the employee has made written demand for payment
25 of benefits under Section 8(a) or Section 8(b) of the Workers'
26 Compensation Act, the employer shall have 14 days after receipt

1 of the demand to set forth in writing the reason for the delay.
2 In the case of demand for payment of medical benefits under
3 Section 8(a) of the Workers' Compensation Act, the time for the
4 employer to respond shall not commence until the expiration of
5 the allotted 60 days specified under Section 8.2(d) of the
6 Workers' Compensation Act. In case the employer or his or her
7 insurance carrier shall without good and just cause fail,
8 neglect, refuse, or unreasonably delay the payment of benefits
9 under Section 8(a) or Section 8(b) of the Workers' Compensation
10 Act, the Arbitrator or the Commission shall allow to the
11 employee additional compensation in the sum of \$30 per day for
12 each day that the benefits under Section 8(a) or Section 8(b)
13 of the Workers' Compensation Act have been so withheld or
14 refused, not to exceed \$10,000. A delay in payment of 14 days
15 or more shall create a rebuttable presumption of unreasonable
16 delay.

17 (1) By the 15th day of each month each insurer providing
18 coverage for losses under this Act shall notify each insured
19 employer of any compensable claim incurred during the preceding
20 month and the amounts paid or reserved on the claim including a
21 summary of the claim and a brief statement of the reasons for
22 compensability. A cumulative report of all claims incurred
23 during a calendar year or continued from the previous year
24 shall be furnished to the insured employer by the insurer
25 within 30 days after the end of that calendar year.

26 The insured employer may challenge, in proceeding before

1 the Commission, payments made by the insurer without
2 arbitration and payments made after a case is determined to be
3 noncompensable. If the Commission finds that the case was not
4 compensable, the insurer shall purge its records as to that
5 employer of any loss or expense associated with the claim,
6 reimburse the employer for attorneys fee arising from the
7 challenge and for any payment required of the employer to the
8 Rate Adjustment Fund or the Second Injury Fund, and may not
9 effect the loss or expense for rate making purposes. The
10 employee shall not be required to refund the challenged
11 payment. The decision of the Commission may be reviewed in the
12 same manner as in arbitrated cases. No challenge may be
13 initiated under this paragraph more than 3 years after the
14 payment is made. An employer may waive the right of challenge
15 under this paragraph on a case by case basis.

16 (m) After filing an application for adjustment of claim but
17 prior to the hearing on arbitration the parties may voluntarily
18 agree to submit such application for adjustment of claim for
19 decision by an arbitrator under this subsection (m) where such
20 application for adjustment of claim raises only a dispute over
21 temporary total disability, permanent partial disability or
22 medical expenses. Such agreement shall be in writing in such
23 form as provided by the Commission. Applications for adjustment
24 of claim submitted for decision by an arbitrator under this
25 subsection (m) shall proceed according to rule as established
26 by the Commission. The Commission shall promulgate rules

1 including, but not limited to, rules to ensure that the parties
2 are adequately informed of their rights under this subsection
3 (m) and of the voluntary nature of proceedings under this
4 subsection (m). The findings of fact made by an arbitrator
5 acting within his or her powers under this subsection (m) in
6 the absence of fraud shall be conclusive. However, the
7 arbitrator may on his own motion, or the motion of either
8 party, correct any clerical errors or errors in computation
9 within 15 days after the date of receipt of such award of the
10 arbitrator and shall have the power to recall the original
11 award on arbitration, and issue in lieu thereof such corrected
12 award. The decision of the arbitrator under this subsection (m)
13 shall be considered the decision of the Commission and
14 proceedings for review of questions of law arising from the
15 decision may be commenced by either party pursuant to
16 subsection (f) of Section 19. The Advisory Board established
17 under Section 13.1 of the Workers' Compensation Act shall
18 compile a list of certified Commission arbitrators, each of
19 whom shall be approved by at least 7 members of the Advisory
20 Board. The chairman shall select 5 persons from such list to
21 serve as arbitrators under this subsection (m). By agreement,
22 the parties shall select one arbitrator from among the 5
23 persons selected by the chairman except, that if the parties do
24 not agree on an arbitrator from among the 5 persons, the
25 parties may, by agreement, select an arbitrator of the American
26 Arbitration Association, whose fee shall be paid by the State

1 in accordance with rules promulgated by the Commission.
2 Arbitration under this subsection (m) shall be voluntary.
3 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

4 (820 ILCS 310/19a) (from Ch. 48, par. 172.54b)

5 Sec. 19a. Money received by the Commission pursuant to
6 subsection (f) of Section 19 of this Act shall be paid into a
7 trust fund outside the State Treasury and shall be held in such
8 fund until completion of the record for which the payment was
9 made. The Secretary of the Commission shall be ex-officio
10 custodian of such trust fund which shall be used only for the
11 purpose specified in this section. Upon completion of the
12 record the Secretary shall pay the amount so held to the person
13 entitled thereto for preparation of the record. Within 60 days
14 after the effective date of this amendatory Act of the 98th
15 General Assembly, the Secretary of the Commission shall
16 transfer all remaining funds to the Injured Workers' Benefit
17 Fund for the purpose of paying claims from injured employees
18 who have received a final award for benefits from the
19 Commission against the employer in Fiscal Year 2013.

20 (Source: Laws 1967, p. 325.)

21 (820 ILCS 310/19.5) (from Ch. 48, par. 172.54-1)

22 Sec. 19.5. If the Commission shall, before or after any
23 hearing, proceeding, or review to any court, be satisfied that
24 the employee is a poor person, and unable to pay the costs and

1 expenses provided for by this Act, the Commission shall permit
2 such poor person to have all the rights and remedies provided
3 by this Act, including the issuance and service of subpoenas; a
4 transcript of testimony and the record of proceedings,
5 including photostatic copies of exhibits, at hearings before an
6 Arbitrator or the Commission; ~~the right to have the record of~~
7 ~~proceedings certified to the circuit court,~~ the right to the
8 filing of a written request for summons; and the right to the
9 issuance of summons, without the filing of a bond for costs and
10 without the payment of any of the costs provided for by this
11 Act. If an award is granted to such employee, or settlement is
12 made, the costs and expenses chargeable to the employee as
13 provided for by this Act shall be paid by the employer out of
14 the award herein granted, or settlement, before any of the
15 balance of the award or settlement is paid to the employee.

16 (Source: P.A. 86-998; 87-895.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."