



STATE OF NEW JERSEY
DEPARTMENT OF LABOR AND INDUSTRY
DIVISION OF WORKMEN'S COMPENSATION

Rules of the Workmen's Compensation Bureau, Department of Labor of New Jersey, Made in Pursuance and by Virtue of Revised Statutes of New Jersey, 1937; Title 34, Chapter 15, Paragraph 64. (Adopted January 13, 1939, effective May 1, 1939)

Section I-INFORMAL HEARINGS

1. Informal hearings shall be held on informal application which may be in writing. The petitioner and respondent shall then be notified as to the date of the hearing.
2. The State doctor shall examine the petitioner and report the extent of disability to the Referee, who, if the parties agree, shall enter the terms of the agreement.
3. On the date of an informal hearing, the petitioner or respondent shall, on demand of the Referee, present to the State doctor at the time and place of the hearing, the report or reports of the attending physician or physicians on forms furnished by the Bureau.
4. Adjusters and other representatives of the petitioner or respondent shall not be permitted to attend physical examinations of petitioners by State doctors. In unusual circumstances entered on the record, this rule shall not apply.
5. In all informal hearings where respondent denies liability or refuses to accept the findings of the Referee, it shall be the duty of the Referee to inform the petitioner in open court of his right to consult an attorney at once for the protection of his rights and further to state that said attorney is not permitted to demand a fee in advance.
6. Where respondent carries no compulsory compensation insurance, and is not a self-insurer, the office of the Assistant Attorney-General attached to the Department of Labor shall immediately be notified.
7. The official conducting the hearing shall indicate on the record and inform the parties of the amount of counsel fee and other lawful disbursements chargeable to the petitioner and respondent. No attorney shall ask for, contract for or receive a larger sum than the amount so indicated.
8. If a complaint is made about an attorney for unlawful or unauthorized deductions from petitioner's compensation money, the Commissioner of Labor may hold a hearing and if he finds the complaint justified, he shall report the matter to the Workmen's Compensation Board, which may suspend said attorney from practice in the Compensation Bureau for a period not to exceed one year.

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Section II-FORMAL HEARINGS

1. All formal hearings shall be upon petition duly verified.
2. The setting forth in the petition of a prayer for the medical, hospital and doctors' bills in connection with any particular case shall be considered by the Bureau as a petition filed for the medical fees so involved, whether said medical or hospital sum is in excess of \$50.00 or not.
3. Respondent's answer to a claim petition must be filed with the Bureau within ten days of the service of the petition upon the respondent, unless further time is granted by the Bureau. If the answer is not filed as specified above, the Deputy Commissioner or Referee to whom the case is assigned may either:
 - (a) suppress the defense and permit petitioner to prove his case; or
 - (b) permit the filing of answer upon such terms as may be fixed in the discretion of the said Deputy Commissioner or Referee.
4. The petition and answer filed shall be as full and complete as possible.
5. No adjournment shall be allowed except for good and sufficient cause.
6. No discontinuance on a formal petition shall be entered as a matter of right. The Deputy Commissioner or Referee shall be informed of the reasons for the discontinuance.
7. All reserved decisions shall be rendered by Deputy Commissioners or Referees within two months from completion of hearing or from date of filing of briefs which shall be due within twenty days. Additional time for either decision or filing of brief may be allowed only on application to and consent of the Commissioner of Labor.
8. In any case where a settlement is effected or when a judgment is rendered in favor of a petitioner, part of which settlement or judgment provides for the payment by a petitioner of medical or counsel fees, and when the amount of accrued compensation due at the time of the making of the settlement or entry of judgment is insufficient to defray these items, or when the payment of medical or counsel fees out of the accrued compensation due is in such an amount that the payment of the medical or counsel fees out of the same will work a hardship on the petitioner, and when weekly deductions from the compensation and payment thereof on account would otherwise result in undue hardship to the petitioner, the Commissioner of Labor, Deputy Commissioners and Referees are hereby authorized and empowered to approve, all parties agreeing thereto, payment of such fees from the rear end of the award, provided, however, that the attorney or doctor in whose favor the advance payment is made

agrees to the deduction of the statutory discount from such advance payment, or the respondent agrees to make such advance payment without charging the statutory discount.

9. Determinations of fact and rules for judgment, stipulations and agreements, shall specifically set forth each and every allowance against the respondent and each and every deduction to be made from the petitioner, whether for trial costs, attorney fees, stenographic fees, medical examinations or preparation of cases, so that there may be no occasion for dispute over money which is to be apportioned.

10. In settlements either counsel shall prepare an original and five copies of the stipulation and agreement signed by the petitioner and counsel for each side. Such settlement shall not be approved by the Deputy Commissioner or Referee unless proper medical report, certificate, or oral testimony be presented satisfactory to the Deputy Commissioner or Referee.

11. The prevailing party shall prepare an original and five copies, on legal cap paper, of the determination of facts and rule for judgment, setting forth a summary of the award and outlining the findings of the Deputy Commissioner or Referee. Such determination of facts and rule for judgment shall be submitted within ten days.

12. If respondent's doctors are not permitted, by consent of petitioner or petitioner's attorney to examine petitioner, upon application being made to the Deputy Commissioner or Referee, presiding in the district in which the case will be heard, the said Deputy Commissioner or Referee may order that petitioner submit himself for examination to not more than three doctors, selected by the respondent, at a reasonable time and place, such time and place to be designated by the said Deputy Commissioner or Referee within his sound discretion.

13. An appeal being upon the record of the original hearing, a court stenographer shall report the proceedings.

14. Upon the determination of the case the costs for the attendance of the stenographer may be assessed in the discretion of the Deputy Commissioner or Referee hearing the case. Transcript of the testimony may be obtained from the stenographer at the statutory rates.

15. The amount of counsel fees allowed, in the discretion of the official conducting the hearing, shall not be reviewable by the Workmen's Compensation Board.

16. If a complaint is made about an attorney for misconduct or unlawful or unauthorized deductions from petitioner's compensation money, the Commissioner of Labor may hold a hearing and if he

finds the complaint justified, he shall report the matter to the Workmen's Compensation Board, which may suspend said attorney from practice in the Compensation Bureau for a period not to exceed one year.

17. No doctor, referee or other employee of the Workmen's Compensation Bureau, except process servers on question of service of papers and persons in the Bureau as to authenticity of documents filed with the Secretary of said Bureau, shall testify or be permitted to testify in any formal proceedings in the Workmen's Compensation Bureau.

18. Where compensation has accrued, the checks due to the petitioner shall be made payable to him but mailed to the office of his attorney so that the deductions set forth in the determination or agreement may be made. All subsequent payments of compensation shall be made direct to the petitioner.

19. No doctor except a member of the staff of the Workmen's Compensation Bureau or the Rehabilitation Commission shall make any medical examination of a petitioner on premises where the Workmen's Compensation cases are heard. Complaint for violations of this rule by a doctor shall be heard by the Commissioner of Labor and upon his recommendation said doctor may be suspended by the Board from appearance before the Workmen's Compensation Bureau for any period up to one year.

20. Only an attorney-at-law or counsellor-at-law licensed to practice in the State of New Jersey shall act as attorney of record, or appear and prosecute or defend any action in any hearing in the Workmen's Compensation Bureau. Deviation from this rule shall be permitted only by unanimous consent of the entire Workmen's Compensation Board.

21. No person shall solicit any Workmen's Compensation claim at the instance of any attorney. Complaint for violation of this rule shall be heard by the Commissioner of Labor and upon his recommendation said attorney may be suspended by the Board from appearance before the Workmen's Compensation Bureau for any period up to one year.

Section III-GUARDIANSHIP

1. All wards and guardians involved in guardianship matters in the Workmen's Compensation Bureau, shall be visited by a representative of the Bureau semi-annually, and a report made thereof to the Commissioner of Labor.

Section IV-COMMUTATIONS

1. All applications for commutations of award shall be made to the Referee of Commutations. If after investigation, a commutation is advisable and for the best interests of the petitioner, the money shall be paid on the order of the Commissioner of Labor, subject to subsequent ratification by the Workmen's Compensation Board.

2. The disbursement of all funds commuted shall be under the supervision of the Commissioner of Labor.

Section V-ONE PERCENT FUND CASES

1. In all one percent fund hearings the Assistant Attorney-General shall appear for the Commissioner of Labor.

2. On receiving his first check, each beneficiary of the One Percent Fund shall file with the Commissioner of Labor, his biography, history of injuries and other pertinent data, together with 3 bust photographs at least 3" x 3" square with three specimen signatures of indorsement of checks.

3. Beneficiaries of said Fund, residing in New Jersey, shall be visited semi-annually by a representative of the Department of Labor.

4. Each beneficiary shall, upon request of the Commissioner of Labor, submit to a physical examination by the Medical Board of the New Jersey Rehabilitation Commission at least once a year.

These rules shall supersede the rules heretofore adopted by the Workmen's Compensation Bureau October 5, 1929.

RULES OF THE WORKMEN'S COMPENSATION BUREAU
NEW JERSEY DEPARTMENT OF LABOR

(now Division of Workmen's Compensation, New Jersey Department
of Labor and Industry)

The foregoing rules were adopted January 13, 1939, effective May 1, 1939. The following additions and changes were made after the effective date:

Section I - INFORMAL HEARINGS

Rule 8 was amended, effective March 14, 1941, to read as follows:

If a complaint is made about an attorney for misconduct or unlawful or unauthorized deductions from petitioner's compensation money, the Commissioner of Labor may hold a hearing and if he finds the complaint justified, he shall report the matter to the Workmen's Compensation Board, which may suspend said attorney from practice in the Compensation Bureau for a period not to exceed one year.

Rule 9 was added, effective March 14, 1941, reading as follows:

No person shall solicit any Workmen's Compensation claim at the instance of any attorney. Complaint for violation of this rule shall be heard by the Commissioner of Labor and upon his recommendation said attorney may be suspended by the Board from appearance before the Workmen's Compensation Bureau for any period up to one year.

Section II - FORMAL HEARINGS

Rule 18 was amended, effective June 26, 1943, to read as follows:

Accrued compensation shall be payable directly to the petitioner less deductions allowed against him for medical and hospital expenses, attorneys' fees, and other items; the respondent or its carrier shall forward checks for these allowances to the recipients directly as set forth by the Deputy Commissioner.

Where fees are advanced from the rear end of the compensation period according to Rule 8, "Section II - Formal Hearings," checks for the payment of medical and counsel fees, and other items allowed, shall be made payable and sent to the recipients directly.

The respondent, or carrier, in forwarding checks in compliance with this Rule, shall enclose to petitioner and his attorney, a statement of the disbursements made.

(Section II Formal Hearings)

Rule 22 was added, effective March 1, 1940, reading as follows:

It shall be the duty of the attorney of the petitioner upon submitting any settlement for an approval to any Referee or Deputy Commissioner of Compensation, to present all bills for medical examinations, treatment, hospitalization and any other expenses incidental to the issue; and to do likewise before the signing of any award in any litigated matter. Failure to comply with this Rule by any attorney shall be considered misconduct on his part and in violation of Rule 16 of the Rules of the Workmen's Compensation Bureau.

Rule 23 was added, effective December 20, 1940, reading as follows:

It shall be considered improper and an act of misconduct for any attorney, insurance company or any of their respective representatives or agents, to settle or in any manner to participate in the settlement or liquidation of any judgment or award in compensation for a sum less than that provided in the Order Approving a Settlement, or the Determination and Award, without the written approval of the Workmen's Compensation Bureau or the Deputy Commissioner of Compensation who previously heard the matter; in the event of an appeal or certiorari having been taken, then such consent shall be obtained from the court in which the issue has been appealed or submitted for review.

Rule 24 was added, effective January 17, 1942, reading as follows:

In all motions for dismissal for lack of prosecution the Bureau shall require the filing of an affidavit by the moving party that the petitioner is not in the armed forces of the United States, or after diligent search he cannot be located, in which event the order of dismissal shall contain a provision that if it subsequently develops that the petitioner was in the service at the time of signing such order, said order becomes null and void.

Rule 25 was added, effective August 1, 1942, reading as follows:

It is hereby declared that it is the duty of Counsel in all cases formally heard by the Deputy Commissioners to reveal on the record to the Deputy Commissioner presiding, all material facts which will aid him in fixing proper and legal counsel fees.

NEW JERSEY DEPARTMENT OF LABOR AND INDUSTRY

DIVISION OF WORKMEN'S COMPENSATION

Procedure as it relates to the filing of forms
and as it relates to informal hearings.

FORMS C and 1 should be completely filled out, especially as to business of employer; nature and extent of injury; the cause and manner of accident; the occupation; social security number; sex and age of injured.

The answer to the question as to how the accident occurred should state, for instance: "While lifting coil of wire, sprained back" rather than "hurt back".

FORM 2 As to weekly wages, set forth the exact amount, and not for instance: "Over \$37.50 a week".

Where injured refuses to sign, state on form "refuses to sign".

FORM 3 Extent of temporary and permanent disability should be explicitly stated.

The total amount of medical expenses should be stated.

As to Question 33 - Nature of permanent disability - the answer should be explicit. Usually the findings of the attending physician or examining physician should be set forth. If there is not sufficient space for the answer, the reverse side of form 3 can be used.

In hernia cases - it should be stated whether or not an operation has been furnished.

Where claims are presented at formal hearing, and formal determination or formal settlement results, it is not necessary to file form 3 setting forth such determination or settlement. Medical expenses and compensation previously paid, however, should be set forth in the record at such formal hearing. If a formal petition is discontinued because of settlement, and the terms of settlement are not set forth in the discontinuance, it is necessary to file a form 3.

Where injured refuses to sign form 3, state on form "refuses to sign".

GENERAL

FORMS D, 1, 2, 3 and 4 should be printed on sheets 5 inches long and 8 inches wide and filled in with typewriter or legibly written in ink. In the event the forms are filled in by hand, the names of employer and employee should be printed.

FORMS C, D, 1, 2, 3
and 4 should state the name of the insurance carrier. Where there is self-insurance Form E is used in place of Form C.

FORMS C, D, E, 1, 2,
3 and 4 should be filed with the Trenton office of the Division of Workmen's Compensation. Original forms should be filed, not carbons, and no copies are necessary.

All new forms printed should have a space for inserting the Social Security number of the employee and no form should contain a question asking for the nationality of the claimant.

There should be no delay in the filing of forms. Referring specifically to form 3, same should be filed as soon as agreement has been reached and within the time prescribed by law. Form 3 should not be held up until permanent disability has been paid in full.

Signatures on behalf of insurance companies and self-insurers should be affixed by persons authorized to sign and the signatures should be written in ink. The names of the insurance companies and self-insurers may be printed or typed, but there must be added thereto the signature of one authorized to act for the insurance company or self-insurer.

In forwarding forms to the Trenton Office of the Division of Workmen's Compensation, where more than one accident is involved, the forms for each accident should be separated.

In setting forth the name of the employer all forms should bear the same name. If for some reason the name of the employer has been improperly stated and the current form sent corrects a prior report, please include a memo as to name previously reported so that the file can be located.

In communicating with the Trenton Office of the Division of Workmen's Compensation, it is requested that our file number be given, if you have same. If a formal petition has been filed it is requested that the claim petition number be given.

In answering "I.N. Form" (memo to insurance company) sent from the Trenton Office, it is not necessary to file another form D setting forth "no time lost" or furnishing the information as to time lost, but, instead, return the "I.N. Form" with a notation on the back thereof containing the information.

In matters heard informally, where the Referee has not been furnished with the proper name of the employer, it is requested that the proper name be given to the Referee.

Notices of informal hearing should be sent in sufficient time to give employers and insurance carriers time to process their files.

Matters presented at informal hearing should be expeditiously handled. To this end, it is urged that representatives of insurance companies and self-insurers be given authority to settle claims; that medical records, including x-rays, x-ray reports, reports of attending physicians and reports of examinations be made promptly available to the Referees and state examining physicians.

Where, in certain instances, authority cannot be given to settle claims, and the matters have been submitted at informal hearing, the Referee should be informed within a reasonable time (not exceeding, however, a period of two weeks from the date of the hearing) of decision to either accept or reject the claim.

When it appears that certain claims cannot be disposed of at the first informal hearing, because of lack of notice or knowledge of an injury by accident, incomplete reports, or for any other good reason, the Referee should be promptly informed so that he may have opportunity to notify claimant of an adjournment before the date of hearing. It must be borne in mind, however, that disposition of a claim promptly as possible is more satisfactory to claimant, employer and insurance carrier. A minimum amount of time should be consumed, especially in those matters where claimants are working. Loss of earnings because of time consumed in attending informal hearings is a hardship on claimants.

If it is determined, before informal hearing is held, that a claimant is entitled to compensation or medical treatment, or both, every effort should be made to furnish same promptly, without waiting for the day of the hearing.

If claimant is receiving medical treatment and compensation, the claim, ordinarily, should not be immediately listed. There should be a deviation, however, if, for any good reason, the Referee feels that the matter should be immediately listed.

Where there has been an informal hearing, and form 3 is filed following such informal hearing, it is requested that a notation be made in the upper left hand corner of form 3 setting forth "informal hearing" and stating the name of the Referee.

Delays are sometimes caused by employers who do not furnish prompt reports of accidents. It is urged that insurance companies make every effort to familiarize employers of the provisions of the workmen's compensation law in this respect, and ask for their co-operation.