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**Rules of  
Department of Labor and Industrial  
Relations**

**Division 50—Division of Workers’ Compensation  
Chapter 2—Procedure**

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## Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

### Division 50—Division of Workers'

#### Compensation

#### Chapter 2—Procedure

### 8 CSR 50-2.010 Procedures for Non-contested and Contested Workers' Compensation Cases

*PURPOSE: This rule sets forth the procedures relating to workers' compensation injuries in noncontested and contested cases.*

(1) Any injury which requires medical aid, other than immediate first aid with no lost time from the employment, shall be fully reported to the division, by the insurer or third-party administrator, as a Report of Injury (in accordance with section 287.380.1, RSMo). The employer, if self-administered and self-insured, shall submit the Report of Injury. The Report of Injury may also be filed electronically with the approval of the division.

(A) Employers shall report injuries, other than immediate first aid with no lost time from the employment, to their insurance carrier, or third-party administrator, if applicable, within five (5) days of the date of the injury or within five (5) days of the date on which the injury was reported to the employer by the employee, whichever is later.

(B) Where the division has not received a Report of Injury and receives other notice of a work-related injury, the case may be referred for a dispute management meeting under section (4) of this rule. When a Claim for Compensation is filed, a party may not request a dispute management meeting.

(2) A report of medical costs and temporary benefits paid pursuant to sections 287.170 and 287.180, RSMo, shall be filed within thirty (30) days of the date of original notification of the injury. If medical treatment or temporary benefits will continue past thirty (30) days, a status report including estimated dates of completion of medical treatment and temporary benefits, shall be provided to the division at that time. A final report shall be filed on conclusion or termination of medical treatment and temporary benefits. A final medical report shall be filed with the final report.

(3) The employer/insurer shall notify the employee of the termination of benefits pursuant to section 287.203, RSMo, within ten (10) days of when such benefits were due, and

shall provide the division with a copy of the notice.

(4) Any party may request a dispute management meeting with a mediator on issues of medical or temporary benefits. Any such meeting is voluntary and will be conducted according to section 435.104, RSMo 1994. Any agreement regarding medical or temporary benefits shall be reduced to writing and signed by the parties. Any such agreement is to memorialize the understanding of the parties and is not binding as settlement of the benefits or rights of the employee. Venue for a dispute management meeting shall be in Jefferson City, or as may be determined by the division. When a Claim for Compensation is filed, a party may not request a dispute management meeting.

(5) Unless the parties otherwise agree, all hearings shall be held in the county, or in a city not part of any county, where the accident occurred, or in any county, or such city adjacent thereto, or if the accident occurred outside of the state, then the hearing shall be held in the county or city where the contract of employment was made.

(6) Any party, subject to the written procedures of the local adjudication office, may request a conference in any case filed with the division pursuant to section (1) of this rule. The division may also set a case for a conference. The parties shall be notified of the time and place of the setting at least ten (10) days prior to the setting.

(7) The employee or the employee's dependents may file a Claim for Compensation. In order that the place of setting may be determined, the county in which the accident occurred must be stated on the claim, and if the injury occurred outside of the state of Missouri, the name of the county in which the contract of employment was made must be stated. The claim shall be filed with sufficient copies for the division and each employer and insurer named, and the attorney general in case of a Second Injury Fund claim. The claim must be filed within the time prescribed by sections 287.430 or 287.440, RSMo, for accidental injuries, or section 287.063.3, RSMo, for occupational disease. A claim against the Second Injury Fund must be asserted affirmatively by the claimant and cannot be made by any other party to the claim, on motion or otherwise. Naming the state treasurer as a party is not, in itself, sufficient to make a claim against

the fund. Injuries which are claimed to create fund liability must be specifically set forth in the Claim for Compensation.

(A) The filing of a claim initiates a contested case.

(B) A claim against an employer/insurer and the Second Injury Fund are against two (2) separate parties and the assertion of a claim against one is not an assertion of a claim against the other.

(8) Upon receipt of a Claim for Compensation, the division shall forward a copy of the claim to the employer and its insurer, or third-party administrator, if applicable, or Second Injury Fund, if applicable, and within thirty (30) days from the date of the division's acknowledgment of the claim, the employer or its insurer, or third-party administrator, if applicable, or the Second Injury Fund, if applicable, shall file an Answer to Claim for Compensation, with sufficient copies for the division, the claimant(s) and each of his/her attorneys.

(A) Extensions of time to file an Answer to Claim for Compensation will be granted only upon a showing of good cause. Applications for an extension of time to answer the claim shall be made to the chief administrative law judge of the local office with venue of the case.

(B) Unless the Answer to Claim for Compensation is filed within thirty (30) days from the date the division acknowledges receipt of the claim or any extension previously granted, the statements of fact in the Claim for Compensation shall be deemed admitted for any further proceedings.

(9) When an Answer to Claim for Compensation has been filed, or the time to answer, including any extensions, has run, any party may request a setting according to the written procedures of the local adjudication office. The division may also set a contested case for a prehearing. At the prehearing conference, a contested case may be reset for a prehearing conference, or set for a mediation or a hearing according to the written procedures of the local adjudication office.

(A) The local adjudication offices may, by written local procedures, require a mediation setting before a hearing will be set in a contested case. This mediation shall not be construed as the dispute management meeting held pursuant to section (4) of this rule.

(B) Any mediation in a contested case shall be conducted according to 8 CSR 50-2.050.



(C) The parties shall be notified of the date, time and place of any setting at least ten (10) days prior to the setting.

(D) Attendance at any setting is mandatory. Continuance of a case may be allowed for a prehearing conference at the discretion of the administrative law judge or legal advisor. A continuance from a mediation or hearing setting, or a dismissal docket, if established by written procedures for a local adjudication office, shall be allowed only for good cause shown.

(10) When any party estimates that the hearing of a case will last longer than four (4) hours, the division shall be notified prior to setting the case for hearing and given an estimate of the length of time that will be required for the hearing. The division shall schedule the hearing according to written procedures of local adjudicative offices.

(11) All parties shall be prepared to introduce all relevant evidence when the case is heard. Continuances to file additional evidence will only be granted for good cause shown, when the administrative law judge who conducted the hearing decides that the additional evidence is necessary for a full and complete hearing.

(12) A Claim for Compensation may be dismissed or a default award issued, upon proper notice by the division.

(A) A Claim for Compensation may be voluntarily dismissed with or without prejudice at any time prior to the introduction of evidence at a hearing. The claim for compensation may be refiled by claimant so long as the statute of limitations has not run.

(B) A default award may be entered against an employer/insurer, upon proper notice, for failure to appear or defend the claim.

(C) Notice to the party or parties shall be sent by certified mail according to the provisions of Chapter 287, RSMo. Notice of hearing or dismissal to a party's attorney, at the attorney's last known address, which shall be sent by ordinary mail and need not be certified, shall meet the requirement of this section. All other notices, unless required by this rule or determined by the division, shall be sent by ordinary mail. The records of the division shall constitute *prima facie* evidence of the date of mailing of any notice, determination, award or other paper mailed pursuant to Chapter 287, RSMo.

(13) A party may request that a case be set for hearing on the grounds of undue hardship

or pursuant to section 287.203, RSMo. The party making the request shall file a written copy of the request with the division and mail copies to all parties to the contested case. If the request for a hardship hearing is granted, it shall be set according to the written procedures of the local adjudication office which has venue over the contested case. The division will not set a hearing under this section unless a request is filed by a party.

(14) Hearings before the division shall be simple, informal proceedings. The rules of evidence for civil cases in the state of Missouri shall apply. Prior to hearing, the parties shall stipulate uncontested facts and present evidence only on contested issues.

(A) The administrative law judge shall have the power to exclude witnesses from the hearing room or close a hearing in the interest of a fair and impartial hearing.

(B) When the final award is rendered by the administrative law judge, the division will retain all exhibits offered or placed in evidence for three (3) months, except as required for review of the decision pursuant to section (16) of this rule. The parties shall be notified at the time of the award. After that time, or three (3) months after final review, exhibits not claimed by the parties and that are otherwise preserved by the division will be destroyed. This provision shall not apply to cases in which permanent total, future medical, or dependent death benefits are awarded.

(C) On the request of any party and on order of the administrative law judge, a brief may be submitted, which must be filed within the time set by the administrative law judge, which in no event shall be later than thirty (30) days after the submission of the case. The parties shall have equal time to prepare briefs, unless otherwise agreed by the judge and the parties.

(D) Within sixty (60) days after the submission of the case or the filing of briefs, whichever is later, the administrative law judge shall issue the award, together with a statement of findings of fact, but in no event longer than ninety (90) days from the last date of the hearing rulings of law and any other matters pertinent to the questions at issue. Signed copies of the award shall be sent to all parties by certified mail.

(15) If the services of an attorney are found to be necessary in proceedings for compensation, the administrative law judge shall set a reasonable fee considering relevant factors which may include, but are not limited to, the

nature, character and amount of services rendered, the amount in dispute, and the complexity of the case and may allow a lien on the compensation due to the claimant.

(16) A request for review of an award must be postmarked within twenty (20) days of the date of the award. The form of application for review and filing for review and practice before the Labor and Industrial Relations Commission is governed by the provisions of 8 CSR 20-3.030.

(17) When request for a lump sum payment is made on behalf of a minor, commutation of compensation will not be ordered until there is filed with the division a certified copy of the order of the probate division of the circuit court for the county where the dependent resides, naming a legal guardian or conservator of the minor dependent, unless payment can be made to the parent or other person as natural guardian or conservator of the dependent.

(18) Statutory prerequisites for approval of a compromise settlement are set forth in sections 287.390 and 287.616, RSMo.

(A) The compromise settlement agreement shall set forth the workers' compensation issues compromised, the total amount of medical costs incurred and previously paid, the total amount of medical costs paid under the agreement, the total amount of temporary benefits previously paid, the total amount of temporary benefits paid under the agreement, the total amount of any permanency benefits previously paid, the total amount of permanency benefits paid under the agreement, the total amount of all benefits paid under the agreement, the total amount or the percentage of the employee's attorney's fees and expenses, and the total compensation paid in the case. A provision which prorates the amount of settlement over the life expectancy of the injured employee may be included.

(B) Before a compromise settlement will be approved, the employee must appear before the division and be advised of his or her rights under Chapter 287, RSMo, except as provided in subsection (D) of this section.

(C) A compromise settlement will be approved pursuant to sections 287.390 and 287.616, RSMo, unless in the opinion of the administrative law judge or legal advisor the settlement is not in accordance with the rights of the parties.

(D) If the employee does not live in the state of Missouri, has been inducted into the



armed forces of the United States, has previously appeared before the division and been advised of his or her rights under Chapter 287, RSMo, is represented by an attorney, or shows other extenuating circumstances, the compromise settlement may be submitted without the appearance of the employee or dependent. Upon agreement of the parties, the conference may be held by telephone. A representative of the employer/insurer is responsible for scheduling a telephone conference subject to the availability of an administrative law judge or legal advisor. Where the employee is not represented by counsel and does not appear at the time of approval of settlement, his or her signature shall be acknowledged by a notary public. Any compromise settlement submitted pursuant to this subsection shall be approved according to the provision of this section of the rule and sections 287.390 and 287.616, RSMo.

(E) The employer/insurer shall submit any required forms that have not previously been submitted with the compromise settlement before the close of the case.

(19) As the basis for arriving at the amount of compensation due for loss of teeth and resultant disfigurement provided for in section 287.190, RSMo, 8 CSR 50-5.010 Compensation for Loss of Teeth shall be used.

(20) As the basis for arriving at the amount of compensation due for visual loss provided for in section 287.190, RSMo, 8 CSR 50-5.020 Evaluation of Visual Disabilities shall be used.

(21) As the basis for arriving at the amount of compensation due for hearing impairment provided for in sections 287.190 and 287.197, RSMo, 8 CSR 50-5.060 Evaluation of Hearing Loss shall be used.

(22) As the basis for arriving at commutation amounts authorized by section 287.530.1, RSMo, 8 CSR 50-5.030 Present Worth Table shall be used for permanent partial and death benefits payable to those employees or dependents, except where death benefits are payable only to the surviving spouse.

(23) As the basis for arriving at commutation amounts authorized by section 287.530.1, 8 CSR 50-5.030 Present Value Table for Widows, which contains remarriage and widow-death experience factors, shall be used in cases of death benefits payable only to the surviving spouse.

*AUTHORITY: section 287.650, RSMo Supp. 1997.\* Original rule filed Dec. 23, 1953, effective Jan. 3, 1954. Amended: Filed Jan. 15, 1960, effective Jan. 26, 1960. Amended: Filed Sept. 4, 1963, effective Sept. 15, 1963. Amended: Filed Aug. 26, 1975, effective Sept. 5, 1975. Amended: Filed Jan. 26, 1977, effective June 11, 1977. Amended: Filed Dec. 14, 1977, effective April 13, 1978. Emergency amendment filed Jan. 16, 1996, effective Jan. 26, 1996, expired July 23, 1996. Amended: Filed Feb. 15, 1996, effective Aug. 30, 1996. Rescinded and readopted: Filed May 29, 1998, effective Feb. 28, 1999.*

*\*Original authority: 287.650, RSMo 1939, amended 1949, 1961, 1980, 1993, 1995.*

*State ex rel River Cement Co. v. Pepple 585 SW2d 122 (Mo. App. 1979). In workers' compensation case, the right to inspect inheres in the powers authorized by section 287.560, RSMo, since without this right claimant's ability to prove his/her case would be greatly diminished.*

*Hendricks v. Motor Freight Corp. 570 SW2d 702 (Mo. App. 1978). Injured truck driver filed a claim for compensation incorrectly giving the date of accident as June 12, 1972. Since appellant's employer and insurer failed to file an answer to the claim in the time permitted under 8 CSR 50-2.010(13), the fact of the accident was taken as admitted.*

*Liechty v. Kansas City Bridge Company 155 SW2d 297, affirmed 162 SW2d 275 (1942). The Missouri Workers' Compensation Commission is a ministerial and administrative body, with incidental quasi-judicial powers, exercised by the consent of those elected to be governed by the act, and is not vested with powers or duties in violation of constitutional limitations. The commission cannot usurp judicial functions contrary to the constitutional inhibition; however it has those powers which are incidental and necessary to the proper discharge of its duties in administering the Workers' Compensation Act.*

#### **8 CSR 50-2.020 Administration**

*PURPOSE: This rule sets forth the requirements for administrative functions of the division, including acceptance and withdrawal from Chapter 287, RSMo, filing of documents, storage of documents, requests for documents, and maintenance of division records.*

(1) Any employer exempted by section 287.090, RSMo, or any employer who is not covered by the provisions of Chapter 287, RSMo, because of section 287.030, RSMo, who desires to operate under the provisions of Chapter 287, RSMo, may do so by purchasing a valid workers' compensation insurance policy with an insurance carrier that is authorized to insure workers' compensation liabilities in the state of Missouri through the Missouri Department of Insurance. The insurance carrier must file proof of workers' compensation insurance coverage with the division or its designee.

(A) An employer who has elected to be covered under the provisions of Chapter 287, RSMo, may elect to withdraw that election by filing with the division, or its designee, on a form prescribed by the division.

(B) The division verifies proof of workers' compensation insurance coverage including non-renewals and cancellations through the National Council of Compensation Insurance (NCCI) which is the designated "advisory organization" pursuant to section 287.930, RSMo, et seq.

(C) Employers that meet the statutory exception for two (2) owner corporations set out in section 287.090.5, RSMo, may elect to withdraw from coverage under Chapter 287, RSMo, by filing an election to withdraw with the division, or its designee, on a form prescribed by the division.

(D) Upon request an exception from the provisions of the workers' compensation law may apply with respect to certain employees who are members of a recognized religious sect or division as defined in 26 U.S.C. 1402(g), by reason of which they are conscientiously opposed to accepting public or private insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical bills, including the benefits of any insurance system established under the Federal Social Security Act, 42 U.S.C. 301 to 42 U.S.C. 1397jj.

1. Any applicant requesting an exception as indicated in subsection (D) above, must simultaneously file with the division at PO Box 58, Jefferson City, MO 65102, the following forms:

A. Section 287.804 Application for Religious Exception from the provisions of the Missouri Workers' Compensation Law;

B. Employee's Affidavit and Waiver of Workers' Compensation Benefits; and

C. Employer's Affidavit of Exception from Workers' Compensation Benefits.



2. If the division grants the religious exception, the employee waives his/her rights to any benefits under the workers' compensation law.

3. An exception shall be valid until such employee rescinds the election to reject benefits under the law or the religious sect or division of which the employee is a member ceases to meet the requirements of section 287.804.1, RSMo.

(2) Any forms filed with the division under any statutory provision or rule that do not meet division standards for filing based on completeness or legibility for imaging will be returned.

(3) Transcripts for cases on appeal and other division duties performed by court reporters shall have priority over requests for transcripts in cases not on appeal. All requests must be sent in writing to the division's Jefferson City office. Requests for transcripts not on appeal will be prepared by the court reporter that recorded the hearing after all other duties are performed. Requests for parts of transcripts already prepared will not be accepted and in such cases the entire transcript must be purchased.

(4) All requests for copies of documents or other records must be in writing. The following standards will be used to determine if documents can be produced.

(A) The Claim for Compensation, Answer to Claim for Compensation, Compromise Settlement, Award and Minute Sheet forms may only be obtained by written request. These documents are considered open records.

(B) The Report of Injury and subsequent medical reports are considered closed records pursuant to section 287.380.3, RSMo. To obtain closed records the requesting person must be a party to the workers' compensation case or an attorney who has filed an entry of appearance representing a party. The requesting person may receive copies of records of prior cases in which the requesting person was also a party to the prior case.

(C) Written requests must state the requesting party's relationship to the case as employee, employer, insurer, or attorney for the employee, employer/insurer or the Second Injury Fund. The request must state specifically which documents are being requested. The following information must be provided when available:

- 1. Employee's name;
2. Employee's Social Security number;

3. Missouri Division of Workers' Compensation injury number;

4. Date of injury; and

5. Employer's name.

(D) Other documents and information may be obtained by a written request. Each request will be evaluated to determine if any requested documents or information are confidential.

(E) Documents and other records as legally required will be provided in response to a Subpoena Duces Tecum or Release of Information form signed by the employee. The Release of Information form signed by the employee must be directed specifically to the Missouri Division of Workers' Compensation and specifically state which records the employee would like the division to release.

(F) The division will charge for copies of documents and any specific or general statistical information and certification of documents according to section 287.660, RSMo, or Chapter 610, RSMo, if applicable.

(5) The following documents can be submitted for electronic storage: any form required by the division; medical reports that are relevant to the case; and correspondence and notices relevant to the case. Depositions and medical records that the parties intend to introduce at a hearing or use at a mediation conference cannot be submitted for electronic storage. The depositions and medical records and any document submitted as an exhibit at a hearing will be included in the paper file and will not be electronically stored.

(A) Division forms must be submitted as an original document in the most current version. If a claim or answer to a claim is filed on an outdated form the division will process the claim or answer, but may request the filing party to submit the form in the most current version. The division reserves the right to reject forms that are not currently approved forms and/or do not reflect the division's official seal. The division may accept certain documents or correspondence other than division-approved forms by facsimiles for electronic storage based upon the criteria set forth herein. The facsimile must be clear, legible, easy to read and be capable of being electronically stored.

(B) Any required division form for which any party creates a computer-generated form must be approved by the division before such documents may be used or filed. A minimum font size of ten (10) points in required for any computer-generated form.

(C) The division accepts the Report of Injury submitted in an approved format by electronic filing. Any party who desires to file any reports or forms or information electronically must receive approval from the division and must comply with all division standards for the electronic filing of information. To obtain approval for electronic filing, a party must contact the division and meet all current standards.

(D) Any document stored electronically by the division shall be considered an original document and when reproduced in paper form shall be acceptable for all legal purposes. Documents submitted on or after January 1, 1994, for injuries occurring after that date, will be processed and stored electronically.

(E) The division shall have the discretion after five (5) years to destroy Reports of Injuries filed in which no compensation, exclusive of medical costs, was due or paid, together with the papers attendant to the filing of such reports. The division shall have the discretion after ten (10) years from the date of the termination of compensation to destroy records in compensable cases.

(6) The division-approved forms as referenced in these rules may be obtained from the website address http://www.dolir.mo.gov/wc/forms/forms.htm or by contacting the division at (573) 751-4231, or by submitting a written request to the division's Jefferson City office at PO Box 58, Jefferson City, MO 65102.

AUTHORITY: section 287.650, RSMo 2000.\* Original rule filed Dec. 23, 1953, effective Jan. 3, 1954. Amended: Filed Jan. 15, 1960, effective Jan. 26, 1960. Amended: Filed Sept. 4, 1963, effective Sept. 15, 1963. Amended: Filed Aug. 26, 1975, effective Sept. 5, 1975. Rescinded and readopted: Filed May 29, 1998, effective Feb. 28, 1999. Emergency amendment filed Dec. 12, 2005, effective Dec. 22, 2005, expired June 19, 2006. Amended: Filed Nov. 22, 2005, effective June 30, 2006.

\*Original authority: 287.650, RSMo 1939, amended 1949, 1961, 1980, 1993, 1995, 1998.

8 CSR 50-2.030 Resolution of Medical Fee Disputes

PURPOSE: This rule sets forth the Division of Workers' Compensation administrative procedures available to employers, insurance carriers and health care providers to resolve



*disputes concerning charges for health care services, in accordance with section 287.140, RSMo.*

(1) Procedures Pertaining to Applications for Payment of Additional Reimbursement of Medical Fees (Reasonableness Disputes).

(A) If an employer or insurer disputes the reasonableness of a medical fee or charge, the employer or insurer shall notify the health care provider in writing that the medical charge is being disputed and shall explain the basis for the dispute. The employer or insurer may tender partial payment and the health care provider may accept payment of the amount tendered without prejudice to the filing of an application for payment of additional reimbursement of medical fees. Upon receiving the written notice of the dispute, the health care provider may contact the insurer or employer to attempt to resolve the dispute.

(B) In order to initiate a reasonableness dispute case, the health care provider must first submit a Request for Case Status Information on a division-approved form to the division prior to the filing of an application for payment of additional reimbursement of medical fees. The health care provider shall file with the division an original application for payment of additional reimbursement of medical fees. The application shall contain all the following information:

1. The name, address, and telephone number of the health care provider;
2. Name, address, and telephone number of the employer and insurer against whom the application is being filed;
3. Name, address, and Social Security number of the employee for whom health care services were rendered, together with the date of injury and date the services were provided, for all disputes;
4. The amount in dispute;
5. The date the first notice of the dispute of the medical charge was received by the health care provider. Per section 287.140.4(2), RSMo, such notice shall be presumed to occur no later than five (5) business days after transmission by certified United States mail; and
6. Any additional information the division deems necessary to resolve the dispute.

(C) The health care provider shall serve through personal service or by certified mail, return receipt requested, a copy of the application on the person or corporation against whom the application has been filed. The health care provider shall file proof of service with the division. The division shall send by first-class mail a copy of the application to

the employee, employer, insurer, or third-party administrator or their attorneys of record as the case may be.

(D) The application shall be filed on a form prescribed by the division and shall contain the required information. If the application does not include all the information required by this rule or proof of service is not filed with the division, the application will be rejected and will be returned for the additional information.

(E) If no report of injury or claim for compensation has been filed with the division for the injury for which the health care was provided the application may be returned for lack of jurisdiction.

(F) Upon receipt of the application, the division will assign a medical fee dispute number and confirm acceptance or rejection of the application to the health care provider.

(G) After the filing of an application for payment of additional reimbursement of medical fees, the parties may attempt to resolve their dispute without the assistance of the division.

(H) If the total amount of the additional reimbursement sought is one thousand dollars (\$1,000) or less, and the parties are unable to resolve their dispute, either party may file a written request for administrative ruling which request initiates the administrative ruling procedure. All parties shall participate in the administrative ruling procedure.

1. Within ten (10) days of the receipt of the request for administrative ruling, the division director shall assign the matter to the dispute management unit for an informal summary review. The dispute management unit may require the health care provider to provide information in support of its application for payment of additional reimbursement of medical fees, such information to include, but is by no means limited to, the following:

- A. Complete certified copies of itemized billing statements;
- B. Complete certified copies of medical records corresponding to the itemized billing statements;
- C. Affidavit from the health care provider or from health care provider's counsel stating the basis for health care provider's belief that all the medical charges are fair and reasonable and are not greater than the usual and customary fee as provided in section 287.140.3, RSMo;
- D. Copy of any contracts or agreements between health care provider and employer or insurer.

2. The dispute management unit may require the employer and/or insurer to pro-

vide information in defense of the application for payment of additional reimbursement of medical fees, such information to include, but is by no means limited to, an affidavit from the employer or insurer, or counsel, stating the basis for employer/insurer's belief that the medical charges are not fair or reasonable, or that the medical charges are greater than the usual and customary fee as provided in section 287.140.3, RSMo.

3. No discovery shall be allowed.

4. Within ten (10) days of completion of its informal summary review, the dispute management unit shall make a recommendation to the division director. Within ten (10) days of the receipt of the dispute management unit's recommendation, the division director shall issue an administrative ruling in the case awarding additional reimbursement to the health care provider in an amount certain or denying additional reimbursement in full.

5. The division shall, immediately upon issuance of the administrative ruling, send a copy thereof by first-class mail to counsel for all parties and to any party not represented by counsel. In the event any party is aggrieved by the director's administrative ruling, that party must file with the division's Jefferson City office a request for evidentiary hearing within thirty (30) days of the date of the administrative ruling, using the division-approved form. In the event no request for evidentiary hearing is filed within thirty (30) days of the date of the administrative ruling, the administrative ruling shall become the final and conclusive determination in the case.

6. Upon timely filing of the request for evidentiary hearing, the division shall assign the case to the local adjudication office of proper venue for evidentiary hearing. The requesting party may withdraw its request for evidentiary hearing, with prejudice, at any time after the filing of the request and prior to the conclusion of the evidentiary hearing. The withdrawal of the request for evidentiary hearing must be in writing and must be signed by the party or counsel. The request for evidentiary hearing may not be withdrawn without prejudice. Upon withdrawal of the request for evidentiary hearing, the administrative ruling shall become the final and conclusive determination in the case.

7. The evidentiary hearing shall be a simple informal proceeding, and shall be held by an administrative law judge at a place and time to be set by the division. The rules of evidence in civil cases shall apply, except that the administrative law judge may consider the information already obtained from the parties



by the dispute management unit. A record shall be made of the evidentiary hearing in the same manner as all other evidentiary hearings, as set forth in section 287.460.1, RSMo. No discovery shall be allowed unless specifically ordered in writing by the administrative law judge assigned to the case, and only upon the showing of extraordinary circumstances.

8. Within thirty (30) days of the last day of the hearing, the administrative law judge shall issue an award either awarding additional reimbursement to the health care provider in an amount certain or denying additional reimbursement in full. Either party may file an application for review with the Labor and Industrial Relations Commission within twenty (20) days from the date of the award of the administrative law judge. This review shall be subject to review and appeal in the same manner as provided for other awards in Chapter 287, RSMo.

9. If the employer or insurer fails to comply with the director's administrative ruling, the health care provider may file a complaint with the division's fraud and noncompliance unit pursuant to section 287.128, RSMo.

(I) If the total amount of the additional reimbursement sought is more than one thousand dollars (\$1,000), and the parties are unable to resolve their dispute, the health care provider may file a written application for an evidentiary hearing of the medical fee dispute. The health care provider shall forward a copy of the application for an evidentiary hearing to all parties. The employer or insurer shall file an answer to the application for an evidentiary hearing on a division-approved form. The answer shall be filed within thirty (30) days from the date of the application. The division may extend the thirty- (30-) day time period for good cause. If the employer or insurer fails to file a timely answer the facts contained in the application are deemed admitted as true, but conclusions of law are not deemed admitted. An evidentiary hearing shall be scheduled in front of an administrative law judge.

(J) Parties may engage in discovery to the extent authorized by Chapter 287, RSMo.

(K) The evidentiary hearing shall be held at a place and time to be set by the division. The division shall notify all parties as to the time and place of the hearing. An administrative law judge may continue the hearing for good cause. The hearing shall be simple and informal and all parties shall be entitled to be heard and to introduce evidence, however, the rules of evidence in civil proceedings shall

apply. The administrative law judge conducting the hearing shall issue an award deciding the issues in dispute within thirty (30) days of the last day of the hearing.

(L) Either party may file an application for review with the Labor and Industrial Relations Commission within twenty (20) days from the date of the award of the administrative law judge. This review shall be subject to review and appeal in the same manner as provided for other awards in Chapter 287, RSMo.

(M) The parties shall notify the division in writing of the date and amount of any settlement of the application for payment of additional reimbursement of medical fees.

(N) The division, without a hearing, may reject an application for payment of additional reimbursements of medical fees without prejudice for failure to follow the procedures of this rule.

(O) Any settlement of a reasonableness dispute or award entered on the application for reimbursement of additional medical fees shall prohibit the health care provider from pursuing any additional fees for work-related medical treatment from the employee for the health care services that were the subject of the application.

(P) Requesting and Issuing Awards on Undisputed Facts.

1. An application for payment of additional reimbursement of medical fees may be denied in full by an administrative law judge without an evidentiary hearing by issuing an award on undisputed facts in accordance with the following procedures. The employer or insurer may file a request for an award on undisputed facts in regard to the application for payment of additional reimbursement of medical fees on the ground that same was not filed within the limitation period set forth in section 287.140.4, RSMo, or on the ground that the charges have been paid in full, or on any ground which would fully negate any liability for further payment, and upon which ground the facts are not in dispute. The request for an award on undisputed facts shall be filed on the approved division form. The request for an award on undisputed facts shall state with particularity each material fact as to which the employer or insurer claims there is no genuine issue, with specific references to the contents of the application for payment of additional reimbursement of medical fees, deposition testimony, affidavits, and documents that demonstrate the lack of a genuine issue as to such facts. Each request for an award on undisputed facts shall have attached thereto the affidavits, portions of deposition

transcripts, and other documents relied upon in the request.

2. Within thirty (30) days after a request for an award on undisputed facts is filed with the division, the health care provider shall file its response thereto. The response shall admit or deny each of the factual statements contained in the request. A denial may not rest upon mere allegations or general denials. Rather, the response shall support each denial with specific references to the depositions, documents, or affidavits that demonstrate specific facts showing that there is a genuine issue to be decided at an evidentiary hearing. Attached to the response shall be a copy of the affidavits, deposition transcripts (or portions thereof), and other documents upon which the response relies. The response may also set forth, in detail, additional material facts that remain in dispute.

3. Upon timely filing of the response, the administrative law judge assigned to the case shall proceed to ruling on the request for an award on undisputed facts. If no response is filed within the thirty (30) days allotted, unless extended by written order of an administrative law judge, the facts as set forth in the request for an award on undisputed facts shall be deemed as true, and the administrative law judge assigned to the case shall rule on the request for an award on undisputed facts. If the request for an award on undisputed facts and response show that there is no genuine issue as to any material fact and that the application for payment of additional reimbursement of medical fees should be denied in full, the administrative law judge shall issue an award on undisputed facts denying the application for payment of additional reimbursement of medical fees in full. Such award shall be a final reviewable award in the case as to the application for payment of additional reimbursement of medical fees.

4. The health care provider may file an application for review with the Labor and Industrial Relations Commission within twenty (20) days from the date of the award of the administrative law judge. This review shall be subject to review and appeal in the same manner as provided for other awards in Chapter 287, RSMo.

5. If the request for an award on undisputed facts and response show that there is a genuine issue as to any material facts, the administrative law judge shall issue an order denying the request for an award on undisputed facts. An order denying the request for an award on undisputed facts is not a final award as to any issue, and is not subject to review or appeal.



(2) Procedures Pertaining to Applications for Direct Payments (Direct Pay Disputes).

(A) If an employer or insurer fails to make payment for authorized services provided to an employee by a health care provider due to a work-related injury that is covered under the Missouri Workers' Compensation Law, the health care provider may file an application for direct payment with the division.

(B) The application for direct payment shall contain the following information:

1. The name, address, and telephone number of the health care provider and, if different, the address where the service was rendered;

2. Name, address, and telephone number of the employer and insurer against whom the application is being filed;

3. Name, address, and Social Security number of the employee for whom health care services were rendered, together with the date of injury, for all disputes;

4. A brief description of the disputed services rendered; the date services were provided; the amount of money claimed to be owed; and the name and title of the person from the insurer or employer giving authorization;

5. Any information the division deems necessary.

(C) The health care provider shall serve the employer or insurer through personal service or by certified mail, return receipt requested, a copy of the application on the person or corporation against whom the application has been filed. The health care provider shall file proof of service in accordance with section (4) of this rule with the division. The division shall send by first-class mail a copy of the application to the employee, employer, insurer or third-party administrator or their attorneys of record as the case may be.

(D) The application shall be filed on a form prescribed by the division and shall contain the required information. If the application does not include all the information required by subsection (B) of this section or proof of service is not filed with the division, the application will be returned for the additional information.

(E) The division, without a hearing, may reject an application for direct payment without prejudice if the application does not pertain to a dispute relating to services that were authorized in advance by the employer or insurer for a compensable injury or for failure to follow the procedures of this rule.

(F) If there is no report of injury or claim for compensation filed with the division for the work-related injury for which the health

care services were provided, the application will be returned for lack of jurisdiction of the division.

(G) Upon filing of the application, the division shall cause the application for direct payment to be made part of the underlying workers' compensation case and shall notify the health care provider of all proceedings relating to the underlying workers' compensation case. The division shall notify all parties to the case that the application has been made part of the underlying workers' compensation case. The health care provider shall be granted standing to appear as a party in the underlying workers' compensation case for the limited purpose of establishing that the health care provider is entitled to payment for services rendered. The health care provider shall have all rights accorded a party under Chapter 287, RSMo, as to this limited issue.

(H) The health care provider is barred from pursuing the employee for any work-related costs incurred in pursuing the medical fee dispute and any reduction in payment of a medical charge. This rule is not intended to prohibit the provider from pursuing the responsible party for payment of fees for medical treatment that is found by award or settlement not to be compensable.

(I) Requesting and Issuing Awards on Undisputed Facts.

1. An application for direct payment may be denied in full by an administrative law judge without an evidentiary hearing by issuing an award on undisputed facts in accordance with the following procedures. The employer or insurer may file a request for an award on undisputed facts in regard to the application for direct payment on the sole ground that the health care services for which direct payment is being sought were not authorized by employer or insurer. The request for an award on undisputed facts shall be filed on the approved division form. The request for an award on undisputed facts shall state with particularity each material fact as to which the employer or insurer claims there is no genuine issue, with specific references to the contents of the application for direct payment, deposition testimony, affidavits, and documents that demonstrate the lack of a genuine issue as to such facts. Each request for an award on undisputed facts shall have attached thereto the affidavits, portions of deposition transcripts, and other documents relied upon in the request.

2. Within thirty (30) days after a request for an award on undisputed facts is filed with the division, the health care provider shall file its response thereto. The response shall admit

or deny each of the factual statements contained in the request. A denial may not rest upon mere allegations or general denials. Rather, the response shall support each denial with specific references to the depositions, documents, or affidavits that demonstrate specific facts showing that there is a genuine issue to be decided at an evidentiary hearing. Attached to the response shall be a copy of the affidavits, deposition transcripts (or portions thereof), and other documents upon which the response relies. The response may also set forth, in detail, additional material facts that remain in dispute.

3. Upon timely filing of the response, the administrative law judge assigned to the case shall proceed to ruling on the request for an award on undisputed facts. If no response is filed within the thirty (30) days allotted, unless extended by written order of an administrative law judge, the facts as set forth in the request for an award on undisputed facts shall be deemed as true, and the administrative law judge assigned to the case shall rule on the request for an award on undisputed facts. If the request for an award on undisputed facts and response show that there is no genuine issue as to any material fact and that the application for direct payment should be denied in full, the administrative law judge shall enter an award on undisputed facts denying the application for direct payment in full. Such award shall be a final reviewable award in the case as to the application for direct payment.

4. The health care provider may file an application for review with the Labor and Industrial Relations Commission within twenty (20) days from the date of the award of the administrative law judge. This review shall be subject to review and appeal in the same manner as provided for other awards in Chapter 287, RSMo.

5. If the request for an award on undisputed facts and response show that there is a genuine issue as to any material fact, the administrative law judge shall issue an order denying the request for an award on undisputed facts. An order denying the request for an award on undisputed facts is not a final award as to any issue, and is not subject to review or appeal.

(3) In any dispute between a health care provider and a managed care organization regarding medical care services or payment of such services, the decision of the managed care organization is subject to review by the division according to section 287.135.5, RSMo.





(4) Except as otherwise provided in this rule, each party filing any document with the division shall mail or deliver to the opposing party a true and accurate copy of the document filed with the division and shall certify or state on the document being filed that such mailing or delivery has occurred.

(5) Requesting Records, Confidentiality and Storage.

(A) The Report of Injury and subsequent medical reports are considered closed records pursuant to section 287.380.3, RSMo. Section 610.021(14), RSMo authorizes the division to close the records which are protected from disclosure by law.

(B) If a person submits records to the division and wishes to claim that the record is closed or confidential, the division will maintain the record as closed, except that information that is closed pursuant to section 287.380.3, RSMo will be provided to a requesting person who is party to the workers' compensation case or an attorney who has filed an entry of appearance representing a party to the workers' compensation case or to a party in a reasonableness case. In order to claim the record as closed or confidential, the person submitting the record must state in bold or other clearly distinguishable type on the face of the record or in the face of the cover letter accompanying the record, that the record is closed or confidential and the reason the record is asserted to be closed or confidential.

(C) The requesting person may obtain records from the division by submitting a request in writing to the division's Jefferson City office at PO Box 58, Jefferson City, MO 65102. The requesting person must state their relationship to the case as set forth in 8 CSR 50-2.020(4)(C). Records as legally required will be provided in response to a subpoena duces tecum or Release of Information form duly signed by the person giving the division authorization to release the records.

(D) The division will charge for copies of documents and certification of documents according to section 287.660, RSMo, or Chapter 610, RSMo, if applicable.

(E) The division reserves the right to store the documentation submitted in a medical fee dispute proceeding either electronically or in a paper file.

(6) The division-approved forms as referenced in these rules may be obtained from the website [http://www.labor.mo.gov/div\\_pubs\\_forms.asp](http://www.labor.mo.gov/div_pubs_forms.asp) or by contacting the division at (573) 522-

2546, or by submitting a written request to the division's Jefferson City office at PO Box 58, Jefferson City, MO 65102.

*AUTHORITY: sections 287.140.4 and 287.650, RSMo Supp. 2013.\* Emergency rule filed Feb. 3, 1993, effective Feb. 19, 1993, expired June 18, 1993. Emergency rule filed June 29, 1993, effective July 9, 1993, expired Nov. 5, 1993. Emergency rule filed Nov. 16, 1993, effective Nov. 26, 1993, expired March 25, 1994. Emergency rule filed June 28, 1994, effective July 8, 1994, expired Nov. 4, 1994. Emergency rule filed Oct. 20, 1994, effective Nov. 5, 1994, expired March 4, 1995. Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 24, 1996. Rescinded and re-adopted: Filed Jan. 21, 2000, effective Sept. 30, 2000. Emergency amendment filed Aug. 15, 2006, effective Sept. 1, 2006, expired Feb. 27, 2007. Amended: Filed Aug. 15, 2006, effective Feb. 28, 2007. Amended: Filed Nov. 12, 2013, effective May 30, 2014.*

*\*Original authority: 287.140, RSMo 1939, amended 1951, 1957, 1959, 1965, 1977, 1980, 1983, 1988, 1990, 1992, 1993, 1998, 2005 and 287.650, RSMo 1939, amended 1949, 1961, 1980, 1993, 1995, 1998.*

#### **8 CSR 50-2.040 Notice and Acknowledgment of Right to Workers' Compensation Benefits**

(Rescinded July 30, 1999)

*AUTHORITY: section 287.650, RSMo Supp. 1993. Emergency rule filed Sept. 15, 1993, effective Sept. 25, 1993, expired Jan. 13, 1994. Emergency rule filed Jan. 12, 1994, effective Jan. 22, 1994, expired May 21, 1994. Original rule filed Jan. 31, 1994, effective July 30, 1994. Rescinded: Filed Jan. 22, 1999, effective July 30, 1999.*

#### **8 CSR 50-2.050 Mediation Services**

*PURPOSE: This rule sets forth the administrative procedures for initiating mediation services whereby parties are afforded an opportunity to resolve disputes prior to proceeding to the hearing process.*

(1) As the division deems appropriate, or upon application filed by either party, mediation services will be provided by a representative of the division for the purposes of ascertaining the issues, identifying the areas

of dispute and attempting to facilitate a resolution of the dispute.

(2) The written request for mediation services should include the injury number assigned to the case, the names of each party to the dispute, if known, and an explanation of the dispute.

(3) Mediation services shall be informal and may be used at any time prior to commencement of an evidentiary hearing. The individual conducting the mediation proceeding may note in the case file that an attempt at mediation was unsuccessful and may also note the areas of dispute. However, no notation shall be made in the case file with respect to any settlement offer that may have been proposed which was not accepted, except to list any disputed issues that were not resolved.

(4) In the event the person conducting the mediation service also has authority to preside over an evidentiary hearing should mediation prove unsuccessful, that person shall be disqualified from conducting an evidentiary hearing relating to that particular case without limiting the rights conferred by section 287.810, RSMo, unless the parties to the case agree to permit that person to conduct an evidentiary hearing.

*AUTHORITY: section 287.650, RSMo 1994.\* Emergency rule filed March 7, 1994, effective March 17, 1994, expired July 14, 1994. Emergency rule filed July 18, 1994, effective July 28, 1994, expired Nov. 24, 1994. Emergency rule filed Oct. 28, 1994, effective Nov. 25, 1994, expired March 24, 1995. Emergency rule filed March 13, 1995, effective March 25, 1995, expired July 22, 1995. Original rule filed Oct. 28, 1994, effective May 28, 1995.*

*\*Original authority: 287.650, RSMo 1939, amended 1949, 1961, 1980, 1993.*

#### **8 CSR 50-2.060 Performance Standards for Administrative Law Judges**

*PURPOSE: This rule establishes the performance standards for administrative law judges to be used in performance audits as mandated by section 287.610, RSMo.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in*



*this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(1) The director of the Division of Workers' Compensation shall perform an annual evaluation of all the chief administrative law judges. The chief administrative law judge of each local office shall perform an annual evaluation of all administrative law judges in the local office based on the standards adopted by the Administrative Law Judge Review Committee and set forth in this rule. The annual evaluations will be presented to the Administrative Law Judge Review Committee who will conduct a performance audit.

(2) The administrative law judges will be evaluated in the following areas and held to the standards set forth herein.

(A) Managing for Performance.

1. In section 287.203, RSMo hearings a decision is issued within thirty (30) days of the date of the hearing.

2. For all other hearings, except medical fee disputes on reasonableness, an administrative law judge shall issue a written award within ninety (90) days of the last day of the hearing. The hearing shall be concluded within thirty (30) days of the commencement of the hearing, except in extraordinary circumstances where a lengthy trial or complex issues necessitates a longer time than ninety (90) days.

(B) Meeting the Needs of Customers and Shareholders.

1. Ensures timely completion of work where applicable—

A. Decision to approve or deny a request for hearing is made within twenty (20) working days after receipt of a request;

B. Hearings are concluded within thirty (30) days of the commencement of the hearing, except in extraordinary circumstances where a lengthy trial or complex issues necessitates a longer time;

C. Date of hearing assigned for each case will be no more than one hundred twenty (120) days after the date that the request for hearing is approved, unless all parties agree otherwise; and

D. Upon receipt of a request, all cases will be set for conference, prehearing or mediation within one hundred twenty (120) days.

2. Ensures that employees and employ-

ers as well as their representative are treated in a respectful and courteous manner in accordance with the *Code of Judicial Conduct for Missouri Workers' Compensation Administrative Law Judges* and Missouri Supreme Court Rule 2.

3. Establishes and maintains regular office hours which ensure accessibility to customers and shareholders.

4. Makes oneself available to and actively participate in meetings, seminars and/or conferences of employer and employee groups.

(C) Professional Development and Conduct.

1. Ensures ethical standards are maintained and followed, to include adherence to the guidelines outlined in both the Rules of Professional Conduct as well as the *Code of Judicial Conduct for Missouri Workers' Compensation Administrative Law Judges*.

2. Participates in the required fifteen (15) hours of Continuing Legal Education (CLE) courses as outlined and accredited by the Missouri Bar on an annual basis.

3. Attends and participates in required training that enhances education, knowledge and skill.

(D) Strategic Planning and Program Improvement.

1. Implements the division's internal procedures.

2. Participates in the strategic planning process.

3. Participates in internal workgroups to improve effectiveness and efficiency.

4. Available to serve in other locations as needed on a temporary basis.

5. Offers recommendations and suggestions for program improvement.

(3) This rule sets forth all the standards to be used to evaluate administrative law judges. The standards do not address the content of any award or decision issued by the administrative law judge.

(4) The division hereby adopts and incorporates by reference the *Code of Judicial Conduct for Missouri Workers' Compensation Administrative Law Judges*. This Code is published by the Division of Workers' Compensation, 3315 West Truman Blvd., Jefferson City, MO 65109; December 14, 2005 and does not include any later amendments or additions. A copy of the Code will be available at said address to the public for inspection and copying at no more than the actual cost of reproduction.

*AUTHORITY: sections 287.610.2 and*

*287.610.10, RSMo Supp. 2005 and 287.650, RSMo 2000. Emergency rule filed Dec. 21, 1998, effective Jan. 1, 1999, expired June 29, 1999. Original rule filed Dec. 21, 1998, effective June 30, 1999. Rescinded and readopted: Filed April 12, 2006, effective Oct. 30, 2006.*

*\*Original authority: 287.610, RSMo 1939, amended 1945, 1951, 1955, 1957, 1959, 1961, 1977, 1980, 1987, 1992, 1993, 1998, 2001, 2005 and 287.650, RSMo 1939, 1949, 1961, 1980, 1993, 1995, 1998.*