**Section 9030.60 Depositions**

a) Evidence depositions of any witness may be taken before a hearing, by stipulation of the parties. If there is no agreement as to the deposition, the Arbitrator or Commissioner shall hold a hearing and may issue an order, called a dedimus potestatem, pursuant to Section 16 of the Act. In ruling on an Application for Dedimus Potestatem, the Arbitrator or Commissioner shall give consideration to the judgment of the applicant. Evidence depositions of any witness may be taken after the hearing begins only by stipulation of the parties or upon Order of the Arbitrator or Commissioner, for good cause shown. Except as provided in subsection (f), an Application for Dedimus Potestatem shall be in writing and shall contain the following:

1) The reasons for the issuance of the dedimus potestatem, clearly and concisely stated.

2) The date upon which the dedimus should be issued and the name and address of the party to whom the dedimus is to be directed.

3) The names and addresses of the witnesses whose depositions are sought to be taken.

4) A statement as to whether the depositions are to be taken by oral or written interrogatories. The written application shall be made either upon a printed form prescribed and furnished by the Commission or in a similar document prepared by the party applying for the dedimus.

b) The time for taking depositions pursuant to the issuance of the dedimus potestatem shall be on a date set not less than 10 days after the issuance of the dedimus potestatem.

c) Notice and Objection

1) Except as provided in subsection (f), no dedimus potestatem shall be issued unless a copy of the Application, together with all documents required by this Section to be attached to the Application, has been served on the opposing party and proof of service of the copy has been made as provided in 50 Ill. Adm. Code 9020.70.

2) The opposing party may, within 5 days after the receipt of the copy of the Application, file written objections to the issuance of the dedimus potestatem. The Arbitrator or Commissioner shall rule on the objections before the issuance of the dedimus potestatem.

d) Except as provided in subsection (f), notice of the issuance of the dedimus potestatem shall be given in sufficient time so that the receipt of the copy of the dedimus potestatem shall not be less than 10 days before the date set for the taking of the deposition. If the deposition is to be taken by written interrogatories, those interrogatories shall be filed in triplicate with the Application for Dedimus Potestatem and a copy of the interrogatories shall be attached to the copy of the dedimus potestatem mailed to each party. If cross-interrogatories are desired, they shall be filed with the Commission not more than 5 days after the receipt of the written interrogatories, and the party filing them shall mail a copy, within the same period of time, to the applicant for dedimus potestatem.

e) No dedimus potestatem shall be issued to take the depositions of any medical witnesses:

1) when the party applying for the dedimus potestatem has refused or failed to comply with the provisions of Section 12 of the Act; and

2) unless the applying party served the other side with a signed report of the medical witness (other than a treating physician) giving his or her findings and conclusions.

f) Exceptions

1) However, when it is shown that, by complying with the time requirements prescribed in this Section, the party seeking the dedimus may be deprived of the evidence sought to be obtained by the deposition, the Arbitrator or Commissioner to whom a case has been assigned for hearing may, in his or her discretion:

A) on notice and hearing before trial, waive or reduce the requirements; or

B) permit a party to present an oral Application for a dedimus potestatem immediately before or during trial and, after due consideration of the Application and any objections to the Application that may be orally raised by the opposite party, rule upon the Application.

2) When a dedimus potestatem is issued upon oral application, the hearing officer shall allow the parties reasonable time to complete the deposition and submit the transcript of the deposition before closing proofs in the case.

g) When any party takes an evidence deposition, that deposition shall be filed and become part of the record as an exhibit of the party who applied for the dedimus to take the deposition, unless the parties agree otherwise.

h) All objections to questions propounded or answers adduced in the evidence deposition shall be fully explained on the record of the deposition. It shall be the duty of the hearing officer to note his or her ruling on each objection in the margin of the transcript of the deposition or at a hearing on the record.

(Source: Amended at 40 Ill. Reg. 15732, effective November 9, 2016)