



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5178

by Rep. Michael Halpin

SYNOPSIS AS INTRODUCED:

See Index

Amends the Employer's Liability Rates Article of the Illinois Insurance Code. Provides that a premium is excessive if it is likely to produce a long run profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to the services rendered. Provides procedures for the review of premiums by the Director of Insurance at the request of the insured. Amends the Workers' Compensation Act. Provides that accidental injuries sustained while traveling to or from work do not arise out of and in the course of employment. Permits an employer to file with the Illinois Workers' Compensation Commission a workers' compensation safety program or a workers' compensation return to work program implemented by the employer. Provides that (i) injuries to the shoulder shall be considered injuries to part of the arm and (ii) injuries to the hip shall be considered injuries to part of the leg. Contains provisions concerning repetitive and cumulative injuries; permanent partial disability determinations; annual reports by the Commission concerning self-insurance for workers' compensation in Illinois; and duties of the Workers' Compensation Premium Rates Task Force. Makes additional changes to the Workers' Compensation Act. Provides for an evidence-based drug formulary. Requires an annual investigation of procedures covered for ambulatory surgical centers and the establishment of a fee schedule. Changes a waiting period for benefits for certain firefighters, emergency medical technicians, and paramedics. Changes compensation computations for subsequent injuries to the same part of the spine. Effective immediately.

LRB101 13812 TAE 62670 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 462c as follows:

6 (215 ILCS 5/462c new)

7 Sec. 462c. Premiums; review.

8 (a) Premiums shall not be excessive. A premium is excessive
9 if it is likely to produce a profit that is unreasonably high
10 for the insurance provided or if expenses are unreasonably high
11 in relation to the coverage or services rendered.

12 (b) At any time, an insured may file a request for review
13 of a premium with the Director. The request shall be in such
14 form as the Director prescribes and shall specify the grounds
15 on which the premium is excessive.

16 If, within 30 days of any proper request for review under
17 this Section, the Director finds that the premium does not meet
18 the requirements of this Section, he or she shall send to the
19 insurer a written notice of disapproval of premium, specifying
20 therein in what respects he or she finds that the premium fails
21 to meet the requirements of this Section, stating when, within
22 a reasonable period thereafter, the premium shall be deemed no
23 longer effective, and ordering an adjustment of the premium. An

1 insurer whose premium has been disapproved shall be given a
2 hearing upon a written request made within 30 days after the
3 disapproval order. If the insurer requests a hearing, the
4 premium shall be effective until the expiration of a reasonable
5 period specified in any order entered thereon. If, after a
6 hearing, the premium is found to be excessive, the Director
7 shall order an adjustment of the premium. The insurer shall
8 refund to the insured any amount found to be excessive under
9 this Section.

10 If the Director finds that a review is not warranted or a
11 premium is not excessive, he or she shall provide notice of
12 that decision to the insured and the insurer.

13 (c) An insurer shall provide all information requested by
14 the Director as he or she determines necessary to assist in
15 review of premiums under this Section.

16 (215 ILCS 5/460 rep.)

17 Section 10. The Illinois Insurance Code is amended by
18 repealing Section 460.

19 Section 15. The Workers' Compensation Act is amended by
20 changing Sections 1, 8, 8.1b, 8.2, 8.2a, 14, 19, 25.5, and 29.2
21 and by adding Sections 4e, 8.1, and 29.3 as follows:

22 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

23 Sec. 1. This Act may be cited as the Workers' Compensation

1 Act.

2 (a) The term "employer" as used in this Act means:

3 1. The State and each county, city, town, township,
4 incorporated village, school district, body politic, or
5 municipal corporation therein.

6 2. Every person, firm, public or private corporation,
7 including hospitals, public service, eleemosynary, religious
8 or charitable corporations or associations who has any person
9 in service or under any contract for hire, express or implied,
10 oral or written, and who is engaged in any of the enterprises
11 or businesses enumerated in Section 3 of this Act, or who at or
12 prior to the time of the accident to the employee for which
13 compensation under this Act may be claimed, has in the manner
14 provided in this Act elected to become subject to the
15 provisions of this Act, and who has not, prior to such
16 accident, effected a withdrawal of such election in the manner
17 provided in this Act.

18 3. Any one engaging in any business or enterprise referred
19 to in subsections 1 and 2 of Section 3 of this Act who
20 undertakes to do any work enumerated therein, is liable to pay
21 compensation to his own immediate employees in accordance with
22 the provisions of this Act, and in addition thereto if he
23 directly or indirectly engages any contractor whether
24 principal or sub-contractor to do any such work, he is liable
25 to pay compensation to the employees of any such contractor or
26 sub-contractor unless such contractor or sub-contractor has

1 insured, in any company or association authorized under the
2 laws of this State to insure the liability to pay compensation
3 under this Act, or guaranteed his liability to pay such
4 compensation. With respect to any time limitation on the filing
5 of claims provided by this Act, the timely filing of a claim
6 against a contractor or subcontractor, as the case may be,
7 shall be deemed to be a timely filing with respect to all
8 persons upon whom liability is imposed by this paragraph.

9 In the event any such person pays compensation under this
10 subsection he may recover the amount thereof from the
11 contractor or sub-contractor, if any, and in the event the
12 contractor pays compensation under this subsection he may
13 recover the amount thereof from the sub-contractor, if any.

14 This subsection does not apply in any case where the
15 accident occurs elsewhere than on, in or about the immediate
16 premises on which the principal has contracted that the work be
17 done.

18 4. Where an employer operating under and subject to the
19 provisions of this Act loans an employee to another such
20 employer and such loaned employee sustains a compensable
21 accidental injury in the employment of such borrowing employer
22 and where such borrowing employer does not provide or pay the
23 benefits or payments due such injured employee, such loaning
24 employer is liable to provide or pay all benefits or payments
25 due such employee under this Act and as to such employee the
26 liability of such loaning and borrowing employers is joint and

1 several, provided that such loaning employer is in the absence
2 of agreement to the contrary entitled to receive from such
3 borrowing employer full reimbursement for all sums paid or
4 incurred pursuant to this paragraph together with reasonable
5 attorneys' fees and expenses in any hearings before the
6 Illinois Workers' Compensation Commission or in any action to
7 secure such reimbursement. Where any benefit is provided or
8 paid by such loaning employer the employee has the duty of
9 rendering reasonable cooperation in any hearings, trials or
10 proceedings in the case, including such proceedings for
11 reimbursement.

12 Where an employee files an Application for Adjustment of
13 Claim with the Illinois Workers' Compensation Commission
14 alleging that his claim is covered by the provisions of the
15 preceding paragraph, and joining both the alleged loaning and
16 borrowing employers, they and each of them, upon written demand
17 by the employee and within 7 days after receipt of such demand,
18 shall have the duty of filing with the Illinois Workers'
19 Compensation Commission a written admission or denial of the
20 allegation that the claim is covered by the provisions of the
21 preceding paragraph and in default of such filing or if any
22 such denial be ultimately determined not to have been bona fide
23 then the provisions of Paragraph K of Section 19 of this Act
24 shall apply.

25 An employer whose business or enterprise or a substantial
26 part thereof consists of hiring, procuring or furnishing

1 employees to or for other employers operating under and subject
2 to the provisions of this Act for the performance of the work
3 of such other employers and who pays such employees their
4 salary or wages notwithstanding that they are doing the work of
5 such other employers shall be deemed a loaning employer within
6 the meaning and provisions of this Section.

7 (b) The term "employee" as used in this Act means:

8 1. Every person in the service of the State, including
9 members of the General Assembly, members of the Commerce
10 Commission, members of the Illinois Workers' Compensation
11 Commission, and all persons in the service of the University of
12 Illinois, county, including deputy sheriffs and assistant
13 state's attorneys, city, town, township, incorporated village
14 or school district, body politic, or municipal corporation
15 therein, whether by election, under appointment or contract of
16 hire, express or implied, oral or written, including all
17 members of the Illinois National Guard while on active duty in
18 the service of the State, and all probation personnel of the
19 Juvenile Court appointed pursuant to Article VI of the Juvenile
20 Court Act of 1987, and including any official of the State, any
21 county, city, town, township, incorporated village, school
22 district, body politic or municipal corporation therein except
23 any duly appointed member of a police department in any city
24 whose population exceeds 500,000 according to the last Federal
25 or State census, and except any member of a fire insurance
26 patrol maintained by a board of underwriters in this State. A

1 duly appointed member of a fire department in any city, the
2 population of which exceeds 500,000 according to the last
3 federal or State census, is an employee under this Act only
4 with respect to claims brought under paragraph (c) of Section
5 8.

6 One employed by a contractor who has contracted with the
7 State, or a county, city, town, township, incorporated village,
8 school district, body politic or municipal corporation
9 therein, through its representatives, is not considered as an
10 employee of the State, county, city, town, township,
11 incorporated village, school district, body politic or
12 municipal corporation which made the contract.

13 2. Every person in the service of another under any
14 contract of hire, express or implied, oral or written,
15 including persons whose employment is outside of the State of
16 Illinois where the contract of hire is made within the State of
17 Illinois, persons whose employment results in fatal or
18 non-fatal injuries within the State of Illinois where the
19 contract of hire is made outside of the State of Illinois, and
20 persons whose employment is principally localized within the
21 State of Illinois, regardless of the place of the accident or
22 the place where the contract of hire was made, and including
23 aliens, and minors who, for the purpose of this Act are
24 considered the same and have the same power to contract,
25 receive payments and give quittances therefor, as adult
26 employees.

1 3. Every sole proprietor and every partner of a business
2 may elect to be covered by this Act.

3 An employee or his dependents under this Act who shall have
4 a cause of action by reason of any injury, disablement or death
5 arising out of and in the course of his employment may elect to
6 pursue his remedy in the State where injured or disabled, or in
7 the State where the contract of hire is made, or in the State
8 where the employment is principally localized.

9 However, any employer may elect to provide and pay
10 compensation to any employee other than those engaged in the
11 usual course of the trade, business, profession or occupation
12 of the employer by complying with Sections 2 and 4 of this Act.
13 Employees are not included within the provisions of this Act
14 when excluded by the laws of the United States relating to
15 liability of employers to their employees for personal injuries
16 where such laws are held to be exclusive.

17 The term "employee" does not include persons performing
18 services as real estate broker, broker-salesman, or salesman
19 when such persons are paid by commission only.

20 (c) "Commission" means the Industrial Commission created
21 by Section 5 of "The Civil Administrative Code of Illinois",
22 approved March 7, 1917, as amended, or the Illinois Workers'
23 Compensation Commission created by Section 13 of this Act.

24 (d) To obtain compensation under this Act, an employee
25 bears the burden of showing, by a preponderance of the
26 evidence, that he or she has sustained accidental injuries

1 arising out of and in the course of the employment. Except as
2 provided in subsection (e) of this Section, accidental injuries
3 sustained while traveling to or from work do not arise out of
4 and in the course of employment.

5 For the purposes of this subsection (d):

6 "In the course of employment" refers to the time, place,
7 and circumstances surrounding the accidental injuries.

8 "Arising out of the employment" refers to causal
9 connection. It must be shown that the injury had its origin in
10 some risk connected with, or incidental to, the employment so
11 as to create a causal connection between the employment and the
12 accidental injuries. An injury arises out of the employment if,
13 at the time of the occurrence, the employee was performing acts
14 he or she was instructed to perform by his or her employer,
15 acts which he or she had a common law or statutory duty to
16 perform, or acts which the employee might reasonably be
17 expected to perform incident to his or her assigned duties. A
18 risk is incidental to the employment where it belongs to or is
19 connected with what an employee has to do in fulfilling his or
20 her duties.

21 (e) Where an employee is required to travel away from his
22 or her employer's premises in order to perform his or her job,
23 the traveling employee's accidental injuries arise out of his
24 or her employment, and are in the course of his or her
25 employment, when the conduct in which he or she was engaged at
26 the time of the injury is reasonable and when that conduct

1 might have been anticipated or foreseen by the employer.
2 Accidental injuries while traveling do not occur in the course
3 of employment if the accident occurs during a purely personal
4 deviation or personal errand unless such deviation or errand is
5 insubstantial.

6 In determining whether an employee was required to travel
7 away from his or her employer's premises in order to perform
8 his or her job, along with all other relevant factors, the
9 following factors may be considered: whether the employer had
10 knowledge that the employee may be required to travel to
11 perform the job; whether the employer furnished any mode of
12 transportation to or from the employee; whether the employee
13 received, or the employer paid or agreed to pay, any
14 remuneration or reimbursement for costs or expenses of any form
15 of travel; whether the employer in any way directed the course
16 or method of travel; whether the employer in any way assisted
17 the employee in making any travel arrangements; whether the
18 employer furnished lodging or in any way reimbursed the
19 employee for lodging; and whether the employer received any
20 benefit from the employee traveling.

21 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,
22 eff. 7-13-12.)

23 (820 ILCS 305/4e new)

24 Sec. 4e. Safety programs and return to work programs;
25 recalculation of premiums and waiver of self-insurers fee.

1 (a) An employer may file with the Commission a workers'
2 compensation safety program or a workers' compensation return
3 to work program implemented by the employer. The Commission may
4 certify any such safety program as a bona fide safety program
5 after reviewing the program for the following minimum
6 requirements: adequate safety training for employees;
7 establishment of joint employer-employee safety committees;
8 use of safety devices; and consultation with safety
9 organizations. The Commission may certify any such return to
10 work program as a bona fide return to work program after
11 reviewing the program for the following minimum requirements:
12 light duty or restricted duty work; leave of absence policy;
13 and full duty return to work policy. The Commission shall
14 notify the Department of Insurance of the certification.

15 (b) Upon receipt of a certification notice from the
16 Commission under this Section related to an employer that
17 provides workers' compensation through an insurer, the
18 Director of Insurance shall immediately direct in writing the
19 employer's workers' compensation insurer to recalculate the
20 workers' compensation premium rates for the employer so that
21 those premium rates incorporate and take into account the
22 certified program.

23 (c) If any workers' compensation safety program or a
24 workers' compensation return to work program implemented by a
25 self-insured employer is certified under this Section, the
26 annual fee under Section 4d of this Act shall be reduced by 30%

1 for the self-insured employer as long as the workers'
2 compensation safety program or a workers' compensation return
3 to work program continues. The self-insured employer shall
4 certify the continuation of the program by each July 1 after
5 the waiver is obtained.

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

7 Sec. 8. The amount of compensation which shall be paid to
8 the employee for an accidental injury not resulting in death
9 is:

10 (a) The employer shall provide and pay the negotiated rate,
11 if applicable, or the lesser of the health care provider's
12 actual charges or according to a fee schedule, subject to
13 Section 8.2, in effect at the time the service was rendered for
14 all the necessary first aid, medical and surgical services, and
15 all necessary medical, surgical and hospital services
16 thereafter incurred, limited, however, to that which is
17 reasonably required to cure or relieve from the effects of the
18 accidental injury, even if a health care provider sells,
19 transfers, or otherwise assigns an account receivable for
20 procedures, treatments, or services covered under this Act. If
21 the employer does not dispute payment of first aid, medical,
22 surgical, and hospital services, the employer shall make such
23 payment to the provider on behalf of the employee. The employer
24 shall also pay for treatment, instruction and training
25 necessary for the physical, mental and vocational

1 rehabilitation of the employee, including all maintenance
2 costs and expenses incidental thereto. If as a result of the
3 injury the employee is unable to be self-sufficient the
4 employer shall further pay for such maintenance or
5 institutional care as shall be required.

6 The employee may at any time elect to secure his own
7 physician, surgeon and hospital services at the employer's
8 expense, or,

9 Upon agreement between the employer and the employees, or
10 the employees' exclusive representative, and subject to the
11 approval of the Illinois Workers' Compensation Commission, the
12 employer shall maintain a list of physicians, to be known as a
13 Panel of Physicians, who are accessible to the employees. The
14 employer shall post this list in a place or places easily
15 accessible to his employees. The employee shall have the right
16 to make an alternative choice of physician from such Panel if
17 he is not satisfied with the physician first selected. If, due
18 to the nature of the injury or its occurrence away from the
19 employer's place of business, the employee is unable to make a
20 selection from the Panel, the selection process from the Panel
21 shall not apply. The physician selected from the Panel may
22 arrange for any consultation, referral or other specialized
23 medical services outside the Panel at the employer's expense.
24 Provided that, in the event the Commission shall find that a
25 doctor selected by the employee is rendering improper or
26 inadequate care, the Commission may order the employee to

1 select another doctor certified or qualified in the medical
2 field for which treatment is required. If the employee refuses
3 to make such change the Commission may relieve the employer of
4 his obligation to pay the doctor's charges from the date of
5 refusal to the date of compliance.

6 Any vocational rehabilitation counselors who provide
7 service under this Act shall have appropriate certifications
8 which designate the counselor as qualified to render opinions
9 relating to vocational rehabilitation. Vocational
10 rehabilitation may include, but is not limited to, counseling
11 for job searches, supervising a job search program, and
12 vocational retraining including education at an accredited
13 learning institution. The employee or employer may petition to
14 the Commission to decide disputes relating to vocational
15 rehabilitation and the Commission shall resolve any such
16 dispute, including payment of the vocational rehabilitation
17 program by the employer.

18 The maintenance benefit shall not be less than the
19 temporary total disability rate determined for the employee. In
20 addition, maintenance shall include costs and expenses
21 incidental to the vocational rehabilitation program.

22 When the employee is working light duty on a part-time
23 basis or full-time basis and earns less than he or she would be
24 earning if employed in the full capacity of the job or jobs,
25 then the employee shall be entitled to temporary partial
26 disability benefits. Temporary partial disability benefits

1 shall be equal to two-thirds of the difference between the
2 average amount that the employee would be able to earn in the
3 full performance of his or her duties in the occupation in
4 which he or she was engaged at the time of accident and the
5 gross amount which he or she is earning in the modified job
6 provided to the employee by the employer or in any other job
7 that the employee is working.

8 Every hospital, physician, surgeon or other person
9 rendering treatment or services in accordance with the
10 provisions of this Section shall upon written request furnish
11 full and complete reports thereof to, and permit their records
12 to be copied by, the employer, the employee or his dependents,
13 as the case may be, or any other party to any proceeding for
14 compensation before the Commission, or their attorneys.

15 Notwithstanding the foregoing, the employer's liability to
16 pay for such medical services selected by the employee shall be
17 limited to:

18 (1) all first aid and emergency treatment; plus

19 (2) all medical, surgical and hospital services
20 provided by the physician, surgeon or hospital initially
21 chosen by the employee or by any other physician,
22 consultant, expert, institution or other provider of
23 services recommended by said initial service provider or
24 any subsequent provider of medical services in the chain of
25 referrals from said initial service provider; plus

26 (3) all medical, surgical and hospital services

1 provided by any second physician, surgeon or hospital
2 subsequently chosen by the employee or by any other
3 physician, consultant, expert, institution or other
4 provider of services recommended by said second service
5 provider or any subsequent provider of medical services in
6 the chain of referrals from said second service provider.
7 Thereafter the employer shall select and pay for all
8 necessary medical, surgical and hospital treatment and the
9 employee may not select a provider of medical services at
10 the employer's expense unless the employer agrees to such
11 selection. At any time the employee may obtain any medical
12 treatment he desires at his own expense. This paragraph
13 shall not affect the duty to pay for rehabilitation
14 referred to above.

15 (4) The following shall apply for injuries occurring on
16 or after June 28, 2011 (the effective date of Public Act
17 97-18) and only when an employer has an approved preferred
18 provider program pursuant to Section 8.1a on the date the
19 employee sustained his or her accidental injuries:

20 (A) The employer shall, in writing, on a form
21 promulgated by the Commission, inform the employee of
22 the preferred provider program;

23 (B) Subsequent to the report of an injury by an
24 employee, the employee may choose in writing at any
25 time to decline the preferred provider program, in
26 which case that would constitute one of the two choices

1 of medical providers to which the employee is entitled
2 under subsection (a) (2) or (a) (3); and

3 (C) Prior to the report of an injury by an
4 employee, when an employee chooses non-emergency
5 treatment from a provider not within the preferred
6 provider program, that would constitute the employee's
7 one choice of medical providers to which the employee
8 is entitled under subsection (a) (2) or (a) (3).

9 When an employer and employee so agree in writing, nothing
10 in this Act prevents an employee whose injury or disability has
11 been established under this Act, from relying in good faith, on
12 treatment by prayer or spiritual means alone, in accordance
13 with the tenets and practice of a recognized church or
14 religious denomination, by a duly accredited practitioner
15 thereof, and having nursing services appropriate therewith,
16 without suffering loss or diminution of the compensation
17 benefits under this Act. However, the employee shall submit to
18 all physical examinations required by this Act. The cost of
19 such treatment and nursing care shall be paid by the employee
20 unless the employer agrees to make such payment.

21 Where the accidental injury results in the amputation of an
22 arm, hand, leg or foot, or the enucleation of an eye, or the
23 loss of any of the natural teeth, the employer shall furnish an
24 artificial of any such members lost or damaged in accidental
25 injury arising out of and in the course of employment, and
26 shall also furnish the necessary braces in all proper and

1 necessary cases. In cases of the loss of a member or members by
2 amputation, the employer shall, whenever necessary, maintain
3 in good repair, refit or replace the artificial limbs during
4 the lifetime of the employee. Where the accidental injury
5 accompanied by physical injury results in damage to a denture,
6 eye glasses or contact eye lenses, or where the accidental
7 injury results in damage to an artificial member, the employer
8 shall replace or repair such denture, glasses, lenses, or
9 artificial member.

10 The furnishing by the employer of any such services or
11 appliances is not an admission of liability on the part of the
12 employer to pay compensation.

13 The furnishing of any such services or appliances or the
14 servicing thereof by the employer is not the payment of
15 compensation.

16 (b) If the period of temporary total incapacity for work
17 lasts more than 3 working days, weekly compensation as
18 hereinafter provided shall be paid beginning on the 4th day of
19 such temporary total incapacity and continuing as long as the
20 total temporary incapacity lasts. The foregoing
21 notwithstanding, in the case of an employee who is employed as
22 a volunteer, paid-on-call, or part-time firefighter, emergency
23 medical technician, or paramedic or in ~~in~~ cases where the
24 temporary total incapacity for work continues for a period of
25 14 days or more from the day of the accident compensation shall
26 commence on the day after the accident.

1 1. The compensation rate for temporary total
2 incapacity under this paragraph (b) of this Section shall
3 be equal to 66 2/3% of the employee's average weekly wage
4 computed in accordance with Section 10, provided that it
5 shall be not less than 66 2/3% of the sum of the Federal
6 minimum wage under the Fair Labor Standards Act, or the
7 Illinois minimum wage under the Minimum Wage Law, whichever
8 is more, multiplied by 40 hours. This percentage rate shall
9 be increased by 10% for each spouse and child, not to
10 exceed 100% of the total minimum wage calculation, nor
11 exceed the employee's average weekly wage computed in
12 accordance with the provisions of Section 10, whichever is
13 less.

14 2. The compensation rate in all cases other than for
15 temporary total disability under this paragraph (b), and
16 other than for serious and permanent disfigurement under
17 paragraph (c) and other than for permanent partial
18 disability under subparagraph (2) of paragraph (d) or under
19 paragraph (e), of this Section shall be equal to 66 2/3% of
20 the employee's average weekly wage computed in accordance
21 with the provisions of Section 10, provided that it shall
22 be not less than 66 2/3% of the sum of the Federal minimum
23 wage under the Fair Labor Standards Act, or the Illinois
24 minimum wage under the Minimum Wage Law, whichever is more,
25 multiplied by 40 hours. This percentage rate shall be
26 increased by 10% for each spouse and child, not to exceed

1 100% of the total minimum wage calculation, nor exceed the
2 employee's average weekly wage computed in accordance with
3 the provisions of Section 10, whichever is less.

4 2.1. The compensation rate in all cases of serious and
5 permanent disfigurement under paragraph (c) and of
6 permanent partial disability under subparagraph (2) of
7 paragraph (d) or under paragraph (e) of this Section shall
8 be equal to 60% of the employee's average weekly wage
9 computed in accordance with the provisions of Section 10,
10 provided that it shall be not less than 66 2/3% of the sum
11 of the Federal minimum wage under the Fair Labor Standards
12 Act, or the Illinois minimum wage under the Minimum Wage
13 Law, whichever is more, multiplied by 40 hours. This
14 percentage rate shall be increased by 10% for each spouse
15 and child, not to exceed 100% of the total minimum wage
16 calculation, nor exceed the employee's average weekly wage
17 computed in accordance with the provisions of Section 10,
18 whichever is less.

19 3. As used in this Section the term "child" means a
20 child of the employee including any child legally adopted
21 before the accident or whom at the time of the accident the
22 employee was under legal obligation to support or to whom
23 the employee stood in loco parentis, and who at the time of
24 the accident was under 18 years of age and not emancipated.
25 The term "children" means the plural of "child".

26 4. All weekly compensation rates provided under

1 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
2 Section shall be subject to the following limitations:

3 The maximum weekly compensation rate from July 1, 1975,
4 except as hereinafter provided, shall be 100% of the
5 State's average weekly wage in covered industries under the
6 Unemployment Insurance Act, that being the wage that most
7 closely approximates the State's average weekly wage.

8 The maximum weekly compensation rate, for the period
9 July 1, 1984, through June 30, 1987, except as hereinafter
10 provided, shall be \$293.61. Effective July 1, 1987 and on
11 July 1 of each year thereafter the maximum weekly
12 compensation rate, except as hereinafter provided, shall
13 be determined as follows: if during the preceding 12 month
14 period there shall have been an increase in the State's
15 average weekly wage in covered industries under the
16 Unemployment Insurance Act, the weekly compensation rate
17 shall be proportionately increased by the same percentage
18 as the percentage of increase in the State's average weekly
19 wage in covered industries under the Unemployment
20 Insurance Act during such period.

21 The maximum weekly compensation rate, for the period
22 January 1, 1981 through December 31, 1983, except as
23 hereinafter provided, shall be 100% of the State's average
24 weekly wage in covered industries under the Unemployment
25 Insurance Act in effect on January 1, 1981. Effective
26 January 1, 1984 and on January 1, of each year thereafter

1 the maximum weekly compensation rate, except as
2 hereinafter provided, shall be determined as follows: if
3 during the preceding 12 month period there shall have been
4 an increase in the State's average weekly wage in covered
5 industries under the Unemployment Insurance Act, the
6 weekly compensation rate shall be proportionately
7 increased by the same percentage as the percentage of
8 increase in the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act during
10 such period.

11 From July 1, 1977 and thereafter such maximum weekly
12 compensation rate in death cases under Section 7, and
13 permanent total disability cases under paragraph (f) or
14 subparagraph 18 of paragraph (3) of this Section and for
15 temporary total disability under paragraph (b) of this
16 Section and for amputation of a member or enucleation of an
17 eye under paragraph (e) of this Section shall be increased
18 to 133-1/3% of the State's average weekly wage in covered
19 industries under the Unemployment Insurance Act.

20 For injuries occurring on or after February 1, 2006,
21 the maximum weekly benefit under paragraph (d)1 of this
22 Section shall be 100% of the State's average weekly wage in
23 covered industries under the Unemployment Insurance Act.

24 4.1. Any provision herein to the contrary
25 notwithstanding, the weekly compensation rate for
26 compensation payments under subparagraph 18 of paragraph

1 (e) of this Section and under paragraph (f) of this Section
2 and under paragraph (a) of Section 7 and for amputation of
3 a member or enucleation of an eye under paragraph (e) of
4 this Section, shall in no event be less than 50% of the
5 State's average weekly wage in covered industries under the
6 Unemployment Insurance Act.

7 4.2. Any provision to the contrary notwithstanding,
8 the total compensation payable under Section 7 shall not
9 exceed the greater of \$500,000 or 25 years.

10 5. For the purpose of this Section this State's average
11 weekly wage in covered industries under the Unemployment
12 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
13 per week and the computation of compensation rates shall be
14 based on the aforesaid average weekly wage until modified
15 as hereinafter provided.

16 6. The Department of Employment Security of the State
17 shall on or before the first day of December, 1977, and on
18 or before the first day of June, 1978, and on the first day
19 of each December and June of each year thereafter, publish
20 the State's average weekly wage in covered industries under
21 the Unemployment Insurance Act and the Illinois Workers'
22 Compensation Commission shall on the 15th day of January,
23 1978 and on the 15th day of July, 1978 and on the 15th day
24 of each January and July of each year thereafter, post and
25 publish the State's average weekly wage in covered
26 industries under the Unemployment Insurance Act as last

1 determined and published by the Department of Employment
2 Security. The amount when so posted and published shall be
3 conclusive and shall be applicable as the basis of
4 computation of compensation rates until the next posting
5 and publication as aforesaid.

6 7. The payment of compensation by an employer or his
7 insurance carrier to an injured employee shall not
8 constitute an admission of the employer's liability to pay
9 compensation.

10 (c) For any serious and permanent disfigurement to the
11 hand, head, face, neck, arm, leg below the knee or the chest
12 above the axillary line, the employee is entitled to
13 compensation for such disfigurement, the amount determined by
14 agreement at any time or by arbitration under this Act, at a
15 hearing not less than 6 months after the date of the accidental
16 injury, which amount shall not exceed 150 weeks (if the
17 accidental injury occurs on or after the effective date of this
18 amendatory Act of the 94th General Assembly but before February
19 1, 2006) or 162 weeks (if the accidental injury occurs on or
20 after February 1, 2006) at the applicable rate provided in
21 subparagraph 2.1 of paragraph (b) of this Section.

22 No compensation is payable under this paragraph where
23 compensation is payable under paragraphs (d), (e) or (f) of
24 this Section.

25 A duly appointed member of a fire department in a city, the
26 population of which exceeds 500,000 according to the last

1 federal or State census, is eligible for compensation under
2 this paragraph only where such serious and permanent
3 disfigurement results from burns.

4 (d) 1. If, after the accidental injury has been sustained,
5 the employee as a result thereof becomes partially
6 incapacitated from pursuing his usual and customary line of
7 employment, he shall, except in cases compensated under the
8 specific schedule set forth in paragraph (e) of this Section,
9 receive compensation for the duration of his disability,
10 subject to the limitations as to maximum amounts fixed in
11 paragraph (b) of this Section, equal to $66\frac{2}{3}\%$ of the
12 difference between the average amount which he would be able to
13 earn in the full performance of his duties in the occupation in
14 which he was engaged at the time of the accident and the
15 average amount which he is earning or is able to earn in some
16 suitable employment or business after the accident. For
17 accidental injuries that occur on or after September 1, 2011,
18 an award for wage differential under this subsection shall be
19 effective only until the employee reaches the age of 67 or 5
20 years from the date the award becomes final, whichever is
21 later.

22 2. If, as a result of the accident, the employee sustains
23 serious and permanent injuries not covered by paragraphs (c)
24 and (e) of this Section or having sustained injuries covered by
25 the aforesaid paragraphs (c) and (e), he shall have sustained
26 in addition thereto other injuries which injuries do not

1 incapacitate him from pursuing the duties of his employment but
2 which would disable him from pursuing other suitable
3 occupations, or which have otherwise resulted in physical
4 impairment; or if such injuries partially incapacitate him from
5 pursuing the duties of his usual and customary line of
6 employment but do not result in an impairment of earning
7 capacity, or having resulted in an impairment of earning
8 capacity, the employee elects to waive his right to recover
9 under the foregoing subparagraph 1 of paragraph (d) of this
10 Section then in any of the foregoing events, he shall receive
11 in addition to compensation for temporary total disability
12 under paragraph (b) of this Section, compensation at the rate
13 provided in subparagraph 2.1 of paragraph (b) of this Section
14 for that percentage of 500 weeks that the partial disability
15 resulting from the injuries covered by this paragraph bears to
16 total disability. If the employee shall have sustained a
17 fracture of one or more vertebra or fracture of the skull, the
18 amount of compensation allowed under this Section shall be not
19 less than 6 weeks for a fractured skull and 6 weeks for each
20 fractured vertebra, and in the event the employee shall have
21 sustained a fracture of any of the following facial bones:
22 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
23 mandible, the amount of compensation allowed under this Section
24 shall be not less than 2 weeks for each such fractured bone,
25 and for a fracture of each transverse process not less than 3
26 weeks. In the event such injuries shall result in the loss of a

1 kidney, spleen or lung, the amount of compensation allowed
2 under this Section shall be not less than 10 weeks for each
3 such organ. Compensation awarded under this subparagraph 2
4 shall not take into consideration injuries covered under
5 paragraphs (c) and (e) of this Section and the compensation
6 provided in this paragraph shall not affect the employee's
7 right to compensation payable under paragraphs (b), (c) and (e)
8 of this Section for the disabilities therein covered.

9 (e) For accidental injuries in the following schedule, the
10 employee shall receive compensation for the period of temporary
11 total incapacity for work resulting from such accidental
12 injury, under subparagraph 1 of paragraph (b) of this Section,
13 and shall receive in addition thereto compensation for a
14 further period for the specific loss herein mentioned, but
15 shall not receive any compensation under any other provisions
16 of this Act. The following listed amounts apply to either the
17 loss of or the permanent and complete loss of use of the member
18 specified, such compensation for the length of time as follows:

19 1. Thumb-

20 70 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 76 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 2. First, or index finger-

26 40 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 43 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 3. Second, or middle finger-

6 35 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 38 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 4. Third, or ring finger-

12 25 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 27 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 5. Fourth, or little finger-

18 20 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 22 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 6. Great toe-

24 35 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

1 38 weeks if the accidental injury occurs on or
2 after February 1, 2006.

3 7. Each toe other than great toe-

4 12 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 13 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 8. The loss of the first or distal phalanx of the thumb
10 or of any finger or toe shall be considered to be equal to
11 the loss of one-half of such thumb, finger or toe and the
12 compensation payable shall be one-half of the amount above
13 specified. The loss of more than one phalanx shall be
14 considered as the loss of the entire thumb, finger or toe.
15 In no case shall the amount received for more than one
16 finger exceed the amount provided in this schedule for the
17 loss of a hand.

18 9. Hand-

19 190 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 205 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 190 weeks if the accidental injury occurs on or
25 after June 28, 2011 (the effective date of Public Act
26 97-18) and if the accidental injury involves carpal

1 tunnel syndrome due to repetitive or cumulative
2 trauma, in which case the permanent partial disability
3 shall not exceed 15% loss of use of the hand, except
4 for cause shown by clear and convincing evidence and in
5 which case the award shall not exceed 30% loss of use
6 of the hand.

7 The loss of 2 or more digits, or one or more phalanges
8 of 2 or more digits, of a hand may be compensated on the
9 basis of partial loss of use of a hand, provided, further,
10 that the loss of 4 digits, or the loss of use of 4 digits,
11 in the same hand shall constitute the complete loss of a
12 hand.

13 10. Arm-

14 235 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 253 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of
20 an arm below the elbow, such injury shall be compensated as
21 a loss of an arm. Where an accidental injury results in the
22 amputation of an arm above the elbow, compensation for an
23 additional 15 weeks (if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the 94th
25 General Assembly but before February 1, 2006) or an
26 additional 17 weeks (if the accidental injury occurs on or

1 after February 1, 2006) shall be paid, except where the
2 accidental injury results in the amputation of an arm at
3 the shoulder joint, or so close to shoulder joint that an
4 artificial arm cannot be used, or results in the
5 disarticulation of an arm at the shoulder joint, in which
6 case compensation for an additional 65 weeks (if the
7 accidental injury occurs on or after the effective date of
8 this amendatory Act of the 94th General Assembly but before
9 February 1, 2006) or an additional 70 weeks (if the
10 accidental injury occurs on or after February 1, 2006)
11 shall be paid.

12 For purposes of awards under this subdivision (e),
13 injuries to the shoulder shall be considered injuries to
14 part of the arm.

15 11. Foot-

16 155 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 167 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 12. Leg-

22 200 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 215 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 Where an accidental injury results in the amputation of
2 a leg below the knee, such injury shall be compensated as
3 loss of a leg. Where an accidental injury results in the
4 amputation of a leg above the knee, compensation for an
5 additional 25 weeks (if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the 94th
7 General Assembly but before February 1, 2006) or an
8 additional 27 weeks (if the accidental injury occurs on or
9 after February 1, 2006) shall be paid, except where the
10 accidental injury results in the amputation of a leg at the
11 hip joint, or so close to the hip joint that an artificial
12 leg cannot be used, or results in the disarticulation of a
13 leg at the hip joint, in which case compensation for an
14 additional 75 weeks (if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the 94th
16 General Assembly but before February 1, 2006) or an
17 additional 81 weeks (if the accidental injury occurs on or
18 after February 1, 2006) shall be paid.

19 For purposes of awards under this subdivision (e),
20 injuries to the hip shall be considered injuries to part of
21 the leg.

22 13. Eye-

23 150 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 162 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 Where an accidental injury results in the enucleation
3 of an eye, compensation for an additional 10 weeks (if the
4 accidental injury occurs on or after the effective date of
5 this amendatory Act of the 94th General Assembly but before
6 February 1, 2006) or an additional 11 weeks (if the
7 accidental injury occurs on or after February 1, 2006)
8 shall be paid.

9 14. Loss of hearing of one ear-

10 50 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 54 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 Total and permanent loss of hearing of both ears-

16 200 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 215 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 15. Testicle-

22 50 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 54 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 Both testicles-

2 150 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 162 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 16. For the permanent partial loss of use of a member
8 or sight of an eye, or hearing of an ear, compensation
9 during that proportion of the number of weeks in the
10 foregoing schedule provided for the loss of such member or
11 sight of an eye, or hearing of an ear, which the partial
12 loss of use thereof bears to the total loss of use of such
13 member, or sight of eye, or hearing of an ear.

14 (a) Loss of hearing for compensation purposes
15 shall be confined to the frequencies of 1,000, 2,000
16 and 3,000 cycles per second. Loss of hearing ability
17 for frequency tones above 3,000 cycles per second are
18 not to be considered as constituting disability for
19 hearing.

20 (b) The percent of hearing loss, for purposes of
21 the determination of compensation claims for
22 occupational deafness, shall be calculated as the
23 average in decibels for the thresholds of hearing for
24 the frequencies of 1,000, 2,000 and 3,000 cycles per
25 second. Pure tone air conduction audiometric
26 instruments, approved by nationally recognized

1 authorities in this field, shall be used for measuring
2 hearing loss. If the losses of hearing average 30
3 decibels or less in the 3 frequencies, such losses of
4 hearing shall not then constitute any compensable
5 hearing disability. If the losses of hearing average 85
6 decibels or more in the 3 frequencies, then the same
7 shall constitute and be total or 100% compensable
8 hearing loss.

9 (c) In measuring hearing impairment, the lowest
10 measured losses in each of the 3 frequencies shall be
11 added together and divided by 3 to determine the
12 average decibel loss. For every decibel of loss
13 exceeding 30 decibels an allowance of 1.82% shall be
14 made up to the maximum of 100% which is reached at 85
15 decibels.

16 (d) If a hearing loss is established to have
17 existed on July 1, 1975 by audiometric testing the
18 employer shall not be liable for the previous loss so
19 established nor shall he be liable for any loss for
20 which compensation has been paid or awarded.

21 (e) No consideration shall be given to the question
22 of whether or not the ability of an employee to
23 understand speech is improved by the use of a hearing
24 aid.

25 (f) No claim for loss of hearing due to industrial
26 noise shall be brought against an employer or allowed

1 unless the employee has been exposed for a period of
 2 time sufficient to cause permanent impairment to noise
 3 levels in excess of the following:

4 Sound Level DBA

5	Slow Response	Hours Per Day
6	90	8
7	92	6
8	95	4
9	97	3
10	100	2
11	102	1-1/2
12	105	1
13	110	1/2
14	115	1/4

15 This subparagraph (f) shall not be applied in cases of
 16 hearing loss resulting from trauma or explosion.

17 17. In computing the compensation to be paid to any
 18 employee who, before the accident for which he claims
 19 compensation, had before that time sustained an injury
 20 resulting in the loss by amputation or partial loss by
 21 amputation of any member, including hand, arm, thumb or
 22 fingers, leg, foot, or any toes, or loss under Section
 23 8(d)2 due to accidental injuries to the same part of the
 24 spine, such loss or partial loss of any such member or loss
 25 under Section 8(d)2 due to accidental injuries to the same
 26 part of the spine shall be deducted from any award made for

1 the subsequent injury. For the permanent loss of use or the
2 permanent partial loss of use of any such member or the
3 partial loss of sight of an eye or loss under Section 8(d)2
4 due to accidental injuries to the same part of the spine,
5 for which compensation has been paid, then such loss shall
6 be taken into consideration and deducted from any award for
7 the subsequent injury. For purposes of this subdivision
8 (e)17 only, "same part of the spine" means: (1) cervical
9 spine and thoracic spine from vertebra C1 through T12 and
10 (2) lumbar and sacral spine and coccyx from vertebra L1
11 through S5.

12 18. The specific case of loss of both hands, both arms,
13 or both feet, or both legs, or both eyes, or of any two
14 thereof, or the permanent and complete loss of the use
15 thereof, constitutes total and permanent disability, to be
16 compensated according to the compensation fixed by
17 paragraph (f) of this Section. These specific cases of
18 total and permanent disability do not exclude other cases.

19 Any employee who has previously suffered the loss or
20 permanent and complete loss of the use of any of such
21 members, and in a subsequent independent accident loses
22 another or suffers the permanent and complete loss of the
23 use of any one of such members the employer for whom the
24 injured employee is working at the time of the last
25 independent accident is liable to pay compensation only for
26 the loss or permanent and complete loss of the use of the

1 member occasioned by the last independent accident.

2 19. In a case of specific loss and the subsequent death
3 of such injured employee from other causes than such injury
4 leaving a widow, widower, or dependents surviving before
5 payment or payment in full for such injury, then the amount
6 due for such injury is payable to the widow or widower and,
7 if there be no widow or widower, then to such dependents,
8 in the proportion which such dependency bears to total
9 dependency.

10 Beginning July 1, 1980, and every 6 months thereafter, the
11 Commission shall examine the Second Injury Fund and when, after
12 deducting all advances or loans made to such Fund, the amount
13 therein is \$500,000 then the amount required to be paid by
14 employers pursuant to paragraph (f) of Section 7 shall be
15 reduced by one-half. When the Second Injury Fund reaches the
16 sum of \$600,000 then the payments shall cease entirely.
17 However, when the Second Injury Fund has been reduced to
18 \$400,000, payment of one-half of the amounts required by
19 paragraph (f) of Section 7 shall be resumed, in the manner
20 herein provided, and when the Second Injury Fund has been
21 reduced to \$300,000, payment of the full amounts required by
22 paragraph (f) of Section 7 shall be resumed, in the manner
23 herein provided. The Commission shall make the changes in
24 payment effective by general order, and the changes in payment
25 become immediately effective for all cases coming before the
26 Commission thereafter either by settlement agreement or final

1 order, irrespective of the date of the accidental injury.

2 On August 1, 1996 and on February 1 and August 1 of each
3 subsequent year, the Commission shall examine the special fund
4 designated as the "Rate Adjustment Fund" and when, after
5 deducting all advances or loans made to said fund, the amount
6 therein is \$4,000,000, the amount required to be paid by
7 employers pursuant to paragraph (f) of Section 7 shall be
8 reduced by one-half. When the Rate Adjustment Fund reaches the
9 sum of \$5,000,000 the payment therein shall cease entirely.
10 However, when said Rate Adjustment Fund has been reduced to
11 \$3,000,000 the amounts required by paragraph (f) of Section 7
12 shall be resumed in the manner herein provided.

13 (f) In case of complete disability, which renders the
14 employee wholly and permanently incapable of work, or in the
15 specific case of total and permanent disability as provided in
16 subparagraph 18 of paragraph (e) of this Section, compensation
17 shall be payable at the rate provided in subparagraph 2 of
18 paragraph (b) of this Section for life.

19 An employee entitled to benefits under paragraph (f) of
20 this Section shall also be entitled to receive from the Rate
21 Adjustment Fund provided in paragraph (f) of Section 7 of the
22 supplementary benefits provided in paragraph (g) of this
23 Section 8.

24 If any employee who receives an award under this paragraph
25 afterwards returns to work or is able to do so, and earns or is
26 able to earn as much as before the accident, payments under

1 such award shall cease. If such employee returns to work, or is
2 able to do so, and earns or is able to earn part but not as much
3 as before the accident, such award shall be modified so as to
4 conform to an award under paragraph (d) of this Section. If
5 such award is terminated or reduced under the provisions of
6 this paragraph, such employees have the right at any time
7 within 30 months after the date of such termination or
8 reduction to file petition with the Commission for the purpose
9 of determining whether any disability exists as a result of the
10 original accidental injury and the extent thereof.

11 Disability as enumerated in subdivision 18, paragraph (e)
12 of this Section is considered complete disability.

13 If an employee who had previously incurred loss or the
14 permanent and complete loss of use of one member, through the
15 loss or the permanent and complete loss of the use of one hand,
16 one arm, one foot, one leg, or one eye, incurs permanent and
17 complete disability through the loss or the permanent and
18 complete loss of the use of another member, he shall receive,
19 in addition to the compensation payable by the employer and
20 after such payments have ceased, an amount from the Second
21 Injury Fund provided for in paragraph (f) of Section 7, which,
22 together with the compensation payable from the employer in
23 whose employ he was when the last accidental injury was
24 incurred, will equal the amount payable for permanent and
25 complete disability as provided in this paragraph of this
26 Section.

1 The custodian of the Second Injury Fund provided for in
2 paragraph (f) of Section 7 shall be joined with the employer as
3 a party respondent in the application for adjustment of claim.
4 The application for adjustment of claim shall state briefly and
5 in general terms the approximate time and place and manner of
6 the loss of the first member.

7 In its award the Commission or the Arbitrator shall
8 specifically find the amount the injured employee shall be
9 weekly paid, the number of weeks compensation which shall be
10 paid by the employer, the date upon which payments begin out of
11 the Second Injury Fund provided for in paragraph (f) of Section
12 7 of this Act, the length of time the weekly payments continue,
13 the date upon which the pension payments commence and the
14 monthly amount of the payments. The Commission shall 30 days
15 after the date upon which payments out of the Second Injury
16 Fund have begun as provided in the award, and every month
17 thereafter, prepare and submit to the State Comptroller a
18 voucher for payment for all compensation accrued to that date
19 at the rate fixed by the Commission. The State Comptroller
20 shall draw a warrant to the injured employee along with a
21 receipt to be executed by the injured employee and returned to
22 the Commission. The endorsed warrant and receipt is a full and
23 complete acquittance to the Commission for the payment out of
24 the Second Injury Fund. No other appropriation or warrant is
25 necessary for payment out of the Second Injury Fund. The Second
26 Injury Fund is appropriated for the purpose of making payments

1 according to the terms of the awards.

2 As of July 1, 1980 to July 1, 1982, all claims against and
3 obligations of the Second Injury Fund shall become claims
4 against and obligations of the Rate Adjustment Fund to the
5 extent there is insufficient money in the Second Injury Fund to
6 pay such claims and obligations. In that case, all references
7 to "Second Injury Fund" in this Section shall also include the
8 Rate Adjustment Fund.

9 (g) Every award for permanent total disability entered by
10 the Commission on and after July 1, 1965 under which
11 compensation payments shall become due and payable after the
12 effective date of this amendatory Act, and every award for
13 death benefits or permanent total disability entered by the
14 Commission on and after the effective date of this amendatory
15 Act shall be subject to annual adjustments as to the amount of
16 the compensation rate therein provided. Such adjustments shall
17 first be made on July 15, 1977, and all awards made and entered
18 prior to July 1, 1975 and on July 15 of each year thereafter.
19 In all other cases such adjustment shall be made on July 15 of
20 the second year next following the date of the entry of the
21 award and shall further be made on July 15 annually thereafter.
22 If during the intervening period from the date of the entry of
23 the award, or the last periodic adjustment, there shall have
24 been an increase in the State's average weekly wage in covered
25 industries under the Unemployment Insurance Act, the weekly
26 compensation rate shall be proportionately increased by the

1 same percentage as the percentage of increase in the State's
2 average weekly wage in covered industries under the
3 Unemployment Insurance Act. The increase in the compensation
4 rate under this paragraph shall in no event bring the total
5 compensation rate to an amount greater than the prevailing
6 maximum rate at the time that the annual adjustment is made.
7 Such increase shall be paid in the same manner as herein
8 provided for payments under the Second Injury Fund to the
9 injured employee, or his dependents, as the case may be, out of
10 the Rate Adjustment Fund provided in paragraph (f) of Section 7
11 of this Act. Payments shall be made at the same intervals as
12 provided in the award or, at the option of the Commission, may
13 be made in quarterly payment on the 15th day of January, April,
14 July and October of each year. In the event of a decrease in
15 such average weekly wage there shall be no change in the then
16 existing compensation rate. The within paragraph shall not
17 apply to cases where there is disputed liability and in which a
18 compromise lump sum settlement between the employer and the
19 injured employee, or his dependents, as the case may be, has
20 been duly approved by the Illinois Workers' Compensation
21 Commission.

22 Provided, that in cases of awards entered by the Commission
23 for injuries occurring before July 1, 1975, the increases in
24 the compensation rate adjusted under the foregoing provision of
25 this paragraph (g) shall be limited to increases in the State's
26 average weekly wage in covered industries under the

1 Unemployment Insurance Act occurring after July 1, 1975.

2 For every accident occurring on or after July 20, 2005 but
3 before the effective date of this amendatory Act of the 94th
4 General Assembly (Senate Bill 1283 of the 94th General
5 Assembly), the annual adjustments to the compensation rate in
6 awards for death benefits or permanent total disability, as
7 provided in this Act, shall be paid by the employer. The
8 adjustment shall be made by the employer on July 15 of the
9 second year next following the date of the entry of the award
10 and shall further be made on July 15 annually thereafter. If
11 during the intervening period from the date of the entry of the
12 award, or the last periodic adjustment, there shall have been
13 an increase in the State's average weekly wage in covered
14 industries under the Unemployment Insurance Act, the employer
15 shall increase the weekly compensation rate proportionately by
16 the same percentage as the percentage of increase in the
17 State's average weekly wage in covered industries under the
18 Unemployment Insurance Act. The increase in the compensation
19 rate under this paragraph shall in no event bring the total
20 compensation rate to an amount greater than the prevailing
21 maximum rate at the time that the annual adjustment is made. In
22 the event of a decrease in such average weekly wage there shall
23 be no change in the then existing compensation rate. Such
24 increase shall be paid by the employer in the same manner and
25 at the same intervals as the payment of compensation in the
26 award. This paragraph shall not apply to cases where there is

1 disputed liability and in which a compromise lump sum
2 settlement between the employer and the injured employee, or
3 his or her dependents, as the case may be, has been duly
4 approved by the Illinois Workers' Compensation Commission.

5 The annual adjustments for every award of death benefits or
6 permanent total disability involving accidents occurring
7 before July 20, 2005 and accidents occurring on or after the
8 effective date of this amendatory Act of the 94th General
9 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
10 continue to be paid from the Rate Adjustment Fund pursuant to
11 this paragraph and Section 7(f) of this Act.

12 (h) In case death occurs from any cause before the total
13 compensation to which the employee would have been entitled has
14 been paid, then in case the employee leaves any widow, widower,
15 child, parent (or any grandchild, grandparent or other lineal
16 heir or any collateral heir dependent at the time of the
17 accident upon the earnings of the employee to the extent of 50%
18 or more of total dependency) such compensation shall be paid to
19 the beneficiaries of the deceased employee and distributed as
20 provided in paragraph (g) of Section 7.

21 (h-1) In case an injured employee is under legal disability
22 at the time when any right or privilege accrues to him or her
23 under this Act, a guardian may be appointed pursuant to law,
24 and may, on behalf of such person under legal disability, claim
25 and exercise any such right or privilege with the same effect
26 as if the employee himself or herself had claimed or exercised

1 the right or privilege. No limitations of time provided by this
2 Act run so long as the employee who is under legal disability
3 is without a conservator or guardian.

4 (i) In case the injured employee is under 16 years of age
5 at the time of the accident and is illegally employed, the
6 amount of compensation payable under paragraphs (b), (c), (d),
7 (e) and (f) of this Section is increased 50%.

8 However, where an employer has on file an employment
9 certificate issued pursuant to the Child Labor Law or work
10 permit issued pursuant to the Federal Fair Labor Standards Act,
11 as amended, or a birth certificate properly and duly issued,
12 such certificate, permit or birth certificate is conclusive
13 evidence as to the age of the injured minor employee for the
14 purposes of this Section.

15 Nothing herein contained repeals or amends the provisions
16 of the Child Labor Law relating to the employment of minors
17 under the age of 16 years.

18 (j) 1. In the event the injured employee receives benefits,
19 including medical, surgical or hospital benefits under any
20 group plan covering non-occupational disabilities contributed
21 to wholly or partially by the employer, which benefits should
22 not have been payable if any rights of recovery existed under
23 this Act, then such amounts so paid to the employee from any
24 such group plan as shall be consistent with, and limited to,
25 the provisions of paragraph 2 hereof, shall be credited to or
26 against any compensation payment for temporary total

1 incapacity for work or any medical, surgical or hospital
2 benefits made or to be made under this Act. In such event, the
3 period of time for giving notice of accidental injury and
4 filing application for adjustment of claim does not commence to
5 run until the termination of such payments. This paragraph does
6 not apply to payments made under any group plan which would
7 have been payable irrespective of an accidental injury under
8 this Act. Any employer receiving such credit shall keep such
9 employee safe and harmless from any and all claims or
10 liabilities that may be made against him by reason of having
11 received such payments only to the extent of such credit.

12 Any excess benefits paid to or on behalf of a State
13 employee by the State Employees' Retirement System under
14 Article 14 of the Illinois Pension Code on a death claim or
15 disputed disability claim shall be credited against any
16 payments made or to be made by the State of Illinois to or on
17 behalf of such employee under this Act, except for payments for
18 medical expenses which have already been incurred at the time
19 of the award. The State of Illinois shall directly reimburse
20 the State Employees' Retirement System to the extent of such
21 credit.

22 2. Nothing contained in this Act shall be construed to give
23 the employer or the insurance carrier the right to credit for
24 any benefits or payments received by the employee other than
25 compensation payments provided by this Act, and where the
26 employee receives payments other than compensation payments,

1 whether as full or partial salary, group insurance benefits,
2 bonuses, annuities or any other payments, the employer or
3 insurance carrier shall receive credit for each such payment
4 only to the extent of the compensation that would have been
5 payable during the period covered by such payment.

6 3. The extension of time for the filing of an Application
7 for Adjustment of Claim as provided in paragraph 1 above shall
8 not apply to those cases where the time for such filing had
9 expired prior to the date on which payments or benefits
10 enumerated herein have been initiated or resumed. Provided
11 however that this paragraph 3 shall apply only to cases wherein
12 the payments or benefits hereinabove enumerated shall be
13 received after July 1, 1969.

14 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,
15 eff. 7-13-12.)

16 (820 ILCS 305/8.1 new)

17 Sec. 8.1. Repetitive and cumulative injuries; right of
18 contribution.

19 (a) Any accidental injury which results from repetitive or
20 cumulative trauma and occurs within 3 months after the employee
21 begins his or her employment shall not be considered by a
22 workers' compensation insurer in setting the premium rate for
23 the employer.

24 (b) If an award is made for benefits in connection with
25 repetitive or cumulative injury resulting from employment with

1 more than one employer, the employer liable for award or its
2 insurer is entitled to contributions or reimbursement from each
3 of the employee's prior employers which are subject to this Act
4 or their insurers for the prior employer's pro rata share of
5 responsibility as determined by the Commission. The right to
6 contribution or reimbursement under this Section shall not
7 delay, diminish, restrict, or alter in any way the benefits to
8 which the employee or his or her dependents are entitled under
9 this Act. At any time within one year after the Commission or
10 the Arbitrator has made an award for benefits in connection
11 with repetitive or cumulative injury, the employer liable under
12 the award or its insurer may institute proceedings before the
13 Commission for the purpose of determining the right of
14 contribution or reimbursement. The proceeding shall not delay,
15 diminish, restrict, or alter in any way the benefits to which
16 the employee or his or her dependents are entitled under this
17 Act, but shall be limited to a determination of the respective
18 contribution or reimbursement rights and the responsibilities
19 of all the employers joined in the proceeding. The employee has
20 the duty of rendering reasonable cooperation in any of such
21 proceeding.

22 (c) No contribution or reimbursement may be sought for any
23 payment of benefits more than 2 years after the employer
24 seeking contribution or reimbursement has made the payment.

25 (d) This Section shall apply only to injuries occurring on
26 or after the effective date of this amendatory Act of the 101st

1 General Assembly.

2 (e) The Commission shall adopt emergency rules under
3 Section 5-45 of the Illinois Administrative Procedure Act to
4 implement the provisions of this Section.

5 (820 ILCS 305/8.1b)

6 Sec. 8.1b. Determination of permanent partial disability.
7 For accidental injuries that occur on or after September 1,
8 2011, permanent partial disability shall be established using
9 the following criteria:

10 (a) A physician licensed to practice medicine in all of its
11 branches preparing a permanent partial disability impairment
12 report shall report the level of impairment in writing. The
13 report shall include an evaluation of medically defined and
14 professionally appropriate measurements of impairment that
15 include, but are not limited to: loss of range of motion; loss
16 of strength; measured atrophy of tissue mass consistent with
17 the injury; and any other measurements that establish the
18 nature and extent of the impairment. The most current edition
19 of the American Medical Association's "Guides to the Evaluation
20 of Permanent Impairment" shall be used by the physician in
21 determining the level of impairment.

22 (b) In determining the level of permanent partial
23 disability, the Commission shall base its determination on the
24 following factors: (i) the reported level of impairment
25 pursuant to subsection (a) if such a report exists and is

1 admitted into evidence; (ii) the occupation of the injured
2 employee; (iii) the age of the employee at the time of the
3 injury; (iv) the employee's future earning capacity; and (v)
4 evidence of disability corroborated by the treating medical
5 records or examination under Section 12 of this Act. Where an
6 impairment report exists and is admitted into evidence, it must
7 be considered by the Commission in its determination. No single
8 enumerated factor shall be the sole determinant of disability.
9 In determining the level of disability, the relevance and
10 weight of any factors used in addition to the level of
11 impairment as reported by the physician must be explained in a
12 written order.

13 (c) A report of impairment prepared pursuant to subsection
14 (a) is not required for an arbitrator or the Commission to make
15 an award for permanent partial disability or permanent total
16 disability benefits or any award for benefits under subsection
17 (c) of Section 8 or subsection (d) of Section 8 of this Act or
18 to approve a Settlement Contract Lump Sum Petition.

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

20 (820 ILCS 305/8.2)

21 Sec. 8.2. Fee schedule.

22 (a) Except as provided for in subsection (c), for
23 procedures, treatments, or services covered under this Act and
24 rendered or to be rendered on and after February 1, 2006, the
25 maximum allowable payment shall be 90% of the 80th percentile

1 of charges and fees as determined by the Commission utilizing
2 information provided by employers' and insurers' national
3 databases, with a minimum of 12,000,000 Illinois line item
4 charges and fees comprised of health care provider and hospital
5 charges and fees as of August 1, 2004 but not earlier than
6 August 1, 2002. These charges and fees are provider billed
7 amounts and shall not include discounted charges. The 80th
8 percentile is the point on an ordered data set from low to high
9 such that 80% of the cases are below or equal to that point and
10 at most 20% are above or equal to that point. The Commission
11 shall adjust these historical charges and fees as of August 1,
12 2004 by the Consumer Price Index-U for the period August 1,
13 2004 through September 30, 2005. The Commission shall establish
14 fee schedules for procedures, treatments, or services for
15 hospital inpatient, hospital outpatient, emergency room and
16 trauma, ambulatory surgical treatment centers, and
17 professional services. These charges and fees shall be
18 designated by geozip or any smaller geographic unit. The data
19 shall in no way identify or tend to identify any patient,
20 employer, or health care provider. As used in this Section,
21 "geozip" means a three-digit zip code based on data
22 similarities, geographical similarities, and frequencies. A
23 geozip does not cross state boundaries. As used in this
24 Section, "three-digit zip code" means a geographic area in
25 which all zip codes have the same first 3 digits. If a geozip
26 does not have the necessary number of charges and fees to

1 calculate a valid percentile for a specific procedure,
2 treatment, or service, the Commission may combine data from the
3 geozip with up to 4 other geozips that are demographically and
4 economically similar and exhibit similarities in data and
5 frequencies until the Commission reaches 9 charges or fees for
6 that specific procedure, treatment, or service. In cases where
7 the compiled data contains less than 9 charges or fees for a
8 procedure, treatment, or service, reimbursement shall occur at
9 76% of charges and fees as determined by the Commission in a
10 manner consistent with the provisions of this paragraph.
11 Providers of out-of-state procedures, treatments, services,
12 products, or supplies shall be reimbursed at the lesser of that
13 state's fee schedule amount or the fee schedule amount for the
14 region in which the employee resides. If no fee schedule exists
15 in that state, the provider shall be reimbursed at the lesser
16 of the actual charge or the fee schedule amount for the region
17 in which the employee resides. Not later than September 30 in
18 2006 and each year thereafter, the Commission shall
19 automatically increase or decrease the maximum allowable
20 payment for a procedure, treatment, or service established and
21 in effect on January 1 of that year by the percentage change in
22 the Consumer Price Index-U for the 12 month period ending
23 August 31 of that year. The increase or decrease shall become
24 effective on January 1 of the following year. As used in this
25 Section, "Consumer Price Index-U" means the index published by
26 the Bureau of Labor Statistics of the U.S. Department of Labor,

1 that measures the average change in prices of all goods and
2 services purchased by all urban consumers, U.S. city average,
3 all items, 1982-84=100.

4 (a-1) Notwithstanding the provisions of subsection (a) and
5 unless otherwise indicated, the following provisions shall
6 apply to the medical fee schedule starting on September 1,
7 2011:

8 (1) The Commission shall establish and maintain fee
9 schedules for procedures, treatments, products, services,
10 or supplies for hospital inpatient, hospital outpatient,
11 emergency room, ambulatory surgical treatment centers,
12 accredited ambulatory surgical treatment facilities,
13 prescriptions filled and dispensed outside of a licensed
14 pharmacy, dental services, and professional services. This
15 fee schedule shall be based on the fee schedule amounts
16 already established by the Commission pursuant to
17 subsection (a) of this Section. However, starting on
18 January 1, 2012, these fee schedule amounts shall be
19 grouped into geographic regions in the following manner:

20 (A) Four regions for non-hospital fee schedule
21 amounts shall be utilized:

22 (i) Cook County;

23 (ii) DuPage, Kane, Lake, and Will Counties;

24 (iii) Bond, Calhoun, Clinton, Jersey,
25 Macoupin, Madison, Monroe, Montgomery, Randolph,
26 St. Clair, and Washington Counties; and

- 1 (iv) All other counties of the State.
- 2 (B) Fourteen regions for hospital fee schedule
3 amounts shall be utilized:
- 4 (i) Cook, DuPage, Will, Kane, McHenry, DeKalb,
5 Kendall, and Grundy Counties;
- 6 (ii) Kankakee County;
- 7 (iii) Madison, St. Clair, Macoupin, Clinton,
8 Monroe, Jersey, Bond, and Calhoun Counties;
- 9 (iv) Winnebago and Boone Counties;
- 10 (v) Peoria, Tazewell, Woodford, Marshall, and
11 Stark Counties;
- 12 (vi) Champaign, Piatt, and Ford Counties;
- 13 (vii) Rock Island, Henry, and Mercer Counties;
- 14 (viii) Sangamon and Menard Counties;
- 15 (ix) McLean County;
- 16 (x) Lake County;
- 17 (xi) Macon County;
- 18 (xii) Vermilion County;
- 19 (xiii) Alexander County; and
- 20 (xiv) All other counties of the State.
- 21 (2) If a geozip, as defined in subsection (a) of this
22 Section, overlaps into one or more of the regions set forth
23 in this Section, then the Commission shall average or
24 repeat the charges and fees in a geozip in order to
25 designate charges and fees for each region.
- 26 (3) In cases where the compiled data contains less than

1 9 charges or fees for a procedure, treatment, product,
2 supply, or service or where the fee schedule amount cannot
3 be determined by the non-discounted charge data,
4 non-Medicare relative values and conversion factors
5 derived from established fee schedule amounts, coding
6 crosswalks, or other data as determined by the Commission,
7 reimbursement shall occur at 76% of charges and fees until
8 September 1, 2011 and 53.2% of charges and fees thereafter
9 as determined by the Commission in a manner consistent with
10 the provisions of this paragraph.

11 (4) To establish additional fee schedule amounts, the
12 Commission shall utilize provider non-discounted charge
13 data, non-Medicare relative values and conversion factors
14 derived from established fee schedule amounts, and coding
15 crosswalks. The Commission may establish additional fee
16 schedule amounts based on either the charge or cost of the
17 procedure, treatment, product, supply, or service.

18 (5) Implants shall be reimbursed at 25% above the net
19 manufacturer's invoice price less rebates, plus actual
20 reasonable and customary shipping charges whether or not
21 the implant charge is submitted by a provider in
22 conjunction with a bill for all other services associated
23 with the implant, submitted by a provider on a separate
24 claim form, submitted by a distributor, or submitted by the
25 manufacturer of the implant. "Implants" include the
26 following codes or any substantially similar updated code

1 as determined by the Commission: 0274
2 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
3 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
4 (investigational devices); and 0636 (drugs requiring
5 detailed coding). Non-implantable devices or supplies
6 within these codes shall be reimbursed at 65% of actual
7 charge, which is the provider's normal rates under its
8 standard chargemaster. A standard chargemaster is the
9 provider's list of charges for procedures, treatments,
10 products, supplies, or services used to bill payers in a
11 consistent manner.

12 (6) The Commission shall automatically update all
13 codes and associated rules with the version of the codes
14 and rules valid on January 1 of that year.

15 (a-2) For procedures, treatments, services, or supplies
16 covered under this Act and rendered or to be rendered on or
17 after September 1, 2011, the maximum allowable payment shall be
18 70% of the fee schedule amounts, which shall be adjusted yearly
19 by the Consumer Price Index-U, as described in subsection (a)
20 of this Section.

21 (a-3) Prescriptions filled and dispensed outside of a
22 licensed pharmacy shall be subject to a fee schedule that shall
23 not exceed the Average Wholesale Price (AWP) plus a dispensing
24 fee of \$4.18. AWP or its equivalent as registered by the
25 National Drug Code shall be set forth for that drug on that
26 date as published in Medispan.

1 (a-4) The Commission, in consultation with the Workers'
2 Compensation Medical Fee Advisory Board, shall promulgate by
3 rule an evidence-based drug formulary and any rules necessary
4 for its administration. Prescriptions prescribed for workers'
5 compensation cases shall be limited to those prescription and
6 non-prescription drugs and doses on the closed formulary.

7 A request for a prescription that is not on the closed
8 formulary shall be reviewed pursuant to Section 8.7 of this
9 Act.

10 (a-5) Notwithstanding any other provision of this Section,
11 on or before March 1, 2019 and on or before March 1 of each
12 subsequent year, the Commission must investigate all
13 procedures, treatments, and services covered under this Act for
14 ambulatory surgical treatment centers and accredited
15 ambulatory surgical treatment facilities and establish fee
16 schedule amounts for procedures, treatments, and services for
17 which fee schedule amounts have not been established. The
18 Commission must adopt, in a timely and ongoing manner, all
19 rules necessary to ensure that its responsibilities under this
20 subsection are carried out.

21 (b) Notwithstanding the provisions of subsection (a), if
22 the Commission finds that there is a significant limitation on
23 access to quality health care in either a specific field of
24 health care services or a specific geographic limitation on
25 access to health care, it may change the Consumer Price Index-U
26 increase or decrease for that specific field or specific

1 geographic limitation on access to health care to address that
2 limitation.

3 (c) The Commission shall establish by rule a process to
4 review those medical cases or outliers that involve
5 extra-ordinary treatment to determine whether to make an
6 additional adjustment to the maximum payment within a fee
7 schedule for a procedure, treatment, or service.

8 (d) When a patient notifies a provider that the treatment,
9 procedure, or service being sought is for a work-related
10 illness or injury and furnishes the provider the name and
11 address of the responsible employer, the provider shall bill
12 the employer or its designee directly. The employer or its
13 designee shall make payment for treatment in accordance with
14 the provisions of this Section directly to the provider, except
15 that, if a provider has designated a third-party billing entity
16 to bill on its behalf, payment shall be made directly to the
17 billing entity. Providers shall submit bills and records in
18 accordance with the provisions of this Section.

19 (1) All payments to providers for treatment provided
20 pursuant to this Act shall be made within 30 days of
21 receipt of the bills as long as the bill contains
22 substantially all the required data elements necessary to
23 adjudicate the bill.

24 (2) If the bill does not contain substantially all the
25 required data elements necessary to adjudicate the bill, or
26 the claim is denied for any other reason, in whole or in

1 part, the employer or insurer shall provide written
2 notification to the provider in the form of an explanation
3 of benefits explaining the basis for the denial and
4 describing any additional necessary data elements within
5 30 days of receipt of the bill. The Commission, with
6 assistance from the Medical Fee Advisory Board, shall adopt
7 rules detailing the requirements for the explanation of
8 benefits required under this subsection.

9 (3) In the case (i) of nonpayment to a provider within
10 30 days of receipt of the bill which contained
11 substantially all of the required data elements necessary
12 to adjudicate the bill, (ii) of nonpayment to a provider of
13 a portion of such a bill, or (iii) where the provider has
14 not been issued an explanation of benefits for a bill, the
15 bill, or portion of the bill up to the lesser of the actual
16 charge or the payment level set by the Commission in the
17 fee schedule established in this Section, shall incur
18 interest at a rate of 1% per month payable by the employer
19 to the provider. Any required interest payments shall be
20 made by the employer or its insurer to the provider within
21 30 days after payment of the bill.

22 (4) If the employer or its insurer fails to pay
23 interest within 30 days after payment of the bill as
24 required pursuant to paragraph (3), the provider may bring
25 an action in circuit court for the sole purpose of seeking
26 payment of interest pursuant to paragraph (3) against the

1 employer or its insurer responsible for insuring the
2 employer's liability pursuant to item (3) of subsection (a)
3 of Section 4. The circuit court's jurisdiction shall be
4 limited to enforcing payment of interest pursuant to
5 paragraph (3). Interest under paragraph (3) is only payable
6 to the provider. An employee is not responsible for the
7 payment of interest under this Section. The right to
8 interest under paragraph (3) shall not delay, diminish,
9 restrict, or alter in any way the benefits to which the
10 employee or his or her dependents are entitled under this
11 Act.

12 The changes made to this subsection (d) by this amendatory
13 Act of the 100th General Assembly apply to procedures,
14 treatments, and services rendered on and after the effective
15 date of this amendatory Act of the 100th General Assembly.

16 (e) Except as provided in subsections (e-5), (e-10), and
17 (e-15), a provider shall not hold an employee liable for costs
18 related to a non-disputed procedure, treatment, or service
19 rendered in connection with a compensable injury. The
20 provisions of subsections (e-5), (e-10), (e-15), and (e-20)
21 shall not apply if an employee provides information to the
22 provider regarding participation in a group health plan. If the
23 employee participates in a group health plan, the provider may
24 submit a claim for services to the group health plan. If the
25 claim for service is covered by the group health plan, the
26 employee's responsibility shall be limited to applicable

1 deductibles, co-payments, or co-insurance. Except as provided
2 under subsections (e-5), (e-10), (e-15), and (e-20), a provider
3 shall not bill or otherwise attempt to recover from the
4 employee the difference between the provider's charge and the
5 amount paid by the employer or the insurer on a compensable
6 injury, or for medical services or treatment determined by the
7 Commission to be excessive or unnecessary.

8 (e-5) If an employer notifies a provider that the employer
9 does not consider the illness or injury to be compensable under
10 this Act, the provider may seek payment of the provider's
11 actual charges from the employee for any procedure, treatment,
12 or service rendered. Once an employee informs the provider that
13 there is an application filed with the Commission to resolve a
14 dispute over payment of such charges, the provider shall cease
15 any and all efforts to collect payment for the services that
16 are the subject of the dispute. Any statute of limitations or
17 statute of repose applicable to the provider's efforts to
18 collect payment from the employee shall be tolled from the date
19 that the employee files the application with the Commission
20 until the date that the provider is permitted to resume
21 collection efforts under the provisions of this Section.

22 (e-10) If an employer notifies a provider that the employer
23 will pay only a portion of a bill for any procedure, treatment,
24 or service rendered in connection with a compensable illness or
25 disease, the provider may seek payment from the employee for
26 the remainder of the amount of the bill up to the lesser of the

1 actual charge, negotiated rate, if applicable, or the payment
2 level set by the Commission in the fee schedule established in
3 this Section. Once an employee informs the provider that there
4 is an application filed with the Commission to resolve a
5 dispute over payment of such charges, the provider shall cease
6 any and all efforts to collect payment for the services that
7 are the subject of the dispute. Any statute of limitations or
8 statute of repose applicable to the provider's efforts to
9 collect payment from the employee shall be tolled from the date
10 that the employee files the application with the Commission
11 until the date that the provider is permitted to resume
12 collection efforts under the provisions of this Section.

13 (e-15) When there is a dispute over the compensability of
14 or amount of payment for a procedure, treatment, or service,
15 and a case is pending or proceeding before an Arbitrator or the
16 Commission, the provider may mail the employee reminders that
17 the employee will be responsible for payment of any procedure,
18 treatment or service rendered by the provider. The reminders
19 must state that they are not bills, to the extent practicable
20 include itemized information, and state that the employee need
21 not pay until such time as the provider is permitted to resume
22 collection efforts under this Section. The reminders shall not
23 be provided to any credit rating agency. The reminders may
24 request that the employee furnish the provider with information
25 about the proceeding under this Act, such as the file number,
26 names of parties, and status of the case. If an employee fails

1 to respond to such request for information or fails to furnish
2 the information requested within 90 days of the date of the
3 reminder, the provider is entitled to resume any and all
4 efforts to collect payment from the employee for the services
5 rendered to the employee and the employee shall be responsible
6 for payment of any outstanding bills for a procedure,
7 treatment, or service rendered by a provider.

8 (e-20) Upon a final award or judgment by an Arbitrator or
9 the Commission, or a settlement agreed to by the employer and
10 the employee, a provider may resume any and all efforts to
11 collect payment from the employee for the services rendered to
12 the employee and the employee shall be responsible for payment
13 of any outstanding bills for a procedure, treatment, or service
14 rendered by a provider as well as the interest awarded under
15 subsection (d) of this Section. In the case of a procedure,
16 treatment, or service deemed compensable, the provider shall
17 not require a payment rate, excluding the interest provisions
18 under subsection (d), greater than the lesser of the actual
19 charge or the payment level set by the Commission in the fee
20 schedule established in this Section. Payment for services
21 deemed not covered or not compensable under this Act is the
22 responsibility of the employee unless a provider and employee
23 have agreed otherwise in writing. Services not covered or not
24 compensable under this Act are not subject to the fee schedule
25 in this Section.

26 (f) Nothing in this Act shall prohibit an employer or

1 insurer from contracting with a health care provider or group
2 of health care providers for reimbursement levels for benefits
3 under this Act different from those provided in this Section.

4 (g) On or before January 1, 2010 the Commission shall
5 provide to the Governor and General Assembly a report regarding
6 the implementation of the medical fee schedule and the index
7 used for annual adjustment to that schedule as described in
8 this Section.

9 (Source: P.A. 100-1117, eff. 11-27-18; 100-1175, eff.
10 1-11-19.)

11 (820 ILCS 305/8.2a)

12 Sec. 8.2a. Electronic claims.

13 (a) The Director of Insurance shall adopt rules to do all
14 of the following:

15 (1) Ensure that all health care providers and
16 facilities submit medical bills for payment on
17 standardized forms.

18 (2) Require acceptance by employers and insurers of
19 electronic claims for payment of medical services.

20 (3) Ensure confidentiality of medical information
21 submitted on electronic claims for payment of medical
22 services.

23 (4) Ensure that health care providers have at least 15
24 business days ~~an opportunity~~ to comply with requests for
25 records by employers and insurers for the authorization of

1 the payment of workers' compensation claims.

2 (5) Ensure that health care providers are responsible
3 for supplying only those medical records pertaining to the
4 provider's own claims that are minimally necessary under
5 the federal Health Insurance Portability and
6 Accountability Act of 1996.

7 (6) Provide that any electronically submitted bill
8 determined to be complete but not paid or objected to
9 within 30 days shall be subject to interest pursuant to
10 item (3) of subsection (d) of Section 8.2.

11 (7) Provide that the Department of Insurance shall
12 impose an administrative fine if it determines that an
13 employer or insurer has failed to comply with the
14 electronic claims acceptance and response process. The
15 amount of the administrative fine shall be no greater than
16 \$1,000 per each violation, but shall not exceed \$10,000 for
17 identical violations during a calendar year.

18 (b) To the extent feasible, standards adopted pursuant to
19 subdivision (a) shall be consistent with existing standards
20 under the federal Health Insurance Portability and
21 Accountability Act of 1996 and standards adopted under the
22 Illinois Health Information Exchange and Technology Act.

23 (c) The rules requiring employers and insurers to accept
24 electronic claims for payment of medical services shall be
25 proposed on or before January 1, 2012, and shall require all
26 employers and insurers to accept electronic claims for payment

1 of medical services on or before June 30, 2012. The Director of
2 Insurance shall adopt rules by January 1, 2019 to implement the
3 changes to this Section made by this amendatory Act of the
4 100th General Assembly. The Commission, with assistance from
5 the Department and the Medical Fee Advisory Board, shall
6 publish on its Internet website a companion guide to assist
7 with compliance with electronic claims rules. The Medical Fee
8 Advisory Board shall periodically review the companion guide.

9 (d) The Director of Insurance shall by rule establish
10 criteria for granting exceptions to employers, insurance
11 carriers, and health care providers who are unable to submit or
12 accept medical bills electronically.

13 (Source: P.A. 100-1117, eff. 11-27-18.)

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

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

20 Each arbitrator appointed after June 28, 2011 shall be
21 required to demonstrate in writing his or her knowledge of and
22 expertise in the law of and judicial processes of the Workers'
23 Compensation Act and the Workers' Occupational Diseases Act.

24 A formal training program for newly-hired arbitrators
25 shall be implemented. The training program shall include the

1 following:

2 (a) substantive and procedural aspects of the
3 arbitrator position;

4 (b) current issues in workers' compensation law and
5 practice;

6 (c) medical lectures by specialists in areas such as
7 orthopedics, ophthalmology, psychiatry, rehabilitation
8 counseling;

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

11 (e) observation of experienced arbitrators conducting
12 hearings of cases, combined with the opportunity to discuss
13 evidence presented and rulings made;

14 (f) the use of hypothetical cases requiring the trainee
15 to issue judgments as a means to evaluating knowledge and
16 writing ability;

17 (g) writing skills;

18 (h) professional and ethical standards pursuant to
19 Section 1.1 of this Act;

20 (i) detection of workers' compensation fraud and
21 reporting obligations of Commission employees and
22 appointees;

23 (j) standards of evidence-based medical treatment and
24 best practices for measuring and improving quality and
25 health care outcomes in the workers' compensation system,
26 including but not limited to the use of the American

1 Medical Association's "Guides to the Evaluation of
2 Permanent Impairment" and the practice of utilization
3 review; and

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

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

13 Each arbitrator shall devote full time to his or her duties
14 and shall serve when assigned as an acting Commissioner when a
15 Commissioner is unavailable in accordance with the provisions
16 of Section 13 of this Act. Any arbitrator who is an
17 attorney-at-law shall not engage in the practice of law, nor
18 shall any arbitrator hold any other office or position of
19 profit under the United States or this State or any municipal
20 corporation or political subdivision of this State.
21 Notwithstanding any other provision of this Act to the
22 contrary, an arbitrator who serves as an acting Commissioner in
23 accordance with the provisions of Section 13 of this Act shall
24 continue to serve in the capacity of Commissioner until a
25 decision is reached in every case heard by that arbitrator
26 while serving as an acting Commissioner.

1 Notwithstanding any other provision of this Section, the
2 term of all arbitrators serving on June 28, 2011 (the effective
3 date of Public Act 97-18), including any arbitrators on
4 administrative leave, shall terminate at the close of business
5 on July 1, 2011, but the incumbents shall continue to exercise
6 all of their duties until they are reappointed or their
7 successors are appointed.

8 On and after June 28, 2011 (the effective date of Public
9 Act 97-18), arbitrators shall be appointed to 3-year terms as
10 follows:

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

13 (2) For their initial appointments, 12 arbitrators
14 shall be appointed to terms expiring July 1, 2012; 12
15 arbitrators shall be appointed to terms expiring July 1,
16 2013; and all additional arbitrators shall be appointed to
17 terms expiring July 1, 2014. Thereafter, all arbitrators
18 shall be appointed to 3-year terms.

19 Upon the expiration of a term, the Chairman shall evaluate
20 the performance of the arbitrator and may recommend to the
21 Governor that he or she be reappointed to a second or
22 subsequent term by the Governor with the advice and consent of
23 the Senate.

24 Each arbitrator appointed on or after June 28, 2011 (the
25 effective date of Public Act 97-18) and who has not previously
26 served as an arbitrator for the Commission shall be required to

1 be authorized to practice law in this State by the Supreme
2 Court, and to maintain this authorization throughout his or her
3 term of employment.

4 The performance of all arbitrators shall be reviewed by the
5 Chairman on an annual basis. The Chairman shall allow input
6 from the Commissioners in all such reviews.

7 The Commission shall assign no fewer than 3 arbitrators to
8 each hearing site. The Commission shall establish a procedure
9 to ensure that the arbitrators assigned to each hearing site
10 are assigned cases on a random basis. The Chairman of the
11 Commission shall have discretion to assign and reassign
12 arbitrators to each hearing sites as needed. ~~No arbitrator~~
13 ~~shall hear cases in any county, other than Cook County, for~~
14 ~~more than 2 years in each 3-year term.~~

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

19 The members of the Commission, Arbitrators and other
20 employees whose duties require them to travel, shall have
21 reimbursed to them their actual traveling expenses and
22 disbursements made or incurred by them in the discharge of
23 their official duties while away from their place of residence
24 in the performance of their duties.

25 The Commission shall provide itself with a seal for the
26 authentication of its orders, awards and proceedings upon which

1 shall be inscribed the name of the Commission and the words
2 "Illinois--Seal".

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

18 (Source: P.A. 98-40, eff. 6-28-13; 99-642, eff. 7-28-16.)

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.

25 1. Whenever any claimant misconceives his remedy and

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

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

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

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

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

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

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

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

26 Whether the employee is working or not, if the employee is

1 not receiving or has not received medical, surgical, or
2 hospital services or other services or compensation as provided
3 in paragraph (a) of Section 8, or compensation as provided in
4 paragraph (b) of Section 8, the employee may at any time
5 petition for an expedited hearing by an Arbitrator on the issue
6 of whether or not he or she is entitled to receive payment of
7 the services or compensation. Provided the employer continues
8 to pay compensation pursuant to paragraph (b) of Section 8, the
9 employer may at any time petition for an expedited hearing on
10 the issue of whether or not the employee is entitled to receive
11 medical, surgical, or hospital services or other services or
12 compensation as provided in paragraph (a) of Section 8, or
13 compensation as provided in paragraph (b) of Section 8. When an
14 employer has petitioned for an expedited hearing, the employer
15 shall continue to pay compensation as provided in paragraph (b)
16 of Section 8 unless the arbitrator renders a decision that the
17 employee is not entitled to the benefits that are the subject
18 of the expedited hearing or unless the employee's treating
19 physician has released the employee to return to work at his or
20 her regular job with the employer or the employee actually
21 returns to work at any other job. If the arbitrator renders a
22 decision that the employee is not entitled to the benefits that
23 are the subject of the expedited hearing, a petition for review
24 filed by the employee shall receive the same priority as if the
25 employee had filed a petition for an expedited hearing by an
26 Arbitrator. Neither party shall be entitled to an expedited

1 hearing when the employee has returned to work and the sole
2 issue in dispute amounts to less than 12 weeks of unpaid
3 compensation pursuant to paragraph (b) of Section 8.

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

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

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

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

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

- 16 (i) the date and approximate time of accident;
17 (ii) the approximate location of the accident;
18 (iii) a description of the accident;
19 (iv) the nature of the injury incurred by the employee;
20 (v) the identity of the person, if known, to whom the
21 accident was reported and the date on which it was
22 reported;
23 (vi) the name and title of the person, if known,
24 representing the employer with whom the employee conferred
25 in any effort to obtain compensation pursuant to paragraph
26 (b) of Section 8 of this Act or medical, surgical or

1 hospital services pursuant to paragraph (a) of Section 8 of
2 this Act and the date of such conference;

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

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

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

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

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

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

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

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

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

1 decision of the Commission as provided in this paragraph shall
2 be tolled until the arbitrator has determined that the petition
3 is sufficient.

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

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

26 No document or other evidence not previously identified by

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

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

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

1 service in each case, service shall be made on the employer's
2 attorney or designated representative.

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

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

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

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

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

1 this service shall not exceed the usual and customary amount
2 for such service.

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

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

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

1 the Commission shall promptly review the decision of the
2 Arbitrator and all questions of law or fact which appear from
3 the statement of facts or transcript of evidence.

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

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

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

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

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

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

23 At the request of either party or on its own motion, the
24 Commission shall set forth in writing the reasons for the
25 decision, including findings of fact and conclusions of law
26 separately stated. The Commission shall by rule adopt a format

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

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

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

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

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

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

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

21 The Commission shall not be required to certify the
22 record of their proceedings to the Circuit Court, unless
23 the party commencing the proceedings for review in the
24 Circuit Court as above provided, shall file with the
25 Commission notice of intent to file for review in Circuit
26 Court. It shall be the duty of the Commission upon such

1 filing of notice of intent to file for review in the
2 Circuit Court to prepare a true and correct copy of such
3 testimony and a true and correct copy of all other matters
4 contained in such record and certified to by the Secretary
5 or Assistant Secretary thereof. The changes made to this
6 subdivision (f)(1) by this amendatory Act of the 98th
7 General Assembly apply to any Commission decision entered
8 after the effective date of this amendatory Act of the 98th
9 General Assembly.

10 No request for a summons may be filed and no summons
11 shall issue unless the party seeking to review the decision
12 of the Commission shall exhibit to the clerk of the Circuit
13 Court proof of filing with the Commission of the notice of
14 the intent to file for review in the Circuit Court or an
15 affidavit of the attorney setting forth that notice of
16 intent to file for review in the Circuit Court has been
17 given in writing to the Secretary or Assistant Secretary of
18 the Commission.

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

1 surety or sureties of the bond shall be approved by the
2 clerk of the court. The acceptance of the bond by the clerk
3 of the court shall constitute evidence of his approval of
4 the bond.

5 The State of Illinois, including its constitutional
6 officers, boards, commissions, agencies, public
7 institutions of higher learning, and funds administered by
8 the treasurer ex officio, and every ~~Every~~ county, city,
9 town, township, incorporated village, school district,
10 body politic or municipal corporation against whom the
11 Commission shall have rendered an award for the payment of
12 money shall not be required to file a bond to secure the
13 payment of the award and the costs of the proceedings in
14 the court to authorize the court to issue such summons.

15 The court may confirm or set aside the decision of the
16 Commission. If the decision is set aside and the facts
17 found in the proceedings before the Commission are
18 sufficient, the court may enter such decision as is
19 justified by law, or may remand the cause to the Commission
20 for further proceedings and may state the questions
21 requiring further hearing, and give such other
22 instructions as may be proper. Appeals shall be taken to
23 the Appellate Court in accordance with Supreme Court Rules
24 22(g) and 303. Appeals shall be taken from the Appellate
25 Court to the Supreme Court in accordance with Supreme Court
26 Rule 315.

1 It shall be the duty of the clerk of any court
2 rendering a decision affecting or affirming an award of the
3 Commission to promptly furnish the Commission with a copy
4 of such decision, without charge.

5 The decision of a majority of the members of the panel
6 of the Commission, shall be considered the decision of the
7 Commission.

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

1 power at any time upon application to make any such judgment
2 conform to any modification required by any subsequent decision
3 of the Supreme Court upon appeal, or as the result of any
4 subsequent proceedings for review, as provided in this Act.

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

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

18 However, as to accidents occurring subsequent to July 1,
19 1955, which are covered by any agreement or award under this
20 Act providing for compensation in installments made as a result
21 of such accident, such agreement or award may at any time
22 within 30 months, or 60 months in the case of an award under
23 Section 8(d)1, after such agreement or award be reviewed by the
24 Commission at the request of either the employer or the
25 employee on the ground that the disability of the employee has
26 subsequently recurred, increased, diminished or ended.

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

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

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

1 Commission.

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

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

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

1 (k-1) In a case where there has been unreasonable or
2 vexatious delay of authorization of medical treatment, the
3 Commission may award compensation additional to that otherwise
4 payable under this Act in the sum of \$30 per day for each day
5 that the benefits under Section 8(a) have been so withheld or
6 refused, not to exceed \$10,000 or the total amount due per
7 Section 8.2 for treatment to be rendered whichever is less.

8 Unless utilization review under Section 8.7 or Section 12
9 examination is, or has been, requested, a delay in
10 authorization of 14 days or more from the employer's receipt of
11 all appropriate records and data elements needed to allow the
12 employer to make a determination whether to authorize such care
13 shall create a rebuttable presumption of unreasonable delay.

14 This subsection (k-1) is the only penalty provision within
15 the Act applicable to delay of authorization of medical
16 treatment and shall apply only to health care services provided
17 or proposed to be provided on or after the effective date of
18 this amendatory Act of the 101st General Assembly.

19 (1) If the employee has made written demand for payment of
20 benefits under Section 8(a) or Section 8(b), the employer shall
21 have 14 days after receipt of the demand to set forth in
22 writing the reason for the delay. In the case of demand for
23 payment of medical benefits under Section 8(a), the time for
24 the employer to respond shall not commence until the expiration
25 of the allotted 30 days specified under Section 8.2(d). In case
26 the employer or his or her insurance carrier shall without good

1 and just cause fail, neglect, refuse, or unreasonably delay the
2 payment of benefits under Section 8(a) or Section 8(b), the
3 Arbitrator or the Commission shall allow to the employee
4 additional compensation in the sum of \$30 per day for each day
5 that the benefits under Section 8(a) or Section 8(b) have been
6 so withheld or refused, not to exceed \$10,000. A delay in
7 payment of 14 days or more shall create a rebuttable
8 presumption of unreasonable delay.

9 (m) If the commission finds that an accidental injury was
10 directly and proximately caused by the employer's wilful
11 violation of a health and safety standard under the Health and
12 Safety Act or the Occupational Safety and Health Act in force
13 at the time of the accident, the arbitrator or the Commission
14 shall allow to the injured employee or his dependents, as the
15 case may be, additional compensation equal to 25% of the amount
16 which otherwise would be payable under the provisions of this
17 Act exclusive of this paragraph. The additional compensation
18 herein provided shall be allowed by an appropriate increase in
19 the applicable weekly compensation rate.

20 (n) After June 30, 1984, decisions of the Illinois Workers'
21 Compensation Commission reviewing an award of an arbitrator of
22 the Commission shall draw interest at a rate equal to the yield
23 on indebtedness issued by the United States Government with a
24 26-week maturity next previously auctioned on the day on which
25 the decision is filed. Said rate of interest shall be set forth
26 in the Arbitrator's Decision. Interest shall be drawn from the

1 date of the arbitrator's award on all accrued compensation due
2 the employee through the day prior to the date of payments.
3 However, when an employee appeals an award of an Arbitrator or
4 the Commission, and the appeal results in no change or a
5 decrease in the award, interest shall not further accrue from
6 the date of such appeal.

7 The employer or his insurance carrier may tender the
8 payments due under the award to stop the further accrual of
9 interest on such award notwithstanding the prosecution by
10 either party of review, certiorari, appeal to the Supreme Court
11 or other steps to reverse, vacate or modify the award.

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

21 The insured employer may challenge, in proceeding before
22 the Commission, payments made by the insurer without
23 arbitration and payments made after a case is determined to be
24 noncompensable. If the Commission finds that the case was not
25 compensable, the insurer shall purge its records as to that
26 employer of any loss or expense associated with the claim,

1 reimburse the employer for attorneys' fees arising from the
2 challenge and for any payment required of the employer to the
3 Rate Adjustment Fund or the Second Injury Fund, and may not
4 reflect the loss or expense for rate making purposes. The
5 employee shall not be required to refund the challenged
6 payment. The decision of the Commission may be reviewed in the
7 same manner as in arbitrated cases. No challenge may be
8 initiated under this paragraph more than 3 years after the
9 payment is made. An employer may waive the right of challenge
10 under this paragraph on a case by case basis.

11 (p) After filing an application for adjustment of claim but
12 prior to the hearing on arbitration the parties may voluntarily
13 agree to submit such application for adjustment of claim for
14 decision by an arbitrator under this subsection (p) where such
15 application for adjustment of claim raises only a dispute over
16 temporary total disability, permanent partial disability or
17 medical expenses. Such agreement shall be in writing in such
18 form as provided by the Commission. Applications for adjustment
19 of claim submitted for decision by an arbitrator under this
20 subsection (p) shall proceed according to rule as established
21 by the Commission. The Commission shall promulgate rules
22 including, but not limited to, rules to ensure that the parties
23 are adequately informed of their rights under this subsection
24 (p) and of the voluntary nature of proceedings under this
25 subsection (p). The findings of fact made by an arbitrator
26 acting within his or her powers under this subsection (p) in

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

24 (Source: P.A. 97-18, eff. 6-28-11; 98-40, eff. 6-28-13; 98-874,
25 eff. 1-1-15.)

1 (820 ILCS 305/25.5)

2 Sec. 25.5. Unlawful acts; penalties.

3 (a) It is unlawful for any person, company, corporation,
4 insurance carrier, healthcare provider, or other entity to:

5 (1) Intentionally present or cause to be presented any
6 false or fraudulent claim for the payment of any workers'
7 compensation benefit.

8 (2) Intentionally make or cause to be made any false or
9 fraudulent material statement or material representation
10 for the purpose of obtaining or denying any workers'
11 compensation benefit.

12 (3) Intentionally make or cause to be made any false or
13 fraudulent statements with regard to entitlement to
14 workers' compensation benefits with the intent to prevent
15 an injured worker from making a legitimate claim for any
16 workers' compensation benefits.

17 (4) Intentionally prepare or provide an invalid,
18 false, or counterfeit certificate of insurance as proof of
19 workers' compensation insurance.

20 (5) Intentionally make or cause to be made any false or
21 fraudulent material statement or material representation
22 for the purpose of obtaining workers' compensation
23 insurance at less than the proper amount ~~rate~~ for that
24 insurance.

25 (6) Intentionally make or cause to be made any false or
26 fraudulent material statement or material representation

1 on an initial or renewal self-insurance application or
2 accompanying financial statement for the purpose of
3 obtaining self-insurance status or reducing the amount of
4 security that may be required to be furnished pursuant to
5 Section 4 of this Act.

6 (7) Intentionally make or cause to be made any false or
7 fraudulent material statement to the Department of
8 Insurance's fraud and insurance non-compliance unit in the
9 course of an investigation of fraud or insurance
10 non-compliance.

11 (8) Intentionally assist, abet, solicit, or conspire
12 with any person, company, or other entity to commit any of
13 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)
14 of this subsection (a).

15 (9) Intentionally present a bill or statement for the
16 payment for medical services that were not provided.

17 For the purposes of paragraphs (2), (3), (5), (6), (7), and
18 (9), the term "statement" includes any writing, notice, proof
19 of injury, bill for services, hospital or doctor records and
20 reports, or X-ray and test results.

21 (b) Sentences for violations of subsection (a) are as
22 follows:

23 (1) A violation in which the value of the property
24 obtained or attempted to be obtained is \$300 or less is a
25 Class A misdemeanor.

26 (2) A violation in which the value of the property

1 obtained or attempted to be obtained is more than \$300 but
2 not more than \$10,000 is a Class 3 felony.

3 (3) A violation in which the value of the property
4 obtained or attempted to be obtained is more than \$10,000
5 but not more than \$100,000 is a Class 2 felony.

6 (4) A violation in which the value of the property
7 obtained or attempted to be obtained is more than \$100,000
8 is a Class 1 felony.

9 (4.5) A violation of paragraph (3), (4), or (7) of
10 subsection (a) in which the offender did not attempt to
11 obtain any workers' compensation benefits or other
12 property of value is a Class A misdemeanor.

13 (4.7) A violation of paragraph (8) of subsection (a)
14 shall be subject to the same penalty as the offense to
15 which the offender assisted, abetted, solicited, or
16 conspired.

17 (5) A person convicted under this Section shall be
18 ordered to pay monetary restitution to the insurance
19 company or self-insured entity or any other person for any
20 financial loss sustained as a result of a violation of this
21 Section, including any court costs and attorney fees. An
22 order of restitution also includes expenses incurred and
23 paid by the State of Illinois or an insurance company or
24 self-insured entity in connection with any medical
25 evaluation or treatment services.

26 For the purposes of this Section, where the exact value of

1 property obtained or attempted to be obtained is either not
2 alleged or is not specifically set by the terms of a policy of
3 insurance, the value of the property shall be the fair market
4 replacement value of the property claimed to be lost, the
5 reasonable costs of reimbursing a vendor or other claimant for
6 services to be rendered, or both. Notwithstanding the
7 foregoing, an insurance company, self-insured entity, or any
8 other person suffering financial loss sustained as a result of
9 violation of this Section may seek restitution, including court
10 costs and attorney's fees in a civil action in a court of
11 competent jurisdiction.

12 (c) The Department of Insurance shall establish a fraud and
13 insurance non-compliance unit responsible for investigating
14 incidences of fraud and insurance non-compliance pursuant to
15 this Section. The size of the staff of the unit shall be
16 subject to appropriation by the General Assembly. It shall be
17 the duty of the fraud and insurance non-compliance unit to
18 determine the identity of insurance carriers, employers,
19 employees, or other persons or entities who have violated the
20 fraud and insurance non-compliance provisions of this Section.
21 The fraud and insurance non-compliance unit shall report
22 violations of the fraud and insurance non-compliance
23 provisions of this Section to the Special Prosecutions Bureau
24 of the Criminal Division of the Office of the Attorney General
25 or to the State's Attorney of the county in which the offense
26 allegedly occurred, either of whom has the authority to

1 prosecute violations under this Section.

2 With respect to the subject of any investigation being
3 conducted, the fraud and insurance non-compliance unit shall
4 have the general power of subpoena of the Department of
5 Insurance, including the authority to issue a subpoena to a
6 medical provider, pursuant to Section 8-802 of the Code of
7 Civil Procedure.

8 (d) Any person may report allegations of insurance
9 non-compliance and fraud pursuant to this Section to the
10 Department of Insurance's fraud and insurance non-compliance
11 unit whose duty it shall be to investigate the report. The unit
12 shall notify the Commission of reports of insurance
13 non-compliance. Any person reporting an allegation of
14 insurance non-compliance or fraud against either an employee or
15 employer under this Section must identify himself. Except as
16 provided in this subsection and in subsection (e), all reports
17 shall remain confidential except to refer an investigation to
18 the Attorney General or State's Attorney for prosecution or if
19 the fraud and insurance non-compliance unit's investigation
20 reveals that the conduct reported may be in violation of other
21 laws or regulations of the State of Illinois, the unit may
22 report such conduct to the appropriate governmental agency
23 charged with administering such laws and regulations. Any
24 person who intentionally makes a false report under this
25 Section to the fraud and insurance non-compliance unit is
26 guilty of a Class A misdemeanor.

1 (e) In order for the fraud and insurance non-compliance
2 unit to investigate a report of fraud related to an employee's
3 claim, (i) the employee must have filed with the Commission an
4 Application for Adjustment of Claim and the employee must have
5 either received or attempted to receive benefits under this Act
6 that are related to the reported fraud or (ii) the employee
7 must have made a written demand for the payment of benefits
8 that are related to the reported fraud. There shall be no
9 immunity, under this Act or otherwise, for any person who files
10 a false report or who files a report without good and just
11 cause. Confidentiality of medical information shall be
12 strictly maintained. Investigations that are not referred for
13 prosecution shall be destroyed upon the expiration of the
14 statute of limitations for the acts under investigation and
15 shall not be disclosed except that the person making the report
16 shall be notified that the investigation is being closed. It is
17 unlawful for any employer, insurance carrier, service
18 adjustment company, third party administrator, self-insured,
19 or similar entity to file or threaten to file a report of fraud
20 against an employee because of the exercise by the employee of
21 the rights and remedies granted to the employee by this Act.

22 (e-5) The fraud and insurance non-compliance unit shall
23 procure and implement a system utilizing advanced analytics
24 inclusive of predictive modeling, data mining, social network
25 analysis, and scoring algorithms for the detection and
26 prevention of fraud, waste, and abuse on or before January 1,

1 2012. The fraud and insurance non-compliance unit shall procure
2 this system using a request for proposals process governed by
3 the Illinois Procurement Code and rules adopted under that
4 Code. The fraud and insurance non-compliance unit shall provide
5 a report to the President of the Senate, Speaker of the House
6 of Representatives, Minority Leader of the House of
7 Representatives, Minority Leader of the Senate, Governor,
8 Chairman of the Commission, and Director of Insurance on or
9 before July 1, 2012 and annually thereafter detailing its
10 activities and providing recommendations regarding
11 opportunities for additional fraud waste and abuse detection
12 and prevention.

13 (e-7) By July 1, 2018 and thereafter, the fraud and
14 insurance non-compliance unit shall employ at least 10
15 investigators to investigate insurance non-compliance and
16 fraud pursuant to this Section.

17 (f) Any person convicted of fraud related to workers'
18 compensation pursuant to this Section shall be subject to the
19 penalties prescribed in the Criminal Code of 2012 and shall be
20 ineligible to receive or retain any compensation, disability,
21 or medical benefits as defined in this Act if the compensation,
22 disability, or medical benefits were owed or received as a
23 result of fraud for which the recipient of the compensation,
24 disability, or medical benefit was convicted. This subsection
25 applies to accidental injuries or diseases that occur on or
26 after the effective date of this amendatory Act of the 94th

1 General Assembly.

2 (g) Civil liability. Any person convicted of fraud who
3 knowingly obtains, attempts to obtain, or causes to be obtained
4 any benefits under this Act by the making of a false claim or
5 who knowingly misrepresents any material fact shall be civilly
6 liable to the payor of benefits or the insurer or the payor's
7 or insurer's subrogee or assignee in an amount equal to 3 times
8 the value of the benefits or insurance coverage wrongfully
9 obtained or twice the value of the benefits or insurance
10 coverage attempted to be obtained, plus reasonable attorney's
11 fees and expenses incurred by the payor or the payor's subrogee
12 or assignee who successfully brings a claim under this
13 subsection. This subsection applies to accidental injuries or
14 diseases that occur on or after the effective date of this
15 amendatory Act of the 94th General Assembly.

16 (h) The fraud and insurance non-compliance unit shall
17 submit a written report on an annual basis to the Chairman of
18 the Commission, the Workers' Compensation Advisory Board, the
19 General Assembly, the Governor, and the Attorney General by
20 January 1 and July 1 of each year. This report shall include,
21 at the minimum, the following information:

22 (1) The number of allegations of insurance
23 non-compliance and fraud reported to the fraud and
24 insurance non-compliance unit.

25 (2) The source of the reported allegations
26 (individual, employer, or other).

1 (3) The number of allegations investigated by the fraud
2 and insurance non-compliance unit.

3 (4) The number of criminal referrals made in accordance
4 with this Section and the entity to which the referral was
5 made.

6 (5) All proceedings under this Section.

7 (Source: P.A. 97-18, eff. 6-28-11; 97-1150, eff. 1-25-13.)

8 (820 ILCS 305/29.2)

9 Sec. 29.2. Insurance and self-insurance oversight.

10 (a) The Department of Insurance shall annually submit to
11 the Governor, the Chairman of the Commission, the President of
12 the Senate, the Speaker of the House of Representatives, the
13 Minority Leader of the Senate, and the Minority Leader of the
14 House of Representatives a written report that details the
15 state of the workers' compensation insurance market in
16 Illinois. The report shall be completed by April 1 of each
17 year, beginning in 2012, or later if necessary data or analyses
18 are only available to the Department at a later date. The
19 report shall be posted on the Department of Insurance's
20 Internet website. Information to be included in the report
21 shall be for the preceding calendar year. The report shall
22 include, at a minimum, the following:

23 (1) Gross premiums collected by workers' compensation
24 carriers in Illinois and the national rank of Illinois
25 based on premium volume.

1 (2) The number of insurance companies actively engaged
2 in Illinois in the workers' compensation insurance market,
3 including both holding companies and subsidiaries or
4 affiliates, and the national rank of Illinois based on
5 number of competing insurers.

6 (3) The total number of insured participants in the
7 Illinois workers' compensation assigned risk insurance
8 pool, and the size of the assigned risk pool as a
9 proportion of the total Illinois workers' compensation
10 insurance market.

11 (4) The advisory organization premium rate for
12 workers' compensation insurance in Illinois for the
13 previous year.

14 (5) The advisory organization prescribed assigned risk
15 pool premium rate.

16 (6) The total amount of indemnity payments made by
17 workers' compensation insurers in Illinois.

18 (7) The total amount of medical payments made by
19 workers' compensation insurers in Illinois, and the
20 national rank of Illinois based on average cost of medical
21 claims per injured worker.

22 (8) The gross profitability of workers' compensation
23 insurers in Illinois, and the national rank of Illinois
24 based on profitability of workers' compensation insurers.

25 (9) The loss ratio of workers' compensation insurers in
26 Illinois and the national rank of Illinois based on the

1 loss ratio of workers' compensation insurers. For purposes
2 of this loss ratio calculation, the denominator shall
3 include all premiums and other fees collected by workers'
4 compensation insurers and the numerator shall include the
5 total amount paid by the insurer for care or compensation
6 to injured workers.

7 (10) The growth of total paid indemnity benefits by
8 temporary total disability, scheduled and non-scheduled
9 permanent partial disability, and total disability.

10 (11) The number of injured workers receiving wage loss
11 differential awards and the average wage loss differential
12 award payout.

13 (12) Illinois' rank, relative to other states, for:

14 (i) the maximum and minimum temporary total
15 disability benefit level;

16 (ii) the maximum and minimum scheduled and
17 non-scheduled permanent partial disability benefit
18 level;

19 (iii) the maximum and minimum total disability
20 benefit level; and

21 (iv) the maximum and minimum death benefit level.

22 (13) The aggregate growth of medical benefit payout by
23 non-hospital providers and hospitals.

24 (14) The aggregate growth of medical utilization for
25 the top 10 most common injuries to specific body parts by
26 non-hospital providers and hospitals.

1 (15) The percentage of injured workers filing claims at
2 the Commission that are represented by an attorney.

3 (16) The total amount paid by injured workers for
4 attorney representation.

5 (a-5) The Commission shall annually submit to the Governor
6 and the General Assembly a written report that details the
7 state of self-insurance for workers' compensation in Illinois.
8 The report shall be based on the types of information collected
9 by the Commission or the Department of Insurance from
10 self-insurers, as of the effective date of this amendatory Act
11 of the 101st General Assembly. The report shall be completed by
12 April 1 of each year, beginning in 2019. The report shall be
13 posted on the Commission's Internet website. Information to be
14 included in the report shall be for the preceding calendar
15 year. The report shall include, at a minimum, the following in
16 the aggregate:

17 (1) The number of employers that self-insure for
18 workers' compensation;

19 (2) The total number of employees covered by
20 self-insurance;

21 (3) The total amount of indemnity payments made by
22 self-insureds;

23 (4) The total number of claims on which indemnity
24 payments were made by self-insureds;

25 (5) The total amount of medical payments made by
26 self-insureds;

1 (6) The total number of claims on which medical
2 payments were made by self-insureds;

3 (7) The total number of claims on which both indemnity
4 and medical payments were made by self-insureds;

5 (8) The median of the injured workers' weekly wage of
6 self-insureds employees;

7 (9) The growth of total paid indemnity benefits by
8 temporary total disability, scheduled and non-scheduled
9 permanent partial disability, and total disability;

10 (10) Illinois' rank, relative to other states, for:

11 (i) the maximum and minimum temporary total
12 disability benefit levels;

13 (ii) the maximum and minimum scheduled and
14 non-scheduled permanent partial disability benefit
15 levels;

16 (iii) the maximum and minimum total disability
17 benefit levels; and

18 (iv) the maximum and minimum death benefit levels;

19 and

20 (11) The aggregate growth of medical benefit payouts by
21 non-hospital providers and hospitals.

22 (b) The Director of Insurance shall promulgate rules
23 requiring each insurer licensed to write workers' compensation
24 coverage in the State to record and report the following
25 information on an aggregate basis to the Department of
26 Insurance before March 1 of each year, relating to claims in

1 the State opened within the prior calendar year:

2 (1) The number of claims opened.

3 (2) The number of reported medical only claims.

4 (3) The number of contested claims.

5 (4) The number of claims for which the employee has
6 attorney representation.

7 (5) The number of claims with lost time and the number
8 of claims for which temporary total disability was paid.

9 (6) The number of claim adjusters employed to adjust
10 workers' compensation claims.

11 (7) The number of claims for which temporary total
12 disability was not paid within 14 days from the first full
13 day off, regardless of reason.

14 (8) The number of medical bills paid 60 days or later
15 from date of service and the average days paid on those
16 paid after 60 days for the previous calendar year.

17 (9) The number of claims in which in-house defense
18 counsel participated, and the total amount spent on
19 in-house legal services.

20 (10) The number of claims in which outside defense
21 counsel participated, and the total amount paid to outside
22 defense counsel.

23 (11) The total amount billed to employers for bill
24 review.

25 (12) The total amount billed to employers for fee
26 schedule savings.

1 (13) The total amount charged to employers for any and
2 all managed care fees.

3 (14) The number of claims involving in-house medical
4 nurse case management, and the total amount spent on
5 in-house medical nurse case management.

6 (15) The number of claims involving outside medical
7 nurse case management, and the total amount paid for
8 outside medical nurse case management.

9 (16) The total amount paid for Independent Medical
10 exams.

11 (17) The total amount spent on in-house Utilization
12 Review for the previous calendar year.

13 (18) The total amount paid for outside Utilization
14 Review for the previous calendar year.

15 The Department shall make the submitted information
16 publicly available on the Department's Internet website or such
17 other media as appropriate in a form useful for consumers.

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

19 (820 ILCS 305/29.3 new)

20 Sec. 29.3. Workers' Compensation Premium Rates Task Force.

21 (a) There is created the Workers' Compensation Premium
22 Rates Task Force consisting of 12 members appointed as follows:
23 2 legislative members appointed by the Speaker of the House of
24 Representatives; 2 legislative members appointed by the
25 Minority Leader of the House of Representatives; 2 legislative

1 members appointed by the President of the Senate; 2 legislative
2 members appointed by the Minority Leader of the Senate; and one
3 member appointed by the Governor from each of the following
4 organizations: (i) a statewide association representing
5 retailers; (ii) a statewide association representing
6 manufacturers; (iii) a statewide association representing
7 labor interests; and (iv) a statewide association representing
8 injured workers. The members of the Task Force shall be
9 appointed by April 1, 2018. Two co-chairpersons, representing
10 different political parties, shall be selected by the members
11 of the Task Force. Members of the Task Force shall receive no
12 compensation for their service on the Task Force.

13 (b) The Task Force shall study the National Council on
14 Compensation Insurance's recommendations for workers'
15 compensation premium rates, the extent to which Illinois
16 employers' actual premiums reflect these recommended rates.
17 The Task Force shall also study the feasibility of establishing
18 a competitive nonprofit, independent public corporation to
19 provide workers' compensation insurance and the impact that the
20 corporation would have on insurance rates and premiums. The
21 Department of Insurance shall provide administrative support
22 to the Task Force.

23 (c) The Task Force shall report its findings and
24 recommendations to the General Assembly no later than December
25 31, 2018.

26 (d) This Section is repealed December 31, 2019.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	215 ILCS 5/462c new	
4	215 ILCS 5/460 rep.	
5	820 ILCS 305/1	from Ch. 48, par. 138.1
6	820 ILCS 305/4e new	
7	820 ILCS 305/8	from Ch. 48, par. 138.8
8	820 ILCS 305/8.1 new	
9	820 ILCS 305/8.1b	
10	820 ILCS 305/8.2	
11	820 ILCS 305/8.2a	
12	820 ILCS 305/14	from Ch. 48, par. 138.14
13	820 ILCS 305/19	from Ch. 48, par. 138.19
14	820 ILCS 305/25.5	
15	820 ILCS 305/29.2	
16	820 ILCS 305/29.3 new	