



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0128

Introduced 1/14/2021, 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 profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to the services rendered. Sets forth 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.

LRB102 02769 KTG 12776 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
5 adding 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
9 excessive if it is likely to produce a profit that is
10 unreasonably high for the insurance provided or if expenses
11 are unreasonably high in relation to the coverage or services
12 rendered.

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

17 If, within 30 days of any proper request for review under
18 this Section, the Director finds that the premium does not
19 meet the requirements of this Section, he or she shall send to
20 the insurer a written notice of disapproval of premium,
21 specifying therein in what respects he or she finds that the
22 premium fails to meet the requirements of this Section,
23 stating when, within a reasonable period thereafter, the

1 premium shall be deemed no longer effective, and ordering an
2 adjustment of the premium. An insurer whose premium has been
3 disapproved shall be given a hearing upon a written request
4 made within 30 days after the disapproval order. If the
5 insurer requests a hearing, the premium shall be effective
6 until the expiration of a reasonable period specified in any
7 order entered thereon. If, after a hearing, the premium is
8 found to be excessive, the Director shall order an adjustment
9 of the premium. The insurer shall refund to the insured any
10 amount found to be excessive under this Section.

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

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

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

20 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

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

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

24 1. The State and each county, city, town, township,

1 incorporated village, school district, body politic, or
2 municipal corporation therein.

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

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

1 compensation. With respect to any time limitation on the
2 filing of claims provided by this Act, the timely filing of a
3 claim against a contractor or subcontractor, as the case may
4 be, shall be deemed to be a timely filing with respect to all
5 persons upon whom liability is imposed by this paragraph.

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

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

15 4. Where an employer operating under and subject to the
16 provisions of this Act loans an employee to another such
17 employer and such loaned employee sustains a compensable
18 accidental injury in the employment of such borrowing employer
19 and where such borrowing employer does not provide or pay the
20 benefits or payments due such injured employee, such loaning
21 employer is liable to provide or pay all benefits or payments
22 due such employee under this Act and as to such employee the
23 liability of such loaning and borrowing employers is joint and
24 several, provided that such loaning employer is in the absence
25 of agreement to the contrary entitled to receive from such
26 borrowing employer full reimbursement for all sums paid or

1 incurred pursuant to this paragraph together with reasonable
2 attorneys' fees and expenses in any hearings before the
3 Illinois Workers' Compensation Commission or in any action to
4 secure such reimbursement. Where any benefit is provided or
5 paid by such loaning employer the employee has the duty of
6 rendering reasonable cooperation in any hearings, trials or
7 proceedings in the case, including such proceedings for
8 reimbursement.

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

22 An employer whose business or enterprise or a substantial
23 part thereof consists of hiring, procuring or furnishing
24 employees to or for other employers operating under and
25 subject to the provisions of this Act for the performance of
26 the work of such other employers and who pays such employees

1 their salary or wages notwithstanding that they are doing the
2 work of such other employers shall be deemed a loaning
3 employer within the meaning and provisions of this Section.

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

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

1 only with respect to claims brought under paragraph (c) of
2 Section 8.

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

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

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

26 An employee or his dependents under this Act who shall

1 have a cause of action by reason of any injury, disablement or
2 death arising out of and in the course of his employment may
3 elect to pursue his remedy in the State where injured or
4 disabled, or in the State where the contract of hire is made,
5 or in the State where the employment is principally localized.

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

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

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

21 (d) To obtain compensation under this Act, an employee
22 bears the burden of showing, by a preponderance of the
23 evidence, that he or she has sustained accidental injuries
24 arising out of and in the course of the employment. Except as
25 provided in subsection (e) of this Section, accidental
26 injuries sustained while traveling to or from work do not

1 arise out of and in the course of employment.

2 For the purposes of this subsection (d):

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

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

18 (e) Where an employee is required to travel away from his
19 or her employer's premises in order to perform his or her job,
20 the traveling employee's accidental injuries arise out of his
21 or her employment, and are in the course of his or her
22 employment, when the conduct in which he or she was engaged at
23 the time of the injury is reasonable and when that conduct
24 might have been anticipated or foreseen by the employer.
25 Accidental injuries while traveling do not occur in the course
26 of employment if the accident occurs during a purely personal

1 deviation or personal errand unless such deviation or errand
2 is insubstantial.

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

18 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11;
19 97-813, eff. 7-13-12.)

20 (820 ILCS 305/4e new)

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

23 (a) An employer may file with the Commission a workers'
24 compensation safety program or a workers' compensation return
25 to work program implemented by the employer. The Commission

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

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

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

1 certify the continuation of the program by each July 1 after
2 the waiver is obtained.

3 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

1 employer shall further pay for such maintenance or
2 institutional care as shall be required.

3 The employee may at any time elect to secure his own
4 physician, surgeon and hospital services at the employer's
5 expense, or,

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

1 his obligation to pay the doctor's charges from the date of
2 refusal to the date of compliance.

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

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

19 When the employee is working light duty on a part-time
20 basis or full-time basis and earns less than he or she would be
21 earning if employed in the full capacity of the job or jobs,
22 then the employee shall be entitled to temporary partial
23 disability benefits. Temporary partial disability benefits
24 shall be equal to two-thirds of the difference between the
25 average amount that the employee would be able to earn in the
26 full performance of his or her duties in the occupation in

1 which he or she was engaged at the time of accident and the
2 gross amount which he or she is earning in the modified job
3 provided to the employee by the employer or in any other job
4 that the employee is working.

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

12 Notwithstanding the foregoing, the employer's liability to
13 pay for such medical services selected by the employee shall
14 be limited to:

- 15 (1) all first aid and emergency treatment; plus
16 (2) all medical, surgical and hospital services
17 provided by the physician, surgeon or hospital initially
18 chosen by the employee or by any other physician,
19 consultant, expert, institution or other provider of
20 services recommended by said initial service provider or
21 any subsequent provider of medical services in the chain
22 of referrals from said initial service provider; plus
23 (3) all medical, surgical and hospital services
24 provided by any second physician, surgeon or hospital
25 subsequently chosen by the employee or by any other
26 physician, consultant, expert, institution or other

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

12 (4) The following shall apply for injuries occurring
13 on or after June 28, 2011 (the effective date of Public Act
14 97-18) and only when an employer has an approved preferred
15 provider program pursuant to Section 8.1a on the date the
16 employee sustained his or her accidental injuries:

17 (A) The employer shall, in writing, on a form
18 promulgated by the Commission, inform the employee of
19 the preferred provider program;

20 (B) Subsequent to the report of an injury by an
21 employee, the employee may choose in writing at any
22 time to decline the preferred provider program, in
23 which case that would constitute one of the two
24 choices of medical providers to which the employee is
25 entitled under subsection (a) (2) or (a) (3); and

26 (C) Prior to the report of an injury by an

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

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

18 Where the accidental injury results in the amputation of
19 an arm, hand, leg or foot, or the enucleation of an eye, or the
20 loss of any of the natural teeth, the employer shall furnish an
21 artificial of any such members lost or damaged in accidental
22 injury arising out of and in the course of employment, and
23 shall also furnish the necessary braces in all proper and
24 necessary cases. In cases of the loss of a member or members by
25 amputation, the employer shall, whenever necessary, maintain
26 in good repair, refit or replace the artificial limbs during

1 the lifetime of the employee. Where the accidental injury
2 accompanied by physical injury results in damage to a denture,
3 eye glasses or contact eye lenses, or where the accidental
4 injury results in damage to an artificial member, the employer
5 shall replace or repair such denture, glasses, lenses, or
6 artificial member.

7 The furnishing by the employer of any such services or
8 appliances is not an admission of liability on the part of the
9 employer to pay compensation.

10 The furnishing of any such services or appliances or the
11 servicing thereof by the employer is not the payment of
12 compensation.

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

24 1. The compensation rate for temporary total
25 incapacity under this paragraph (b) of this Section shall
26 be equal to 66 2/3% of the employee's average weekly wage

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

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

1 less.

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

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

25 4. All weekly compensation rates provided under
26 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this

1 Section shall be subject to the following limitations:

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

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

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

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

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

25 4.1. Any provision herein to the contrary
26 notwithstanding, the weekly compensation rate for

1 compensation payments under subparagraph 18 of paragraph
2 (e) of this Section and under paragraph (f) of this
3 Section and under paragraph (a) of Section 7 and for
4 amputation of a member or enucleation of an eye under
5 paragraph (e) of this Section, shall in no event be less
6 than 50% of the State's average weekly wage in covered
7 industries under the Unemployment Insurance Act.

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

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

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

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

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

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

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

26 A duly appointed member of a fire department in a city, the

1 population of which exceeds 500,000 according to the last
2 federal or State census, is eligible for compensation under
3 this paragraph only where such serious and permanent
4 disfigurement results from burns.

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

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

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

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

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

22 1. Thumb-

23 70 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 76 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 2. First, or index finger-

3 40 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 43 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 3. Second, or middle finger-

9 35 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 38 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 4. Third, or ring finger-

15 25 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 27 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 5. Fourth, or little finger-

21 20 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

24 22 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 6. Great toe-

1 35 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

4 38 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 7. Each toe other than great toe-

7 12 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 13 weeks if the accidental injury occurs on or
11 after February 1, 2006.

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

21 9. Hand-

22 190 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.

25 205 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 190 weeks if the accidental injury occurs on or
2 after June 28, 2011 (the effective date of Public Act
3 97-18) and if the accidental injury involves carpal
4 tunnel syndrome due to repetitive or cumulative
5 trauma, in which case the permanent partial disability
6 shall not exceed 15% loss of use of the hand, except
7 for cause shown by clear and convincing evidence and
8 in which case the award shall not exceed 30% loss of
9 use of the hand.

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

16 10. Arm-

17 235 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 253 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Where an accidental injury results in the amputation
23 of an arm below the elbow, such injury shall be
24 compensated as a loss of an arm. Where an accidental
25 injury results in the amputation of an arm above the
26 elbow, compensation for an additional 15 weeks (if the

1 accidental injury occurs on or after the effective date of
2 this amendatory Act of the 94th General Assembly but
3 before February 1, 2006) or an additional 17 weeks (if the
4 accidental injury occurs on or after February 1, 2006)
5 shall be paid, except where the accidental injury results
6 in the amputation of an arm at the shoulder joint, or so
7 close to shoulder joint that an artificial arm cannot be
8 used, or results in the disarticulation of an arm at the
9 shoulder joint, in which case compensation for an
10 additional 65 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) or an
13 additional 70 weeks (if the accidental injury occurs on or
14 after February 1, 2006) shall be paid.

15 For purposes of awards under this subdivision (e),
16 injuries to the shoulder shall be considered injuries to
17 part of the arm.

18 11. Foot-

19 155 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.

22 167 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 12. Leg-

25 200 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 215 weeks if the accidental injury occurs on or
3 after February 1, 2006.

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

23 For purposes of awards under this subdivision (e),
24 injuries to the hip shall be considered injuries to part
25 of the leg.

26 13. Eye-

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

4 162 weeks if the accidental injury occurs on or
5 after February 1, 2006.

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

13 14. Loss of hearing of one ear-

14 50 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 54 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Total and permanent loss of hearing of both ears-

20 200 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.

23 215 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 15. Testicle-

26 50 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 54 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 Both testicles-

6 150 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.

9 162 weeks if the accidental injury occurs on or
10 after February 1, 2006.

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

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

24 (b) The percent of hearing loss, for purposes of
25 the determination of compensation claims for
26 occupational deafness, shall be calculated as the

1 average in decibels for the thresholds of hearing for
2 the frequencies of 1,000, 2,000 and 3,000 cycles per
3 second. Pure tone air conduction audiometric
4 instruments, approved by nationally recognized
5 authorities in this field, shall be used for measuring
6 hearing loss. If the losses of hearing average 30
7 decibels or less in the 3 frequencies, such losses of
8 hearing shall not then constitute any compensable
9 hearing disability. If the losses of hearing average
10 85 decibels or more in the 3 frequencies, then the same
11 shall constitute and be total or 100% compensable
12 hearing loss.

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

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

25 (e) No consideration shall be given to the
26 question of whether or not the ability of an employee

1 to understand speech is improved by the use of a
2 hearing aid.

3 (f) No claim for loss of hearing due to industrial
4 noise shall be brought against an employer or allowed
5 unless the employee has been exposed for a period of
6 time sufficient to cause permanent impairment to noise
7 levels in excess of the following:

8 Sound Level DBA

9	Slow Response	Hours Per Day
10	90	8
11	92	6
12	95	4
13	97	3
14	100	2
15	102	1-1/2
16	105	1
17	110	1/2
18	115	1/4

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

21 17. In computing the compensation to be paid to any
22 employee who, before the accident for which he claims
23 compensation, had before that time sustained an injury
24 resulting in the loss by amputation or partial loss by
25 amputation of any member, including hand, arm, thumb or
26 fingers, leg, foot, or any toes, or loss under Section

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

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

23 Any employee who has previously suffered the loss or
24 permanent and complete loss of the use of any of such
25 members, and in a subsequent independent accident loses
26 another or suffers the permanent and complete loss of the

1 use of any one of such members the employer for whom the
2 injured employee is working at the time of the last
3 independent accident is liable to pay compensation only
4 for the loss or permanent and complete loss of the use of
5 the member occasioned by the last independent accident.

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

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

1 herein provided. The Commission shall make the changes in
2 payment effective by general order, and the changes in payment
3 become immediately effective for all cases coming before the
4 Commission thereafter either by settlement agreement or final
5 order, irrespective of the date of the accidental injury.

6 On August 1, 1996 and on February 1 and August 1 of each
7 subsequent year, the Commission shall examine the special fund
8 designated as the "Rate Adjustment Fund" and when, after
9 deducting all advances or loans made to said fund, the amount
10 therein is \$4,000,000, the amount required to be paid by
11 employers pursuant to paragraph (f) of Section 7 shall be
12 reduced by one-half. When the Rate Adjustment Fund reaches the
13 sum of \$5,000,000 the payment therein shall cease entirely.
14 However, when said Rate Adjustment Fund has been reduced to
15 \$3,000,000 the amounts required by paragraph (f) of Section 7
16 shall be resumed in the manner herein provided.

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

23 An employee entitled to benefits under paragraph (f) of
24 this Section shall also be entitled to receive from the Rate
25 Adjustment Fund provided in paragraph (f) of Section 7 of the
26 supplementary benefits provided in paragraph (g) of this

1 Section 8.

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

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

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

1 whose employ he was when the last accidental injury was
2 incurred, will equal the amount payable for permanent and
3 complete disability as provided in this paragraph of this
4 Section.

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

11 In its award the Commission or the Arbitrator shall
12 specifically find the amount the injured employee shall be
13 weekly paid, the number of weeks compensation which shall be
14 paid by the employer, the date upon which payments begin out of
15 the Second Injury Fund provided for in paragraph (f) of
16 Section 7 of this Act, the length of time the weekly payments
17 continue, the date upon which the pension payments commence
18 and the monthly amount of the payments. The Commission shall
19 30 days after the date upon which payments out of the Second
20 Injury Fund have begun as provided in the award, and every
21 month thereafter, prepare and submit to the State Comptroller
22 a voucher for payment for all compensation accrued to that
23 date at the rate fixed by the Commission. The State
24 Comptroller shall draw a warrant to the injured employee along
25 with a receipt to be executed by the injured employee and
26 returned to the Commission. The endorsed warrant and receipt

1 is a full and complete acquittance to the Commission for the
2 payment out of the Second Injury Fund. No other appropriation
3 or warrant is necessary for payment out of the Second Injury
4 Fund. The Second Injury Fund is appropriated for the purpose
5 of making payments according to the terms of the awards.

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

13 (g) Every award for permanent total disability entered by
14 the Commission on and after July 1, 1965 under which
15 compensation payments shall become due and payable after the
16 effective date of this amendatory Act, and every award for
17 death benefits or permanent total disability entered by the
18 Commission on and after the effective date of this amendatory
19 Act shall be subject to annual adjustments as to the amount of
20 the compensation rate therein provided. Such adjustments shall
21 first be made on July 15, 1977, and all awards made and entered
22 prior to July 1, 1975 and on July 15 of each year thereafter.
23 In all other cases such adjustment shall be made on July 15 of
24 the second year next following the date of the entry of the
25 award and shall further be made on July 15 annually
26 thereafter. If during the intervening period from the date of

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

26 Provided, that in cases of awards entered by the

1 Commission for injuries occurring before July 1, 1975, the
2 increases in the compensation rate adjusted under the
3 foregoing provision of this paragraph (g) shall be limited to
4 increases in the State's average weekly wage in covered
5 industries under the Unemployment Insurance Act occurring
6 after July 1, 1975.

7 For every accident occurring on or after July 20, 2005 but
8 before the effective date of this amendatory Act of the 94th
9 General Assembly (Senate Bill 1283 of the 94th General
10 Assembly), the annual adjustments to the compensation rate in
11 awards for death benefits or permanent total disability, as
12 provided in this Act, shall be paid by the employer. The
13 adjustment shall be made by the employer on July 15 of the
14 second year next following the date of the entry of the award
15 and shall further be made on July 15 annually thereafter. If
16 during the intervening period from the date of the entry of the
17 award, or the last periodic adjustment, there shall have been
18 an increase in the State's average weekly wage in covered
19 industries under the Unemployment Insurance Act, the employer
20 shall increase the weekly compensation rate proportionately by
21 the same percentage as the percentage of increase in the
22 State's average weekly wage in covered industries under the
23 Unemployment Insurance Act. The increase in the compensation
24 rate under this paragraph shall in no event bring the total
25 compensation rate to an amount greater than the prevailing
26 maximum rate at the time that the annual adjustment is made. In

1 the event of a decrease in such average weekly wage there shall
2 be no change in the then existing compensation rate. Such
3 increase shall be paid by the employer in the same manner and
4 at the same intervals as the payment of compensation in the
5 award. This paragraph shall not apply to cases where there is
6 disputed liability and in which a compromise lump sum
7 settlement between the employer and the injured employee, or
8 his or her dependents, as the case may be, has been duly
9 approved by the Illinois Workers' Compensation Commission.

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

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

26 (h-1) In case an injured employee is under legal

1 disability at the time when any right or privilege accrues to
2 him or her under this Act, a guardian may be appointed pursuant
3 to law, and may, on behalf of such person under legal
4 disability, claim and exercise any such right or privilege
5 with the same effect as if the employee himself or herself had
6 claimed or exercised the right or privilege. No limitations of
7 time provided by this Act run so long as the employee who is
8 under legal disability is without a conservator or guardian.

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

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

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

23 (j) 1. In the event the injured employee receives
24 benefits, including medical, surgical or hospital benefits
25 under any group plan covering non-occupational disabilities
26 contributed to wholly or partially by the employer, which

1 benefits should not have been payable if any rights of
2 recovery existed under this Act, then such amounts so paid to
3 the employee from any such group plan as shall be consistent
4 with, and limited to, the provisions of paragraph 2 hereof,
5 shall be credited to or against any compensation payment for
6 temporary total incapacity for work or any medical, surgical
7 or hospital benefits made or to be made under this Act. In such
8 event, the period of time for giving notice of accidental
9 injury and filing application for adjustment of claim does not
10 commence to run until the termination of such payments. This
11 paragraph does not apply to payments made under any group plan
12 which would have been payable irrespective of an accidental
13 injury under this Act. Any employer receiving such credit
14 shall keep such employee safe and harmless from any and all
15 claims or liabilities that may be made against him by reason of
16 having received such payments only to the extent of such
17 credit.

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

1 of such credit.

2 2. Nothing contained in this Act shall be construed to
3 give the employer or the insurance carrier the right to credit
4 for any benefits or payments received by the employee other
5 than compensation payments provided by this Act, and where the
6 employee receives payments other than compensation payments,
7 whether as full or partial salary, group insurance benefits,
8 bonuses, annuities or any other payments, the employer or
9 insurance carrier shall receive credit for each such payment
10 only to the extent of the compensation that would have been
11 payable during the period covered by such payment.

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

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

22 (820 ILCS 305/8.1 new)

23 Sec. 8.1. Repetitive and cumulative injuries; right of
24 contribution.

25 (a) Any accidental injury which results from repetitive or

1 cumulative trauma and occurs within 3 months after the
2 employee begins his or her employment shall not be considered
3 by a workers' compensation insurer in setting the premium rate
4 for the employer.

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

1 of rendering reasonable cooperation in any such proceeding.

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

5 (d) This Section shall apply only to injuries occurring on
6 or after the effective date of this amendatory Act of the 102nd
7 General Assembly.

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

11 (820 ILCS 305/8.1b)

12 Sec. 8.1b. Determination of permanent partial disability.
13 For accidental injuries that occur on or after September 1,
14 2011, permanent partial disability shall be established using
15 the following criteria:

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

1 to the Evaluation of Permanent Impairment" shall be used by
2 the physician in determining the level of impairment.

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

19 (c) A report of impairment prepared pursuant to subsection
20 (a) is not required for an arbitrator or the Commission to make
21 an award for permanent partial disability or permanent total
22 disability benefits or any award for benefits under subsection
23 (c) of Section 8 or subsection (d) of Section 8 of this Act or
24 to approve a Settlement Contract Lump Sum Petition.

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

1 (820 ILCS 305/8.2)

2 Sec. 8.2. Fee schedule.

3 (a) Except as provided for in subsection (c), for
4 procedures, treatments, or services covered under this Act and
5 rendered or to be rendered on and after February 1, 2006, the
6 maximum allowable payment shall be 90% of the 80th percentile
7 of charges and fees as determined by the Commission utilizing
8 information provided by employers' and insurers' national
9 databases, with a minimum of 12,000,000 Illinois line item
10 charges and fees comprised of health care provider and
11 hospital charges and fees as of August 1, 2004 but not earlier
12 than August 1, 2002. These charges and fees are provider
13 billed amounts and shall not include discounted charges. The
14 80th percentile is the point on an ordered data set from low to
15 high such that 80% of the cases are below or equal to that
16 point and at most 20% are above or equal to that point. The
17 Commission shall adjust these historical charges and fees as
18 of August 1, 2004 by the Consumer Price Index-U for the period
19 August 1, 2004 through September 30, 2005. The Commission
20 shall establish fee schedules for procedures, treatments, or
21 services for hospital inpatient, hospital outpatient,
22 emergency room and trauma, ambulatory surgical treatment
23 centers, and professional services. These charges and fees
24 shall be designated by geozip or any smaller geographic unit.
25 The data shall in no way identify or tend to identify any
26 patient, employer, or health care provider. As used in this

1 Section, "geozip" means a three-digit zip code based on data
2 similarities, geographical similarities, and frequencies. A
3 geozip does not cross state boundaries. As used in this
4 Section, "three-digit zip code" means a geographic area in
5 which all zip codes have the same first 3 digits. If a geozip
6 does not have the necessary number of charges and fees to
7 calculate a valid percentile for a specific procedure,
8 treatment, or service, the Commission may combine data from
9 the geozip with up to 4 other geozips that are demographically
10 and economically similar and exhibit similarities in data and
11 frequencies until the Commission reaches 9 charges or fees for
12 that specific procedure, treatment, or service. In cases where
13 the compiled data contains less than 9 charges or fees for a
14 procedure, treatment, or service, reimbursement shall occur at
15 76% of charges and fees as determined by the Commission in a
16 manner consistent with the provisions of this paragraph.
17 Providers of out-of-state procedures, treatments, services,
18 products, or supplies shall be reimbursed at the lesser of
19 that state's fee schedule amount or the fee schedule amount
20 for the region in which the employee resides. If no fee
21 schedule exists in that state, the provider shall be
22 reimbursed at the lesser of the actual charge or the fee
23 schedule amount for the region in which the employee resides.
24 Not later than September 30 in 2006 and each year thereafter,
25 the Commission shall automatically increase or decrease the
26 maximum allowable payment for a procedure, treatment, or

1 service established and in effect on January 1 of that year by
2 the percentage change in the Consumer Price Index-U for the 12
3 month period ending August 31 of that year. The increase or
4 decrease shall become effective on January 1 of the following
5 year. As used in this Section, "Consumer Price Index-U" means
6 the index published by the Bureau of Labor Statistics of the
7 U.S. Department of Labor, that measures the average change in
8 prices of all goods and services purchased by all urban
9 consumers, U.S. city average, all items, 1982-84=100.

10 (a-1) Notwithstanding the provisions of subsection (a) and
11 unless otherwise indicated, the following provisions shall
12 apply to the medical fee schedule starting on September 1,
13 2011:

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

26 (A) Four regions for non-hospital fee schedule

1 amounts shall be utilized:

2 (i) Cook County;

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

4 (iii) Bond, Calhoun, Clinton, Jersey,
5 Macoupin, Madison, Monroe, Montgomery, Randolph,
6 St. Clair, and Washington Counties; and

7 (iv) All other counties of the State.

8 (B) Fourteen regions for hospital fee schedule
9 amounts shall be utilized:

10 (i) Cook, DuPage, Will, Kane, McHenry, DeKalb,
11 Kendall, and Grundy Counties;

12 (ii) Kankakee County;

13 (iii) Madison, St. Clair, Macoupin, Clinton,
14 Monroe, Jersey, Bond, and Calhoun Counties;

15 (iv) Winnebago and Boone Counties;

16 (v) Peoria, Tazewell, Woodford, Marshall, and
17 Stark Counties;

18 (vi) Champaign, Piatt, and Ford Counties;

19 (vii) Rock Island, Henry, and Mercer Counties;

20 (viii) Sangamon and Menard Counties;

21 (ix) McLean County;

22 (x) Lake County;

23 (xi) Macon County;

24 (xii) Vermilion County;

25 (xiii) Alexander County; and

26 (xiv) All other counties of the State.

1 (2) If a geozip, as defined in subsection (a) of this
2 Section, overlaps into one or more of the regions set
3 forth in this Section, then the Commission shall average
4 or repeat the charges and fees in a geozip in order to
5 designate charges and fees for each region.

6 (3) In cases where the compiled data contains less
7 than 9 charges or fees for a procedure, treatment,
8 product, supply, or service or where the fee schedule
9 amount cannot be determined by the non-discounted charge
10 data, non-Medicare relative values and conversion factors
11 derived from established fee schedule amounts, coding
12 crosswalks, or other data as determined by the Commission,
13 reimbursement shall occur at 76% of charges and fees until
14 September 1, 2011 and 53.2% of charges and fees thereafter
15 as determined by the Commission in a manner consistent
16 with the provisions of this paragraph.

17 (4) To establish additional fee schedule amounts, the
18 Commission shall utilize provider non-discounted charge
19 data, non-Medicare relative values and conversion factors
20 derived from established fee schedule amounts, and coding
21 crosswalks. The Commission may establish additional fee
22 schedule amounts based on either the charge or cost of the
23 procedure, treatment, product, supply, or service.

24 (5) Implants shall be reimbursed at 25% above the net
25 manufacturer's invoice price less rebates, plus actual
26 reasonable and customary shipping charges whether or not

1 the implant charge is submitted by a provider in
2 conjunction with a bill for all other services associated
3 with the implant, submitted by a provider on a separate
4 claim form, submitted by a distributor, or submitted by
5 the manufacturer of the implant. "Implants" include the
6 following codes or any substantially similar updated code
7 as determined by the Commission: 0274
8 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
9 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
10 (investigational devices); and 0636 (drugs requiring
11 detailed coding). Non-implantable devices or supplies
12 within these codes shall be reimbursed at 65% of actual
13 charge, which is the provider's normal rates under its
14 standard chargemaster. A standard chargemaster is the
15 provider's list of charges for procedures, treatments,
16 products, supplies, or services used to bill payers in a
17 consistent manner.

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

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

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

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

13 A request for a prescription that is not on the closed
14 formulary shall be reviewed pursuant to Section 8.7 of this
15 Act.

16 (a-5) Notwithstanding any other provision of this Section,
17 on or before March 1, 2022 and on or before March 1 of each
18 subsequent year, the Commission must investigate all
19 procedures, treatments, and services covered under this Act
20 for ambulatory surgical treatment centers and accredited
21 ambulatory surgical treatment facilities and establish fee
22 schedule amounts for procedures, treatments, and services for
23 which fee schedule amounts have not been established. The
24 Commission must adopt, in a timely and ongoing manner, all
25 rules necessary to ensure that its responsibilities under this
26 subsection are carried out.

1 (b) Notwithstanding the provisions of subsection (a), if
2 the Commission finds that there is a significant limitation on
3 access to quality health care in either a specific field of
4 health care services or a specific geographic limitation on
5 access to health care, it may change the Consumer Price
6 Index-U increase or decrease for that specific field or
7 specific geographic limitation on access to health care to
8 address that limitation.

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

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

25 (1) All payments to providers for treatment provided
26 pursuant to this Act shall be made within 30 days of

1 receipt of the bills as long as the bill contains
2 substantially all the required data elements necessary to
3 adjudicate the bill.

4 (2) If the bill does not contain substantially all the
5 required data elements necessary to adjudicate the bill,
6 or the claim is denied for any other reason, in whole or in
7 part, the employer or insurer shall provide written
8 notification to the provider in the form of an explanation
9 of benefits explaining the basis for the denial and
10 describing any additional necessary data elements within
11 30 days of receipt of the bill. The Commission, with
12 assistance from the Medical Fee Advisory Board, shall
13 adopt rules detailing the requirements for the explanation
14 of benefits required under this subsection.

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

1 provider within 30 days after payment of the bill.

2 (4) If the employer or its insurer fails to pay
3 interest within 30 days after payment of the bill as
4 required pursuant to paragraph (3), the provider may bring
5 an action in circuit court for the sole purpose of seeking
6 payment of interest pursuant to paragraph (3) against the
7 employer or its insurer responsible for insuring the
8 employer's liability pursuant to item (3) of subsection
9 (a) of Section 4. The circuit court's jurisdiction shall
10 be limited to enforcing payment of interest pursuant to
11 paragraph (3). Interest under paragraph (3) is only
12 payable to the provider. An employee is not responsible
13 for the payment of interest under this Section. The right
14 to interest under paragraph (3) shall not delay, diminish,
15 restrict, or alter in any way the benefits to which the
16 employee or his or her dependents are entitled under this
17 Act.

18 The changes made to this subsection (d) by this amendatory
19 Act of the 100th General Assembly apply to procedures,
20 treatments, and services rendered on and after the effective
21 date of this amendatory Act of the 100th General Assembly.

22 (e) Except as provided in subsections (e-5), (e-10), and
23 (e-15), a provider shall not hold an employee liable for costs
24 related to a non-disputed procedure, treatment, or service
25 rendered in connection with a compensable injury. The
26 provisions of subsections (e-5), (e-10), (e-15), and (e-20)

1 shall not apply if an employee provides information to the
2 provider regarding participation in a group health plan. If
3 the employee participates in a group health plan, the provider
4 may submit a claim for services to the group health plan. If
5 the claim for service is covered by the group health plan, the
6 employee's responsibility shall be limited to applicable
7 deductibles, co-payments, or co-insurance. Except as provided
8 under subsections (e-5), (e-10), (e-15), and (e-20), a
9 provider shall not bill or otherwise attempt to recover from
10 the employee the difference between the provider's charge and
11 the amount paid by the employer or the insurer on a compensable
12 injury, or for medical services or treatment determined by the
13 Commission to be excessive or unnecessary.

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

1 provider is permitted to resume collection efforts under the
2 provisions of this Section.

3 (e-10) If an employer notifies a provider that the
4 employer will pay only a portion of a bill for any procedure,
5 treatment, or service rendered in connection with a
6 compensable illness or disease, the provider may seek payment
7 from the employee for the remainder of the amount of the bill
8 up to the lesser of the actual charge, negotiated rate, if
9 applicable, or the payment level set by the Commission in the
10 fee schedule established in this Section. Once an employee
11 informs the provider that there is an application filed with
12 the Commission to resolve a dispute over payment of such
13 charges, the provider shall cease any and all efforts to
14 collect payment for the services that are the subject of the
15 dispute. Any statute of limitations or statute of repose
16 applicable to the provider's efforts to collect payment from
17 the employee shall be tolled from the date that the employee
18 files the application with the Commission until the date that
19 the provider is permitted to resume collection efforts under
20 the provisions of this Section.

21 (e-15) When there is a dispute over the compensability of
22 or amount of payment for a procedure, treatment, or service,
23 and a case is pending or proceeding before an Arbitrator or the
24 Commission, the provider may mail the employee reminders that
25 the employee will be responsible for payment of any procedure,
26 treatment or service rendered by the provider. The reminders

1 must state that they are not bills, to the extent practicable
2 include itemized information, and state that the employee need
3 not pay until such time as the provider is permitted to resume
4 collection efforts under this Section. The reminders shall not
5 be provided to any credit rating agency. The reminders may
6 request that the employee furnish the provider with
7 information about the proceeding under this Act, such as the
8 file number, names of parties, and status of the case. If an
9 employee fails to respond to such request for information or
10 fails to furnish the information requested within 90 days of
11 the date of the reminder, the provider is entitled to resume
12 any and all efforts to collect payment from the employee for
13 the services rendered to the employee and the employee shall
14 be responsible for payment of any outstanding bills for a
15 procedure, treatment, or service rendered by a provider.

16 (e-20) Upon a final award or judgment by an Arbitrator or
17 the Commission, or a settlement agreed to by the employer and
18 the employee, a provider may resume any and all efforts to
19 collect payment from the employee for the services rendered to
20 the employee and the employee shall be responsible for payment
21 of any outstanding bills for a procedure, treatment, or
22 service rendered by a provider as well as the interest awarded
23 under subsection (d) of this Section. In the case of a
24 procedure, treatment, or service deemed compensable, the
25 provider shall not require a payment rate, excluding the
26 interest provisions under subsection (d), greater than the

1 lesser of the actual charge or the payment level set by the
2 Commission in the fee schedule established in this Section.
3 Payment for services deemed not covered or not compensable
4 under this Act is the responsibility of the employee unless a
5 provider and employee have agreed otherwise in writing.
6 Services not covered or not compensable under this Act are not
7 subject to the fee schedule in this Section.

8 (f) Nothing in this Act shall prohibit an employer or
9 insurer from contracting with a health care provider or group
10 of health care providers for reimbursement levels for benefits
11 under this Act different from those provided in this Section.

12 (g) On or before January 1, 2010 the Commission shall
13 provide to the Governor and General Assembly a report
14 regarding the implementation of the medical fee schedule and
15 the index used for annual adjustment to that schedule as
16 described in this Section.

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

19 (820 ILCS 305/8.2a)

20 Sec. 8.2a. Electronic claims.

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

23 (1) Ensure that all health care providers and
24 facilities submit medical bills for payment on
25 standardized forms.

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

3 (3) Ensure confidentiality of medical information
4 submitted on electronic claims for payment of medical
5 services.

6 (4) Ensure that health care providers have at least 15
7 business days ~~an opportunity~~ to comply with requests for
8 records by employers and insurers for the authorization of
9 the payment of workers' compensation claims.

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

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

19 (7) Provide that the Department of Insurance shall
20 impose an administrative fine if it determines that an
21 employer or insurer has failed to comply with the
22 electronic claims acceptance and response process. The
23 amount of the administrative fine shall be no greater than
24 \$1,000 per each violation, but shall not exceed \$10,000
25 for identical violations during a calendar year.

26 (b) To the extent feasible, standards adopted pursuant to

1 subdivision (a) shall be consistent with existing standards
2 under the federal Health Insurance Portability and
3 Accountability Act of 1996 and standards adopted under the
4 Illinois Health Information Exchange and Technology Act.

5 (c) The rules requiring employers and insurers to accept
6 electronic claims for payment of medical services shall be
7 proposed on or before January 1, 2012, and shall require all
8 employers and insurers to accept electronic claims for payment
9 of medical services on or before June 30, 2012. The Director of
10 Insurance shall adopt rules by January 1, 2019 to implement
11 the changes to this Section made by this amendatory Act of the
12 100th General Assembly. The Commission, with assistance from
13 the Department and the Medical Fee Advisory Board, shall
14 publish on its Internet website a companion guide to assist
15 with compliance with electronic claims rules. The Medical Fee
16 Advisory Board shall periodically review the companion guide.

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

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

22 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

23 Sec. 14. The Commission shall appoint a secretary, an
24 assistant secretary, and arbitrators and shall employ such
25 assistants and clerical help as may be necessary. Arbitrators

1 shall be appointed pursuant to this Section, notwithstanding
2 any provision of the Personnel Code.

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

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

10 (a) substantive and procedural aspects of the
11 arbitrator position;

12 (b) current issues in workers' compensation law and
13 practice;

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

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

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

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

25 (g) writing skills;

26 (h) professional and ethical standards pursuant to

1 Section 1.1 of this Act;

2 (i) detection of workers' compensation fraud and
3 reporting obligations of Commission employees and
4 appointees;

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

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

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

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

1 profit under the United States or this State or any municipal
2 corporation or political subdivision of this State.
3 Notwithstanding any other provision of this Act to the
4 contrary, an arbitrator who serves as an acting Commissioner
5 in accordance with the provisions of Section 13 of this Act
6 shall continue to serve in the capacity of Commissioner until
7 a decision is reached in every case heard by that arbitrator
8 while serving as an acting Commissioner.

9 Notwithstanding any other provision of this Section, the
10 term of all arbitrators serving on June 28, 2011 (the
11 effective date of Public Act 97-18), including any arbitrators
12 on administrative leave, shall terminate at the close of
13 business on July 1, 2011, but the incumbents shall continue to
14 exercise all of their duties until they are reappointed or
15 their successors are appointed.

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

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

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

1 Upon the expiration of a term, the Chairman shall evaluate
2 the performance of the arbitrator and may recommend to the
3 Governor that he or she be reappointed to a second or
4 subsequent term by the Governor with the advice and consent of
5 the Senate.

6 Each arbitrator appointed on or after June 28, 2011 (the
7 effective date of Public Act 97-18) and who has not previously
8 served as an arbitrator for the Commission shall be required
9 to be authorized to practice law in this State by the Supreme
10 Court, and to maintain this authorization throughout his or
11 her term of employment.

12 The performance of all arbitrators shall be reviewed by
13 the Chairman on an annual basis. The Chairman shall allow
14 input from the Commissioners in all such reviews.

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

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

1 installments.

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

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

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

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

2 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

18 2. Whenever any claimant misconceives his remedy and
19 files an application for adjustment of claim under the
20 Workers' Occupational Diseases Act and it is subsequently
21 discovered, at any time before final disposition of such
22 cause that the claim for injury or death which was the
23 basis for such application should properly have been made
24 under this Act, then the application so filed under the
25 Workers' Occupational Diseases Act may be amended in form,

1 substance or both to assert claim for such disability or
2 death under this Act and it shall be deemed to have been so
3 filed as amended on the date of the original filing
4 thereof, and such compensation may be awarded as is
5 warranted by the whole evidence pursuant to this Act. When
6 such amendment is submitted, further or additional
7 evidence may be heard by the Arbitrator or Commission when
8 deemed necessary. Nothing in this Section contained shall
9 be construed to be or permit a waiver of any provisions of
10 this Act with reference to notice but notice if given
11 shall be deemed to be a notice under the provisions of this
12 Act if given within the time required herein.

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

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

22 The Arbitrator may find that the disabling condition is
23 temporary and has not yet reached a permanent condition and
24 may order the payment of compensation up to the date of the
25 hearing, which award shall be reviewable and enforceable in
26 the same manner as other awards, and in no instance be a bar to

1 a further hearing and determination of a further amount of
2 temporary total compensation or of compensation for permanent
3 disability, but shall be conclusive as to all other questions
4 except the nature and extent of said disability.

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

1 the Petition for Review. The Commission, or any member
2 thereof, may grant further time not exceeding 30 days, in
3 which to file such agreed statement or transcript of evidence.
4 Such agreed statement of facts or correct transcript of
5 evidence, as the case may be, shall be authenticated by the
6 signatures of the parties or their attorneys, and in the event
7 they do not agree as to the correctness of the transcript of
8 evidence it shall be authenticated by the signature of the
9 Arbitrator designated by the Commission.

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

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

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

25 Where 2 or more insurance carriers, private self-insureds,
26 or a group workers' compensation pool under Article V 3/4 of

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

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

25 Such petition shall contain the following information and
26 shall be served on the employer at least 15 days before it is

1 filed:

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

3 (ii) the approximate location of the accident;

4 (iii) a description of the accident;

5 (iv) the nature of the injury incurred by the
6 employee;

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

10 (vi) the name and title of the person, if known,
11 representing the employer with whom the employee conferred
12 in any effort to obtain compensation pursuant to paragraph
13 (b) of Section 8 of this Act or medical, surgical or
14 hospital services pursuant to paragraph (a) of Section 8
15 of this Act and the date of such conference;

16 (vii) a statement that the employer has refused to pay
17 compensation pursuant to paragraph (b) of Section 8 of
18 this Act or for medical, surgical or hospital services
19 pursuant to paragraph (a) of Section 8 of this Act;

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

23 (ix) the dates of treatment related to the accident by
24 medical practitioners, and the names and addresses of such
25 practitioners, including the dates of treatment related to
26 the accident at any hospitals and the names and addresses

1 of such hospitals, and a signed authorization permitting
2 the employer to examine all medical records of all
3 practitioners and hospitals named pursuant to this
4 paragraph;

5 (x) a copy of a signed report by a medical
6 practitioner, relating to the employee's current inability
7 to return to work because of the injuries incurred as a
8 result of the accident or such other documents or
9 affidavits which show that the employee is entitled to
10 receive compensation pursuant to paragraph (b) of Section
11 8 of this Act or medical, surgical or hospital services
12 pursuant to paragraph (a) of Section 8 of this Act. Such
13 reports, documents or affidavits shall state, if possible,
14 the history of the accident given by the employee, and
15 describe the injury and medical diagnosis, the medical
16 services for such injury which the employee has received
17 and is receiving, the physical activities which the
18 employee cannot currently perform as a result of any
19 impairment or disability due to such injury, and the
20 prognosis for recovery;

21 (xi) complete copies of any reports, records,
22 documents and affidavits in the possession of the employee
23 on which the employee will rely to support his
24 allegations, provided that the employer shall pay the
25 reasonable cost of reproduction thereof;

26 (xii) a list of any reports, records, documents and

1 affidavits which the employee has demanded by subpoena and
2 on which he intends to rely to support his allegations;

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

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

17 The employer shall, within 15 days after receipt of the
18 notice that such petition is filed, file with the Commission
19 and serve on the employee or his representative a written
20 response to each claim set forth in the petition, including
21 the legal and factual basis for each disputed allegation and
22 the following information: (i) complete copies of any reports,
23 records, documents and affidavits in the possession of the
24 employer on which the employer intends to rely in support of
25 his response, (ii) a list of any reports, records, documents
26 and affidavits which the employer has demanded by subpoena and

1 on which the employer intends to rely in support of his
2 response, (iii) the name and address of each witness on whom
3 the employer will rely to support his response, and (iv) the
4 names and addresses of any medical practitioners selected by
5 the employer pursuant to Section 12 of this Act and the time
6 and place of any examination scheduled to be made pursuant to
7 such Section.

8 Any employer who does not timely file and serve a written
9 response without good cause may not introduce any evidence to
10 dispute any claim of the employee but may cross examine the
11 employee or any witness brought by the employee and otherwise
12 be heard.

13 No document or other evidence not previously identified by
14 either party with the petition or written response, or by any
15 other means before the hearing, may be introduced into
16 evidence without good cause. If, at the hearing, material
17 information is discovered which was not previously disclosed,
18 the Arbitrator may extend the time for closing proof on the
19 motion of a party for a reasonable period of time which may be
20 more than 30 days. No evidence may be introduced pursuant to
21 this paragraph as to permanent disability. No award may be
22 entered for permanent disability pursuant to this paragraph.
23 Either party may introduce into evidence the testimony taken
24 by deposition of any medical practitioner.

25 The Commission shall adopt rules, regulations and
26 procedures whereby the final decision of the Commission is

1 filed not later than 90 days from the date the petition for
2 review is filed but in no event later than 180 days from the
3 date the petition for an emergency hearing is filed with the
4 Illinois Workers' Compensation Commission.

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

16 (c)(1) At a reasonable time in advance of and in
17 connection with the hearing under Section 19(e) or 19(h), the
18 Commission may on its own motion order an impartial physical
19 or mental examination of a petitioner whose mental or physical
20 condition is in issue, when in the Commission's discretion it
21 appears that such an examination will materially aid in the
22 just determination of the case. The examination shall be made
23 by a member or members of a panel of physicians chosen for
24 their special qualifications by the Illinois State Medical
25 Society. The Commission shall establish procedures by which a
26 physician shall be selected from such list.

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

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

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

10 (5) The examination shall be made, and the physician or
11 physicians, if called, shall testify, without cost to the
12 parties. The Commission shall determine the compensation and
13 the pay of the physician or physicians. The compensation for
14 this service shall not exceed the usual and customary amount
15 for such service.

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

21 (d) If any employee shall persist in insanitary or
22 injurious practices which tend to either imperil or retard his
23 recovery or shall refuse to submit to such medical, surgical,
24 or hospital treatment as is reasonably essential to promote
25 his recovery, the Commission may, in its discretion, reduce or
26 suspend the compensation of any such injured employee.

1 However, when an employer and employee so agree in writing,
2 the foregoing provision shall not be construed to authorize
3 the reduction or suspension of compensation of an employee who
4 is relying in good faith, on treatment by prayer or spiritual
5 means alone, in accordance with the tenets and practice of a
6 recognized church or religious denomination, by a duly
7 accredited practitioner thereof.

8 (e) This paragraph shall apply to all hearings before the
9 Commission. Such hearings may be held in its office or
10 elsewhere as the Commission may deem advisable. The taking of
11 testimony on such hearings may be had before any member of the
12 Commission. If a petition for review and agreed statement of
13 facts or transcript of evidence is filed, as provided herein,
14 the Commission shall promptly review the decision of the
15 Arbitrator and all questions of law or fact which appear from
16 the statement of facts or transcript of evidence.

17 In all cases in which the hearing before the arbitrator is
18 held after December 18, 1989, no additional evidence shall be
19 introduced by the parties before the Commission on review of
20 the decision of the Arbitrator. In reviewing decisions of an
21 arbitrator the Commission shall award such temporary
22 compensation, permanent compensation and other payments as are
23 due under this Act. The Commission shall file in its office its
24 decision thereon, and shall immediately send to each party or
25 his attorney a copy of such decision and a notification of the
26 time when it was filed. Decisions shall be filed within 60 days

1 after the Statement of Exceptions and Supporting Brief and
2 Response thereto are required to be filed or oral argument
3 whichever is later.

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

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

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

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

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

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

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

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

1 (1) Except in cases of claims against the State of
2 Illinois other than those claims under Section 18.1, in
3 which case the decision of the Commission shall not be
4 subject to judicial review, the Circuit Court of the
5 county where any of the parties defendant may be found, or
6 if none of the parties defendant can be found in this State
7 then the Circuit Court of the county where the accident
8 occurred, shall by summons to the Commission have power to
9 review all questions of law and fact presented by such
10 record.

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

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

12 The Commission shall not be required to certify the
13 record of their proceedings to the Circuit Court, unless
14 the party commencing the proceedings for review in the
15 Circuit Court as above provided, shall file with the
16 Commission notice of intent to file for review in Circuit
17 Court. It shall be the duty of the Commission upon such
18 filing of notice of intent to file for review in the
19 Circuit Court to prepare a true and correct copy of such
20 testimony and a true and correct copy of all other matters
21 contained in such record and certified to by the Secretary
22 or Assistant Secretary thereof. The changes made to this
23 subdivision (f)(1) by this amendatory Act of the 98th
24 General Assembly apply to any Commission decision entered
25 after the effective date of this amendatory Act of the
26 98th General Assembly.

1 No request for a summons may be filed and no summons
2 shall issue unless the party seeking to review the
3 decision of the Commission shall exhibit to the clerk of
4 the Circuit Court proof of filing with the Commission of
5 the notice of the intent to file for review in the Circuit
6 Court or an affidavit of the attorney setting forth that
7 notice of intent to file for review in the Circuit Court
8 has been given in writing to the Secretary or Assistant
9 Secretary of the Commission.

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

22 The State of Illinois, including its constitutional
23 officers, boards, commissions, agencies, public
24 institutions of higher learning, and funds administered by
25 the treasurer ex officio, and every ~~Every~~ county, city,
26 town, township, incorporated village, school district,

1 body politic or municipal corporation against whom the
2 Commission shall have rendered an award for the payment of
3 money shall not be required to file a bond to secure the
4 payment of the award and the costs of the proceedings in
5 the court to authorize the court to issue such summons.

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

18 It shall be the duty of the clerk of any court
19 rendering a decision affecting or affirming an award of
20 the Commission to promptly furnish the Commission with a
21 copy of such decision, without charge.

22 The decision of a majority of the members of the panel
23 of the Commission, shall be considered the decision of the
24 Commission.

25 (g) Except in the case of a claim against the State of
26 Illinois, either party may present a certified copy of the

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

23 Judgment shall not be entered until 15 days' notice of the
24 time and place of the application for the entry of judgment
25 shall be served upon the employer by filing such notice with
26 the Commission, which Commission shall, in case it has on file

1 the address of the employer or the name and address of its
2 agent upon whom notices may be served, immediately send a copy
3 of the notice to the employer or such designated agent.

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

10 However, as to accidents occurring subsequent to July 1,
11 1955, which are covered by any agreement or award under this
12 Act providing for compensation in installments made as a
13 result of such accident, such agreement or award may at any
14 time within 30 months, or 60 months in the case of an award
15 under Section 8(d)1, after such agreement or award be reviewed
16 by the Commission at the request of either the employer or the
17 employee on the ground that the disability of the employee has
18 subsequently recurred, increased, diminished or ended.

19 On such review, compensation payments may be
20 re-established, increased, diminished or ended. The Commission
21 shall give 15 days' notice to the parties of the hearing for
22 review. Any employee, upon any petition for such review being
23 filed by the employer, shall be entitled to one day's notice
24 for each 100 miles necessary to be traveled by him in attending
25 the hearing of the Commission upon the petition, and 3 days in
26 addition thereto. Such employee shall, at the discretion of

1 the Commission, also be entitled to 5 cents per mile
2 necessarily traveled by him within the State of Illinois in
3 attending such hearing, not to exceed a distance of 300 miles,
4 to be taxed by the Commission as costs and deposited with the
5 petition of the employer.

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

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

20 (j) Whenever in any proceeding testimony has been taken or
21 a final decision has been rendered and after the taking of such
22 testimony or after such decision has become final, the injured
23 employee dies, then in any subsequent proceedings brought by
24 the personal representative or beneficiaries of the deceased
25 employee, such testimony in the former proceeding may be
26 introduced with the same force and effect as though the

1 witness having so testified were present in person in such
2 subsequent proceedings and such final decision, if any, shall
3 be taken as final adjudication of any of the issues which are
4 the same in both proceedings.

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

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

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

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

8 This subsection (k-1) is the only penalty provision within
9 the Act applicable to delay of authorization of medical
10 treatment and shall apply only to health care services
11 provided or proposed to be provided on or after the effective
12 date of this amendatory Act of the 102nd General Assembly.

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

1 \$10,000. A delay in payment of 14 days or more shall create a
2 rebuttable presumption of unreasonable delay.

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

15 (n) After June 30, 1984, decisions of the Illinois
16 Workers' Compensation Commission reviewing an award of an
17 arbitrator of the Commission shall draw interest at a rate
18 equal to the yield on indebtedness issued by the United States
19 Government with a 26-week maturity next previously auctioned
20 on the day on which the decision is filed. Said rate of
21 interest shall be set forth in the Arbitrator's Decision.
22 Interest shall be drawn from the date of the arbitrator's
23 award on all accrued compensation due the employee through the
24 day prior to the date of payments. However, when an employee
25 appeals an award of an Arbitrator or the Commission, and the
26 appeal results in no change or a decrease in the award,

1 interest shall not further accrue from the date of such
2 appeal.

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

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

17 The insured employer may challenge, in proceeding before
18 the Commission, payments made by the insurer without
19 arbitration and payments made after a case is determined to be
20 noncompensable. If the Commission finds that the case was not
21 compensable, the insurer shall purge its records as to that
22 employer of any loss or expense associated with the claim,
23 reimburse the employer for attorneys' fees arising from the
24 challenge and for any payment required of the employer to the
25 Rate Adjustment Fund or the Second Injury Fund, and may not
26 reflect the loss or expense for rate making purposes. The

1 employee shall not be required to refund the challenged
2 payment. The decision of the Commission may be reviewed in the
3 same manner as in arbitrated cases. No challenge may be
4 initiated under this paragraph more than 3 years after the
5 payment is made. An employer may waive the right of challenge
6 under this paragraph on a case by case basis.

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

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

20 (Source: P.A. 101-384, eff. 1-1-20.)

21 (820 ILCS 305/25.5)

22 Sec. 25.5. Unlawful acts; penalties.

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

25 (1) Intentionally present or cause to be presented any

1 false or fraudulent claim for the payment of any workers'
2 compensation benefit.

3 (2) Intentionally make or cause to be made any false
4 or fraudulent material statement or material
5 representation for the purpose of obtaining or denying any
6 workers' compensation benefit.

7 (3) Intentionally make or cause to be made any false
8 or fraudulent statements with regard to entitlement to
9 workers' compensation benefits with the intent to prevent
10 an injured worker from making a legitimate claim for any
11 workers' compensation benefits.

12 (4) Intentionally prepare or provide an invalid,
13 false, or counterfeit certificate of insurance as proof of
14 workers' compensation insurance.

15 (5) Intentionally make or cause to be made any false
16 or fraudulent material statement or material
17 representation for the purpose of obtaining workers'
18 compensation insurance at less than the proper amount ~~rate~~
19 for that insurance.

20 (6) Intentionally make or cause to be made any false
21 or fraudulent material statement or material
22 representation on an initial or renewal self-insurance
23 application or accompanying financial statement for the
24 purpose of obtaining self-insurance status or reducing the
25 amount of security that may be required to be furnished
26 pursuant to Section 4 of this Act.

1 (7) Intentionally make or cause to be made any false
2 or fraudulent material statement to the Department of
3 Insurance's fraud and insurance non-compliance unit in the
4 course of an investigation of fraud or insurance
5 non-compliance.

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

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

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

16 (b) Sentences for violations of subsection (a) are as
17 follows:

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

21 (2) A violation in which the value of the property
22 obtained or attempted to be obtained is more than \$300 but
23 not more than \$10,000 is a Class 3 felony.

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

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

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

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

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

21 For the purposes of this Section, where the exact value of
22 property obtained or attempted to be obtained is either not
23 alleged or is not specifically set by the terms of a policy of
24 insurance, the value of the property shall be the fair market
25 replacement value of the property claimed to be lost, the
26 reasonable costs of reimbursing a vendor or other claimant for

1 services to be rendered, or both. Notwithstanding the
2 foregoing, an insurance company, self-insured entity, or any
3 other person suffering financial loss sustained as a result of
4 violation of this Section may seek restitution, including
5 court costs and attorney's fees in a civil action in a court of
6 competent jurisdiction.

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

23 With respect to the subject of any investigation being
24 conducted, the fraud and insurance non-compliance unit shall
25 have the general power of subpoena of the Department of
26 Insurance, including the authority to issue a subpoena to a

1 medical provider, pursuant to Section 8-802 of the Code of
2 Civil Procedure.

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

22 (e) In order for the fraud and insurance non-compliance
23 unit to investigate a report of fraud related to an employee's
24 claim, (i) the employee must have filed with the Commission an
25 Application for Adjustment of Claim and the employee must have
26 either received or attempted to receive benefits under this

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

18 (e-5) The fraud and insurance non-compliance unit shall
19 procure and implement a system utilizing advanced analytics
20 inclusive of predictive modeling, data mining, social network
21 analysis, and scoring algorithms for the detection and
22 prevention of fraud, waste, and abuse on or before January 1,
23 2012. The fraud and insurance non-compliance unit shall
24 procure this system using a request for proposals process
25 governed by the Illinois Procurement Code and rules adopted
26 under that Code. The fraud and insurance non-compliance unit

1 shall provide a report to the President of the Senate, Speaker
2 of the House of Representatives, Minority Leader of the House
3 of Representatives, Minority Leader of the Senate, Governor,
4 Chairman of the Commission, and Director of Insurance on or
5 before July 1, 2012 and annually thereafter detailing its
6 activities and providing recommendations regarding
7 opportunities for additional fraud waste and abuse detection
8 and prevention.

9 (e-7) By July 1, 2022 and thereafter, the fraud and
10 insurance non-compliance unit shall employ at least 10
11 investigators to investigate insurance non-compliance and
12 fraud pursuant to this Section.

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

24 (g) Civil liability. Any person convicted of fraud who
25 knowingly obtains, attempts to obtain, or causes to be
26 obtained any benefits under this Act by the making of a false

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

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

19 (1) The number of allegations of insurance
20 non-compliance and fraud reported to the fraud and
21 insurance non-compliance unit.

22 (2) The source of the reported allegations
23 (individual, employer, or other).

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

26 (4) The number of criminal referrals made in

1 accordance with this Section and the entity to which the
2 referral was made.

3 (5) All proceedings under this Section.

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

5 (820 ILCS 305/29.2)

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

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

20 (1) Gross premiums collected by workers' compensation
21 carriers in Illinois and the national rank of Illinois
22 based on premium volume.

23 (2) The number of insurance companies actively engaged
24 in Illinois in the workers' compensation insurance market,
25 including both holding companies and subsidiaries or

1 affiliates, and the national rank of Illinois based on
2 number of competing insurers.

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

8 (4) The advisory organization premium rate for
9 workers' compensation insurance in Illinois for the
10 previous year.

11 (5) The advisory organization prescribed assigned risk
12 pool premium rate.

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

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

19 (8) The gross profitability of workers' compensation
20 insurers in Illinois, and the national rank of Illinois
21 based on profitability of workers' compensation insurers.

22 (9) The loss ratio of workers' compensation insurers
23 in Illinois and the national rank of Illinois based on the
24 loss ratio of workers' compensation insurers. For purposes
25 of this loss ratio calculation, the denominator shall
26 include all premiums and other fees collected by workers'

1 compensation insurers and the numerator shall include the
2 total amount paid by the insurer for care or compensation
3 to injured workers.

4 (10) The growth of total paid indemnity benefits by
5 temporary total disability, scheduled and non-scheduled
6 permanent partial disability, and total disability.

7 (11) The number of injured workers receiving wage loss
8 differential awards and the average wage loss differential
9 award payout.

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

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

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

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

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

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

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

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

26 (16) The total amount paid by injured workers for

1 attorney representation.

2 (a-5) The Commission shall annually submit to the Governor
3 and the General Assembly a written report that details the
4 state of self-insurance for workers' compensation in Illinois.
5 The report shall be based on the types of information
6 collected by the Commission or the Department of Insurance
7 from self-insurers, as of the effective date of this
8 amendatory Act of the 102nd General Assembly. The report shall
9 be completed by April 1 of each year, beginning in 2022. The
10 report shall be posted on the Commission's Internet website.
11 Information to be included in the report shall be for the
12 preceding calendar year. The report shall include, at a
13 minimum, the following in the aggregate:

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

16 (2) The total number of employees covered by
17 self-insurance;

18 (3) The total amount of indemnity payments made by
19 self-insureds;

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

22 (5) The total amount of medical payments made by
23 self-insureds;

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

26 (7) The total number of claims on which both indemnity

1 and medical payments were made by self-insureds;

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

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

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

8 (i) the maximum and minimum temporary total
9 disability benefit levels;

10 (ii) the maximum and minimum scheduled and
11 non-scheduled permanent partial disability benefit
12 levels;

13 (iii) the maximum and minimum total disability
14 benefit levels; and

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

16 and

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

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

25 (1) The number of claims opened.

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

1 (3) The number of contested claims.

2 (4) The number of claims for which the employee has
3 attorney representation.

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

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

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

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

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

17 (10) The number of claims in which outside defense
18 counsel participated, and the total amount paid to outside
19 defense counsel.

20 (11) The total amount billed to employers for bill
21 review.

22 (12) The total amount billed to employers for fee
23 schedule savings.

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

26 (14) The number of claims involving in-house medical

1 nurse case management, and the total amount spent on
2 in-house medical nurse case management.

3 (15) The number of claims involving outside medical
4 nurse case management, and the total amount paid for
5 outside medical nurse case management.

6 (16) The total amount paid for Independent Medical
7 exams.

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

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

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

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

17 (820 ILCS 305/29.3 new)

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

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

1 Senate; and one member appointed by the Governor from each of
2 the following organizations: (i) a statewide association
3 representing retailers; (ii) a statewide association
4 representing manufacturers; (iii) a statewide association
5 representing labor interests; and (iv) a statewide association
6 representing injured workers. The members of the Task Force
7 shall be appointed by April 1, 2022. Two co-chairpersons,
8 representing different political parties, shall be selected by
9 the members of the Task Force. Members of the Task Force shall
10 receive no compensation for their service on the Task Force.

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

21 (c) The Task Force shall report its findings and
22 recommendations to the General Assembly no later than December
23 31, 2022.

24 (d) This Section is repealed December 31, 2023.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.

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