



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1349

Introduced 2/8/2011, by Sen. Kyle McCarter

SYNOPSIS AS INTRODUCED:

See Index

Amends the Workers' Compensation Act. Defines "accident" and "injury." Deletes language allowing rebuttable presumptions for an employee employed as a firefighter, emergency medical technician (EMT), or paramedic. Deletes language allowing an employee to secure his own physician, surgeon and hospital services at the employer's expense. Provides that the employer shall choose all necessary medical, surgical and hospital services reasonably required to cure or relieve from the effects of the accidental injury at the employer's expense, except upon a finding by the Commission that the employer's choice of medical care threatens life, health, or recovery, then the employee may choose a second physician, surgeon, and hospital services at the employer's expense. Provides for a waiver of employee privacy for the employer to obtain necessary decision making information. Provides for a wage differential award and that such award shall cease when the employee reaches the full retirement age as defined by the Social Security Administration. Provides for reimbursement of out-of-state procedures, treatments, services, products or supplies. Provides for a new medical fee schedule after January 1, 2012, in accordance with the Medicare payment systems (160%). Moves the utilization review program registration and administration to the Department of Insurance. Makes numerous changes regarding employee intoxication, partial or total disability, implants, employment verification documents, and other changes.

LRB097 07516 AEK 47626 b

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 Workers' Compensation Act is amended by
5 changing Sections 1, 6, 8, 8.2, 8.7, 11, 16, and 19 as follows:

6 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

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

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

10 1. The State and each county, city, town, township,
11 incorporated village, school district, body politic, or
12 municipal corporation therein.

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

1 provided in this Act.

2 3. Any one engaging in any business or enterprise referred
3 to in subsections 1 and 2 of Section 3 of this Act who
4 undertakes to do any work enumerated therein, is liable to pay
5 compensation to his own immediate employees in accordance with
6 the provisions of this Act, and in addition thereto if he
7 directly or indirectly engages any contractor whether
8 principal or sub-contractor to do any such work, he is liable
9 to pay compensation to the employees of any such contractor or
10 sub-contractor unless such contractor or sub-contractor has
11 insured, in any company or association authorized under the
12 laws of this State to insure the liability to pay compensation
13 under this Act, or guaranteed his liability to pay such
14 compensation. With respect to any time limitation on the filing
15 of claims provided by this Act, the timely filing of a claim
16 against a contractor or subcontractor, as the case may be,
17 shall be deemed to be a timely filing with respect to all
18 persons upon whom liability is imposed by this paragraph.

19 In the event any such person pays compensation under this
20 subsection he may recover the amount thereof from the
21 contractor or sub-contractor, if any, and in the event the
22 contractor pays compensation under this subsection he may
23 recover the amount thereof from the sub-contractor, if any.

24 This subsection does not apply in any case where the
25 accident occurs elsewhere than on, in or about the immediate
26 premises on which the principal has contracted that the work be

1 done.

2 4. Where an employer operating under and subject to the
3 provisions of this Act loans an employee to another such
4 employer and such loaned employee sustains a compensable
5 accidental injury in the employment of such borrowing employer
6 and where such borrowing employer does not provide or pay the
7 benefits or payments due such injured employee, such loaning
8 employer is liable to provide or pay all benefits or payments
9 due such employee under this Act and as to such employee the
10 liability of such loaning and borrowing employers is joint and
11 several, provided that such loaning employer is in the absence
12 of agreement to the contrary entitled to receive from such
13 borrowing employer full reimbursement for all sums paid or
14 incurred pursuant to this paragraph together with reasonable
15 attorneys' fees and expenses in any hearings before the
16 Illinois Workers' Compensation Commission or in any action to
17 secure such reimbursement. Where any benefit is provided or
18 paid by such loaning employer the employee has the duty of
19 rendering reasonable cooperation in any hearings, trials or
20 proceedings in the case, including such proceedings for
21 reimbursement.

22 Where an employee files an Application for Adjustment of
23 Claim with the Illinois Workers' Compensation Commission
24 alleging that his claim is covered by the provisions of the
25 preceding paragraph, and joining both the alleged loaning and
26 borrowing employers, they and each of them, upon written demand

1 by the employee and within 7 days after receipt of such demand,
2 shall have the duty of filing with the Illinois Workers'
3 Compensation Commission a written admission or denial of the
4 allegation that the claim is covered by the provisions of the
5 preceding paragraph and in default of such filing or if any
6 such denial be ultimately determined not to have been bona fide
7 then the provisions of Paragraph K of Section 19 of this Act
8 shall apply.

9 An employer whose business or enterprise or a substantial
10 part thereof consists of hiring, procuring or furnishing
11 employees to or for other employers operating under and subject
12 to the provisions of this Act for the performance of the work
13 of such other employers and who pays such employees their
14 salary or wages notwithstanding that they are doing the work of
15 such other employers shall be deemed a loaning employer within
16 the meaning and provisions of this Section.

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

18 1. Every person in the service of the State, including
19 members of the General Assembly, members of the Commerce
20 Commission, members of the Illinois Workers' Compensation
21 Commission, and all persons in the service of the University of
22 Illinois, county, including deputy sheriffs and assistant
23 state's attorneys, city, town, township, incorporated village
24 or school district, body politic, or municipal corporation
25 therein, whether by election, under appointment or contract of
26 hire, express or implied, oral or written, including all

1 members of the Illinois National Guard while on active duty in
2 the service of the State, and all probation personnel of the
3 Juvenile Court appointed pursuant to Article VI of the Juvenile
4 Court Act of 1987, and including any official of the State, any
5 county, city, town, township, incorporated village, school
6 district, body politic or municipal corporation therein except
7 any duly appointed member of a police department in any city
8 whose population exceeds 200,000 according to the last Federal
9 or State census, and except any member of a fire insurance
10 patrol maintained by a board of underwriters in this State. A
11 duly appointed member of a fire department in any city, the
12 population of which exceeds 200,000 according to the last
13 federal or State census, is an employee under this Act only
14 with respect to claims brought under paragraph (c) of Section
15 8.

16 One employed by a contractor who has contracted with the
17 State, or a county, city, town, township, incorporated village,
18 school district, body politic or municipal corporation
19 therein, through its representatives, is not considered as an
20 employee of the State, county, city, town, township,
21 incorporated village, school district, body politic or
22 municipal corporation which made the contract.

23 2. Every person in the service of another under any
24 contract of hire, express or implied, oral or written,
25 including persons whose employment is outside of the State of
26 Illinois where the contract of hire is made within the State of

1 Illinois, persons whose employment results in fatal or
2 non-fatal injuries within the State of Illinois where the
3 contract of hire is made outside of the State of Illinois, and
4 persons whose employment is principally localized within the
5 State of Illinois, regardless of the place of the accident or
6 the place where the contract of hire was made, and including
7 aliens, and minors who, for the purpose of this Act are
8 considered the same and have the same power to contract,
9 receive payments and give quittances therefor, as adult
10 employees.

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

13 An employee or his dependents under this Act who shall have
14 a cause of action by reason of any injury, disablement or death
15 arising out of and in the course of his employment may elect to
16 pursue his remedy in the State where injured or disabled, or in
17 the State where the contract of hire is made, or in the State
18 where the employment is principally localized.

19 However, any employer may elect to provide and pay
20 compensation to any employee other than those engaged in the
21 usual course of the trade, business, profession or occupation
22 of the employer by complying with Sections 2 and 4 of this Act.
23 Employees are not included within the provisions of this Act
24 when excluded by the laws of the United States relating to
25 liability of employers to their employees for personal injuries
26 where such laws are held to be exclusive.

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

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

8 (d) The term "accident" as used in this Act means an
9 occurrence arising out of the employment resulting from a risk
10 incidental to the employment and in the course of the
11 employment at a time and place and under circumstances
12 reasonably required by the employment.

13 (e) The term "injury" as used in this Act means a condition
14 or impairment that arises out of and in the course of
15 employment. A condition or impairment caused by accident is
16 compensable only if the accident was the primary factor in
17 causing both the resulting medical condition and disability.
18 The "primary factor" is defined to be the major contributory
19 factor, in relation to other factors, causing both the
20 resulting medical condition and disability. "Injury" includes
21 the aggravation of a pre-existing condition by an accident
22 arising out of and in the course of the employment, but only
23 for so long as the aggravation of the pre-existing condition
24 continues to be the primary factor causing the disability.

25 (1) An injury is deemed to arise out of and in the
26 course of the employment only if:

1 (A) it is reasonably apparent, upon consideration
2 of all circumstances, that the accident is the primary
3 factor in causing the injury; and

4 (B) it does not come from a hazard or risk
5 unrelated to the employment to which employees would
6 have been equally exposed outside of the employment.

7 (2) An injury resulting directly or indirectly from
8 idiopathic causes is not compensable.

9 (Source: P.A. 93-721, eff. 1-1-05.)

10 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

11 Sec. 6. (a) Every employer within the provisions of this
12 Act, shall, under the rules and regulations prescribed by the
13 Commission, post printed notices in their respective places of
14 employment in such number and at such places as may be
15 determined by the Commission, containing such information
16 relative to this Act as in the judgment of the Commission may
17 be necessary to aid employees to safeguard their rights under
18 this Act in event of injury.

19 In addition thereto, the employer shall post in a
20 conspicuous place on the place of the employment a printed or
21 typewritten notice stating whether he is insured or whether he
22 has qualified and is operating as a self-insured employer. In
23 the event the employer is insured, the notice shall state the
24 name and address of his insurance carrier, the number of the
25 insurance policy, its effective date and the date of

1 termination. In the event of the termination of the policy for
2 any reason prior to the termination date stated, the posted
3 notice shall promptly be corrected accordingly. In the event
4 the employer is operating as a self-insured employer the notice
5 shall state the name and address of the company, if any,
6 servicing the compensation payments of the employer, and the
7 name and address of the person in charge of making compensation
8 payments.

9 (b) Every employer subject to this Act shall maintain
10 accurate records of work-related deaths, injuries and illness
11 other than minor injuries requiring only first aid treatment
12 and which do not involve medical treatment, loss of
13 consciousness, restriction of work or motion, or transfer to
14 another job and file with the Commission, in writing, a report
15 of all accidental deaths, injuries and illnesses arising out of
16 and in the course of the employment resulting in the loss of
17 more than 3 scheduled work days. In the case of death such
18 report shall be made no later than 2 working days following the
19 accidental death. In all other cases such report shall be made
20 between the 15th and 25th of each month unless required to be
21 made sooner by rule of the Commission. In case the injury
22 results in permanent disability, a further report shall be made
23 as soon as it is determined that such permanent disability has
24 resulted or will result from the injury. All reports shall
25 state the date of the injury, including the time of day or
26 night, the nature of the employer's business, the name,

1 address, age, sex, conjugal condition of the injured person,
2 the specific occupation of the injured person, the direct cause
3 of the injury and the nature of the accident, the character of
4 the injury, the length of disability, and in case of death the
5 length of disability before death, the wages of the injured
6 person, whether compensation has been paid to the injured
7 person, or to his or her legal representative or his heirs or
8 next of kin, the amount of compensation paid, the amount paid
9 for physicians', surgeons' and hospital bills, and by whom
10 paid, and the amount paid for funeral or burial expenses if
11 known. The reports shall be made on forms and in the manner as
12 prescribed by the Commission and shall contain such further
13 information as the Commission shall deem necessary and require.
14 The making of these reports releases the employer from making
15 such reports to any other officer of the State and shall
16 satisfy the reporting provisions as contained in the "Health
17 and Safety Act" and "An Act in relation to safety inspections
18 and education in industrial and commercial establishments and
19 to repeal an Act therein named", approved July 18, 1955, as now
20 or hereafter amended. The reports filed with the Commission
21 pursuant to this Section shall be made available by the
22 Commission to the Director of Labor or his representatives and
23 to all other departments of the State of Illinois which shall
24 require such information for the proper discharge of their
25 official duties. Failure to file with the Commission any of the
26 reports required in this Section is a petty offense.

1 Except as provided in this paragraph, all reports filed
2 hereunder shall be confidential and any person having access to
3 such records filed with the Illinois Workers' Compensation
4 Commission as herein required, who shall release any
5 information therein contained including the names or otherwise
6 identify any persons sustaining injuries or disabilities, or
7 give access to such information to any unauthorized person,
8 shall be subject to discipline or discharge, and in addition
9 shall be guilty of a Class B misdemeanor. The Commission shall
10 compile and distribute to interested persons aggregate
11 statistics, taken from the reports filed hereunder. The
12 aggregate statistics shall not give the names or otherwise
13 identify persons sustaining injuries or disabilities or the
14 employer of any injured or disabled person.

15 (c) Notice of the accident shall be given to the employer
16 as soon as practicable, but not later than 45 days after the
17 accident. Provided:

18 (1) In case of the legal disability of the employee or any
19 dependent of a deceased employee who may be entitled to
20 compensation under the provisions of this Act, the limitations
21 of time by this Act provided do not begin to run against such
22 person under legal disability until a guardian has been
23 appointed.

24 (2) In cases of injuries sustained by exposure to
25 radiological materials or equipment, notice shall be given to
26 the employer within 90 days subsequent to the time that the

1 employee knows or suspects that he has received an excessive
2 dose of radiation.

3 No defect or inaccuracy of such notice shall be a bar to
4 the maintenance of proceedings on arbitration or otherwise by
5 the employee unless the employer proves that he is unduly
6 prejudiced in such proceedings by such defect or inaccuracy.

7 Notice of the accident shall give the approximate date and
8 place of the accident, if known, and may be given orally or in
9 writing.

10 (d) Every employer shall notify each injured employee who
11 has been granted compensation under the provisions of Section 8
12 of this Act of his rights to rehabilitation services and advise
13 him of the locations of available public rehabilitation centers
14 and any other such services of which the employer has
15 knowledge.

16 In any case, other than one where the injury was caused by
17 exposure to radiological materials or equipment or asbestos
18 unless the application for compensation is filed with the
19 Commission within 3 years after the date of the accident, where
20 no compensation has been paid, or within 2 years after the date
21 of the last payment of compensation, where any has been paid,
22 whichever shall be later, the right to file such application
23 shall be barred.

24 In any case of injury caused by exposure to radiological
25 materials or equipment or asbestos, unless application for
26 compensation is filed with the Commission within 25 years after

1 the last day that the employee was employed in an environment
2 of hazardous radiological activity or asbestos, the right to
3 file such application shall be barred.

4 If in any case except one where the injury was caused by
5 exposure to radiological materials or equipment or asbestos,
6 the accidental injury results in death application for
7 compensation for death may be filed with the Commission within
8 3 years after the date of death where no compensation has been
9 paid or within 2 years after the date of the last payment of
10 compensation where any has been paid, whichever shall be later,
11 but not thereafter.

12 If an accidental injury caused by exposure to radiological
13 material or equipment or asbestos results in death within 25
14 years after the last day that the employee was so exposed
15 application for compensation for death may be filed with the
16 Commission within 3 years after the date of death, where no
17 compensation has been paid, or within 2 years after the date of
18 the last payment of compensation where any has been paid,
19 whichever shall be later, but not thereafter.

20 (e) Any contract or agreement made by any employer or his
21 agent or attorney with any employee or any other beneficiary of
22 any claim under the provisions of this Act within 7 days after
23 the injury shall be presumed to be fraudulent.

24 (f) (Blank). ~~Any condition or impairment of health of an~~
25 ~~employee employed as a firefighter, emergency medical~~
26 ~~technician (EMT), or paramedic which results directly or~~

1 ~~indirectly from any bloodborne pathogen, lung or respiratory~~
2 ~~disease or condition, heart or vascular disease or condition,~~
3 ~~hypertension, tuberculosis, or cancer resulting in any~~
4 ~~disability (temporary, permanent, total, or partial) to the~~
5 ~~employee shall be rebuttably presumed to arise out of and in~~
6 ~~the course of the employee's firefighting, EMT, or paramedic~~
7 ~~employment and, further, shall be rebuttably presumed to be~~
8 ~~causally connected to the hazards or exposures of the~~
9 ~~employment. This presumption shall also apply to any hernia or~~
10 ~~hearing loss suffered by an employee employed as a firefighter,~~
11 ~~EMT, or paramedic. However, this presumption shall not apply to~~
12 ~~any employee who has been employed as a firefighter, EMT, or~~
13 ~~paramedic for less than 5 years at the time he or she files an~~
14 ~~Application for Adjustment of Claim concerning this condition~~
15 ~~or impairment with the Illinois Workers' Compensation~~
16 ~~Commission. The Finding and Decision of the Illinois Workers'~~
17 ~~Compensation Commission under only the rebuttable presumption~~
18 ~~provision of this subsection shall not be admissible or be~~
19 ~~deemed res judicata in any disability claim under the Illinois~~
20 ~~Pension Code arising out of the same medical condition;~~
21 ~~however, this sentence makes no change to the law set forth in~~
22 ~~Krohe v. City of Bloomington, 204 Ill.2d 392.~~

23 (Source: P.A. 95-316, eff. 1-1-08.)

24 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

25 Sec. 8. The amount of compensation which shall be paid to

1 the employee for an accidental injury not resulting in death
2 is:

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

21 The employer shall choose all necessary medical, surgical
22 and hospital services reasonably required to cure or relieve
23 from the effects of the accidental injury, at the employer's
24 expense. The employee shall cooperate with and adhere to the
25 plan of care or treatment recommendations of the providers
26 selected by the employer, unless the proposed care and

1 treatment threatens the life, health or recovery of the injured
2 employee. Upon a finding by the Commission, that the employer's
3 choice of medical care threatens the life, health, or recovery
4 of the injured employee, the employee may then choose a second
5 physician, surgeon, and hospital services at the employer's
6 expense. Initial emergency services, taking place within 45
7 days of the accident, shall not constitute a choice of
8 physician, surgeon, or hospital services by the employer or
9 employee. ~~employee may at any time elect to secure his own~~
10 ~~physician, surgeon and hospital services at the employer's~~
11 ~~expense, or,~~

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

1 Panel at the employer's expense. Provided that, in the event
2 the Commission shall find that a doctor selected by the
3 employee is rendering improper or inadequate care, the
4 Commission may order the employee to select another doctor
5 certified or qualified in the medical field for which treatment
6 is required. If the employee refuses to make such change the
7 Commission may relieve the employer of his obligation to pay
8 the doctor's charges from the date of refusal to the date of
9 compliance.

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

22 The maintenance benefit shall not be less than the
23 temporary total disability rate determined for the employee. In
24 addition, maintenance shall include costs and expenses
25 incidental to the vocational rehabilitation program.

26 When the employee is working light duty on a part-time

1 basis or full-time basis and earns less than he or she would be
2 earning if employed in the full capacity of the job or jobs,
3 then the employee shall be entitled to temporary partial
4 disability benefits. Temporary partial disability benefits
5 shall be equal to two-thirds of the difference between the
6 average amount that the employee would be able to earn in the
7 full performance of his or her duties in the occupation in
8 which he or she was engaged at the time of accident and the net
9 amount which he or she is earning in the modified job provided
10 to the employee by the employer or in any other job that the
11 employee is working.

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

19 When an employee makes a claim for benefits under the Act,
20 he or she waives their privacy privilege with any treating
21 provider to the extent solely to allow the employer to obtain
22 from a treating provider the necessary information to determine
23 whether the condition of ill-being in question for which
24 treatment is sought is work related, what that treatment is for
25 purposes of approval of care, and whether or not, based upon
26 the condition of ill-being, the employee is entitled to other

1 benefits. The employer shall be entitled to contact the
2 treating provider to seek information and answers from the
3 treating provider regarding whether the condition of ill-being
4 in question for which treatment is sought is work related, what
5 that treatment or course of treatment is for purposes of
6 approval of care, and the return to work options that the
7 employer may have for the employee.

8 Notwithstanding the foregoing, the employer's liability to
9 pay for such medical services selected by the employer or
10 employee shall be limited to:

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

12 (2) all medical, surgical and hospital services
13 provided by the physician, surgeon or hospital initially
14 chosen by the employer ~~employee~~ or by any other physician,
15 consultant, expert, institution or other provider of
16 services recommended by said initial service provider or
17 any subsequent provider of medical services in the chain of
18 referrals from said initial service provider; plus

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

26 Thereafter the employer shall select and pay for all

1 necessary medical, surgical and hospital treatment and the
2 employee may not select a provider of medical services at
3 the employer's expense unless the employer agrees to such
4 selection. At any time the employee may obtain any medical
5 treatment he or she desires at his or her own expense. This
6 paragraph shall not affect the duty to pay for
7 rehabilitation referred to above.

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

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

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

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

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

15 (b) If the period of temporary total incapacity for work
16 lasts more than 3 working days, weekly compensation as
17 hereinafter provided shall be paid beginning on the 4th day of
18 such temporary total incapacity and continuing as long as the
19 total temporary incapacity lasts. In cases where the temporary
20 total incapacity for work continues for a period of 14 days or
21 more from the day of the accident compensation shall commence
22 on the day after the accident.

23 1. The compensation rate for temporary total
24 incapacity under this paragraph (b) of this Section shall
25 be equal to 66 2/3% of the employee's average weekly wage
26 computed in accordance with Section 10, provided that it

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

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

1 2.1. The compensation rate in all cases of serious and
2 permanent disfigurement under paragraph (c) and of
3 permanent partial disability under subparagraph (2) of
4 paragraph (d) or under paragraph (e) of this Section shall
5 be equal to 60% of the employee's average weekly wage
6 computed in accordance with the provisions of Section 10,
7 provided that it shall be not less than 66 2/3% of the sum
8 of the Federal minimum wage under the Fair Labor Standards
9 Act, or the Illinois minimum wage under the Minimum Wage
10 Law, whichever is more, multiplied by 40 hours. This
11 percentage rate shall be increased by 10% for each spouse
12 and child, not to exceed 100% of the total minimum wage
13 calculation,
14 nor exceed the employee's average weekly wage computed in
15 accordance with the provisions of Section 10, whichever is
16 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 emancipated.
23 The term "children" means the plural of "child".

24 4. All weekly compensation rates provided under
25 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
26 Section shall be subject to the following limitations:

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

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

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

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

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

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

22 4.1. Any provision herein to the contrary
23 notwithstanding, the weekly compensation rate for
24 compensation payments under subparagraph 18 of paragraph
25 (e) of this Section and under paragraph (f) of this Section
26 and under paragraph (a) of Section 7 and for amputation of

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

5 4.2. Any provision to the contrary notwithstanding,
6 the total compensation payable under Section 7 shall not
7 exceed the greater of \$500,000 or 25 years.

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

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

1 conclusive and shall be applicable as the basis of
2 computation of compensation rates until the next posting
3 and publication as aforesaid.

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

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

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

23 A duly appointed member of a fire department in a city, the
24 population of which exceeds 200,000 according to the last
25 federal or State census, is eligible for compensation under
26 this paragraph only where such serious and permanent

1 disfigurement results from burns.

2 (d) 1. If, after the accidental injury has been sustained,
3 the employee as a result thereof becomes partially
4 incapacitated from pursuing his usual and customary line of
5 employment, he shall, except in cases compensated under the
6 specific schedule set forth in paragraph (e) of this Section,
7 receive compensation for the duration of his disability,
8 subject to the limitations as to maximum amounts fixed in
9 paragraph (b) of this Section, equal to 66-2/3% of the
10 difference between the average amount which he would be able to
11 earn in the full performance of his duties in the occupation in
12 which he was engaged at the time of the accident and the
13 average amount which he is earning ~~or is able to earn~~ in some
14 suitable employment or business after the accident. For
15 injuries sustained on or after the effective date of this
16 Amendatory Act of the 97th General Assembly, awards made
17 pursuant to this subparagraph shall be known as a wage
18 differential award and shall cease when the employee reaches
19 full retirement age as defined by the Social Security
20 Administration. In addition, after a wage differential award
21 becomes final, the employer shall, on no more than a quarterly
22 annual basis, upon written request to the employee, be entitled
23 to verification of an employee's current employment status and
24 earnings, including the name and address of the employee's
25 current employer, rate of pay or method of compensation,
26 duration of such employment, and true copies of the employee's

1 paychecks or other evidence of payment for the duration of such
2 employment. An employer can further request the employee to
3 sign an authorization to permit the employer to then obtain
4 from the employee's current employer the employee's earnings
5 and payroll documentation. The employer may seek to modify or
6 vacate a wage differential award based on a material increase
7 in the earnings of the employee during the period that the wage
8 differential award is in effect. Notwithstanding and in
9 addition to Section 19(h), a final wage differential award may
10 at any time be reviewed by the Commission in an evidentiary
11 hearing at the request of the employer on the grounds that
12 there has been a subsequent material increase in the average
13 weekly wage which was the basis of the wage differential award
14 and the average weekly wage the employee is earning currently
15 after the accident. After review, the Commission shall modify
16 or vacate a final wage differential award based where there is
17 a finding of a material increase in the employee's current job
18 earnings from the employee's earnings from which the wage
19 differential award was based upon.

20 2. If, as a result of the accident, the employee sustains
21 serious and permanent injuries not covered by paragraphs (c)
22 and (e) of this Section or having sustained injuries covered by
23 the aforesaid paragraphs (c) and (e), he shall have sustained
24 in addition thereto other injuries which injuries do not
25 incapacitate him from pursuing the duties of his employment but
26 which would disable him from pursuing other suitable

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

1 such organ. Compensation awarded under this subparagraph 2
2 shall not take into consideration injuries covered under
3 paragraphs (c) and (e) of this Section and the compensation
4 provided in this paragraph shall not affect the employee's
5 right to compensation payable under paragraphs (b), (c) and (e)
6 of this Section for the disabilities therein covered.

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

17 1. Thumb-

18 70 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 76 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 2. First, or index finger-

24 40 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

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

3 3. Second, or middle finger-

4 35 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 38 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 4. Third, or ring finger-

10 25 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 27 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 5. Fourth, or little finger-

16 20 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 22 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 6. Great toe-

22 35 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 38 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 7. Each toe other than great toe-

2 12 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 13 weeks if the accidental injury occurs on or
6 after February 1, 2006.

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

16 9. Hand-

17 190 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.

20 205 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 The loss of 2 or more digits, or one or more phalanges
23 of 2 or more digits, of a hand may be compensated on the
24 basis of partial loss of use of a hand, provided, further,
25 that the loss of 4 digits, or the loss of use of 4 digits,
26 in the same hand shall constitute the complete loss of a

1 hand.

2 10. Arm-

3 235 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.

6 253 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 Where an accidental injury results in the amputation of
9 an arm below the elbow, such injury shall be compensated as
10 a loss of an arm. Where an accidental injury results in the
11 amputation of an arm above the elbow, compensation for an
12 additional 15 weeks (if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the 94th
14 General Assembly but before February 1, 2006) or an
15 additional 17 weeks (if the accidental injury occurs on or
16 after February 1, 2006) shall be paid, except where the
17 accidental injury results in the amputation of an arm at
18 the shoulder joint, or so close to shoulder joint that an
19 artificial arm cannot be used, or results in the
20 disarticulation of an arm at the shoulder joint, in which
21 case compensation for an additional 65 weeks (if the
22 accidental injury occurs on or after the effective date of
23 this amendatory Act of the 94th General Assembly but before
24 February 1, 2006) or an additional 70 weeks (if the
25 accidental injury occurs on or after February 1, 2006)
26 shall be paid.

1 11. Foot-

2 155 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 167 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 12. Leg-

8 200 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.

11 215 weeks if the accidental injury occurs on or
12 after February 1, 2006.

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

1 after the effective date of this amendatory Act of the 94th
2 General Assembly but before February 1, 2006) or an
3 additional 81 weeks (if the accidental injury occurs on or
4 after February 1, 2006) shall be paid.

5 13. Eye-

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

18 14. Loss of hearing of one ear-

19 50 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 54 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 Total and permanent loss of hearing of both ears-

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 15. Testicle-

5 50 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 54 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 Both testicles-

11 150 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 162 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 16. For the permanent partial loss of use of a member
17 or sight of an eye, or hearing of an ear, compensation
18 during that proportion of the number of weeks in the
19 foregoing schedule provided for the loss of such member or
20 sight of an eye, or hearing of an ear, which the partial
21 loss of use thereof bears to the total loss of use of such
22 member, or sight of eye, or hearing of an ear.

23 (a) Loss of hearing for compensation purposes
24 shall be confined to the frequencies of 1,000, 2,000
25 and 3,000 cycles per second. Loss of hearing ability
26 for frequency tones above 3,000 cycles per second are

1 not to be considered as constituting disability for
2 hearing.

3 (b) The percent of hearing loss, for purposes of
4 the determination of compensation claims for
5 occupational deafness, shall be calculated as the
6 average in decibels for the thresholds of hearing for
7 the frequencies of 1,000, 2,000 and 3,000 cycles per
8 second. Pure tone air conduction audiometric
9 instruments, approved by nationally recognized
10 authorities in this field, shall be used for measuring
11 hearing loss. If the losses of hearing average 30
12 decibels or less in the 3 frequencies, such losses of
13 hearing shall not then constitute any compensable
14 hearing disability. If the losses of hearing average 85
15 decibels or more in the 3 frequencies, then the same
16 shall constitute and be total or 100% compensable
17 hearing loss.

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

25 (d) If a hearing loss is established to have
26 existed on July 1, 1975 by audiometric testing the

1 employer shall not be liable for the previous loss so
 2 established nor shall he be liable for any loss for
 3 which compensation has been paid or awarded.

4 (e) No consideration shall be given to the question
 5 of whether or not the ability of an employee to
 6 understand speech is improved by the use of a hearing
 7 aid.

8 (f) No claim for loss of hearing due to industrial
 9 noise shall be brought against an employer or allowed
 10 unless the employee has been exposed for a period of
 11 time sufficient to cause permanent impairment to noise
 12 levels in excess of the following:

13	Sound Level DBA	
14	Slow Response	Hours Per Day
15	90	8
16	92	6
17	95	4
18	97	3
19	100	2
20	102	1-1/2
21	105	1
22	110	1/2
23	115	1/4

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

26 17. In computing the compensation to be paid to any

1 employee who, before the accident for which he claims
2 compensation, had before that time sustained an injury
3 resulting in the loss by amputation or partial loss by
4 amputation of any member, including hand, arm, thumb or
5 fingers, leg, foot or any toes, such loss or partial loss
6 of any such member shall be deducted from any award made
7 for the subsequent injury. For the permanent loss of use or
8 the permanent partial loss of use of any such member or the
9 partial loss of sight of an eye, for which compensation has
10 been paid, then such loss shall be taken into consideration
11 and deducted from any award for the subsequent injury.

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

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

1 member occasioned by the last independent accident.

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

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

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

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

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

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

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

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

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

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

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

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

1 according to the terms of the awards.

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

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

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

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

1 Unemployment Insurance Act occurring after July 1, 1975.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (k) For accidental injuries that occur on or after the
15 effective date of this amendatory Act of the 97th General
16 Assembly, permanent partial or total disability shall be
17 certified by a physician and demonstrated by use of medically
18 defined objective measurements that include, but are not
19 limited to: loss of range of motion; loss of strength; and
20 measured atrophy of tissue mass consistent with the injury. In
21 determining the impairment, subjective complaints shall not be
22 considered unless supported by and clearly related to objective
23 measurements. The most current edition of the American Medical
24 Association's "Guides to the Evaluation of Permanent
25 Impairment" shall be applied in determining the level of
26 disability under this Act.

1 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
2 94-695, eff. 11-16-05.)

3 (820 ILCS 305/8.2)

4 Sec. 8.2. Fee schedule.

5 (a) Except as provided for in subsection (c), for
6 procedures, treatments, or services covered under this Act and
7 rendered or to be rendered on and after February 1, 2006 and
8 until January 1, 2012, the maximum allowable payment shall be
9 90% of the 80th percentile of charges and fees as determined by
10 the Commission utilizing information provided by employers'
11 and insurers' national databases, with a minimum of 12,000,000
12 Illinois line item charges and fees comprised of health care
13 provider and hospital charges and fees as of August 1, 2004 but
14 not earlier than August 1, 2002. These charges and fees are
15 provider billed amounts and shall not include discounted
16 charges. The 80th percentile is the point on an ordered data
17 set from low to high such that 80% of the cases are below or
18 equal to that point and at most 20% are above or equal to that
19 point. The Commission shall adjust these historical charges and
20 fees as of August 1, 2004 by the Consumer Price Index-U for the
21 period August 1, 2004 through September 30, 2005. The
22 Commission shall establish fee schedules for procedures,
23 treatments, or services for hospital inpatient, hospital
24 outpatient, emergency room and trauma, ambulatory surgical
25 treatment centers, and professional services. These charges

1 and fees shall be designated by geozip or any smaller
2 geographic unit. The data shall in no way identify or tend to
3 identify any patient, employer, or health care provider. As
4 used in this Section, "geozip" means a three-digit zip code
5 based on data similarities, geographical similarities, and
6 frequencies. A geozip does not cross state boundaries. As used
7 in this Section, "three-digit zip code" means a geographic area
8 in which all zip codes have the same first 3 digits. If a
9 geozip does not have the necessary number of charges and fees
10 to calculate a valid percentile for a specific procedure,
11 treatment, or service, the Commission may combine data from the
12 geozip with up to 4 other geozips that are demographically and
13 economically similar and exhibit similarities in data and
14 frequencies until the Commission reaches 9 charges or fees for
15 that specific procedure, treatment, or service. In cases where
16 the compiled data contains fewer ~~less~~ than 9 charges or fees
17 for a procedure, treatment, or service, reimbursement shall
18 occur at 76% of charges and fees as determined by the
19 Commission in a manner consistent with the provisions of this
20 paragraph. Providers of out-of-state procedures, treatments,
21 services, products, or supplies shall be reimbursed at the
22 lesser of that State's fee schedule amount or the fee schedule
23 amount that would apply to the region where the employer is
24 located. If no fee schedule exists in that State, the provider
25 shall be reimbursed at the lesser of the actual charge or the
26 fee schedule amount that would apply to the region where the

1 employer is located. If out-of-state treatment is being
2 undertaken and the employer is also located outside the State
3 of Illinois, the provider shall be reimbursed at the lesser of
4 the actual charge or the fee schedule amount that would apply
5 to the location of the accident. ~~The Commission has the~~
6 ~~authority to set the maximum allowable payment to providers of~~
7 ~~out of state procedures, treatments, or services covered under~~
8 ~~this Act in a manner consistent with this Section.~~ Not later
9 than September 30 in 2006 and each year thereafter, the
10 Commission shall automatically increase or decrease the
11 maximum allowable payment for a procedure, treatment, or
12 service established and in effect on January 1 of that year by
13 the percentage change in the Consumer Price Index-U for the 12
14 month period ending August 31 of that year. The increase or
15 decrease shall become effective on January 1 of the following
16 year. As used in this Section, "Consumer Price Index-U" means
17 the index published by the Bureau of Labor Statistics of the
18 U.S. Department of Labor, that measures the average change in
19 prices of all goods and services purchased by all urban
20 consumers, U.S. city average, all items, 1982-84=100.

21 (a-1) Except as provided for in subparagraph (c), for
22 procedures, treatments, or services covered under this Act and
23 rendered or to be rendered on and after January 1, 2012, The
24 Commission shall adopt a medical fee schedule in accordance
25 with the fee-related structure and rules of the relevant
26 Medicare payment systems. Maximum reasonable fees shall be 160%

1 of the estimated aggregate fees prescribed in the relevant
2 Medicare payment system for the same class of services.

3 To ensure a reasonable standard of access to services and
4 care for injured employees, the Commission may adopt different
5 conversion factors, diagnostic related group weights, and
6 other factors affecting payment amounts from those used in the
7 Medicare payment system, provided estimated aggregate fees do
8 not exceed 160% of the estimated aggregate fees paid for the
9 same class of services in the relevant Medicare payment system.

10 If the Commission determines that a medical treatment,
11 facility use, product, or service is not covered by a Medicare
12 payment system, the Commission shall establish maximum fees for
13 that item, provided that the maximum fee paid shall not exceed
14 160% of the fees paid by Medicare for services that require
15 comparable resources.

16 The medical fee schedule shall be adjusted to conform to
17 any relevant changes in the Medicare payment systems no later
18 than 60 days after the effective date of those changes.

19 Providers of out-of-state procedures, treatments,
20 services, products, or supplies shall be reimbursed at the
21 lesser of that State's fee schedule amount or the fee schedule
22 amount that would apply to the region where the employer is
23 located. If no fee schedule exists in that State, the provider
24 shall be reimbursed at the lesser of the actual charge or the
25 fee schedule amount that would apply to the region where the
26 employer is located.

1 Nothing in this Section shall prohibit an employer or
2 insurer from contracting with a medical provider for
3 reimbursement rates different from those prescribed in the
4 medical fee schedule.

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

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

18 (c-1) For services provided on or after the effective date
19 of this Amendatory Act of the 97th General Assembly until
20 January 1, 2012, implants shall be reimbursed at 25% above the
21 net manufacturer's invoice price less rebates, plus actual
22 reasonable and customary shipping charges whether or not the
23 implant charge is submitted by a provider in conjunction with a
24 bill for all other services associated with the implant,
25 submitted by a provider on a separate claim form, submitted by
26 a distributor, or submitted by the manufacturer of the implant.

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

12 (d) When a patient notifies a provider that the treatment,
13 procedure, or service being sought is for a work-related
14 illness or injury and furnishes the provider the name and
15 address of the responsible employer, the provider shall bill
16 the employer directly. The employer shall make payment and
17 providers shall submit bills and records in accordance with the
18 provisions of this Section. All payments to providers for
19 treatment provided pursuant to this Act shall be made within 60
20 days of receipt of the bills as long as the claim contains
21 substantially all the required data elements necessary to
22 adjudicate the bills. In the case of nonpayment to a provider
23 within 60 days of receipt of the bill which contained
24 substantially all of the required data elements necessary to
25 adjudicate the bill or nonpayment to a provider of a portion of
26 such a bill up to the lesser of the actual charge or the

1 payment level set by the Commission in the fee schedule
2 established in this Section, the bill, or portion of the bill,
3 shall incur interest at a rate of 1% per month payable to the
4 provider.

5 (e) Except as provided in subsections (e-5), (e-10), and
6 (e-15), a provider shall not hold an employee liable for costs
7 related to a non-disputed procedure, treatment, or service
8 rendered in connection with a compensable injury. The
9 provisions of subsections (e-5), (e-10), (e-15), and (e-20)
10 shall not apply if an employee provides information to the
11 provider regarding participation in a group health plan. If the
12 employee participates in a group health plan, the provider may
13 submit a claim for services to the group health plan. If the
14 claim for service is covered by the group health plan, the
15 employee's responsibility shall be limited to applicable
16 deductibles, co-payments, or co-insurance. Except as provided
17 under subsections (e-5), (e-10), (e-15), and (e-20), a provider
18 shall not bill or otherwise attempt to recover from the
19 employee the difference between the provider's charge and the
20 amount paid by the employer or the insurer on a compensable
21 injury.

22 (e-5) If an employer notifies a provider that the employer
23 does not consider the illness or injury to be compensable under
24 this Act, the provider may seek payment of the provider's
25 actual charges from the employee for any procedure, treatment,
26 or service rendered. Once an employee informs the provider that

1 there is an application filed with the Commission to resolve a
2 dispute over payment of such charges, the provider shall cease
3 any and all efforts to collect payment for the services that
4 are the subject of the dispute. Any statute of limitations or
5 statute of repose applicable to the provider's efforts to
6 collect payment from the employee shall be tolled from the date
7 that the employee files the application with the Commission
8 until the date that the provider is permitted to resume
9 collection efforts under the provisions of this Section.

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

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

22 (e-20) Upon a final award or judgment by an Arbitrator or
23 the Commission, or a settlement agreed to by the employer and
24 the employee, a provider may resume any and all efforts to
25 collect payment from the employee for the services rendered to
26 the employee and the employee shall be responsible for payment

1 of any outstanding bills for a procedure, treatment, or service
2 rendered by a provider as well as the interest awarded under
3 subsection (d) of this Section. In the case of a procedure,
4 treatment, or service deemed compensable, the provider shall
5 not require a payment rate, excluding the interest provisions
6 under subsection (d), greater than the lesser of the actual
7 charge or the payment level set by the Commission in the fee
8 schedule established in this Section. Payment for services
9 deemed not covered or not compensable under this Act is the
10 responsibility of the employee unless a provider and employee
11 have agreed otherwise in writing. Services not covered or not
12 compensable under this Act are not subject to the fee schedule
13 in this Section.

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

18 (g) On or before January 1, 2015 ~~2010~~ the Commission shall
19 provide to the Governor and General Assembly a report regarding
20 the implementation of the medical fee schedule indicating the
21 impact on medical costs for employers and access to care for
22 employees ~~and the index used for annual adjustment to that~~
23 ~~schedule as described in this Section.~~

24 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

25 (820 ILCS 305/8.7)

1 Sec. 8.7. Utilization review programs.

2 (a) As used in this Section:

3 "Utilization review" means the evaluation of proposed or
4 provided health care services to determine the appropriateness
5 of both the level of health care services medically necessary
6 and the quality of health care services provided to a patient,
7 including evaluation of their efficiency, efficacy, and
8 appropriateness of treatment, hospitalization, or office
9 visits based on medically accepted standards. The evaluation
10 must be accomplished by means of a system that identifies the
11 utilization of health care services based on nationally
12 recognized standards of care or nationally recognized peer
13 review guidelines as well as nationally recognized treatment
14 guidelines and evidence-based medicine ~~evidence~~ based upon
15 standards as provided in this Act. Utilization techniques may
16 include prospective review, second opinions, concurrent
17 review, discharge planning, peer review, independent medical
18 examinations, and retrospective review (for purposes of this
19 sentence, retrospective review shall be applicable to services
20 rendered on or after July 20, 2005). Nothing in this Section
21 applies to prospective review of necessary first aid or
22 emergency treatment.

23 (b) No person may conduct a utilization review program for
24 workers' compensation services in this State unless once every
25 2 years the person registers the utilization review program
26 with the Department of Insurance ~~Financial and Professional~~

1 ~~Regulation~~ and certifies compliance with the Workers'
2 Compensation Utilization Management standards or Health
3 Utilization Management Standards of URAC sufficient to achieve
4 URAC accreditation or submits evidence of accreditation by URAC
5 for its Workers' Compensation Utilization Management Standards
6 or Health Utilization Management Standards. Nothing in this Act
7 shall be construed to require an employer or insurer or its
8 subcontractors to become URAC accredited.

9 (c) In addition, the Director ~~Secretary~~ of Insurance
10 ~~Financial and Professional Regulation~~ may certify alternative
11 utilization review standards of national accreditation
12 organizations or entities in order for plans to comply with
13 this Section. Any alternative utilization review standards
14 shall meet or exceed those standards required under subsection
15 (b).

16 (d) This registration shall include submission of all of
17 the following information regarding utilization review program
18 activities:

19 (1) The name, address, and telephone number of the
20 utilization review programs.

21 (2) The organization and governing structure of the
22 utilization review programs.

23 (3) The number of lives for which utilization review is
24 conducted by each utilization review program.

25 (4) Hours of operation of each utilization review
26 program.

1 (5) Description of the grievance process for each
2 utilization review program.

3 (6) Number of covered lives for which utilization
4 review was conducted for the previous calendar year for
5 each utilization review program.

6 (7) Written policies and procedures for protecting
7 confidential information according to applicable State and
8 federal laws for each utilization review program.

9 (e) A utilization review program shall have written
10 procedures to ensure that patient-specific information
11 obtained during the process of utilization review will be:

12 (1) kept confidential in accordance with applicable
13 State and federal laws; and

14 (2) shared only with the employee, the employee's
15 designee, and the employee's health care provider, and
16 those who are authorized by law to receive the information.
17 Summary data shall not be considered confidential if it
18 does not provide information to allow identification of
19 individual patients or health care providers.

20 Only a health care professional may make determinations
21 regarding the medical necessity of health care services during
22 the course of utilization review.

23 When making retrospective reviews, utilization review
24 programs shall base reviews solely on the medical information
25 available to the attending physician or ordering provider at
26 the time the health care services were provided.

1 (f) If the Department of Insurance ~~Financial and~~
2 ~~Professional Regulation~~ finds that a utilization review
3 program is not in compliance with this Section, the Department
4 shall issue a corrective action plan and allow a reasonable
5 amount of time for compliance with the plan. If the utilization
6 review program does not come into compliance, the Department
7 may issue a cease and desist order. Before issuing a cease and
8 desist order under this Section, the Department shall provide
9 the utilization review program with a written notice of the
10 reasons for the order and allow a reasonable amount of time to
11 supply additional information demonstrating compliance with
12 the requirements of this Section and to request a hearing. The
13 hearing notice shall be sent by certified mail, return receipt
14 requested, and the hearing shall be conducted in accordance
15 with the Illinois Administrative Procedure Act.

16 (g) A utilization review program subject to a corrective
17 action may continue to conduct business until a final decision
18 has been issued by the Department.

19 (h) The Department of Insurance ~~Secretary of Financial and~~
20 ~~Professional Regulation~~ may by rule establish a registration
21 fee for each person conducting a utilization review program.

22 (i) Upon receipt of written notice that the employer or the
23 employer's agent or insurer wishes to invoke the utilization
24 review process, the provider of medical, surgical or hospital
25 services shall submit to the utilization review, following URAC
26 procedural guidelines and appeal process. If the provider fails

1 to cooperate with the utilization review of proposed treatment
2 or services, the charges for the treatment or service shall not
3 be compensable or collectible against the employer, the
4 employer's agent or insurer, or the employee. When an employer
5 denies payment of or refuses to authorize payment of first aid,
6 medical, surgical, or hospital services under Section 8(a) of
7 this Act that complies with subsection (b) of this Section,
8 that denial or refusal to authorize shall create a rebuttable
9 presumption that the extent and scope of medical treatment is
10 excessive and unnecessary. The Commission shall deny payment
11 for any service which the utilization review has determined
12 subject to subsection (a) of this Section to be excessive and
13 unnecessary unless the presumption is rebutted by establishing
14 by a preponderance of the evidence that a variance from the
15 standards of care or guidelines used pursuant to subsection (a)
16 of this Section is reasonably required to cure and relieve the
17 employee from the effects of his or her injury or that the
18 utilization review did not comply with subsection (b) of this
19 Section. This subsection shall apply to medical, surgical, or
20 hospital services rendered on or after the effective date of
21 this Amendatory Act of the 97th General Assembly. A utilization
22 ~~review will be considered by the Commission, along with all~~
23 ~~other evidence and in the same manner as all other evidence, in~~
24 ~~the determination of the reasonableness and necessity of the~~
25 ~~medical bills or treatment.~~ Nothing in this Section shall be
26 construed to diminish the rights of employees to reasonable and

1 necessary medical treatment or employee choice of health care
2 provider under Section 8(a) or the rights of employers to
3 medical examinations under Section 12.

4 (j) When an employer denies payment of or refuses to
5 authorize payment of first aid, medical, surgical, or hospital
6 services under Section 8(a) of this Act, if that denial or
7 refusal to authorize complies with a utilization review program
8 registered under this Section and complies with all other
9 requirements of this Section, then there shall be a rebuttable
10 presumption that the employer shall not be responsible for
11 payment of additional compensation pursuant to Section 19(k) of
12 this Act and if that denial or refusal to authorize does not
13 comply with a utilization review program registered under this
14 Section and does not comply with all other requirements of this
15 Section, then that will be considered by the Commission, along
16 with all other evidence and in the same manner as all other
17 evidence, in the determination of whether the employer may be
18 responsible for the payment of additional compensation
19 pursuant to Section 19(k) of this Act.

20 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

21 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

22 Sec. 11. The compensation herein provided, together with
23 the provisions of this Act, shall be the measure of the
24 responsibility of any employer engaged in any of the
25 enterprises or businesses enumerated in Section 3 of this Act,

1 or of any employer who is not engaged in any such enterprises
2 or businesses, but who has elected to provide and pay
3 compensation for accidental injuries sustained by any employee
4 arising out of and in the course of the employment according to
5 the provisions of this Act, and whose election to continue
6 under this Act, has not been nullified by any action of his
7 employees as provided for in this Act.

8 Accidental injuries incurred while participating in
9 voluntary recreational programs including but not limited to
10 athletic events, parties and picnics do not arise out of and in
11 the course of the employment even though the employer pays some
12 or all of the cost thereof. This exclusion shall not apply in
13 the event that the injured employee was ordered or assigned by
14 his employer to participate in the program.

15 Accidental injuries incurred while participating as a
16 patient in a drug or alcohol rehabilitation program do not
17 arise out of and in the course of employment even though the
18 employer pays some or all of the costs thereof.

19 Any injury to or disease or death of an employee arising
20 from the administration of a vaccine, including without
21 limitation smallpox vaccine, to prepare for, or as a response
22 to, a threatened or potential bioterrorist incident to the
23 employee as part of a voluntary inoculation program in
24 connection with the person's employment or in connection with
25 any governmental program or recommendation for the inoculation
26 of workers in the employee's occupation, geographical area, or

1 other category that includes the employee is deemed to arise
2 out of and in the course of the employment for all purposes
3 under this Act. This paragraph added by this amendatory Act of
4 the 93rd General Assembly is declarative of existing law and is
5 not a new enactment.

6 There shall be a rebuttable presumption that no benefits
7 under this Act shall be payable if (i) the employee's
8 intoxication is the proximate cause of the employee's
9 accidental injury or (ii) at the time the employee incurred
10 accidental injury, the employee was so intoxicated that the
11 intoxication constituted a departure from the employment.
12 Admissible evidence of the concentration of (1) alcohol, (2)
13 cannabis as defined in the Cannabis Control Act, (3) a
14 controlled substance listed in the Illinois Controlled
15 Substances Act, or (4) an intoxicating compound listed in the
16 Use of Intoxicating Compounds Act in the employee's blood,
17 breath, or urine at the time the employee incurred the
18 accidental injury shall be considered in any hearing under this
19 Act to determine whether the employee was intoxicated at the
20 time the employee incurred the accidental injuries.
21 Intoxication shall be defined as 0.08% or more by weight of
22 alcohol in the employee's blood, breath, or urine or if there
23 is any evidence of impairment due to the unlawful or
24 unauthorized use of (1) cannabis as defined in the Cannabis
25 Control Act, (2) a controlled substance listed in the Illinois
26 Controlled Substances Act, or (3) an intoxicating compound

1 listed in the Use of Intoxicating Compounds Act. If the
2 employee refuses to submit to testing of blood, breath, or
3 urine as soon as practical after the accident, he or she shall
4 be considered to have been intoxicated at the time of the
5 accident. Percentage by weight of alcohol in the blood shall be
6 based on grams of alcohol per 100 milliliters of blood.
7 Percentage by weight of alcohol in the breath shall be based
8 upon grams of alcohol per 210 liters of breath. Any testing
9 that has not been performed by an accredited or certified
10 testing laboratory shall not be admissible in any hearing under
11 this Act to determine whether the employee was intoxicated at
12 the time the employee incurred the accidental injury.

13 All sample collection and testing for alcohol and drugs
14 under this Section shall be performed in accordance with rules
15 to be adopted by the Commission. These rules shall ensure:

16 (1) compliance with the National Labor Relations Act
17 regarding collective bargaining agreements or regulations
18 promulgated by the United States Department of
19 Transportation;

20 (2) that samples are collected and tested in
21 conformance with national and State legal and regulatory
22 standards for the privacy of the individual being tested,
23 and in a manner reasonably calculated to prevent
24 substitutions or interference with the collection or
25 testing of reliable sample;

26 (3) that split testing procedures are utilized;

1 (4) sample collection is documented, and the
2 documentation procedures include:

3 (A) the labeling of samples in a manner so as to
4 reasonably preclude the probability of erroneous
5 identification of test result; and

6 (B) an opportunity for the employee to provide
7 notification of any information which he or she
8 considers relevant to the test, including
9 identification of currently or recently used
10 prescription or nonprescription drugs and other
11 relevant medical information;

12 (5) that sample collection, storage, and
13 transportation to the place of testing is performed in a
14 manner so as to reasonably preclude the probability of
15 sample contamination or adulteration; and

16 (6) that chemical analyses of blood, urine, breath, or
17 other bodily substance are performed according to
18 nationally scientifically accepted analytical methods and
19 procedures.

20 (Source: P.A. 93-829, eff. 7-28-04.)

21 (820 ILCS 305/16) (from Ch. 48, par. 138.16)

22 Sec. 16. The Commission shall make and publish procedural
23 rules and orders for carrying out the duties imposed upon it by
24 law and for determining the extent of disability sustained,
25 which rules and orders shall be deemed prima facie reasonable

1 and valid.

2 The process and procedure before the Commission shall be as
3 simple and summary as reasonably may be.

4 The Commission upon application of either party may issue
5 dedimus potestatem directed to a commissioner, notary public,
6 justice of the peace or any other officer authorized by law to
7 administer oaths, to take the depositions of such witness or
8 witnesses as may be necessary in the judgment of such
9 applicant. Such dedimus potestatem may issue to any of the
10 officers aforesaid in any state or territory of the United
11 States. When the deposition of any witness resident of a
12 foreign country is desired to be taken, the dedimus shall be
13 directed to and the deposition taken before a consul, vice
14 consul or other authorized representative of the government of
15 the United States of America, whose station is in the country
16 where the witness whose deposition is to be taken resides. In
17 countries where the government of the United States has no
18 consul or other diplomatic representative, then depositions in
19 such case shall be taken through the appropriate judicial
20 authority of that country; or where treaties provide for other
21 methods of taking depositions, then the same may be taken as in
22 such treaties provided. The Commission shall have the power to
23 adopt necessary rules to govern the issue of such dedimus
24 potestatem.

25 The Commission, or any member thereof, or any Arbitrator
26 designated by the Commission shall have the power to administer

1 oaths, subpoena and examine witnesses; to issue subpoenas duces
2 tecum, requiring the production of such books, papers, records,
3 including but not limited to employment verification documents
4 pursuant to subsection 8(d)1 of this Act, and documents as may
5 be evidence of any matter under inquiry and to examine and
6 inspect the same and such places or premises as may relate to
7 the question in dispute. The Commission, or any member thereof,
8 or any Arbitrator designated by the Commission, shall on
9 written request of either party to the dispute, issue subpoenas
10 for the attendance of such witnesses and production of such
11 books, papers, records, including but not limited to employment
12 verification documents pursuant to subsection 8(d)1 of this
13 Act, and documents as shall be designated in the applications,
14 and the parties applying for such subpoena shall advance the
15 officer and witness fees provided for in civil actions pending
16 in circuit courts of this State, except as otherwise provided
17 by Section 20 of this Act. Service of such subpoena shall be
18 made by any sheriff or other person. In case any person refuses
19 to comply with an order of the Commission or subpoenas issued
20 by it or by any member thereof, or any Arbitrator designated by
21 the Commission or to permit an inspection of places or
22 premises, or to produce any books, papers, records or
23 documents, or any witness refuses to testify to any matters
24 regarding which he or she may be lawfully interrogated, the
25 Circuit Court of the county in which the hearing or matter is
26 pending, on application of any member of the Commission or any

1 Arbitrator designated by the Commission, shall compel
2 obedience by attachment proceedings, as for contempt, as in a
3 case of disobedience of the requirements of a subpoena from
4 such court on a refusal to testify therein.

5 The records, reports, and bills kept by a treating
6 hospital, treating physician, or other treating healthcare
7 provider that renders treatment to the employee as a result of
8 accidental injuries in question, certified to as true and
9 correct by the hospital, physician, or other healthcare
10 provider or by designated agents of the hospital, physician, or
11 other healthcare provider, showing the medical and surgical
12 treatment given an injured employee by such hospital,
13 physician, or other healthcare provider, shall be admissible
14 without any further proof as evidence of the medical and
15 surgical matters stated therein, but shall not be conclusive
16 proof of such matters. There shall be a rebuttable presumption
17 that any such records, reports, and bills received in response
18 to Commission subpoena are certified to be true and correct.
19 This paragraph does not restrict, limit, or prevent the
20 admissibility of records, reports, or bills that are otherwise
21 admissible. This provision does not apply to reports prepared
22 by treating providers for use in litigation.

23 The Commission at its expense shall provide an official
24 court reporter to take the testimony and record of proceedings
25 at the hearings before an Arbitrator or the Commission, who
26 shall furnish a transcript of such testimony or proceedings to

1 either party requesting it, upon payment therefor at the rate
2 of \$1.00 per page for the original and 35 cents per page for
3 each copy of such transcript. Payment for photostatic copies of
4 exhibits shall be extra. If the Commission has determined, as
5 provided in Section 20 of this Act, that the employee is a poor
6 person, a transcript of such testimony and proceedings,
7 including photostatic copies of exhibits, shall be furnished to
8 such employee at the Commission's expense.

9 The Commission shall have the power to determine the
10 reasonableness and fix the amount of any fee of compensation
11 charged by any person, including attorneys, physicians,
12 surgeons and hospitals, for any service performed in connection
13 with this Act, or for which payment is to be made under this
14 Act or rendered in securing any right under this Act.

15 Whenever the Commission shall find that the employer, his
16 or her agent, service company or insurance carrier has been
17 guilty of delay or unfairness towards an employee in the
18 adjustment, settlement or payment of benefits due such employee
19 within the purview of the provisions of paragraph (c) of
20 Section 4 of this Act; or has been guilty of unreasonable or
21 vexatious delay, intentional under-payment of compensation
22 benefits, or has engaged in frivolous defenses which do not
23 present a real controversy, within the purview of the
24 provisions of paragraph (k) of Section 19 of this Act, the
25 Commission may assess all or any part of the attorney's fees
26 and costs against such employer and his or her insurance

1 carrier.

2 (Source: P.A. 94-277, eff. 7-20-05.)

3 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

9 1. Whenever any claimant misconceives his remedy and
10 files an application for adjustment of claim under this Act
11 and it is subsequently discovered, at any time before final
12 disposition of such cause, that the claim for disability or
13 death which was the basis for such application should
14 properly have been made under the Workers' Occupational
15 Diseases Act, then the provisions of Section 19, paragraph
16 (a-1) of the Workers' Occupational Diseases Act having
17 reference to such application shall 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 shall
11 be deemed to be a notice under the provisions of this Act
12 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 the
20 time and place of such hearing shall have been given to each of
21 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 may
24 order the payment of compensation up to the date of the
25 hearing, which award shall be reviewable and enforceable in the
26 same manner as other awards, and in no instance be a bar to a

1 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 findings
11 of fact and conclusions of law, separately stated, if requested
12 by either party. Unless a petition for review is filed by
13 either party within 30 days after the receipt by such party of
14 the copy of the decision and notification of time when filed,
15 and unless such party petitioning for a review shall within 35
16 days after the receipt by him of the copy of the decision, file
17 with the Commission either an agreed statement of the facts
18 appearing upon the hearing before the Arbitrator, or if such
19 party shall so elect a correct transcript of evidence of the
20 proceedings at such hearings, then the decision shall become
21 the decision of the Commission and in the absence of fraud
22 shall be conclusive. The Petition for Review shall contain a
23 statement of the petitioning party's specific exceptions to the
24 decision of the arbitrator. The jurisdiction of the Commission
25 to review the decision of the arbitrator shall not be limited
26 to the exceptions stated in the Petition for Review. The

1 Commission, or any member thereof, may grant further time not
2 exceeding 30 days, in which to file such agreed statement or
3 transcript of evidence. Such agreed statement of facts or
4 correct transcript of evidence, as the case may be, shall be
5 authenticated by the signatures of the parties or their
6 attorneys, and in the event they do not agree as to the
7 correctness of the transcript of evidence it shall be
8 authenticated by the signature of the Arbitrator designated by
9 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 provided
13 in paragraph (a) of Section 8, or compensation as provided in
14 paragraph (b) of Section 8, the employee may at any time
15 petition for an expedited hearing by an Arbitrator on the issue
16 of whether or not he or she is entitled to receive payment of
17 the services or compensation. Provided the employer continues
18 to pay compensation pursuant to paragraph (b) of Section 8, the
19 employer may at any time petition for an expedited hearing on
20 the issue of whether or not the employee is entitled to receive
21 medical, surgical, or hospital services or other services or
22 compensation as provided in paragraph (a) of Section 8, or
23 compensation as provided in paragraph (b) of Section 8. When an
24 employer has petitioned for an expedited hearing, the employer
25 shall continue to pay compensation as provided in paragraph (b)
26 of Section 8 unless the arbitrator renders a decision that the

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

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

24 Where 2 or more insurance carriers, private self-insureds,
25 or a group workers' compensation pool under Article V 3/4 of
26 the Illinois Insurance Code dispute coverage for the same

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

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

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

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

- 1 (ii) the approximate location of the accident;
- 2 (iii) a description of the accident;
- 3 (iv) the nature of the injury incurred by the employee;
- 4 (v) the identity of the person, if known, to whom the
5 accident was reported and the date on which it was
6 reported;
- 7 (vi) the name and title of the person, if known,
8 representing the employer with whom the employee conferred
9 in any effort to obtain compensation pursuant to paragraph
10 (b) of Section 8 of this Act or medical, surgical or
11 hospital services pursuant to paragraph (a) of Section 8 of
12 this Act and the date of such conference;
- 13 (vii) a statement that the employer has refused to pay
14 compensation pursuant to paragraph (b) of Section 8 of this
15 Act or for medical, surgical or hospital services pursuant
16 to paragraph (a) of Section 8 of this Act;
- 17 (viii) the name and address, if known, of each witness
18 to the accident and of each other person upon whom the
19 employee will rely to support his allegations;
- 20 (ix) the dates of treatment related to the accident by
21 medical practitioners, and the names and addresses of such
22 practitioners, including the dates of treatment related to
23 the accident at any hospitals and the names and addresses
24 of such hospitals, and a signed authorization permitting
25 the employer to examine all medical records of all
26 practitioners and hospitals named pursuant to this

1 paragraph;

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

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

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

26 (xiii) a certification signed by the employee or his

1 representative that the employer has received the petition
2 with the required information 15 days before filing.

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

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

1 names and addresses of any medical practitioners selected by
2 the employer pursuant to Section 12 of this Act and the time
3 and place of any examination scheduled to be made pursuant to
4 such Section.

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

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

22 The Commission shall adopt rules, regulations and
23 procedures whereby the final decision of the Commission is
24 filed not later than 90 days from the date the petition for
25 review is filed but in no event later than 180 days from the
26 date the petition for an emergency hearing is filed with the

1 Illinois Workers' Compensation Commission.

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

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

24 (2) Should the Commission at any time during the hearing
25 find that compelling considerations make it advisable to have
26 an examination and report at that time, the commission may in

1 its discretion so order.

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

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

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

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

18 (d) If any employee shall persist in insanitary or
19 injurious practices which tend to either imperil or retard his
20 recovery or shall refuse to submit to such medical, surgical,
21 or hospital treatment as is reasonably essential to promote his
22 recovery, the Commission may, in its discretion, reduce or
23 suspend the compensation of any such injured employee. However,
24 when an employer and employee so agree in writing, the
25 foregoing provision shall not be construed to authorize the
26 reduction or suspension of compensation of an employee who is

1 relying in good faith, on treatment by prayer or spiritual
2 means alone, in accordance with the tenets and practice of a
3 recognized church or religious denomination, by a duly
4 accredited practitioner thereof.

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

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

1 In the event either party requests oral argument, such
2 argument shall be had before a panel of 3 members of the
3 Commission (or before all available members pursuant to the
4 determination of 7 members of the Commission that such argument
5 be held before all available members of the Commission)
6 pursuant to the rules and regulations of the Commission. A
7 panel of 3 members, which shall be comprised of not more than
8 one representative citizen of the employing class and not more
9 than one representative citizen of the employee class, shall
10 hear the argument; provided that if all the issues in dispute
11 are solely the nature and extent of the permanent partial
12 disability, if any, a majority of the panel may deny the
13 request for such argument and such argument shall not be held;
14 and provided further that 7 members of the Commission may
15 determine that the argument be held before all available
16 members of the Commission. A decision of the Commission shall
17 be approved by a majority of Commissioners present at such
18 hearing if any; provided, if no such hearing is held, a
19 decision of the Commission shall be approved by a majority of a
20 panel of 3 members of the Commission as described in this
21 Section. The Commission shall give 10 days' notice to the
22 parties or their attorneys of the time and place of such taking
23 of testimony and of such argument.

24 In any case the Commission in its decision may find
25 specially upon any question or questions of law or fact which
26 shall be submitted in writing by either party whether ultimate

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

20 If a reporter does not for any reason furnish a transcript
21 of the proceedings before the Arbitrator in any case for use on
22 a hearing for review before the Commission, within the
23 limitations of time as fixed in this Section, the Commission
24 may, in its discretion, order a trial de novo before the
25 Commission in such case upon application of either party. The
26 applications for adjustment of claim and other documents in the

1 nature of pleadings filed by either party, together with the
2 decisions of the Arbitrator and of the Commission and the
3 statement of facts or transcript of evidence hereinbefore
4 provided for in paragraphs (b) and (c) shall be the record of
5 the proceedings of the Commission, and shall be subject to
6 review as hereinafter provided.

7 At the request of either party or on its own motion, the
8 Commission shall set forth in writing the reasons for the
9 decision, including findings of fact and conclusions of law
10 separately stated. The Commission shall by rule adopt a format
11 for written decisions for the Commission and arbitrators. The
12 written decisions shall be concise and shall succinctly state
13 the facts and reasons for the decision. The Commission may
14 adopt in whole or in part, the decision of the arbitrator as
15 the decision of the Commission. When the Commission does so
16 adopt the decision of the arbitrator, it shall do so by order.
17 Whenever the Commission adopts part of the arbitrator's
18 decision, but not all, it shall include in the order the
19 reasons for not adopting all of the arbitrator's decision. When
20 a majority of a panel, after deliberation, has arrived at its
21 decision, the decision shall be filed as provided in this
22 Section without unnecessary delay, and without regard to the
23 fact that a member of the panel has expressed an intention to
24 dissent. Any member of the panel may file a dissent. Any
25 dissent shall be filed no later than 10 days after the decision
26 of the majority has been filed.

1 Decisions rendered by the Commission and dissents, if any,
2 shall be published together by the Commission. The conclusions
3 of law set out in such decisions shall be regarded as
4 precedents by arbitrators for the purpose of achieving a more
5 uniform administration of this Act.

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

20 (1) Except in cases of claims against the State of
21 Illinois, in which case the decision of the Commission
22 shall not be subject to judicial review, the Circuit Court
23 of the county where any of the parties defendant may be
24 found, or if none of the parties defendant can be found in
25 this State then the Circuit Court of the county where the
26 accident occurred, shall by summons to the Commission have

1 power to review all questions of law and fact presented by
2 such record.

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

1 that he has so sent said notices in pursuance of this
2 Section, which shall be evidence of service on the
3 Commission and other parties in interest.

4 The Commission shall not be required to certify the
5 record of their proceedings to the Circuit Court, unless
6 the party commencing the proceedings for review in the
7 Circuit Court as above provided, shall pay to the
8 Commission the sum of 80¢ per page of testimony taken
9 before the Commission, and 35¢ per page of all other
10 matters contained in such record, except as otherwise
11 provided by Section 20 of this Act. Payment for photostatic
12 copies of exhibit shall be extra. It shall be the duty of
13 the Commission upon such payment, or failure to pay as
14 permitted under Section 20 of this Act, to prepare a true
15 and correct typewritten copy of such testimony and a true
16 and correct copy of all other matters contained in such
17 record and certified to by the Secretary or Assistant
18 Secretary thereof.

19 In its decision on review the Commission shall
20 determine in each particular case the amount of the
21 probable cost of the record to be filed as a part of the
22 summons in that case and no request for a summons may be
23 filed and no summons shall issue unless the party seeking
24 to review the decision of the Commission shall exhibit to
25 the clerk of the Circuit Court proof of payment by filing a
26 receipt showing payment or an affidavit of the attorney

1 setting forth that payment has been made of the sums so
2 determined to the Secretary or Assistant Secretary of the
3 Commission, except as otherwise provided by Section 20 of
4 this Act.

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

17 Every county, city, town, township, incorporated
18 village, school district, body politic or municipal
19 corporation against whom the Commission shall have
20 rendered an award for the payment of money shall not be
21 required to file a bond to secure the payment of the award
22 and the costs of the proceedings in the court to authorize
23 the court to issue such summons.

24 The court may confirm or set aside the decision of the
25 Commission. If the decision is set aside and the facts
26 found in the proceedings before the Commission are

1 sufficient, the court may enter such decision as is
2 justified by law, or may remand the cause to the Commission
3 for further proceedings and may state the questions
4 requiring further hearing, and give such other
5 instructions as may be proper. Appeals shall be taken to
6 the Appellate Court in accordance with Supreme Court Rules
7 22(g) and 303. Appeals shall be taken from the Appellate
8 Court to the Supreme Court in accordance with Supreme Court
9 Rule 315.

10 It shall be the duty of the clerk of any court
11 rendering a decision affecting or affirming an award of the
12 Commission to promptly furnish the Commission with a copy
13 of such decision, without charge.

14 The decision of a majority of the members of the panel
15 of the Commission, shall be considered the decision of the
16 Commission.

17 (g) Except in the case of a claim against the State of
18 Illinois, either party may present a certified copy of the
19 award of the Arbitrator, or a certified copy of the decision of
20 the Commission when the same has become final, when no
21 proceedings for review are pending, providing for the payment
22 of compensation according to this Act, to the Circuit Court of
23 the county in which such accident occurred or either of the
24 parties are residents, whereupon the court shall enter a
25 judgment in accordance therewith. In a case where the employer
26 refuses to pay compensation according to such final award or

1 such final decision upon which such judgment is entered the
2 court shall in entering judgment thereon, tax as costs against
3 him the reasonable costs and attorney fees in the arbitration
4 proceedings and in the court entering the judgment for the
5 person in whose favor the judgment is entered, which judgment
6 and costs taxed as therein provided shall, until and unless set
7 aside, have the same effect as though duly entered in an action
8 duly tried and determined by the court, and shall with like
9 effect, be entered and docketed. The Circuit Court shall have
10 power at any time upon application to make any such judgment
11 conform to any modification required by any subsequent decision
12 of the Supreme Court upon appeal, or as the result of any
13 subsequent proceedings for review, as provided in this Act.

14 Judgment shall not be entered until 15 days' notice of the
15 time and place of the application for the entry of judgment
16 shall be served upon the employer by filing such notice with
17 the Commission, which Commission shall, in case it has on file
18 the address of the employer or the name and address of its
19 agent upon whom notices may be served, immediately send a copy
20 of the notice to the employer or such designated agent.

21 (h) An agreement or award under this Act providing for
22 compensation in installments, may at any time within 18 months
23 after such agreement or award be reviewed by the Commission at
24 the request of either the employer or the employee, on the
25 ground that the disability of the employee has subsequently
26 recurred, increased, diminished or ended.

1 However, as to accidents occurring subsequent to July 1,
2 1955, which are covered by any agreement or award under this
3 Act providing for compensation in installments made as a result
4 of such accident, such agreement or award may at any time
5 within 30 months, or 60 months in the case of an award under
6 Section 8(d)1, after such agreement or award be reviewed by the
7 Commission at the request of either the employer or the
8 employee on the ground that the disability of the employee has
9 subsequently recurred, increased, diminished or ended. The
10 employer at any time may seek review by the Commission of any
11 final award under Section 8(d)1 of this Act where there is a
12 material increase in earnings by the employee.

13 On such review, compensation payments may be
14 re-established, increased, diminished or ended. The Commission
15 shall give 15 days' notice to the parties of the hearing for
16 review. Any employee, upon any petition for such review being
17 filed by the employer, shall be entitled to one day's notice
18 for each 100 miles necessary to be traveled by him in attending
19 the hearing of the Commission upon the petition, and 3 days in
20 addition thereto. Such employee shall, at the discretion of the
21 Commission, also be entitled to 5 cents per mile necessarily
22 traveled by him within the State of Illinois in attending such
23 hearing, not to exceed a distance of 300 miles, to be taxed by
24 the Commission as costs and deposited with the petition of the
25 employer.

26 When compensation which is payable in accordance with an

1 award or settlement contract approved by the Commission, is
2 ordered paid in a lump sum by the Commission, no review shall
3 be had as in this paragraph mentioned.

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

14 (j) Whenever in any proceeding testimony has been taken or
15 a final decision has been rendered and after the taking of such
16 testimony or after such decision has become final, the injured
17 employee dies, then in any subsequent proceedings brought by
18 the personal representative or beneficiaries of the deceased
19 employee, such testimony in the former proceeding may be
20 introduced with the same force and effect as though the witness
21 having so testified were present in person in such subsequent
22 proceedings and such final decision, if any, shall be taken as
23 final adjudication of any of the issues which are the same in
24 both proceedings.

25 (k) In case where there has been any unreasonable or
26 vexatious delay of payment or intentional underpayment of

1 compensation, or proceedings have been instituted or carried on
2 by the one liable to pay the compensation, which do not present
3 a real controversy, but are merely frivolous or for delay, then
4 the Commission may award compensation additional to that
5 otherwise payable under this Act equal to 50% of the amount
6 payable at the time of such award. Failure to pay compensation
7 in accordance with the provisions of Section 8, paragraph (b)
8 of this Act, shall be considered unreasonable delay.

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

13 (1) If the employee has made written demand for payment of
14 benefits under Section 8(a) or Section 8(b), the employer shall
15 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 expiration
19 of the allotted 60 days specified under Section 8.2(d). In case
20 the employer or his or her insurance carrier shall without good
21 and just cause fail, neglect, refuse, or unreasonably delay the
22 payment of benefits under Section 8(a) or Section 8(b), the
23 Arbitrator or the Commission shall allow to the employee
24 additional compensation in the sum of \$30 per day for each day
25 that the benefits under Section 8(a) or Section 8(b) have been
26 so withheld or refused, not to exceed \$10,000. A delay in

1 payment of 14 days or more shall create a rebuttable
2 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 in force at the time of the accident, the arbitrator
7 or the Commission shall allow to the injured employee or his
8 dependents, as the case may be, additional compensation equal
9 to 25% of the amount which otherwise would be payable under the
10 provisions of this Act exclusive of this paragraph. The
11 additional compensation herein provided shall be allowed by an
12 appropriate increase in the applicable weekly compensation
13 rate.

14 (n) After June 30, 1984, decisions of the Illinois Workers'
15 Compensation Commission reviewing an award of an arbitrator of
16 the Commission shall draw interest at a rate equal to the yield
17 on indebtedness issued by the United States Government with a
18 26-week maturity next previously auctioned on the day on which
19 the decision is filed. Said rate of interest shall be set forth
20 in the Arbitrator's Decision. Interest shall be drawn from the
21 date of the arbitrator's award on all accrued compensation due
22 the employee through the day prior to the date of payments.
23 However, when an employee appeals an award of an Arbitrator or
24 the Commission, and the appeal results in no change or a
25 decrease in the award, interest shall not further accrue from
26 the date of such appeal.

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

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

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

1 same manner as in arbitrated cases. No challenge may be
2 initiated under this paragraph more than 3 years after the
3 payment is made. An employer may waive the right of challenge
4 under this paragraph on a case by case basis.

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

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

18 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

1		INDEX
2		Statutes amended in order of appearance
3	820 ILCS 305/1	from Ch. 48, par. 138.1
4	820 ILCS 305/6	from Ch. 48, par. 138.6
5	820 ILCS 305/8	from Ch. 48, par. 138.8
6	820 ILCS 305/8.2	
7	820 ILCS 305/8.7	
8	820 ILCS 305/11	from Ch. 48, par. 138.11
9	820 ILCS 305/16	from Ch. 48, par. 138.16
10	820 ILCS 305/19	from Ch. 48, par. 138.19