



Sen. Kyle McCarter

Filed: 4/11/2011

09700SB1349sam001

LRB097 07516 AEK 54114 a

1 AMENDMENT TO SENATE BILL 1349

2 AMENDMENT NO. _____. Amend Senate Bill 1349 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by
5 changing Sections 1, 8, 8.1, 8.2, 8.3, 8.7, 11, 16, 19, and
6 25.5 and by adding Sections 1.1, 4b, 16b, and 16c.

7 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

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

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

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

14 2. Every person, firm, public or private corporation,
15 including hospitals, public service, eleemosynary, religious
16 or charitable corporations or associations who has any person

1 in service or under any contract for hire, express or implied,
2 oral or written, and who is engaged in any of the enterprises
3 or businesses enumerated in Section 3 of this Act, or who at or
4 prior to the time of the accident to the employee for which
5 compensation under this Act may be claimed, has in the manner
6 provided in this Act elected to become subject to the
7 provisions of this Act, and who has not, prior to such
8 accident, effected a withdrawal of such election in the manner
9 provided in this Act.

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

1 In the event any such person pays compensation under this
2 subsection he may recover the amount thereof from the
3 contractor or sub-contractor, if any, and in the event the
4 contractor pays compensation under this subsection he may
5 recover the amount thereof from the sub-contractor, if any.

6 This subsection does not apply in any case where the
7 accident occurs elsewhere than on, in or about the immediate
8 premises on which the principal has contracted that the work be
9 done.

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

1 rendering reasonable cooperation in any hearings, trials or
2 proceedings in the case, including such proceedings for
3 reimbursement.

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

17 An employer whose business or enterprise or a substantial
18 part thereof consists of hiring, procuring or furnishing
19 employees to or for other employers operating under and subject
20 to the provisions of this Act for the performance of the work
21 of such other employers and who pays such employees their
22 salary or wages notwithstanding that they are doing the work of
23 such other employers shall be deemed a loaning employer within
24 the meaning and provisions of this Section.

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

26 1. Every person in the service of the State, including

1 members of the General Assembly, members of the Commerce
2 Commission, members of the Illinois Workers' Compensation
3 Commission, and all persons in the service of the University of
4 Illinois, county, including deputy sheriffs and assistant
5 state's attorneys, city, town, township, incorporated village
6 or school district, body politic, or municipal corporation
7 therein, whether by election, under appointment or contract of
8 hire, express or implied, oral or written, including all
9 members of the Illinois National Guard while on active duty in
10 the service of the State, and all probation personnel of the
11 Juvenile Court appointed pursuant to Article VI of the Juvenile
12 Court Act of 1987, and including any official of the State, any
13 county, city, town, township, incorporated village, school
14 district, body politic or municipal corporation therein except
15 any duly appointed member of a police department in any city
16 whose population exceeds 200,000 according to the last Federal
17 or State census, and except any member of a fire insurance
18 patrol maintained by a board of underwriters in this State. A
19 duly appointed member of a fire department in any city, the
20 population of which exceeds 200,000 according to the last
21 federal or State census, is an employee under this Act only
22 with respect to claims brought under paragraph (c) of Section
23 8.

24 One employed by a contractor who has contracted with the
25 State, or a county, city, town, township, incorporated village,
26 school district, body politic or municipal corporation

1 therein, through its representatives, is not considered as an
2 employee of the State, county, city, town, township,
3 incorporated village, school district, body politic or
4 municipal corporation which made the contract.

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

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

21 An employee or his dependents under this Act who shall have
22 a cause of action by reason of any injury, disablement or death
23 arising out of and in the course of his employment may elect to
24 pursue his remedy in the State where injured or disabled, or in
25 the State where the contract of hire is made, or in the State
26 where the employment is principally localized.

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

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

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

16 (d) The term "accident" as used in this Act means an
17 occurrence arising out of the employment resulting from a risk
18 incidental to the employment and in the course of the
19 employment at a time and place and under circumstances
20 reasonably required by the employment.

21 (e) The term "injury" as used in this Act means a condition
22 or impairment that arises out of and in the course of
23 employment. An injury, its occupational cause, and any
24 resulting manifestations or disability must be established to a
25 reasonable degree of medical certainty, based on objective
26 relevant medical findings, and the accidental compensable

1 injury must be the major contributing cause of any resulting
2 injuries. For the purposes of this Section, "major contributing
3 cause" means the cause which is more than 50% responsible for
4 the injury as compared to all other causes combined for which
5 treatment or benefits are sought. "Injury" includes the
6 aggravation of a pre-existing condition by an accident arising
7 out of and in the course of the employment, but only for so
8 long as the aggravation of the pre-existing condition continues
9 to be the major contributing cause of the disability.

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

12 (A) it is reasonably apparent, upon consideration
13 of all circumstances, that the accident is the major
14 contributing cause of the injury; and

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

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

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

21 (820 ILCS 305/1.1 new)

22 Sec. 1.1. Standards of Conduct.

23 (a) Commissioners and arbitrators shall dispose of all
24 Workers' Compensation matters promptly, officially, and
25 fairly, without bias or prejudice. Commissioners and

1 arbitrators shall be faithful to the law and maintain
2 professional competence in it. Commissioners and arbitrators
3 shall in a timely manner take appropriate action or initiate
4 appropriate disciplinary measures against a Commissioner,
5 arbitrator, lawyer, or others for unprofessional conduct which
6 the Commissioner or arbitrator may become aware of.

7 (b) Except as otherwise provided in this Act, the Canons of
8 the Code of Judicial Conduct as adopted by the Supreme Court of
9 Illinois govern the hearing and non-hearing conduct of members
10 of the Commission and arbitrators under this Act. The
11 Commission may set additional rules and standards, not less
12 stringent than those rules and standards established by the
13 Code of Judicial Conduct, for the conduct of arbitrators.

14 (c) The following provisions of the Code of Judicial
15 Conduct do not apply under this Section:

16 (1) Canon 3(B), relating to administrative
17 responsibilities.

18 (2) Canon 6(C), relating to annual filings of economic
19 interests. Instead of filing declarations of economic
20 interests with the Clerk of the Illinois Supreme Court
21 under Illinois Supreme Court Rule 68, members of the
22 Commission and arbitrators shall make filings
23 substantially similar to those required by Rule 68 with the
24 Chairman, and such filings shall be made available for
25 examination by the public.

26 (d) An arbitrator or a Commissioner may accept an

1 uncompensated appointment to a governmental committee,
2 commission, or other position that is concerned with issues of
3 policy on matters which may come before the arbitrator or
4 Commissioner if such appointment neither affects his or her
5 independent professional judgment nor the conduct of his or her
6 duties.

7 (e) Decisions of an arbitrator or a Commissioner shall be
8 based exclusively on evidence in the record of the proceeding
9 and material that has been officially noticed.

10 (820 ILCS 305/4b new)

11 Sec. 4b. Collective Bargaining Agreements.

12 (a) Definitions.

13 For purposes of this Section, the term "construction
14 employer" means any person or legal entity or group of
15 persons or legal entities engaging in or planning to engage
16 in any constructing, altering, reconstructing, repairing,
17 rehabilitating, refinishing, refurbishing, remodeling,
18 remediating, renovating, custom fabricating, maintaining,
19 landscaping, improving, wrecking, painting, decorating,
20 demolishing, and adding to or subtracting from any
21 building, structure, airport facility, highway, roadway,
22 street, alley, bridge, sewer, drain, ditch, sewage
23 disposal plant, water works, parking facility, railroad,
24 excavation or other project, development, real property,
25 or improvement, or to do any part thereof, whether or not

1 the performance of the work herein described involves the
2 addition to, or fabrication into, any structure, project,
3 development, real property, or improvement herein
4 described of any material or article of merchandise and
5 shall also include moving construction related materials
6 on the job site or to or from the job site.

7 (b) Provisions.

8 Upon appropriate filing, the Commission and the courts
9 of this State shall recognize as valid and binding any
10 provision in a collective bargaining agreement between any
11 construction employer or group of employers and a labor
12 organization which is recognized or certified and the
13 exclusive representative of the employer's employees under
14 the National Labor Relations Act, 29 U.S.C. § 151, et al.,
15 which contains certain obligations and procedures relating
16 to workers' compensation. This agreement must be limited
17 to, but need not include, all of the following:

18 (1) an alternative dispute resolution ("ADR")
19 system to supplement, modify, or replace the
20 procedural or dispute resolution provisions of this
21 Act. The system may include mediation, arbitration, or
22 other dispute resolution proceedings, the results of
23 which shall be final and binding upon the parties;

24 (2) an agreed list of medical treatment providers
25 that may be the exclusive source of all medical and
26 related treatment provided under this Act;

1 (3) the use of a limited list of impartial
2 physicians to conduct independent medical
3 examinations;

4 (4) the creation of a light duty, modified job, or
5 return to work program;

6 (5) the use of a limited list of individuals and
7 companies for the establishment of vocational
8 rehabilitation or retraining programs that may be the
9 exclusive source of rehabilitation and retraining
10 services provided under this Act; or

11 (6) the establishment of joint labor management
12 safety committees and safety procedures.

13 (c) Void Agreements.

14 Nothing in this Section shall be construed to authorize
15 any agreement in a collective bargaining agreement that
16 diminishes or increases a construction employer's
17 entitlements under this Act or an employee's entitlement to
18 benefits as otherwise set forth in this Act. For the
19 purposes of this Section, the procedural rights and dispute
20 resolution agreements under subparagraphs (1) thru (6) of
21 subsection (b) of this Section are not agreements which
22 diminish or increase a construction employer's
23 entitlements under this Act or an employee's entitlement to
24 benefits under this Act. Any agreement that diminishes or
25 increases the construction employer's entitlements under
26 this Act or an employee's entitlement to benefits as set

1 forth in this Act are null and void. Nothing in this
2 Section shall be construed as creating a mandatory subject
3 of bargaining.

4 (d) Form of Agreement.

5 The agreement reached herein shall demonstrate that:

6 (1) the construction employer or group of
7 employers and the recognized or certified exclusive
8 bargaining representative have entered into a binding
9 collective bargaining agreement adopting the ADR plan
10 for a period of no less than 2 years;

11 (2) contractual agreements have been reached with
12 the construction employer's workers' compensation
13 carrier, group self-insurance fund, and any excess
14 carriers relating to the ADR plan;

15 (3) procedures have been established by which
16 claims for benefits by employees will be lodged,
17 administered and decided while affording procedural
18 due process;

19 (4) the plan has designated forms upon which claims
20 for benefits shall be made;

21 (5) the system and means by which the construction
22 employer's obligation to furnish medical services and
23 vocational rehabilitation and retraining benefits
24 shall be fulfilled and provider selected;

25 (6) the method by which mediators or arbitrators
26 are to be selected.

1 (e) Filing.

2 A copy of the agreement and a statement identifying the
3 parties to the agreement shall be filed with the
4 Commission. Within 21 days of receipt of an agreement, the
5 Chairman shall review the agreement for compliance with
6 this Section and notify the parties of its acceptance, or
7 notify the parties of any additional information required,
8 or any recommended modification that would bring the
9 agreement into compliance. If no additional information or
10 modification is required, the agreement shall be valid and
11 binding from the time the parties receive acceptance of the
12 agreement from the Chairman. Upon receipt of any requested
13 information or modification, the Chairman shall notify the
14 parties within 21 days whether the agreement is in
15 compliance with this Section. If no additional information
16 or modification is required, the agreement shall be valid
17 and binding from the time the parties receive acceptance of
18 the agreement from the Chairman. All rejections made by the
19 Chairman under this subsection shall be subject to review
20 by the courts of this State, said review to be taken in the
21 same manner and within the same time as provided by Section
22 19 of this Act for review of awards and decisions of the
23 Commission. Upon the review, the Circuit Court shall have
24 power to review all questions of fact as well as of law.

25 (f) Notice to Insurance carrier.

26 If the construction employer is insured under this Act,

1 he, she, or it shall provide notice to and obtain consent
2 from his, her, or its insurance carrier, in the manner
3 provided in the insurance contract, of his, her, or its
4 intent to enter into an agreement as provided in this
5 Section with his, her, or its employees.

6 (g) Employees' Claims for Workers' Compensation Benefits.

7 (1) claims for benefits shall be filed with the ADR
8 plan administrator within those periods of limitation
9 prescribed by this Act. Within 10 days of the filing of a
10 claim, the ADR plan administrator shall serve a copy of the
11 claim application upon the Commission, which shall
12 maintain records of all ADR claims and resolutions.

13 (2) settlements of claims presented to the ADR plan
14 administrator shall be evidenced by a settlement
15 agreement. All such settlements shall be filed with the ADR
16 plan administrator, who within 10 days shall forward a copy
17 to the Commission for recording.

18 (3) upon assignment of claims, unless settled,
19 mediators and arbitrators shall render final orders
20 containing essential findings of fact, rulings of law and
21 referring to other matters as pertinent to the questions at
22 issue. The ADR plan administrator shall maintain a record
23 of the proceedings.

24 (h) Reporting Requirements.

25 Annually, each ADR plan administrator shall submit a report
26 to the Commission containing the following information:

- 1 (1) the number of employees within the ADR program;
2 (2) the number of occurrences of work-related injuries
3 or diseases;
4 (3) the breakdown within the ADR program of injuries
5 and diseases treated;
6 (4) the total amount of disability benefits paid within
7 the ADR program;
8 (5) the total medical treatment cost paid within the
9 ADR program;
10 (6) the number of claims filed within the ADR program;
11 and
12 (7) the disposition of all claims.

13 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

17 (a) The employer shall provide and pay the negotiated rate,
18 if applicable, or the lesser of the health care provider's
19 actual charges or according to a fee schedule, subject to
20 Section 8.2, in effect at the time the service was rendered for
21 all the necessary first aid, medical and surgical services, and
22 all necessary medical, surgical and hospital services
23 thereafter incurred, limited, however, to that which is
24 reasonably required to cure or relieve from the effects of the
25 accidental injury, even if a health care provider sells,

1 transfers, or otherwise assigns an account receivable for
2 procedures, treatments, or services covered under this Act. If
3 the employer does not dispute payment of first aid, medical,
4 surgical, and hospital services, the employer shall make such
5 payment to the provider on behalf of the employee. The employer
6 shall also pay for treatment, instruction and training
7 necessary for the physical, mental and vocational
8 rehabilitation of the employee, including all maintenance
9 costs and expenses incidental thereto. If as a result of the
10 injury the employee is unable to be self-sufficient the
11 employer shall further pay for such maintenance or
12 institutional care as shall be required.

13 Except as provided in subsection (a-1) of this Section, for
14 up to 60 days from the report of injury to the employer, the
15 employer shall choose all necessary medical, surgical and
16 hospital services reasonably required to cure or relieve from
17 the effects of the accidental injury, at the employer's
18 expense. The employee shall cooperate with and adhere to the
19 plan of care or treatment recommendations of the providers
20 selected by the employer, unless the proposed care and
21 treatment threatens the life, health or recovery of the injured
22 employee. Upon a finding by the Commission, that the employer's
23 choice of medical care is rendering improper or inadequate
24 care, the employee may then choose a second physician, surgeon,
25 and hospital services at the employer's expense. Initial
26 emergency services, taking place within 45 days of the

1 accident, shall not constitute a choice of physician, surgeon,
2 or hospital services by the employer or employee. Except as
3 provided in subsection (a-1) of this Section, the ~~The~~ employee
4 may after 60 days from the report of injury ~~at any time elect~~
5 ~~to~~ secure his own physician, surgeon and hospital services at
6 the employer's expense. ~~or,~~

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

1 to make such change the Commission may relieve the employer of
2 his obligation to pay the doctor's charges from the date of
3 refusal to the date of compliance.

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

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

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

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

6 No employer shall be required to pay temporary partial
7 disability benefits to an employee who has been discharged for
8 cause on or after the effective date of this amendatory Act of
9 the 97th General Assembly. Upon notification by the employer,
10 the Commission shall suspend temporary partial disability
11 benefits being paid to an employee who has been discharged for
12 cause. Following a hearing, the Commission may reinstate the
13 temporary partial benefits and retroactively restore any
14 benefits the employer should have paid if it finds the
15 employer's discharge of the employee was not for cause. If the
16 Commission determines that the employee was discharged for
17 cause, the temporary partial disability benefit shall be
18 terminated. "Discharge for cause" means a discharge resulting
19 from the employee's voluntary violation of a rule or policy of
20 the employer not caused by the employee's disability.

21 Every hospital, physician, surgeon or other person
22 rendering treatment or services in accordance with the
23 provisions of this Section shall upon written request furnish
24 full and complete reports thereof to, and permit their records
25 to be copied by, the employer, the employee or his dependents,
26 as the case may be, or any other party to any proceeding for

1 compensation before the Commission, or their attorneys.

2 When an employee makes a claim for benefits under the Act,
3 he or she waives their privacy privilege with any treating
4 provider to the extent solely to allow the employer to obtain
5 from a treating provider the necessary information to determine
6 whether the condition of ill-being in question for which
7 treatment is sought is work related, what that treatment is for
8 purposes of approval of care, and whether or not, based upon
9 the condition of ill-being, the employee is entitled to other
10 benefits. The employer shall be entitled to contact the
11 treating provider to seek information and answers from the
12 treating provider regarding whether the condition of ill-being
13 in question for which treatment is sought is work related, what
14 that treatment or course of treatment is for purposes of
15 approval of care, and the return to work options that the
16 employer may have for the employee.

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

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

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

1 referrals from said initial service provider; plus

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

18 Where, as provided in Section 11 of this Act, an employee
19 is determined to be so intoxicated that the intoxication
20 constituted a departure from employment, the employer shall
21 only be liable to pay inpatient and outpatient hospital
22 services furnished by a provider qualified to furnish those
23 services that are needed to evaluate or stabilize an emergency
24 medical condition. Emergency treatment for injuries caused by
25 intoxication does not include post stabilization medical
26 services.

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

13 Where the accidental injury results in the amputation of an
14 arm, hand, leg or foot, or the enucleation of an eye, or the
15 loss of any of the natural teeth, the employer shall furnish an
16 artificial of any such members lost or damaged in accidental
17 injury arising out of and in the course of employment, and
18 shall also furnish the necessary braces in all proper and
19 necessary cases. In cases of the loss of a member or members by
20 amputation, the employer shall, whenever necessary, maintain
21 in good repair, refit or replace the artificial limbs during
22 the lifetime of the employee. Where the accidental injury
23 accompanied by physical injury results in damage to a denture,
24 eye glasses or contact eye lenses, or where the accidental
25 injury results in damage to an artificial member, the employer
26 shall replace or repair such denture, glasses, lenses, or

1 artificial member.

2 The furnishing by the employer of any such services or
3 appliances is not an admission of liability on the part of the
4 employer to pay compensation.

5 The furnishing of any such services or appliances or the
6 servicing thereof by the employer is not the payment of
7 compensation.

8 Except for the changes to the first paragraph of this
9 subsection (a), the changes to this subsection (a) apply only
10 to accidental injuries that occur on or after the effective
11 date of this amendatory Act of the 97th General Assembly.

12 (a-1) To satisfy its liabilities under this Section for the
13 provision of medical treatment to injured employees, an
14 employer may utilize a preferred provider program approved by
15 the Illinois Department of Insurance pursuant to Article XX-1/2
16 of the Illinois Insurance Code. The provider network shall
17 include an adequate number and type of physicians or other
18 providers to treat common injuries experienced by injured
19 employees based on the type of occupation or industry in which
20 the employee is engaged, and the geographic area where the
21 employees are employed.

22 Medical treatment for injuries shall be readily available
23 at reasonable times to all employees. To the extent feasible,
24 all medical treatment for injuries shall be readily accessible
25 to all employees.

26 All treatment provided shall be provided in accordance with

1 standards of care of nationally recognized peer review
2 guidelines as well as nationally recognized treatment
3 guidelines and evidence-based medicine, as appropriate.

4 Notwithstanding the provisions of subsection (a) of this
5 Section and for injuries incurred after the effective day of
6 this amendatory Act of the 97th General Assembly, an employee
7 of an employer utilizing a preferred provider network shall
8 only be allowed to select a participating provider from the
9 network. An employer shall be responsible for all medical care
10 provided by participating providers under this Section
11 determined by the Commission to be reasonable or necessary.

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

20 1. The compensation rate for temporary total
21 incapacity under this paragraph (b) of this Section shall
22 be equal to 66 2/3% of the employee's average weekly wage
23 computed in accordance with Section 10, provided that it
24 shall be not less than 66 2/3% of the sum of the Federal
25 minimum wage under the Fair Labor Standards Act, or the
26 Illinois minimum wage under the Minimum Wage Law, whichever

1 is more, multiplied by 40 hours. This percentage rate shall
2 be increased by 10% for each spouse and child, not to
3 exceed 100% of the total minimum wage calculation,
4 nor exceed the employee's average weekly wage computed in
5 accordance with the provisions of Section 10, whichever is
6 less.

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

23 No employer shall be required to pay temporary total
24 disability benefits to an employee who has been discharged for
25 cause on or after the effective date of this amendatory Act of
26 the 97th General Assembly. Upon notification by the employer,

1 the Commission shall suspend temporary total disability
2 benefits being paid to an employee who has been discharged for
3 cause. Following a hearing, the Commission may reinstate the
4 temporary total disability benefits and retroactively restore
5 any benefits the employer should have paid if it finds the
6 employer's discharge of the employee was not for cause. If the
7 Commission determines that the employee was discharged for
8 cause, the temporary total disability benefit shall be
9 terminated. "Discharge for cause" means a discharge resulting
10 from the employee's voluntary violation of a rule or policy of
11 the employer not caused by the employee's disability.

12 2.1. The compensation rate in all cases of serious and
13 permanent disfigurement under paragraph (c) and of
14 permanent partial disability under subparagraph (2) of
15 paragraph (d) or under paragraph (e) of this Section shall
16 be equal to 60% of the employee's average weekly wage
17 computed in accordance with the provisions of Section 10,
18 provided that it shall be not less than 66 2/3% of the sum
19 of the Federal minimum wage under the Fair Labor Standards
20 Act, or the Illinois minimum wage under the Minimum Wage
21 Law, whichever is more, multiplied by 40 hours. This
22 percentage rate shall be increased by 10% for each spouse
23 and child, not to exceed 100% of the total minimum wage
24 calculation,

25 nor exceed the employee's average weekly wage computed in
26 accordance with the provisions of Section 10, whichever is

1 less.

2 3. As used in this Section the term "child" means a
3 child of the employee including any child legally adopted
4 before the accident or whom at the time of the accident the
5 employee was under legal obligation to support or to whom
6 the employee stood in loco parentis, and who at the time of
7 the accident was under 18 years of age and not emancipated.
8 The term "children" means the plural of "child".

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

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

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

1 as the percentage of increase in the State's average weekly
2 wage in covered industries under the Unemployment
3 Insurance Act during such period.

4 The maximum weekly compensation rate, for the period
5 January 1, 1981 through December 31, 1983, except as
6 hereinafter provided, shall be 100% of the State's average
7 weekly wage in covered industries under the Unemployment
8 Insurance Act in effect on January 1, 1981. Effective
9 January 1, 1984 and on January 1, of each year thereafter
10 the maximum weekly compensation rate, except as
11 hereinafter provided, shall be determined as follows: if
12 during the preceding 12 month period there shall have been
13 an increase in the State's average weekly wage in covered
14 industries under the Unemployment Insurance Act, the
15 weekly compensation rate shall be proportionately
16 increased by the same percentage as the percentage of
17 increase in the State's average weekly wage in covered
18 industries under the Unemployment Insurance Act during
19 such period.

20 From July 1, 1977 and thereafter such maximum weekly
21 compensation rate in death cases under Section 7, and
22 permanent total disability cases under paragraph (f) or
23 subparagraph 18 of paragraph (3) of this Section and for
24 temporary total disability under paragraph (b) of this
25 Section and for amputation of a member or enucleation of an
26 eye under paragraph (e) of this Section shall be increased

1 to 133-1/3% of the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act.

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

7 4.1. Any provision herein to the contrary
8 notwithstanding, the weekly compensation rate for
9 compensation payments under subparagraph 18 of paragraph
10 (e) of this Section and under paragraph (f) of this Section
11 and under paragraph (a) of Section 7 and for amputation of
12 a member or enucleation of an eye under paragraph (e) of
13 this Section, shall in no event be less than 50% of the
14 State's average weekly wage in covered industries under the
15 Unemployment Insurance Act.

16 4.2. Any provision to the contrary notwithstanding,
17 the total compensation payable under Section 7 shall not
18 exceed the greater of \$500,000 or 25 years.

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

25 6. The Department of Employment Security of the State
26 shall on or before the first day of December, 1977, and on

1 or before the first day of June, 1978, and on the first day
2 of each December and June of each year thereafter, publish
3 the State's average weekly wage in covered industries under
4 the Unemployment Insurance Act and the Illinois Workers'
5 Compensation Commission shall on the 15th day of January,
6 1978 and on the 15th day of July, 1978 and on the 15th day
7 of each January and July of each year thereafter, post and
8 publish the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act as last
10 determined and published by the Department of Employment
11 Security. The amount when so posted and published shall be
12 conclusive and shall be applicable as the basis of
13 computation of compensation rates until the next posting
14 and publication as aforesaid.

15 7. The payment of compensation by an employer or his
16 insurance carrier to an injured employee shall not
17 constitute an admission of the employer's liability to pay
18 compensation.

19 (c) For any serious and permanent disfigurement to the
20 hand, head, face, neck, arm, leg below the knee or the chest
21 above the axillary line, the employee is entitled to
22 compensation for such disfigurement, the amount determined by
23 agreement at any time or by arbitration under this Act, at a
24 hearing not less than 6 months after the date of the accidental
25 injury, which amount shall not exceed 150 weeks (if the
26 accidental injury occurs on or after the effective date of this

1 amendatory Act of the 94th General Assembly but before February
2 1, 2006) or 162 weeks (if the accidental injury occurs on or
3 after February 1, 2006) at the applicable rate provided in
4 subparagraph 2.1 of paragraph (b) of this Section.

5 No compensation is payable under this paragraph where
6 compensation is payable under paragraphs (d), (e) or (f) of
7 this Section.

8 A duly appointed member of a fire department in a city, the
9 population of which exceeds 200,000 according to the last
10 federal or State census, is eligible for compensation under
11 this paragraph only where such serious and permanent
12 disfigurement results from burns.

13 (d) 1. If, after the accidental injury has been sustained,
14 the employee as a result thereof becomes partially
15 incapacitated from pursuing his usual and customary line of
16 employment, he shall, except in cases compensated under the
17 specific schedule set forth in paragraph (e) of this Section,
18 receive compensation for the duration of his disability,
19 subject to the limitations as to maximum amounts fixed in
20 paragraph (b) of this Section, equal to 66-2/3% of the
21 difference between the average amount which he would be able to
22 earn in the full performance of his duties in the occupation in
23 which he was engaged at the time of the accident and the
24 average amount which he is earning or is able to earn in some
25 suitable employment or business after the accident. For
26 accidental injuries that occur on and after the effective date

1 of this amendatory Act of the 97th General Assembly, an award
2 for wage differential under this subsection shall be effective
3 only until the employee reaches the age of 67 or 5 years from
4 the date the award becomes final, whichever is later.

5 2. If, as a result of the accident, the employee sustains
6 serious and permanent injuries not covered by paragraphs (c)
7 and (e) of this Section or having sustained injuries covered by
8 the aforesaid paragraphs (c) and (e), he shall have sustained
9 in addition thereto other injuries which injuries do not
10 incapacitate him from pursuing the duties of his employment but
11 which would disable him from pursuing other suitable
12 occupations, or which have otherwise resulted in physical
13 impairment; or if such injuries partially incapacitate him from
14 pursuing the duties of his usual and customary line of
15 employment but do not result in an impairment of earning
16 capacity, or having resulted in an impairment of earning
17 capacity, the employee elects to waive his right to recover
18 under the foregoing subparagraph 1 of paragraph (d) of this
19 Section then in any of the foregoing events, he shall receive
20 in addition to compensation for temporary total disability
21 under paragraph (b) of this Section, compensation at the rate
22 provided in subparagraph 2.1 of paragraph (b) of this Section
23 for that percentage of 500 weeks that the partial disability
24 resulting from the injuries covered by this paragraph bears to
25 total disability. If the employee shall have sustained a
26 fracture of one or more vertebra or fracture of the skull, the

1 amount of compensation allowed under this Section shall be not
2 less than 6 weeks for a fractured skull and 6 weeks for each
3 fractured vertebra, and in the event the employee shall have
4 sustained a fracture of any of the following facial bones:
5 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
6 mandible, the amount of compensation allowed under this Section
7 shall be not less than 2 weeks for each such fractured bone,
8 and for a fracture of each transverse process not less than 3
9 weeks. In the event such injuries shall result in the loss of a
10 kidney, spleen or lung, the amount of compensation allowed
11 under this Section shall be not less than 10 weeks for each
12 such organ. Compensation awarded under this subparagraph 2
13 shall not take into consideration injuries covered under
14 paragraphs (c) and (e) of this Section and the compensation
15 provided in this paragraph shall not affect the employee's
16 right to compensation payable under paragraphs (b), (c) and (e)
17 of this Section for the disabilities therein covered.

18 (e) For accidental injuries in the following schedule, the
19 employee shall receive compensation for the period of temporary
20 total incapacity for work resulting from such accidental
21 injury, under subparagraph 1 of paragraph (b) of this Section,
22 and shall receive in addition thereto compensation for a
23 further period for the specific loss herein mentioned, but
24 shall not receive any compensation under any other provisions
25 of this Act. The following listed amounts apply to either the
26 loss of or the permanent and complete loss of use of the member

1 specified, such compensation for the length of time as follows:

2 1. Thumb-

3 70 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 76 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 2. First, or index finger-

9 40 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 43 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 3. Second, or middle finger-

15 35 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 38 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 4. Third, or ring finger-

21 25 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

24 27 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 5. Fourth, or little finger-

1 20 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

4 22 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 6. Great toe-

7 35 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

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

12 7. Each toe other than great toe-

13 12 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 13 weeks if the accidental injury occurs on or
17 after February 1, 2006.

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

1 9. Hand-

2 190 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.

5 205 weeks if the accidental injury occurs on or
6 after February 1, 2006.

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

13 10. Arm-

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

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

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

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

12 11. Foot-

13 155 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 167 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 12. Leg-

19 200 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.

22 215 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 Where an accidental injury results in the amputation of
25 a leg below the knee, such injury shall be compensated as
26 loss of a leg. Where an accidental injury results in the

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

16 13. Eye-

17 150 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.

20 162 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Where an accidental injury results in the enucleation
23 of an eye, compensation for an additional 10 weeks (if the
24 accidental injury occurs on or after the effective date of
25 this amendatory Act of the 94th General Assembly but before
26 February 1, 2006) or an additional 11 weeks (if the

1 accidental injury occurs on or after February 1, 2006)
2 shall be paid.

3 14. Loss of hearing of one ear-

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

9 Total and permanent loss of hearing of both ears-

10 200 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.

13 215 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 15. Testicle-

16 50 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 54 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 Both testicles-

22 150 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.

25 162 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 16. For the permanent partial loss of use of a member
2 or sight of an eye, or hearing of an ear, compensation
3 during that proportion of the number of weeks in the
4 foregoing schedule provided for the loss of such member or
5 sight of an eye, or hearing of an ear, which the partial
6 loss of use thereof bears to the total loss of use of such
7 member, or sight of eye, or hearing of an ear.

8 (a) Loss of hearing for compensation purposes
9 shall be confined to the frequencies of 1,000, 2,000
10 and 3,000 cycles per second. Loss of hearing ability
11 for frequency tones above 3,000 cycles per second are
12 not to be considered as constituting disability for
13 hearing.

14 (b) The percent of hearing loss, for purposes of
15 the determination of compensation claims for
16 occupational deafness, shall be calculated as the
17 average in decibels for the thresholds of hearing for
18 the frequencies of 1,000, 2,000 and 3,000 cycles per
19 second. Pure tone air conduction audiometric
20 instruments, approved by nationally recognized
21 authorities in this field, shall be used for measuring
22 hearing loss. If the losses of hearing average 30
23 decibels or less in the 3 frequencies, such losses of
24 hearing shall not then constitute any compensable
25 hearing disability. If the losses of hearing average 85
26 decibels or more in the 3 frequencies, then the same

1 shall constitute and be total or 100% compensable
2 hearing loss.

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

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

15 (e) No consideration shall be given to the question
16 of whether or not the ability of an employee to
17 understand speech is improved by the use of a hearing
18 aid.

19 (f) No claim for loss of hearing due to industrial
20 noise shall be brought against an employer or allowed
21 unless the employee has been exposed for a period of
22 time sufficient to cause permanent impairment to noise
23 levels in excess of the following:

24 Sound Level DBA

25 Slow Response

Hours Per Day

26 90

8

1	92	6
2	95	4
3	97	3
4	100	2
5	102	1-1/2
6	105	1
7	110	1/2
8	115	1/4

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

11 17. In computing the compensation to be paid to any
12 employee who, before the accident for which he claims
13 compensation, had before that time sustained an injury
14 resulting in the loss by amputation or partial loss by
15 amputation of any member, including hand, arm, thumb or
16 fingers, leg, foot or any toes, such loss or partial loss
17 of any such member shall be deducted from any award made
18 for the subsequent injury. For the permanent loss of use or
19 the permanent partial loss of use of any such member or the
20 partial loss of sight of an eye, for which compensation has
21 been paid, then such loss shall be taken into consideration
22 and deducted from any award for the subsequent injury.

23 18. The specific case of loss of both hands, both arms,
24 or both feet, or both legs, or both eyes, or of any two
25 thereof, or the permanent and complete loss of the use
26 thereof, constitutes total and permanent disability, to be

1 compensated according to the compensation fixed by
2 paragraph (f) of this Section. These specific cases of
3 total and permanent disability do not exclude other cases.

4 Any employee who has previously suffered the loss or
5 permanent and complete loss of the use of any of such
6 members, and in a subsequent independent accident loses
7 another or suffers the permanent and complete loss of the
8 use of any one of such members the employer for whom the
9 injured employee is working at the time of the last
10 independent accident is liable to pay compensation only for
11 the loss or permanent and complete loss of the use of the
12 member occasioned by the last independent accident.

13 19. In a case of specific loss and the subsequent death
14 of such injured employee from other causes than such injury
15 leaving a widow, widower, or dependents surviving before
16 payment or payment in full for such injury, then the amount
17 due for such injury is payable to the widow or widower and,
18 if there be no widow or widower, then to such dependents,
19 in the proportion which such dependency bears to total
20 dependency.

21 Beginning July 1, 1980, and every 6 months thereafter, the
22 Commission shall examine the Second Injury Fund and when, after
23 deducting all advances or loans made to such Fund, the amount
24 therein is \$500,000 then the amount required to be paid by
25 employers pursuant to paragraph (f) of Section 7 shall be
26 reduced by one-half. When the Second Injury Fund reaches the

1 sum of \$600,000 then the payments shall cease entirely.
2 However, when the Second Injury Fund has been reduced to
3 \$400,000, payment of one-half of the amounts required by
4 paragraph (f) of Section 7 shall be resumed, in the manner
5 herein provided, and when the Second Injury Fund has been
6 reduced to \$300,000, payment of the full amounts required by
7 paragraph (f) of Section 7 shall be resumed, in the manner
8 herein provided. The Commission shall make the changes in
9 payment effective by general order, and the changes in payment
10 become immediately effective for all cases coming before the
11 Commission thereafter either by settlement agreement or final
12 order, irrespective of the date of the accidental injury.

13 On August 1, 1996 and on February 1 and August 1 of each
14 subsequent year, the Commission shall examine the special fund
15 designated as the "Rate Adjustment Fund" and when, after
16 deducting all advances or loans made to said fund, the amount
17 therein is \$4,000,000, the amount required to be paid by
18 employers pursuant to paragraph (f) of Section 7 shall be
19 reduced by one-half. When the Rate Adjustment Fund reaches the
20 sum of \$5,000,000 the payment therein shall cease entirely.
21 However, when said Rate Adjustment Fund has been reduced to
22 \$3,000,000 the amounts required by paragraph (f) of Section 7
23 shall be resumed in the manner herein provided.

24 (f) In case of complete disability, which renders the
25 employee wholly and permanently incapable of work, or in the
26 specific case of total and permanent disability as provided in

1 subparagraph 18 of paragraph (e) of this Section, compensation
2 shall be payable at the rate provided in subparagraph 2 of
3 paragraph (b) of this Section for life.

4 An employee entitled to benefits under paragraph (f) of
5 this Section shall also be entitled to receive from the Rate
6 Adjustment Fund provided in paragraph (f) of Section 7 of the
7 supplementary benefits provided in paragraph (g) of this
8 Section 8.

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

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

24 If an employee who had previously incurred loss or the
25 permanent and complete loss of use of one member, through the
26 loss or the permanent and complete loss of the use of one hand,

1 one arm, one foot, one leg, or one eye, incurs permanent and
2 complete disability through the loss or the permanent and
3 complete loss of the use of another member, he shall receive,
4 in addition to the compensation payable by the employer and
5 after such payments have ceased, an amount from the Second
6 Injury Fund provided for in paragraph (f) of Section 7, which,
7 together with the compensation payable from the employer in
8 whose employ he was when the last accidental injury was
9 incurred, will equal the amount payable for permanent and
10 complete disability as provided in this paragraph of this
11 Section.

12 The custodian of the Second Injury Fund provided for in
13 paragraph (f) of Section 7 shall be joined with the employer as
14 a party respondent in the application for adjustment of claim.
15 The application for adjustment of claim shall state briefly and
16 in general terms the approximate time and place and manner of
17 the loss of the first member.

18 In its award the Commission or the Arbitrator shall
19 specifically find the amount the injured employee shall be
20 weekly paid, the number of weeks compensation which shall be
21 paid by the employer, the date upon which payments begin out of
22 the Second Injury Fund provided for in paragraph (f) of Section
23 7 of this Act, the length of time the weekly payments continue,
24 the date upon which the pension payments commence and the
25 monthly amount of the payments. The Commission shall 30 days
26 after the date upon which payments out of the Second Injury

1 Fund have begun as provided in the award, and every month
2 thereafter, prepare and submit to the State Comptroller a
3 voucher for payment for all compensation accrued to that date
4 at the rate fixed by the Commission. The State Comptroller
5 shall draw a warrant to the injured employee along with a
6 receipt to be executed by the injured employee and returned to
7 the Commission. The endorsed warrant and receipt is a full and
8 complete acquittance to the Commission for the payment out of
9 the Second Injury Fund. No other appropriation or warrant is
10 necessary for payment out of the Second Injury Fund. The Second
11 Injury Fund is appropriated for the purpose of making payments
12 according to the terms of the awards.

13 As of July 1, 1980 to July 1, 1982, all claims against and
14 obligations of the Second Injury Fund shall become claims
15 against and obligations of the Rate Adjustment Fund to the
16 extent there is insufficient money in the Second Injury Fund to
17 pay such claims and obligations. In that case, all references
18 to "Second Injury Fund" in this Section shall also include the
19 Rate Adjustment Fund.

20 (g) Every award for permanent total disability entered by
21 the Commission on and after July 1, 1965 under which
22 compensation payments shall become due and payable after the
23 effective date of this amendatory Act, and every award for
24 death benefits or permanent total disability entered by the
25 Commission on and after the effective date of this amendatory
26 Act shall be subject to annual adjustments as to the amount of

1 the compensation rate therein provided. Such adjustments shall
2 first be made on July 15, 1977, and all awards made and entered
3 prior to July 1, 1975 and on July 15 of each year thereafter.
4 In all other cases such adjustment shall be made on July 15 of
5 the second year next following the date of the entry of the
6 award and shall further be made on July 15 annually thereafter.
7 If during the intervening period from the date of the entry of
8 the award, or the last periodic adjustment, there shall have
9 been an increase in the State's average weekly wage in covered
10 industries under the Unemployment Insurance Act, the weekly
11 compensation rate shall be proportionately increased by the
12 same percentage as the percentage of increase in the State's
13 average weekly wage in covered industries under the
14 Unemployment Insurance Act. The increase in the compensation
15 rate under this paragraph shall in no event bring the total
16 compensation rate to an amount greater than the prevailing
17 maximum rate at the time that the annual adjustment is made.
18 Such increase shall be paid in the same manner as herein
19 provided for payments under the Second Injury Fund to the
20 injured employee, or his dependents, as the case may be, out of
21 the Rate Adjustment Fund provided in paragraph (f) of Section 7
22 of this Act. Payments shall be made at the same intervals as
23 provided in the award or, at the option of the Commission, may
24 be made in quarterly payment on the 15th day of January, April,
25 July and October of each year. In the event of a decrease in
26 such average weekly wage there shall be no change in the then

1 existing compensation rate. The within paragraph shall not
2 apply to cases where there is disputed liability and in which a
3 compromise lump sum settlement between the employer and the
4 injured employee, or his dependents, as the case may be, has
5 been duly approved by the Illinois Workers' Compensation
6 Commission.

7 Provided, that in cases of awards entered by the Commission
8 for injuries occurring before July 1, 1975, the increases in
9 the compensation rate adjusted under the foregoing provision of
10 this paragraph (g) shall be limited to increases in the State's
11 average weekly wage in covered industries under the
12 Unemployment Insurance Act occurring after July 1, 1975.

13 For every accident occurring on or after July 20, 2005 but
14 before the effective date of this amendatory Act of the 94th
15 General Assembly (Senate Bill 1283 of the 94th General
16 Assembly), the annual adjustments to the compensation rate in
17 awards for death benefits or permanent total disability, as
18 provided in this Act, shall be paid by the employer. The
19 adjustment shall be made by the employer on July 15 of the
20 second year next following the date of the entry of the award
21 and shall further be made on July 15 annually thereafter. If
22 during the intervening period from the date of the entry of the
23 award, or the last periodic adjustment, there shall have been
24 an increase in the State's average weekly wage in covered
25 industries under the Unemployment Insurance Act, the employer
26 shall increase the weekly compensation rate proportionately by

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

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

23 (h) In case death occurs from any cause before the total
24 compensation to which the employee would have been entitled has
25 been paid, then in case the employee leaves any widow, widower,
26 child, parent (or any grandchild, grandparent or other lineal

1 heir or any collateral heir dependent at the time of the
2 accident upon the earnings of the employee to the extent of 50%
3 or more of total dependency) such compensation shall be paid to
4 the beneficiaries of the deceased employee and distributed as
5 provided in paragraph (g) of Section 7.

6 (h-1) In case an injured employee is under legal disability
7 at the time when any right or privilege accrues to him or her
8 under this Act, a guardian may be appointed pursuant to law,
9 and may, on behalf of such person under legal disability, claim
10 and exercise any such right or privilege with the same effect
11 as if the employee himself or herself had claimed or exercised
12 the right or privilege. No limitations of time provided by this
13 Act run so long as the employee who is under legal disability
14 is without a conservator or guardian.

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

19 However, where an employer has on file an employment
20 certificate issued pursuant to the Child Labor Law or work
21 permit issued pursuant to the Federal Fair Labor Standards Act,
22 as amended, or a birth certificate properly and duly issued,
23 such certificate, permit or birth certificate is conclusive
24 evidence as to the age of the injured minor employee for the
25 purposes of this Section.

26 Nothing herein contained repeals or amends the provisions

1 of the Child Labor Law relating to the employment of minors
2 under the age of 16 years.

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

23 Any excess benefits paid to or on behalf of a State
24 employee by the State Employees' Retirement System under
25 Article 14 of the Illinois Pension Code on a death claim or
26 disputed disability claim shall be credited against any

1 payments made or to be made by the State of Illinois to or on
2 behalf of such employee under this Act, except for payments for
3 medical expenses which have already been incurred at the time
4 of the award. The State of Illinois shall directly reimburse
5 the State Employees' Retirement System to the extent of such
6 credit.

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

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

25 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
26 94-695, eff. 11-16-05.)

1 (820 ILCS 305/8.1 new)

2 Sec. 8.1. Determination of permanent partial disability.
3 For accidental injuries that occur on or after December 31,
4 2011, permanent partial disability shall be established using
5 the following criteria:

6 (a) A physician licensed to practice medicine in all of its
7 branches shall certify the level of impairment in writing. The
8 certification shall include a demonstration using medically
9 defined objective measurements of impairment that include, but
10 are not limited to: loss of range of motion, loss of strength,
11 and measured atrophy of tissue mass consistent with the injury.
12 The most current edition of the American Medical Association's
13 "Guides to the Evaluation of Permanent Impairment" shall be
14 applied in determining the level of impairment.

15 (b) The certification of the physician shall establish the
16 level of impairment.

17 (c) In determining the level of disability, the Commission
18 shall base their determination on the level of impairment as
19 certified by the physician. The Commission may deviate from the
20 level of impairment only using the following additional
21 factors: (i) the occupation of the injured employee, including
22 whether the injured employee is able to perform their previous
23 work activities, and (ii) the employee's future earning
24 capacity. In determining the level of disability, the reasons
25 for any deviation from the level of impairment as certified by

1 the physician licensed to practice medicine in all of its
2 branches must be explained in detail in a written order and
3 proven by a preponderance of the evidence.

4 (820 ILCS 305/8.2)

5 Sec. 8.2. Fee schedule.

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

1 professional services.

2 (a-1) These charges and fees shall be designated by geozip
3 or any smaller geographic unit. The data shall in no way
4 identify or tend to identify any patient, employer, or health
5 care provider. As used in this Section, "geozip" means a
6 three-digit zip code based on data similarities, geographical
7 similarities, and frequencies. A geozip does not cross state
8 boundaries. As used in this Section, "three-digit zip code"
9 means a geographic area in which all zip codes have the same
10 first 3 digits. If a geozip does not have the necessary number
11 of charges and fees to calculate a valid percentile for a
12 specific procedure, treatment, or service, the Commission may
13 combine data from the geozip with up to 4 other geozips that
14 are demographically and economically similar and exhibit
15 similarities in data and frequencies until the Commission
16 reaches 9 charges or fees for that specific procedure,
17 treatment, or service. In cases where the compiled data
18 contains less than 9 charges or fees for a procedure,
19 treatment, or service, reimbursement shall occur at 76% of
20 charges and fees as determined by the Commission in a manner
21 consistent with the provisions of this paragraph. This
22 subsection shall apply until July 1, 2011.

23 (a-2) Providers of out-of-state procedures, treatments,
24 services, products, or supplies shall be reimbursed at the
25 lesser of that state's fee schedule amount or the fee schedule
26 amount that would apply to the region where the employer is

1 located. If no fee schedule exists in that state, the provider
2 shall be reimbursed at the lesser of the actual charge or the
3 fee schedule amount that would apply to the region where the
4 employer is located. If out-of-state treatment is being
5 undertaken and the employer is also located outside the State
6 of Illinois, the provider shall be reimbursed at the lesser of
7 the actual charge or the fee schedule amount that would apply
8 to the location of the accident. ~~The Commission has the~~
9 ~~authority to set the maximum allowable payment to providers of~~
10 ~~out-of-state procedures, treatments, or services covered under~~
11 ~~this Act in a manner consistent with this Section.~~

12 (a-3) Not later than September 30 in 2006 and each year
13 thereafter, the Commission shall automatically increase or
14 decrease the maximum allowable payment for a procedure,
15 treatment, or service established and in effect on January 1 of
16 that year by the percentage change in the Consumer Price
17 Index-U for the 12 month period ending August 31 of that year.
18 The increase or decrease shall become effective on January 1 of
19 the following year. As used in this Section, "Consumer Price
20 Index-U" means the index published by the Bureau of Labor
21 Statistics of the U.S. Department of Labor, that measures the
22 average change in prices of all goods and services purchased by
23 all urban consumers, U.S. city average, all items, 1982-84=100.

24 (a-4) Notwithstanding the provisions of subsection (a),
25 the following provisions shall apply to the medical fee
26 schedule starting on July 1, 2011:

1 (1) The Commission shall establish and maintain fee
2 schedules for procedures, treatments, products, services,
3 or supplies for hospital inpatient, hospital outpatient,
4 emergency room, accredited ambulatory surgical treatment
5 facilities, prescriptions filled and dispensed outside of
6 a licensed pharmacy, dental services, and professional
7 services. An accredited ambulatory surgical treatment
8 facility is one defined by the Illinois Department of
9 Public Health or by accreditation organizations determined
10 by the Commission. Services provided at an unaccredited
11 ambulatory surgical treatment facilities shall not be
12 compensated under the Illinois Workers' Compensation
13 Medical Fee Schedules.

14 This fee schedule shall be based on the fee schedule
15 amounts already established by the Commission pursuant to
16 subsection (a) of this Section. However, these fee schedule
17 amounts shall be grouped into regions consistent with
18 nationally recognized reimbursement zip codes in Illinois and
19 shall represent the average amount for a procedure, treatment
20 or service for all the geozips reorganized into the new region.

21 (2) In cases where the compiled data contains less than
22 9 charges or fees for a procedure, treatment, product,
23 supply, or service or where the fee schedule amount cannot
24 be determined by the non-discounted charge data,
25 non-Medicare relative values and conversion factors
26 derived from established fee schedule amounts, coding

1 crosswalks, or other data as determined by the Commission,
2 reimbursement shall occur at 76% of charges and fees until
3 July 1, 2011 and 53.2% of charges and fees thereafter as
4 determined by the Commission in a manner consistent with
5 the provisions of this paragraph.

6 (3) To establish additional fee schedule amounts, the
7 Commission shall utilize provider non-discounted charge
8 data, non-Medicare relative values and conversion factors
9 derived from established fee schedule amounts, and coding
10 crosswalks. The Commission may establish additional fee
11 schedule amounts based on either the charge or cost of the
12 procedure, treatment, product, supply, or service.

13 (4) Implants shall be reimbursed at 25% above the net
14 manufacturer's invoice price less rebates, plus actual
15 reasonable and customary shipping charges whether or not
16 the implant charge is submitted by a provider in
17 conjunction with a bill for all other services associated
18 with the implant, submitted by a provider on a separate
19 claim form, submitted by a distributor, or submitted by the
20 manufacturer of the implant. "Implants" include the
21 following codes or any substantially similar updated code
22 as determined by the Commission: 0274
23 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
24 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
25 (investigational devices); and 0636 (drugs requiring
26 detailed coding). Non-implantable devices or supplies

1 within these codes shall be reimbursed at 65% of actual
2 charge, which is the provider's normal rates under its
3 standard chargemaster. A standard chargemaster is the
4 provider's list of charges for procedures, treatments,
5 products, supplies, or services used to bill payers in a
6 consistent manner.

7 (5) The Commission shall automatically update all
8 codes and associated rules with the version of the codes
9 and rules valid on January 1 of that year, including the
10 most current version of the National Correct Coding
11 Initiative Edits as published by the Center for Medicare
12 and Medicaid Services.

13 (a-5) For procedures, treatments, services, or supplies
14 covered under this Act and rendered or to be rendered on or
15 after July 1, 2011, the maximum allowable payment shall be 70%
16 of the fee schedule amounts in place as of June 30, 2011, which
17 shall be adjusted yearly by the Consumer Price Index-U, as
18 described in subsection (a) of this Section.

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

25 (b) Notwithstanding the provisions of subsection (a), if
26 the Commission finds that there is a significant limitation on

1 access to quality health care in either a specific field of
2 health care services or a specific geographic limitation on
3 access to health care, it may change the Consumer Price Index-U
4 increase or decrease for that specific field or specific
5 geographic limitation on access to health care to address that
6 limitation.

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

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.

19 (1) All payments to providers for treatment provided
20 pursuant to this Act shall be made within 60 days of
21 receipt of the bills as long as the claim contains
22 substantially all the required data elements necessary to
23 adjudicate the bills.

24 (2) In the case of nonpayment to a provider within 60
25 days of receipt of the bill which contained substantially
26 all of the required data elements necessary to adjudicate

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

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

25 (e-5) If an employer notifies a provider that the employer
26 does not consider the illness or injury to be compensable under

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

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

1 that the employee files the application with the Commission
2 until the date that the provider is permitted to resume
3 collection efforts under the provisions of this Section.

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

25 (e-20) Upon a final award or judgment by an Arbitrator or
26 the Commission, or a settlement agreed to by the employer and

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

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

21 (g) On or before January 1, 2010 the Commission shall
22 provide to the Governor and General Assembly a report regarding
23 the implementation of the medical fee schedule and the index
24 used for annual adjustment to that schedule as described in
25 this Section.

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

1 (820 ILCS 305/8.3)

2 Sec. 8.3. Workers' Compensation Medical Fee Advisory
3 Board. There is created a Workers' Compensation Medical Fee
4 Advisory Board consisting of 9 members appointed by the
5 Governor with the advice and consent of the Senate. Three
6 members of the Advisory Board shall be representative citizens
7 chosen from the employee class, 3 members shall be
8 representative citizens chosen from the employing class, and 3
9 members shall be representative citizens chosen from the
10 medical provider class. Each member shall serve a 4-year term
11 and shall continue to serve until a successor is appointed. A
12 vacancy on the Advisory Board shall be filled by the Governor
13 for the unexpired term.

14 Members of the Advisory Board shall receive no compensation
15 for their services but shall be reimbursed for expenses
16 incurred in the performance of their duties by the Commission
17 from appropriations made to the Commission for that purpose.

18 The Advisory Board shall advise the Commission on
19 establishment of fees for medical services and accessibility of
20 medical treatment. Additionally, by December 31, 2011, the
21 Board shall issue a written report, to be delivered to the
22 Chairman of the Commission and the General Assembly, containing
23 (i) recommendations on how to streamline the process under
24 which workers' compensation medical providers bill for their
25 services, insurers process and issue payments and health care

1 providers receive such payments and (ii) a recommended set of
2 best practices for workers' compensation insurers and medical
3 providers to transition from a paper-based payment system to an
4 electronic-based billing and payment system.

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

6 (820 ILCS 305/8.7)

7 Sec. 8.7. Utilization review programs.

8 (a) As used in this Section:

9 "Utilization review" means the evaluation of proposed or
10 provided health care services to determine the appropriateness
11 of both the level of health care services medically necessary
12 and the quality of health care services provided to a patient,
13 including evaluation of their efficiency, efficacy, and
14 appropriateness of treatment, hospitalization, or office
15 visits based on medically accepted standards. The evaluation
16 must be accomplished by means of a system that identifies the
17 utilization of health care services based on standards of care
18 of or nationally recognized peer review guidelines as well as
19 nationally recognized treatment guidelines and evidence-based
20 medicine ~~evidence based upon standards as provided in this Act.~~

21 Utilization techniques may include prospective review, second
22 opinions, concurrent review, discharge planning, peer review,
23 independent medical examinations, and retrospective review
24 (for purposes of this sentence, retrospective review shall be
25 applicable to services rendered on or after July 20, 2005).

1 Nothing in this Section applies to prospective review of
2 necessary first aid or emergency treatment.

3 (b) No person may conduct a utilization review program for
4 workers' compensation services in this State unless once every
5 2 years the person registers the utilization review program
6 with the Department of Insurance ~~Financial and Professional~~
7 ~~Regulation~~ and certifies compliance with the Workers'
8 Compensation Utilization Management standards or Health
9 Utilization Management Standards of URAC sufficient to achieve
10 URAC accreditation or submits evidence of accreditation by URAC
11 for its Workers' Compensation Utilization Management Standards
12 or Health Utilization Management Standards. Nothing in this Act
13 shall be construed to require an employer or insurer or its
14 subcontractors to become URAC accredited.

15 (c) In addition, the Director ~~Secretary~~ of Insurance
16 ~~Financial and Professional Regulation~~ may certify alternative
17 utilization review standards of national accreditation
18 organizations or entities in order for plans to comply with
19 this Section. Any alternative utilization review standards
20 shall meet or exceed those standards required under subsection
21 (b).

22 (d) This registration shall include submission of all of
23 the following information regarding utilization review program
24 activities:

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

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

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

5 (4) Hours of operation of each utilization review
6 program.

7 (5) Description of the grievance process for each
8 utilization review program.

9 (6) Number of covered lives for which utilization
10 review was conducted for the previous calendar year for
11 each utilization review program.

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

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

18 (1) kept confidential in accordance with applicable
19 State and federal laws; and

20 (2) shared only with the employee, the employee's
21 designee, and the employee's health care provider, and
22 those who are authorized by law to receive the information.
23 Summary data shall not be considered confidential if it
24 does not provide information to allow identification of
25 individual patients or health care providers.

26 Only a health care professional may make determinations

1 regarding the medical necessity of health care services during
2 the course of utilization review.

3 When making retrospective reviews, utilization review
4 programs shall base reviews solely on the medical information
5 available to the attending physician or ordering provider at
6 the time the health care services were provided.

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

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

25 (h) The Department of Insurance ~~Secretary of Financial and~~
26 ~~Professional Regulation~~ may by rule establish a registration

1 fee for each person conducting a utilization review program.

2 (i) Upon receipt of written notice that the employer or the
3 employer's agent or insurer wishes to invoke the utilization
4 review process, the provider of medical, surgical or hospital
5 services shall submit to the utilization review, following URAC
6 procedural guidelines and appeal process. If the provider fails
7 to submit to utilization review of proposed treatment or
8 services, the charges for the treatment or service shall not be
9 compensable or collectible against the employer, the
10 employer's agent or insurer, or the employee. When an employer
11 denies payment of or refuses to authorize payment of first aid,
12 medical, surgical, or hospital services under Section 8(a) of
13 this Act that complies with subsection (b) of this Section,
14 that denial or refusal to authorize shall create a rebuttable
15 presumption that the extent and scope of medical treatment is
16 excessive or unnecessary. That presumption may be rebutted by
17 establishing by a preponderance of the evidence that a variance
18 from the standards of care or guidelines used pursuant to
19 subsection (a) of this Section is reasonably required to cure
20 and relieve the employee from the effects of his or her injury
21 or that the utilization review did not comply with subsection
22 (b) of this Section.

23 ~~(i)~~ A utilization review will be considered by the
24 Commission, along with all other evidence and in the same
25 manner as all other evidence, in the determination of the
26 reasonableness and necessity of the medical bills or treatment.

1 Nothing in this Section shall be construed to diminish the
2 rights of employees to reasonable and necessary medical
3 treatment or employee choice of health care provider under
4 Section 8(a) or the rights of employers to medical examinations
5 under Section 12.

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

22 The changes to this Section made by this amendatory Act of
23 the 97th General Assembly apply only to medical services
24 provided on or after the effective date of this amendatory Act
25 of the 97th General Assembly.

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

1 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

2 Sec. 11. The compensation herein provided, together with
3 the provisions of this Act, shall be the measure of the
4 responsibility of any employer engaged in any of the
5 enterprises or businesses enumerated in Section 3 of this Act,
6 or of any employer who is not engaged in any such enterprises
7 or businesses, but who has elected to provide and pay
8 compensation for accidental injuries sustained by any employee
9 arising out of and in the course of the employment according to
10 the provisions of this Act, and whose election to continue
11 under this Act, has not been nullified by any action of his
12 employees as provided for in this Act.

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

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

24 Any injury to or disease or death of an employee arising
25 from the administration of a vaccine, including without

1 limitation smallpox vaccine, to prepare for, or as a response
2 to, a threatened or potential bioterrorist incident to the
3 employee as part of a voluntary inoculation program in
4 connection with the person's employment or in connection with
5 any governmental program or recommendation for the inoculation
6 of workers in the employee's occupation, geographical area, or
7 other category that includes the employee is deemed to arise
8 out of and in the course of the employment for all purposes
9 under this Act. This paragraph added by this amendatory Act of
10 the 93rd General Assembly is declarative of existing law and is
11 not a new enactment.

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

1 weight of alcohol in the employee's blood, breath, or urine or
2 if there is any evidence of impairment due to the unlawful or
3 unauthorized use of (1) cannabis as defined in the Cannabis
4 Control Act, (2) a controlled substance listed in the Illinois
5 Controlled Substances Act, or (3) an intoxicating compound
6 listed in the Use of Intoxicating Compounds Act or if the
7 employee refuses to submit to testing of blood, breath, or
8 urine, then there shall be a rebuttable presumption that the
9 employee was intoxicated and that the intoxication was the
10 proximate cause of the employee's injury. The employee may
11 overcome the rebuttable presumption by the preponderance of the
12 admissible evidence that the intoxication was not the proximate
13 cause of the accidental injuries. Percentage by weight of
14 alcohol in the blood shall be based on grams of alcohol per 100
15 milliliters of blood. Percentage by weight of alcohol in the
16 breath shall be based upon grams of alcohol per 210 liters of
17 breath. Any testing that has not been performed by an
18 accredited or certified testing laboratory shall not be
19 admissible in any hearing under this Act to determine whether
20 the employee was intoxicated at the time the employee incurred
21 the accidental injury.

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

25 (1) compliance with the National Labor Relations Act
26 regarding collective bargaining agreements or regulations

1 promulgated by the United States Department of
2 Transportation;

3 (2) that samples are collected and tested in
4 conformance with national and State legal and regulatory
5 standards for the privacy of the individual being tested,
6 and in a manner reasonably calculated to prevent
7 substitutions or interference with the collection or
8 testing of reliable sample;

9 (3) that split testing procedures are utilized;

10 (4) sample collection is documented, and the
11 documentation procedures include:

12 (A) the labeling of samples in a manner so as to
13 reasonably preclude the probability of erroneous
14 identification of test result; and

15 (B) an opportunity for the employee to provide
16 notification of any information which he or she
17 considers relevant to the test, including
18 identification of currently or recently used
19 prescription or nonprescription drugs and other
20 relevant medical information;

21 (5) that sample collection, storage, and
22 transportation to the place of testing is performed in a
23 manner so as to reasonably preclude the probability of
24 sample contamination or adulteration; and

25 (6) that chemical analyses of blood, urine, breath, or
26 other bodily substance are performed according to

1 nationally scientifically accepted analytical methods and
2 procedures.

3 The changes to this Section made by this amendatory Act of
4 the 97th General Assembly apply only to accidental injuries
5 that occur on or after the effective date of this amendatory
6 Act of the 97th General Assembly.

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

8 (820 ILCS 305/16) (from Ch. 48, par. 138.16)

9 Sec. 16. The Commission shall make and publish procedural
10 rules and orders for carrying out the duties imposed upon it by
11 law and for determining the extent of disability sustained,
12 which rules and orders shall be deemed prima facie reasonable
13 and valid.

14 The process and procedure before the Commission shall be as
15 simple and summary as reasonably may be.

16 The Commission upon application of either party may issue
17 dedimus potestatem directed to a commissioner, notary public,
18 justice of the peace or any other officer authorized by law to
19 administer oaths, to take the depositions of such witness or
20 witnesses as may be necessary in the judgment of such
21 applicant. Such dedimus potestatem may issue to any of the
22 officers aforesaid in any state or territory of the United
23 States. When the deposition of any witness resident of a
24 foreign country is desired to be taken, the dedimus shall be
25 directed to and the deposition taken before a consul, vice

1 consul or other authorized representative of the government of
2 the United States of America, whose station is in the country
3 where the witness whose deposition is to be taken resides. In
4 countries where the government of the United States has no
5 consul or other diplomatic representative, then depositions in
6 such case shall be taken through the appropriate judicial
7 authority of that country; or where treaties provide for other
8 methods of taking depositions, then the same may be taken as in
9 such treaties provided. The Commission shall have the power to
10 adopt necessary rules to govern the issue of such dedimus
11 potestatem.

12 The Commission, or any member thereof, or any Arbitrator
13 designated by the Commission shall have the power to administer
14 oaths, subpoena and examine witnesses; to issue subpoenas duces
15 tecum, requiring the production of such books, papers, records
16 and documents as may be evidence of any matter under inquiry
17 and to examine and inspect the same and such places or premises
18 as may relate to the question in dispute. The Commission, or
19 any member thereof, or any Arbitrator designated by the
20 Commission, shall on written request of either party to the
21 dispute, issue subpoenas for the attendance of such witnesses
22 and production of such books, papers, records and documents as
23 shall be designated in the applications, and the parties
24 applying for such subpoena shall advance the officer and
25 witness fees provided for in civil actions pending in circuit
26 courts of this State, except as otherwise provided by Section

1 20 of this Act. Service of such subpoena shall be made by any
2 sheriff or other person. In case any person refuses to comply
3 with an order of the Commission or subpoenas issued by it or by
4 any member thereof, or any Arbitrator designated by the
5 Commission or to permit an inspection of places or premises, or
6 to produce any books, papers, records or documents, or any
7 witness refuses to testify to any matters regarding which he or
8 she may be lawfully interrogated, the Circuit Court of the
9 county in which the hearing or matter is pending, on
10 application of any member of the Commission or any Arbitrator
11 designated by the Commission, shall compel obedience by
12 attachment proceedings, as for contempt, as in a case of
13 disobedience of the requirements of a subpoena from such court
14 on a refusal to testify therein.

15 The records, reports, and bills kept by a treating
16 hospital, treating physician, or other treating healthcare
17 provider that renders treatment to the employee as a result of
18 accidental injuries in question, certified to as true and
19 correct by the hospital, physician, or other healthcare
20 provider or by designated agents of the hospital, physician, or
21 other healthcare provider, showing the medical and surgical
22 treatment given an injured employee by such hospital,
23 physician, or other healthcare provider, shall be admissible
24 without any further proof as evidence of the medical and
25 surgical matters stated therein, but shall not be conclusive
26 proof of such matters. Any records, reports and bills submitted

1 under this Section shall be limited for the purpose of
2 establishing that the care and treatment was rendered and shall
3 not be for the purpose of establishing causal connection, need
4 for care or degree of disability. There shall be a rebuttable
5 presumption that any such records, reports, and bills received
6 in response to Commission subpoena are certified to be true and
7 correct. This paragraph does not restrict, limit, or prevent
8 the admissibility of records, reports, or bills that are
9 otherwise admissible. This provision does not apply to reports
10 prepared by treating providers for use in litigation.

11 The Commission at its expense shall provide an official
12 court reporter to take the testimony and record of proceedings
13 at the hearings before an Arbitrator or the Commission, who
14 shall furnish a transcript of such testimony or proceedings to
15 either party requesting it, upon payment therefor at the rate
16 of \$1.00 per page for the original and 35 cents per page for
17 each copy of such transcript. Payment for photostatic copies of
18 exhibits shall be extra. If the Commission has determined, as
19 provided in Section 20 of this Act, that the employee is a poor
20 person, a transcript of such testimony and proceedings,
21 including photostatic copies of exhibits, shall be furnished to
22 such employee at the Commission's expense.

23 The Commission shall have the power to determine the
24 reasonableness and fix the amount of any fee of compensation
25 charged by any person, including attorneys, physicians,
26 surgeons and hospitals, for any service performed in connection

1 with this Act, or for which payment is to be made under this
2 Act or rendered in securing any right under this Act.

3 Whenever the Commission shall find that the employer, his
4 or her agent, service company or insurance carrier has been
5 guilty of delay or unfairness towards an employee in the
6 adjustment, settlement or payment of benefits due such employee
7 within the purview of the provisions of paragraph (c) of
8 Section 4 of this Act; or has been guilty of unreasonable or
9 vexatious delay, intentional under-payment of compensation
10 benefits, or has engaged in frivolous defenses which do not
11 present a real controversy, within the purview of the
12 provisions of paragraph (k) of Section 19 of this Act, the
13 Commission may assess all or any part of the attorney's fees
14 and costs against such employer and his or her insurance
15 carrier.

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

17 (820 ILCS 305/16b new)

18 Sec. 16b. Signature constitutes certification. The
19 signature of an attorney on any petition, motion, or other
20 paper filed with the Commission constitutes a certification by
21 he or she that he or she has read the petition, motion, or
22 other paper, and, that to the best of his or her knowledge,
23 information, and belief formed after reasonable inquiry that it
24 is well grounded in fact, that it is warranted by existing law
25 or a good faith argument for an extension, modification, or

1 reversal of existing law, and that it is not interposed for any
2 improper purpose, such as to harass or to cause unnecessary
3 delay or needless increase in the cost of litigation. If a
4 petition, motion, or other paper is signed in violation of this
5 Section, the Commission, upon motion or upon its own
6 initiative, may impose on the attorney an appropriate penalty
7 or may order him or her to pay the other party the amount of
8 reasonable expenses incurred because of the filing of the
9 petition, motion, or other paper, including reasonable
10 attorneys' fees.

11 (820 ILCS 305/16c new)

12 Sec. 16c. Gift Ban.

13 (a) An attorney appearing before the Commission shall not
14 provide compensation or any gift to any person in exchange for
15 the referral of a client involving a matter to be heard before
16 the Commission except for a division of a fee between lawyers
17 who are not in the same firm in accordance with Rule 1.5 of the
18 Code of Professional Responsibility. For purposes of this
19 Section, "gift" means any gratuity, discount, entertainment,
20 hospitality, loan, forbearance, or any other tangible or
21 intangible item having monetary value including, but not
22 limited to, cash food and drink and honoraria except for up to
23 \$75 per day per person for food and beverage.

24 (b) Violation of this Section is a Class A misdemeanor.

1 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

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

1 thereof, and such compensation may be awarded as is
2 warranted by the whole evidence pursuant to this Act. When
3 such amendment is submitted, further or additional
4 evidence may be heard by the Arbitrator or Commission when
5 deemed necessary. Nothing in this Section contained shall
6 be construed to be or permit a waiver of any provisions of
7 this Act with reference to notice but notice if given shall
8 be deemed to be a notice under the provisions of this Act
9 if given within the time required herein.

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

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

19 The Arbitrator may find that the disabling condition is
20 temporary and has not yet reached a permanent condition and may
21 order the payment of compensation up to the date of the
22 hearing, which award shall be reviewable and enforceable in the
23 same manner as other awards, and in no instance be a bar to a
24 further hearing and determination of a further amount of
25 temporary total compensation or of compensation for permanent
26 disability, but shall be conclusive as to all other questions

1 except the nature and extent of said disability.

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

1 correct transcript of evidence, as the case may be, shall be
2 authenticated by the signatures of the parties or their
3 attorneys, and in the event they do not agree as to the
4 correctness of the transcript of evidence it shall be
5 authenticated by the signature of the Arbitrator designated by
6 the Commission.

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

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

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

21 Where 2 or more insurance carriers, private self-insureds,
22 or a group workers' compensation pool under Article V 3/4 of
23 the Illinois Insurance Code dispute coverage for the same
24 injury, any such insurance carrier, private self-insured, or
25 group workers' compensation pool may request an expedited
26 hearing pursuant to this paragraph to determine the issue of

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

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

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

- 23 (i) the date and approximate time of accident;
24 (ii) the approximate location of the accident;
25 (iii) a description of the accident;
26 (iv) the nature of the injury incurred by the employee;

1 (v) the identity of the person, if known, to whom the
2 accident was reported and the date on which it was
3 reported;

4 (vi) the name and title of the person, if known,
5 representing the employer with whom the employee conferred
6 in any effort to obtain compensation pursuant to paragraph
7 (b) of Section 8 of this Act or medical, surgical or
8 hospital services pursuant to paragraph (a) of Section 8 of
9 this Act and the date of such conference;

10 (vii) a statement that the employer has refused to pay
11 compensation pursuant to paragraph (b) of Section 8 of this
12 Act or for medical, surgical or hospital services pursuant
13 to paragraph (a) of Section 8 of this Act;

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

17 (ix) the dates of treatment related to the accident by
18 medical practitioners, and the names and addresses of such
19 practitioners, including the dates of treatment related to
20 the accident at any hospitals and the names and addresses
21 of such hospitals, and a signed authorization permitting
22 the employer to examine all medical records of all
23 practitioners and hospitals named pursuant to this
24 paragraph;

25 (x) a copy of a signed report by a medical
26 practitioner, relating to the employee's current inability

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

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

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

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

26 Fifteen days after receipt by the employer of the petition

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

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

1 such Section.

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

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

19 The Commission shall adopt rules, regulations and
20 procedures whereby the final decision of the Commission is
21 filed not later than 90 days from the date the petition for
22 review is filed but in no event later than 180 days from the
23 date the petition for an emergency hearing is filed with the
24 Illinois Workers' Compensation Commission.

25 All service required pursuant to this paragraph (b-1) must
26 be by personal service or by certified mail and with evidence

1 of receipt. In addition for the purposes of this paragraph, all
2 service on the employer must be at the premises where the
3 accident occurred if the premises are owned or operated by the
4 employer. Otherwise service must be at the employee's principal
5 place of employment by the employer. If service on the employer
6 is not possible at either of the above, then service shall be
7 at the employer's principal place of business. After initial
8 service in each case, service shall be made on the employer's
9 attorney or designated representative.

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

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

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

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

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

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

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

1 accredited practitioner thereof.

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

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

24 In the event either party requests oral argument, such
25 argument shall be had before a panel of 3 members of the
26 Commission (or before all available members pursuant to the

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

21 In any case the Commission in its decision may find
22 specially upon any question or questions of law or fact which
23 shall be submitted in writing by either party whether ultimate
24 or otherwise; provided that on issues other than nature and
25 extent of the disability, if any, the Commission in its
26 decision shall find specially upon any question or questions of

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

17 If a reporter does not for any reason furnish a transcript
18 of the proceedings before the Arbitrator in any case for use on
19 a hearing for review before the Commission, within the
20 limitations of time as fixed in this Section, the Commission
21 may, in its discretion, order a trial de novo before the
22 Commission in such case upon application of either party. The
23 applications for adjustment of claim and other documents in the
24 nature of pleadings filed by either party, together with the
25 decisions of the Arbitrator and of the Commission and the
26 statement of facts or transcript of evidence hereinbefore

1 provided for in paragraphs (b) and (c) shall be the record of
2 the proceedings of the Commission, and shall be subject to
3 review as hereinafter provided.

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

24 Decisions rendered by the Commission and dissents, if any,
25 shall be published together by the Commission. The conclusions
26 of law set out in such decisions shall be regarded as

1 precedents by arbitrators for the purpose of achieving a more
2 uniform administration of this Act.

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

17 (1) Except in cases of claims against the State of
18 Illinois, in which case the decision of the Commission
19 shall not be subject to judicial review, the Circuit Court
20 of the county where any of the parties defendant may be
21 found, or if none of the parties defendant can be found in
22 this State then the Circuit Court of the county where the
23 accident occurred, shall by summons to the Commission have
24 power to review all questions of law and fact presented by
25 such record.

26 A proceeding for review shall be commenced within 20

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

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

16 In its decision on review the Commission shall
17 determine in each particular case the amount of the
18 probable cost of the record to be filed as a part of the
19 summons in that case and no request for a summons may be
20 filed and no summons shall issue unless the party seeking
21 to review the decision of the Commission shall exhibit to
22 the clerk of the Circuit Court proof of payment by filing a
23 receipt showing payment or an affidavit of the attorney
24 setting forth that payment has been made of the sums so
25 determined to the Secretary or Assistant Secretary of the
26 Commission, except as otherwise provided by Section 20 of

1 this Act.

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

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

21 The court may confirm or set aside the decision of the
22 Commission. If the decision is set aside and the facts
23 found in the proceedings before the Commission are
24 sufficient, the court may enter such decision as is
25 justified by law, or may remand the cause to the Commission
26 for further proceedings and may state the questions

1 requiring further hearing, and give such other
2 instructions as may be proper. Appeals shall be taken to
3 the Appellate Court in accordance with Supreme Court Rules
4 22(g) and 303. Appeals shall be taken from the Appellate
5 Court to the Supreme Court in accordance with Supreme Court
6 Rule 315.

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

11 The decision of a majority of the members of the panel
12 of the Commission, shall be considered the decision of the
13 Commission.

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

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

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

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

24 However, as to accidents occurring subsequent to July 1,
25 1955, which are covered by any agreement or award under this
26 Act providing for compensation in installments made as a result

1 of such accident, such agreement or award may at any time
2 within 30 months, or 60 months in the case of an award under
3 Section 8(d)1, after such agreement or award be reviewed by the
4 Commission at the request of either the employer or the
5 employee on the ground that the disability of the employee has
6 subsequently recurred, increased, diminished or ended.

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

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

24 (i) Each party, upon taking any proceedings or steps
25 whatsoever before any Arbitrator, Commission or court, shall
26 file with the Commission his address, or the name and address

1 of any agent upon whom all notices to be given to such party
2 shall be served, either personally or by registered mail,
3 addressed to such party or agent at the last address so filed
4 with the Commission. In the event such party has not filed his
5 address, or the name and address of an agent as above provided,
6 service of any notice may be had by filing such notice with the
7 Commission.

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

19 (k) In case where there has been any unreasonable or
20 vexatious delay of payment or intentional underpayment of
21 compensation, or proceedings have been instituted or carried on
22 by the one liable to pay the compensation, which do not present
23 a real controversy, but are merely frivolous or for delay, then
24 the Commission may award compensation additional to that
25 otherwise payable under this Act equal to 50% of the amount
26 payable at the time of such award. Failure to pay compensation

1 in accordance with the provisions of Section 8, paragraph (b)
2 of this Act, shall be considered unreasonable delay.

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

7 (1) If the employee has made written demand for payment of
8 benefits under Section 8(a) or Section 8(b), the employer shall
9 have 14 days after receipt of the demand to set forth in
10 writing the reason for the delay. In the case of demand for
11 payment of medical benefits under Section 8(a), the time for
12 the employer to respond shall not commence until the expiration
13 of the allotted 60 days specified under Section 8.2(d). In case
14 the employer or his or her insurance carrier shall without good
15 and just cause fail, neglect, refuse, or unreasonably delay the
16 payment of benefits under Section 8(a) or Section 8(b), the
17 Arbitrator or the Commission shall allow to the employee
18 additional compensation in the sum of \$30 per day for each day
19 that the benefits under Section 8(a) or Section 8(b) have been
20 so withheld or refused, not to exceed \$10,000. A delay in
21 payment of 14 days or more shall create a rebuttable
22 presumption of unreasonable delay. Notwithstanding the
23 foregoing, any such additional compensation awarded on or after
24 the effective date of this amendatory Act of the 97th General
25 Assembly that is awarded because the benefits under Section
26 8(a) have been so withheld or refused shall be distributed

1 first to the provider of medical services to pay any unpaid
2 amounts due and any interest due under Section 8.2.

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.)

19 (820 ILCS 305/25.5)

20 Sec. 25.5. Unlawful acts; penalties.

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

23 (1) Intentionally present or cause to be presented any
24 false or fraudulent claim for the payment of any workers'
25 compensation benefit.

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

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

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

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

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

24 (7) Intentionally make or cause to be made any false or
25 fraudulent material statement to the Division of
26 Insurance's fraud and insurance non-compliance unit in the

1 course of an investigation of fraud or insurance
2 non-compliance.

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

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

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

13 (b) Sentence for violations of subsection (a): ~~Any person~~
14 ~~violating subsection (a) is guilty of a Class 4 felony. Any~~
15 ~~person or entity convicted of any violation of this Section~~
16 ~~shall be ordered to pay complete restitution to any person or~~
17 ~~entity so defrauded in addition to any fine or sentence imposed~~
18 ~~as a result of the conviction.~~

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

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

25 (3) A violation in which the value of the property
26 obtained or attempted to be obtained is more than \$10,000

1 but not more than \$100,000 is a Class 2 felony.

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

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

14 (6) For the purposes of this Section, where the exact
15 value of property obtained or attempted to be obtained is
16 either not alleged or is not specifically set by the terms
17 of a policy of insurance, the value of the property shall
18 be the fair market replacement value of the property
19 claimed to be lost, the reasonable costs of reimbursing a
20 vendor or other claimant for services to be rendered, or
21 both.

22 (c) The Department ~~Division~~ of Insurance ~~of the Department~~
23 ~~of Financial and Professional Regulation~~ shall establish a
24 fraud and insurance non-compliance unit responsible for
25 investigating incidences of fraud and insurance non-compliance
26 pursuant to this Section. The size of the staff of the unit

1 shall be subject to appropriation by the General Assembly. It
2 shall be the duty of the fraud and insurance non-compliance
3 unit to determine the identity of insurance carriers,
4 employers, employees, or other persons or entities who have
5 violated the fraud and insurance non-compliance provisions of
6 this Section. The fraud and insurance non-compliance unit shall
7 report violations of the fraud and insurance non-compliance
8 provisions of this Section to the Special Prosecutions Bureau
9 of the Criminal Division of the Office of the Attorney General
10 or to the State's Attorney of the county in which the offense
11 allegedly occurred, either of whom has the authority to
12 prosecute violations under this Section.

13 With respect to the subject of any investigation being
14 conducted, the fraud and insurance non-compliance unit shall
15 have the general power of subpoena of the Department ~~Division~~
16 of Insurance.

17 (d) Any person may report allegations of insurance
18 non-compliance and fraud pursuant to this Section to the
19 Division of Insurance's fraud and insurance non-compliance
20 unit whose duty it shall be to investigate the report. The unit
21 shall notify the Commission of reports of insurance
22 non-compliance. Any person reporting an allegation of
23 insurance non-compliance or fraud against either an employee or
24 employer under this Section must identify himself. Except as
25 provided in this subsection and in subsection (e), all reports
26 shall remain confidential except to refer an investigation to

1 the Attorney General or State's Attorney for prosecution or if
2 the fraud and insurance non-compliance unit's investigation
3 reveals that the conduct reported may be in violation of other
4 laws or regulations of the State of Illinois, the unit may
5 report such conduct to the appropriate governmental agency
6 charged with administering such laws and regulations. Any
7 person who intentionally makes a false report under this
8 Section to the fraud and insurance non-compliance unit is
9 guilty of a Class A misdemeanor.

10 (e) In order for the fraud and insurance non-compliance
11 unit to investigate a report of fraud related to an employee's
12 claim ~~by an employee~~, (i) the employee must have filed with the
13 Commission an Application for Adjustment of Claim and the
14 employee must have either received or attempted to receive
15 benefits under this Act that are related to the reported fraud
16 or (ii) the employee must have made a written demand for the
17 payment of benefits that are related to the reported fraud.
18 ~~Upon receipt of a report of fraud, the employee or employer~~
19 ~~shall receive immediate notice of the reported conduct,~~
20 ~~including the verified name and address of the complainant if~~
21 ~~that complainant is connected to the case and the nature of the~~
22 ~~reported conduct. The fraud and insurance non-compliance unit~~
23 ~~shall resolve all reports of fraud against employees or~~
24 ~~employers within 120 days of receipt of the report.~~ There shall
25 be no immunity, under this Act or otherwise, for any person who
26 files a false report or who files a report without good and

1 just cause. Confidentiality of medical information shall be
2 strictly maintained. Investigations that are not referred for
3 prosecution shall be destroyed upon the expiration of the
4 statute of limitations for the acts under investigation
5 ~~immediately expunged~~ and shall not be disclosed except that the
6 ~~employee or employer who was the subject of the report and the~~
7 ~~person making the report shall be notified that the~~
8 ~~investigation is being closed, at which time the name of any~~
9 ~~complainant not connected to the case shall be disclosed to the~~
10 ~~employee or the employer.~~ It is unlawful for any employer,
11 insurance carrier, ~~or~~ service adjustment company, third party
12 administrator, self-insured, or similar entity to file or
13 threaten to file a report of fraud against an employee because
14 of the exercise by the employee of the rights and remedies
15 granted to the employee by this Act.

16 ~~For purposes of this subsection (c), "employer" means any~~
17 ~~employer, insurance carrier, third party administrator,~~
18 ~~self insured, or similar entity.~~

19 ~~For purposes of this subsection (c), "complainant" refers~~
20 ~~to the person contacting the fraud and insurance non-compliance~~
21 ~~unit to initiate the complaint.~~

22 (f) Any person convicted of fraud related to workers'
23 compensation pursuant to this Section shall be subject to the
24 penalties prescribed in the Criminal Code of 1961 and shall be
25 ineligible to receive or retain any compensation, disability,
26 or medical benefits as defined in this Act if the compensation,

1 disability, or medical benefits were owed or received as a
2 result of fraud for which the recipient of the compensation,
3 disability, or medical benefit was convicted. This subsection
4 applies to accidental injuries or diseases that occur on or
5 after the effective date of this amendatory Act of the 94th
6 General Assembly.

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

21 (h) ~~The All proceedings under this Section shall be~~
22 ~~reported by the~~ fraud and insurance non-compliance unit shall
23 submit a written report on an annual basis to the Workers'
24 Compensation Advisory Board the General Assembly, the
25 Governor, and the Attorney General by January 1st and July 1st
26 of each year. This report shall include, at the minimum, the

1 following information:

2 (1) The number of allegations of insurance
3 non-compliance and fraud reported to the fraud and
4 insurance non-compliance unit.

5 (2) The source of the reported allegations
6 (individual, employer, or other).

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

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

12 (5) All proceedings under this Section.

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

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."