

1 AN ACT concerning employment.

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

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 1204 as follows:

6 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

7 Sec. 1204. (A) The Director shall promulgate rules and
8 regulations which shall require each insurer licensed to write
9 property or casualty insurance in the State and each syndicate
10 doing business on the Illinois Insurance Exchange to record and
11 report its loss and expense experience and other data as may be
12 necessary to assess the relationship of insurance premiums and
13 related income as compared to insurance costs and expenses. The
14 Director may designate one or more rate service organizations
15 or advisory organizations to gather and compile such experience
16 and data. The Director shall require each insurer licensed to
17 write property or casualty insurance in this State and each
18 syndicate doing business on the Illinois Insurance Exchange to
19 submit a report, on a form furnished by the Director, showing
20 its direct writings in this State and companywide.

21 (B) Such report required by subsection (A) of this Section
22 may include, but not be limited to, the following specific
23 types of insurance written by such insurer:

24 (1) Political subdivision liability insurance reported
25 separately in the following categories:

26 (a) municipalities;

27 (b) school districts;

28 (c) other political subdivisions;

29 (2) Public official liability insurance;

30 (3) Dram shop liability insurance;

31 (4) Day care center liability insurance;

32 (5) Labor, fraternal or religious organizations

- 1 liability insurance;
- 2 (6) Errors and omissions liability insurance;
- 3 (7) Officers and directors liability insurance
- 4 reported separately as follows:
- 5 (a) non-profit entities;
- 6 (b) for-profit entities;
- 7 (8) Products liability insurance;
- 8 (9) Medical malpractice insurance;
- 9 (10) Attorney malpractice insurance;
- 10 (11) Architects and engineers malpractice insurance;
- 11 and
- 12 (12) Motor vehicle insurance reported separately for
- 13 commercial and private passenger vehicles as follows:
- 14 (a) motor vehicle physical damage insurance;
- 15 (b) motor vehicle liability insurance.
- 16 (C) Such report may include, but need not be limited to the
- 17 following data, both specific to this State and companywide, in
- 18 the aggregate or by type of insurance for the previous year on
- 19 a calendar year basis:
- 20 (1) Direct premiums written;
- 21 (2) Direct premiums earned;
- 22 (3) Number of policies;
- 23 (4) Net investment income, using appropriate estimates
- 24 where necessary;
- 25 (5) Losses paid;
- 26 (6) Losses incurred;
- 27 (7) Loss reserves:
- 28 (a) Losses unpaid on reported claims;
- 29 (b) Losses unpaid on incurred but not reported
- 30 claims;
- 31 (8) Number of claims:
- 32 (a) Paid claims;
- 33 (b) Arising claims;
- 34 (9) Loss adjustment expenses:
- 35 (a) Allocated loss adjustment expenses;
- 36 (b) Unallocated loss adjustment expenses;

1 (10) Net underwriting gain or loss;

2 (11) Net operation gain or loss, including net
3 investment income;

4 (12) Any other information requested by the Director.

5 (C-5) Additional information by an advisory organization
6 as defined in Section 463 of this Code.

7 (1) An advisory organization as defined in Section 463
8 of this Code shall report annually the following
9 information in such format as may be prescribed by the
10 Secretary:

11 (a) paid and incurred losses for each of the past
12 10 years;

13 (b) medical payments and medical charges, if
14 collected, for each of the past 10 years;

15 (c) the following indemnity payment information:
16 cumulative payments by accident year by calendar year
17 of development. This array will show payments made and
18 frequency of claims in the following categories:
19 medical only, permanent partial disability (PPD),
20 permanent total disability (PTD), temporary total
21 disability (TTD), and fatalities;

22 (d) injuries by frequency and severity;

23 (e) by class of employee.

24 (2) The report filed with the Secretary of Financial
25 and Professional Regulation under paragraph (1) of this
26 subsection (C-5) shall be made available, on an aggregate
27 basis, to the General Assembly and to the general public.
28 The identity of the petitioner, the respondent, the
29 attorneys, and the insurers shall not be disclosed.

30 (3) Reports required under this subsection (C-5) shall
31 be filed with the Secretary no later than September 1 in
32 2006 and no later than September 1 of each year thereafter.

33 (D) In addition to the information which may be requested
34 under subsection (C), the Director may also request on a
35 companywide, aggregate basis, Federal Income Tax recoverable,
36 net realized capital gain or loss, net unrealized capital gain

1 or loss, and all other expenses not requested in subsection (C)
2 above.

3 (E) Violations - Suspensions - Revocations.

4 (1) Any company or person subject to this Article, who
5 willfully or repeatedly fails to observe or who otherwise
6 violates any of the provisions of this Article or any rule
7 or regulation promulgated by the Director under authority
8 of this Article or any final order of the Director entered
9 under the authority of this Article shall by civil penalty
10 forfeit to the State of Illinois a sum not to exceed
11 \$2,000. Each day during which a violation occurs
12 constitutes a separate offense.

13 (2) No forfeiture liability under paragraph (1) of this
14 subsection may attach unless a written notice of apparent
15 liability has been issued by the Director and received by
16 the respondent, or the Director sends written notice of
17 apparent liability by registered or certified mail, return
18 receipt requested, to the last known address of the
19 respondent. Any respondent so notified must be granted an
20 opportunity to request a hearing within 10 days from
21 receipt of notice, or to show in writing, why he should not
22 be held liable. A notice issued under this Section must set
23 forth the date, facts and nature of the act or omission
24 with which the respondent is charged and must specifically
25 identify the particular provision of this Article, rule,
26 regulation or order of which a violation is charged.

27 (3) No forfeiture liability under paragraph (1) of this
28 subsection may attach for any violation occurring more than
29 2 years prior to the date of issuance of the notice of
30 apparent liability and in no event may the total civil
31 penalty forfeiture imposed for the acts or omissions set
32 forth in any one notice of apparent liability exceed
33 \$100,000.

34 (4) All administrative hearings conducted pursuant to
35 this Article are subject to 50 Ill. Adm. Code 2402 and all
36 administrative hearings are subject to the Administrative

1 Review Law.

2 (5) The civil penalty forfeitures provided for in this
3 Section are payable to the General Revenue Fund of the
4 State of Illinois, and may be recovered in a civil suit in
5 the name of the State of Illinois brought in the Circuit
6 Court in Sangamon County or in the Circuit Court of the
7 county where the respondent is domiciled or has its
8 principal operating office.

9 (6) In any case where the Director issues a notice of
10 apparent liability looking toward the imposition of a civil
11 penalty forfeiture under this Section that fact may not be
12 used in any other proceeding before the Director to the
13 prejudice of the respondent to whom the notice was issued,
14 unless (a) the civil penalty forfeiture has been paid, or
15 (b) a court has ordered payment of the civil penalty
16 forfeiture and that order has become final.

17 (7) When any person or company has a license or
18 certificate of authority under this Code and knowingly
19 fails or refuses to comply with a lawful order of the
20 Director requiring compliance with this Article, entered
21 after notice and hearing, within the period of time
22 specified in the order, the Director may, in addition to
23 any other penalty or authority provided, revoke or refuse
24 to renew the license or certificate of authority of such
25 person or company, or may suspend the license or
26 certificate of authority of such person or company until
27 compliance with such order has been obtained.

28 (8) When any person or company has a license or
29 certificate of authority under this Code and knowingly
30 fails or refuses to comply with any provisions of this
31 Article, the Director may, after notice and hearing, in
32 addition to any other penalty provided, revoke or refuse to
33 renew the license or certificate of authority of such
34 person or company, or may suspend the license or
35 certificate of authority of such person or company, until
36 compliance with such provision of this Article has been

1 obtained.

2 (9) No suspension or revocation under this Section may
3 become effective until 5 days from the date that the notice
4 of suspension or revocation has been personally delivered
5 or delivered by registered or certified mail to the company
6 or person. A suspension or revocation under this Section is
7 stayed upon the filing, by the company or person, of a
8 petition for judicial review under the Administrative
9 Review Law.

10 (Source: P.A. 93-32, eff. 7-1-03.)

11 Section 10. The Workers' Compensation Act is amended by
12 changing Sections 4, 7, 8, 12, 13, 13.1, 14, 16, and 19 and by
13 adding Sections 8.2, 8.3, 8.7, and 25.5 as follows:

14 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

15 Sec. 4. (a) Any employer, including but not limited to
16 general contractors and their subcontractors, who shall come
17 within the provisions of Section 3 of this Act, and any other
18 employer who shall elect to provide and pay the compensation
19 provided for in this Act shall:

20 (1) File with the Commission annually an application
21 for approval as a self-insurer which shall include a
22 current financial statement, and annually, thereafter, an
23 application for renewal of self-insurance, which shall
24 include a current financial statement. Said application
25 and financial statement shall be signed and sworn to by the
26 president or vice president and secretary or assistant
27 secretary of the employer if it be a corporation, or by all
28 of the partners, if it be a copartnership, or by the owner
29 if it be neither a copartnership nor a corporation. All
30 initial applications and all applications for renewal of
31 self-insurance must be submitted at least 60 days prior to
32 the requested effective date of self-insurance. An
33 employer may elect to provide and pay compensation as
34 provided for in this Act as a member of a group workers'

1 compensation pool under Article V 3/4 of the Illinois
2 Insurance Code. If an employer becomes a member of a group
3 workers' compensation pool, the employer shall not be
4 relieved of any obligations imposed by this Act.

5 If the sworn application and financial statement of any
6 such employer does not satisfy the Commission of the
7 financial ability of the employer who has filed it, the
8 Commission shall require such employer to,

9 (2) Furnish security, indemnity or a bond guaranteeing
10 the payment by the employer of the compensation provided
11 for in this Act, provided that any such employer whose
12 application and financial statement shall not have
13 satisfied the commission of his or her financial ability
14 and who shall have secured his liability in part by excess
15 liability insurance shall be required to furnish to the
16 Commission security, indemnity or bond guaranteeing his or
17 her payment up to the effective limits of the excess
18 coverage, or

19 (3) Insure his entire liability to pay such
20 compensation in some insurance carrier authorized,
21 licensed, or permitted to do such insurance business in
22 this State. Every policy of an insurance carrier, insuring
23 the payment of compensation under this Act shall cover all
24 the employees and the entire compensation liability of the
25 insured: Provided, however, that any employer may insure
26 his or her compensation liability with 2 or more insurance
27 carriers or may insure a part and qualify under subsection
28 1, 2, or 4 for the remainder of his or her liability to pay
29 such compensation, subject to the following two
30 provisions:

31 Firstly, the entire compensation liability of the
32 employer to employees working at or from one location
33 shall be insured in one such insurance carrier or shall
34 be self-insured, and

35 Secondly, the employer shall submit evidence
36 satisfactorily to the Commission that his or her entire

1 liability for the compensation provided for in this Act
2 will be secured. Any provisions in any policy, or in
3 any endorsement attached thereto, attempting to limit
4 or modify in any way, the liability of the insurance
5 carriers issuing the same except as otherwise provided
6 herein shall be wholly void.

7 Nothing herein contained shall apply to policies of
8 excess liability carriage secured by employers who have
9 been approved by the Commission as self-insurers, or

10 (4) Make some other provision, satisfactory to the
11 Commission, for the securing of the payment of compensation
12 provided for in this Act, and

13 (5) Upon becoming subject to this Act and thereafter as
14 often as the Commission may in writing demand, file with
15 the Commission in form prescribed by it evidence of his or
16 her compliance with the provision of this Section.

17 (a-1) Regardless of its state of domicile or its principal
18 place of business, an employer shall make payments to its
19 insurance carrier or group self-insurance fund, where
20 applicable, based upon the premium rates of the situs where the
21 work or project is located in Illinois if:

22 (A) the employer is engaged primarily in the building
23 and construction industry; and

24 (B) subdivision (a)(3) of this Section applies to the
25 employer or the employer is a member of a group
26 self-insurance plan as defined in subsection (1) of Section
27 4a.

28 The Illinois Workers' Compensation Commission shall impose
29 a penalty upon an employer for violation of this subsection
30 (a-1) if:

31 (i) the employer is given an opportunity at a hearing
32 to present evidence of its compliance with this subsection
33 (a-1); and

34 (ii) after the hearing, the Commission finds that the
35 employer failed to make payments upon the premium rates of
36 the situs where the work or project is located in Illinois.

1 The penalty shall not exceed \$1,000 for each day of work
2 for which the employer failed to make payments upon the premium
3 rates of the situs where the work or project is located in
4 Illinois, but the total penalty shall not exceed \$50,000 for
5 each project or each contract under which the work was
6 performed.

7 Any penalty under this subsection (a-1) must be imposed not
8 later than one year after the expiration of the applicable
9 limitation period specified in subsection (d) of Section 6 of
10 this Act. Penalties imposed under this subsection (a-1) shall
11 be deposited into the Illinois Workers' Compensation
12 Commission Operations Fund, a special fund that is created in
13 the State treasury. Subject to appropriation, moneys in the
14 Fund shall be used solely for the operations of the Illinois
15 Workers' Compensation Commission.

16 (b) The sworn application and financial statement, or
17 security, indemnity or bond, or amount of insurance, or other
18 provisions, filed, furnished, carried, or made by the employer,
19 as the case may be, shall be subject to the approval of the
20 Commission.

21 Deposits under escrow agreements shall be cash, negotiable
22 United States government bonds or negotiable general
23 obligation bonds of the State of Illinois. Such cash or bonds
24 shall be deposited in escrow with any State or National Bank or
25 Trust Company having trust authority in the State of Illinois.

26 Upon the approval of the sworn application and financial
27 statement, security, indemnity or bond or amount of insurance,
28 filed, furnished or carried, as the case may be, the Commission
29 shall send to the employer written notice of its approval
30 thereof. The certificate of compliance by the employer with the
31 provisions of subparagraphs (2) and (3) of paragraph (a) of
32 this Section shall be delivered by the insurance carrier to the
33 Illinois Workers' Compensation Commission within five days
34 after the effective date of the policy so certified. The
35 insurance so certified shall cover all compensation liability
36 occurring during the time that the insurance is in effect and

1 no further certificate need be filed in case such insurance is
2 renewed, extended or otherwise continued by such carrier. The
3 insurance so certified shall not be cancelled or in the event
4 that such insurance is not renewed, extended or otherwise
5 continued, such insurance shall not be terminated until at
6 least 10 days after receipt by the Illinois Workers'
7 Compensation Commission of notice of the cancellation or
8 termination of said insurance; provided, however, that if the
9 employer has secured insurance from another insurance carrier,
10 or has otherwise secured the payment of compensation in
11 accordance with this Section, and such insurance or other
12 security becomes effective prior to the expiration of the 10
13 days, cancellation or termination may, at the option of the
14 insurance carrier indicated in such notice, be effective as of
15 the effective date of such other insurance or security.

16 (c) Whenever the Commission shall find that any
17 corporation, company, association, aggregation of individuals,
18 reciprocal or interinsurers exchange, or other insurer
19 effecting workers' compensation insurance in this State shall
20 be insolvent, financially unsound, or unable to fully meet all
21 payments and liabilities assumed or to be assumed for
22 compensation insurance in this State, or shall practice a
23 policy of delay or unfairness toward employees in the
24 adjustment, settlement, or payment of benefits due such
25 employees, the Commission may after reasonable notice and
26 hearing order and direct that such corporation, company,
27 association, aggregation of individuals, reciprocal or
28 interinsurers exchange, or insurer, shall from and after a date
29 fixed in such order discontinue the writing of any such
30 workers' compensation insurance in this State. Subject to such
31 modification of the order as the Commission may later make on
32 review of the order, as herein provided, it shall thereupon be
33 unlawful for any such corporation, company, association,
34 aggregation of individuals, reciprocal or interinsurers
35 exchange, or insurer to effect any workers' compensation
36 insurance in this State. A copy of the order shall be served

1 upon the Director of Insurance by registered mail. Whenever the
2 Commission finds that any service or adjustment company used or
3 employed by a self-insured employer or by an insurance carrier
4 to process, adjust, investigate, compromise or otherwise
5 handle claims under this Act, has practiced or is practicing a
6 policy of delay or unfairness toward employees in the
7 adjustment, settlement or payment of benefits due such
8 employees, the Commission may after reasonable notice and
9 hearing order and direct that such service or adjustment
10 company shall from and after a date fixed in such order be
11 prohibited from processing, adjusting, investigating,
12 compromising or otherwise handling claims under this Act.

13 Whenever the Commission finds that any self-insured
14 employer has practiced or is practicing delay or unfairness
15 toward employees in the adjustment, settlement or payment of
16 benefits due such employees, the Commission may, after
17 reasonable notice and hearing, order and direct that after a
18 date fixed in the order such self-insured employer shall be
19 disqualified to operate as a self-insurer and shall be required
20 to insure his entire liability to pay compensation in some
21 insurance carrier authorized, licensed and permitted to do such
22 insurance business in this State, as provided in subparagraph 3
23 of paragraph (a) of this Section.

24 All orders made by the Commission under this Section shall
25 be subject to review by the courts, said review to be taken in
26 the same manner and within the same time as provided by Section
27 19 of this Act for review of awards and decisions of the
28 Commission, upon the party seeking the review filing with the
29 clerk of the court to which said review is taken a bond in an
30 amount to be fixed and approved by the court to which the
31 review is taken, conditioned upon the payment of all
32 compensation awarded against the person taking said review
33 pending a decision thereof and further conditioned upon such
34 other obligations as the court may impose. Upon the review the
35 Circuit Court shall have power to review all questions of fact
36 as well as of law. The penalty hereinafter provided for in this

1 paragraph shall not attach and shall not begin to run until the
2 final determination of the order of the Commission.

3 (d) Whenever a panel of 3 Commissioners comprised of one
4 member of the employing class, one member of the employee
5 class, and one member not identified with either the employing
6 or employee class, with due process and after a hearing,
7 determines an employer has knowingly failed to provide coverage
8 as required by paragraph (a) of this Section, the failure shall
9 be deemed an immediate serious danger to public health, safety,
10 and welfare sufficient to justify service by the Commission of
11 a work-stop order on such employer, requiring the cessation of
12 all business operations of such employer at the place of
13 employment or job site. Any law enforcement agency in the State
14 shall, at the request of the Commission, render any assistance
15 necessary to carry out the provisions of this Section,
16 including, but not limited to, preventing any employee of such
17 employer from remaining at a place of employment or job site
18 after a work-stop order has taken effect. Any work-stop order
19 shall be lifted upon proof of insurance as required by this
20 Act. Any orders under this Section are appealable under Section
21 19(f) to the Circuit Court.

22 Any individual employer, corporate officer or director of a
23 corporate employer, partner of an employer partnership, or
24 member of an employer limited liability company who knowingly
25 fails to provide coverage as required by paragraph (a) of this
26 Section is guilty of a Class 4 felony. This provision shall not
27 apply to any corporate officer or director of any
28 publicly-owned corporation. Each day's violation constitutes a
29 separate offense. The State's Attorney of the county in which
30 the violation occurred, or the Attorney General, shall bring
31 such actions in the name of the People of the State of
32 Illinois, or may, in addition to other remedies provided in
33 this Section, bring an action for an injunction to restrain the
34 violation or to enjoin the operation of any such employer.

35 Any individual employer, corporate officer or director of a
36 corporate employer, partner of an employer partnership, or

1 member of an employer limited liability company who negligently
2 fails to provide coverage as required by paragraph (a) of this
3 Section is guilty of a Class A misdemeanor. This provision
4 shall not apply to any corporate officer or director of any
5 publicly-owned corporation. Each day's violation constitutes a
6 separate offense. The State's Attorney of the county in which
7 the violation occurred, or the Attorney General, shall bring
8 such actions in the name of the People of the State of
9 Illinois.

10 The criminal penalties in this subsection (d) shall not
11 apply where there exists a good faith dispute as to the
12 existence of an employment relationship. Evidence of good faith
13 shall include, but not be limited to, compliance with the
14 definition of employee as used by the Internal Revenue Service.

15 Employers who are subject to and who knowingly fail to
16 comply with this Section shall not be entitled to the benefits
17 of this Act during the period of noncompliance, but shall be
18 liable in an action under any other applicable law of this
19 State. In the action, such employer shall not avail himself or
20 herself of the defenses of assumption of risk or negligence or
21 that the injury was due to a co-employee. In the action, proof
22 of the injury shall constitute prima facie evidence of
23 negligence on the part of such employer and the burden shall be
24 on such employer to show freedom of negligence resulting in the
25 injury. The employer shall not join any other defendant in any
26 such civil action. Nothing in this amendatory Act of the 94th
27 General Assembly shall affect the employee's rights under
28 subdivision (a)3 of Section 1 of this Act. Any employer or
29 carrier who makes payments under subdivision (a)3 of Section 1
30 of this Act shall have a right of reimbursement from the
31 proceeds of any recovery under this Section.

32 An employee of an uninsured employer, or the employee's
33 dependents in case death ensued, may, instead of proceeding
34 against the employer in a civil action in court, file an
35 application for adjustment of claim with the Commission in
36 accordance with the provisions of this Act and the Commission

1 shall hear and determine the application for adjustment of
2 claim in the manner in which other claims are heard and
3 determined before the Commission.

4 All proceedings under this subsection (d) shall be reported
5 on an annual basis to the Workers' Compensation Advisory Board.

6 Upon a finding by the Commission, after reasonable notice
7 and hearing, of the knowing and wilful failure or refusal of an
8 employer to comply with any of the provisions of paragraph (a)
9 of this Section or the failure or refusal of an employer,
10 service or adjustment company, or an insurance carrier to
11 comply with any order of the Illinois Workers' Compensation
12 Commission pursuant to paragraph (c) of this Section
13 disqualifying him or her to operate as a self insurer and
14 requiring him or her to insure his or her liability, the
15 Commission may assess a civil penalty of up to \$500 per day for
16 each day of such failure or refusal after the effective date of
17 this amendatory Act of 1989. The minimum penalty under this
18 Section shall be the sum of \$10,000. Each day of such failure
19 or refusal shall constitute a separate offense. The Commission
20 may assess the civil penalty personally and individually
21 against the corporate officers and directors of a corporate
22 employer, the partners of an employer partnership, and the
23 members of an employer limited liability company, after a
24 finding of a knowing and willful refusal or failure of each
25 such named corporate officer, director, partner, or member to
26 comply with this Section. The liability for the assessed
27 penalty shall be against the named employer first, and if the
28 named employer fails or refuses to pay the penalty to the
29 Commission within 30 days after the final order of the
30 Commission, then the named corporate officers, directors,
31 partners, or members who have been found to have knowingly and
32 willfully refused or failed to comply with this Section shall
33 be liable for the unpaid penalty or any unpaid portion of the
34 penalty. Upon investigation by the insurance non-compliance
35 unit of the Commission, the Attorney General shall have the
36 authority to prosecute all proceedings to enforce the civil and

1 administrative provisions of this Section before the
2 Commission. The Commission shall promulgate procedural rules
3 for enforcing this Section. All penalties collected under this
4 Section shall be deposited in the Illinois Workers'
5 Compensation Commission Operations Fund.

6 Upon the failure or refusal of any employer, service or
7 adjustment company or insurance carrier to comply with the
8 provisions of this Section and with the orders of the
9 Commission under this Section, or the order of the court on
10 review after final adjudication, the Commission may bring a
11 civil action to recover the amount of the penalty in Cook
12 County or in Sangamon County in which litigation the Commission
13 shall be represented by the Attorney General. The Commission
14 shall send notice of its finding of non-compliance and
15 assessment of the civil penalty to the Attorney General. It
16 shall be the duty of the Attorney General within 30 days after
17 receipt of the notice, to institute prosecutions and promptly
18 prosecute all reported violations of this Section.

19 Any individual employer, corporate officer or director of a
20 corporate employer, partner of an employer partnership, or
21 member of an employer limited liability company who, with the
22 intent to avoid payment of compensation under this Act to an
23 injured employee or the employee's dependents, knowingly
24 transfers, sells, encumbers, assigns, or in any manner disposes
25 of, conceals, secretes, or destroys any property belonging to
26 the employer, officer, director, partner, or member is guilty
27 of a Class 4 felony.

28 Penalties and fines collected pursuant to this paragraph
29 (d) shall be deposited upon receipt into a special fund which
30 shall be designated the Injured Workers' Benefit Fund, of which
31 the State Treasurer is ex-officio custodian, such special fund
32 to be held and disbursed in accordance with this paragraph (d)
33 for the purposes hereinafter stated in this paragraph (d), upon
34 the final order of the Commission. The Injured Workers' Benefit
35 Fund shall be deposited the same as are State funds and any
36 interest accruing thereon shall be added thereto every 6

1 months. The Injured Workers' Benefit Fund is subject to audit
2 the same as State funds and accounts and is protected by the
3 general bond given by the State Treasurer. The Injured Workers'
4 Benefit Fund is considered always appropriated for the purposes
5 of disbursements as provided in this paragraph, and shall be
6 paid out and disbursed as herein provided and shall not at any
7 time be appropriated or diverted to any other use or purpose.
8 Moneys in the Injured Workers' Benefit Fund shall be used only
9 for payment of workers' compensation benefits for injured
10 employees when the employer has failed to provide coverage as
11 determined under this paragraph (d) and has failed to pay the
12 benefits due to the injured employee. The Commission shall have
13 the right to obtain reimbursement from the employer for
14 compensation obligations paid by the Injured Workers' Benefit
15 Fund. Any such amounts obtained shall be deposited by the
16 Commission into the Injured Workers' Benefit Fund. If an
17 injured employee or his or her personal representative receives
18 payment from the Injured Workers' Benefit Fund, the State of
19 Illinois has the same rights under paragraph (b) of Section 5
20 that the employer who failed to pay the benefits due to the
21 injured employee would have had if the employer had paid those
22 benefits, and any moneys recovered by the State as a result of
23 the State's exercise of its rights under paragraph (b) of
24 Section 5 shall be deposited into the Injured Workers' Benefit
25 Fund. The custodian of the Injured Workers' Benefit Fund shall
26 be joined with the employer as a party respondent in the
27 application for adjustment of claim. After July 1, 2006, the
28 Commission shall make disbursements from the Fund once each
29 year to each eligible claimant. An eligible claimant is an
30 injured worker who has within the previous fiscal year obtained
31 a final award for benefits from the Commission against the
32 employer and the Injured Workers' Benefit Fund and has notified
33 the Commission within 90 days of receipt of such award. Within
34 a reasonable time after the end of each fiscal year, the
35 Commission shall make a disbursement to each eligible claimant.
36 At the time of disbursement, if there are insufficient moneys

1 in the Fund to pay all claims, each eligible claimant shall
2 receive a pro-rata share, as determined by the Commission, of
3 the available moneys in the Fund for that year. Payment from
4 the Injured Workers' Benefit Fund to an eligible claimant
5 pursuant to this provision shall discharge the obligations of
6 the Injured Workers' Benefit Fund regarding the award entered
7 by the Commission.

8 (e) This Act shall not affect or disturb the continuance of
9 any existing insurance, mutual aid, benefit, or relief
10 association or department, whether maintained in whole or in
11 part by the employer or whether maintained by the employees,
12 the payment of benefits of such association or department being
13 guaranteed by the employer or by some person, firm or
14 corporation for him or her: Provided, the employer contributes
15 to such association or department an amount not less than the
16 full compensation herein provided, exclusive of the cost of the
17 maintenance of such association or department and without any
18 expense to the employee. This Act shall not prevent the
19 organization and maintaining under the insurance laws of this
20 State of any benefit or insurance company for the purpose of
21 insuring against the compensation provided for in this Act, the
22 expense of which is maintained by the employer. This Act shall
23 not prevent the organization or maintaining under the insurance
24 laws of this State of any voluntary mutual aid, benefit or
25 relief association among employees for the payment of
26 additional accident or sick benefits.

27 (f) No existing insurance, mutual aid, benefit or relief
28 association or department shall, by reason of anything herein
29 contained, be authorized to discontinue its operation without
30 first discharging its obligations to any and all persons
31 carrying insurance in the same or entitled to relief or
32 benefits therein.

33 (g) Any contract, oral, written or implied, of employment
34 providing for relief benefit, or insurance or any other device
35 whereby the employee is required to pay any premium or premiums
36 for insurance against the compensation provided for in this Act

1 shall be null and void. Any employer withholding from the wages
2 of any employee any amount for the purpose of paying any such
3 premium shall be guilty of a Class B misdemeanor.

4 In the event the employer does not pay the compensation for
5 which he or she is liable, then an insurance company,
6 association or insurer which may have insured such employer
7 against such liability shall become primarily liable to pay to
8 the employee, his or her personal representative or beneficiary
9 the compensation required by the provisions of this Act to be
10 paid by such employer. The insurance carrier may be made a
11 party to the proceedings in which the employer is a party and
12 an award may be entered jointly against the employer and the
13 insurance carrier.

14 (h) It shall be unlawful for any employer, insurance
15 company or service or adjustment company to interfere with,
16 restrain or coerce an employee in any manner whatsoever in the
17 exercise of the rights or remedies granted to him or her by
18 this Act or to discriminate, attempt to discriminate, or
19 threaten to discriminate against an employee in any way because
20 of his or her exercise of the rights or remedies granted to him
21 or her by this Act.

22 It shall be unlawful for any employer, individually or
23 through any insurance company or service or adjustment company,
24 to discharge or to threaten to discharge, or to refuse to
25 rehire or recall to active service in a suitable capacity an
26 employee because of the exercise of his or her rights or
27 remedies granted to him or her by this Act.

28 (i) If an employer elects to obtain a life insurance policy
29 on his employees, he may also elect to apply such benefits in
30 satisfaction of all or a portion of the death benefits payable
31 under this Act, in which case, the employer's compensation
32 premium shall be reduced accordingly.

33 (j) Within 45 days of receipt of an initial application or
34 application to renew self-insurance privileges the
35 Self-Insurers Advisory Board shall review and submit for
36 approval by the Chairman of the Commission recommendations of

1 disposition of all initial applications to self-insure and all
2 applications to renew self-insurance privileges filed by
3 private self-insurers pursuant to the provisions of this
4 Section and Section 4a-9 of this Act. Each private self-insurer
5 shall submit with its initial and renewal applications the
6 application fee required by Section 4a-4 of this Act.

7 The Chairman of the Commission shall promptly act upon all
8 initial applications and applications for renewal in full
9 accordance with the recommendations of the Board or, should the
10 Chairman disagree with any recommendation of disposition of the
11 Self-Insurer's Advisory Board, he shall within 30 days of
12 receipt of such recommendation provide to the Board in writing
13 the reasons supporting his decision. The Chairman shall also
14 promptly notify the employer of his decision within 15 days of
15 receipt of the recommendation of the Board.

16 If an employer is denied a renewal of self-insurance
17 privileges pursuant to application it shall retain said
18 privilege for 120 days after receipt of a notice of
19 cancellation of the privilege from the Chairman of the
20 Commission.

21 All orders made by the Chairman under this Section shall be
22 subject to review by the courts, such review to be taken in the
23 same manner and within the same time as provided by subsection
24 (f) of Section 19 of this Act for review of awards and
25 decisions of the Commission, upon the party seeking the review
26 filing with the clerk of the court to which such review is
27 taken a bond in an amount to be fixed and approved by the court
28 to which the review is taken, conditioned upon the payment of
29 all compensation awarded against the person taking such review
30 pending a decision thereof and further conditioned upon such
31 other obligations as the court may impose. Upon the review the
32 Circuit Court shall have power to review all questions of fact
33 as well as of law.

34 (Source: P.A. 92-324, eff. 8-9-01; 93-721, eff. 1-1-05.)

35 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

1 Sec. 7. The amount of compensation which shall be paid for
2 an accidental injury to the employee resulting in death is:

3 (a) If the employee leaves surviving a widow, widower,
4 child or children, the applicable weekly compensation rate
5 computed in accordance with subparagraph 2 of paragraph (b) of
6 Section 8, shall be payable during the life of the widow or
7 widower and if any surviving child or children shall not be
8 physically or mentally incapacitated then until the death of
9 the widow or widower or until the youngest child shall reach
10 the age of 18, whichever shall come later; provided that if
11 such child or children shall be enrolled as a full time student
12 in any accredited educational institution, the payments shall
13 continue until such child has attained the age of 25. In the
14 event any surviving child or children shall be physically or
15 mentally incapacitated, the payments shall continue for the
16 duration of such incapacity.

17 The term "child" means a child whom the deceased employee
18 left surviving, including a posthumous child, a child legally
19 adopted, a child whom the deceased employee was legally
20 obligated to support or a child to whom the deceased employee
21 stood in loco parentis. The term "children" means the plural of
22 "child".

23 The term "physically or mentally incapacitated child or
24 children" means a child or children incapable of engaging in
25 regular and substantial gainful employment.

26 In the event of the remarriage of a widow or widower, where
27 the decedent did not leave surviving any child or children who,
28 at the time of such remarriage, are entitled to compensation
29 benefits under this Act, the surviving spouse shall be paid a
30 lump sum equal to 2 years compensation benefits and all further
31 rights of such widow or widower shall be extinguished.

32 If the employee leaves surviving any child or children
33 under 18 years of age who at the time of death shall be
34 entitled to compensation under this paragraph (a) of this
35 Section, the weekly compensation payments herein provided for
36 such child or children shall in any event continue for a period

1 of not less than 6 years.

2 Any beneficiary entitled to compensation under this
3 paragraph (a) of this Section shall receive from the special
4 fund provided in paragraph (f) of this Section, in addition to
5 the compensation herein provided, supplemental benefits in
6 accordance with paragraph (g) of Section 8.

7 (b) If no compensation is payable under paragraph (a) of
8 this Section and the employee leaves surviving a parent or
9 parents who at the time of the accident were totally dependent
10 upon the earnings of the employee then weekly payments equal to
11 the compensation rate payable in the case where the employee
12 leaves surviving a widow or widower, shall be paid to such
13 parent or parents for the duration of their lives, and in the
14 event of the death of either, for the life of the survivor.

15 (c) If no compensation is payable under paragraphs (a) or
16 (b) of this Section and the employee leaves surviving any child
17 or children who are not entitled to compensation under the
18 foregoing paragraph (a) but who at the time of the accident
19 were nevertheless in any manner dependent upon the earnings of
20 the employee, or leaves surviving a parent or parents who at
21 the time of the accident were partially dependent upon the
22 earnings of the employee, then there shall be paid to such
23 dependent or dependents for a period of 8 years weekly
24 compensation payments at such proportion of the applicable rate
25 if the employee had left surviving a widow or widower as such
26 dependency bears to total dependency. In the event of the death
27 of any such beneficiary the share of such beneficiary shall be
28 divided equally among the surviving beneficiaries and in the
29 event of the death of the last such beneficiary all the rights
30 under this paragraph shall be extinguished.

31 (d) If no compensation is payable under paragraphs (a), (b)
32 or (c) of this Section and the employee leaves surviving any
33 grandparent, grandparents, grandchild or grandchildren or
34 collateral heirs dependent upon the employee's earnings to the
35 extent of 50% or more of total dependency, then there shall be
36 paid to such dependent or dependents for a period of 5 years

1 weekly compensation payments at such proportion of the
2 applicable rate if the employee had left surviving a widow or
3 widower as such dependency bears to total dependency. In the
4 event of the death of any such beneficiary the share of such
5 beneficiary shall be divided equally among the surviving
6 beneficiaries and in the event of the death of the last such
7 beneficiary all rights hereunder shall be extinguished.

8 (e) The compensation to be paid for accidental injury which
9 results in death, as provided in this Section, shall be paid to
10 the persons who form the basis for determining the amount of
11 compensation to be paid by the employer, the respective shares
12 to be in the proportion of their respective dependency at the
13 time of the accident on the earnings of the deceased. The
14 Commission or an Arbitrator thereof may, in its or his
15 discretion, order or award the payment to the parent or
16 grandparent of a child for the latter's support the amount of
17 compensation which but for such order or award would have been
18 paid to such child as its share of the compensation payable,
19 which order or award may be modified from time to time by the
20 Commission in its discretion with respect to the person to whom
21 shall be paid the amount of the order or award remaining unpaid
22 at the time of the modification.

23 The payments of compensation by the employer in accordance
24 with the order or award of the Commission discharges such
25 employer from all further obligation as to such compensation.

26 (f) The sum of \$8,000 ~~\$4200~~ for burial expenses shall be
27 paid by the employer to the widow or widower, other dependent,
28 next of kin or to the person or persons incurring the expense
29 of burial.

30 In the event the employer failed to provide necessary first
31 aid, medical, surgical or hospital service, he shall pay the
32 cost thereof to the person or persons entitled to compensation
33 under paragraphs (a), (b), (c) or (d) of this Section, or to
34 the person or persons incurring the obligation therefore, or
35 providing the same.

36 On January 15 and July 15, 1981, and on January 15 and July

1 15 of each year thereafter the employer shall within 60 days
2 pay a sum equal to 1/8 of 1% of all compensation payments made
3 by him after July 1, 1980, either under this Act or the
4 Workers' Occupational Diseases Act, whether by lump sum
5 settlement or weekly compensation payments, but not including
6 hospital, surgical or rehabilitation payments, made during the
7 first 6 months and during the second 6 months respectively of
8 the fiscal year next preceding the date of the payments, into a
9 special fund which shall be designated the "Second Injury
10 Fund", of which the State Treasurer is ex-officio custodian,
11 such special fund to be held and disbursed for the purposes
12 hereinafter stated in paragraphs (f) and (g) of Section 8,
13 either upon the order of the Commission or of a competent
14 court. Said special fund shall be deposited the same as are
15 State funds and any interest accruing thereon shall be added
16 thereto every 6 months. It is subject to audit the same as
17 State funds and accounts and is protected by the General bond
18 given by the State Treasurer. It is considered always
19 appropriated for the purposes of disbursements as provided in
20 Section 8, paragraph (f), of this Act, and shall be paid out
21 and disbursed as therein provided and shall not at any time be
22 appropriated or diverted to any other use or purpose.

23 On January 15, 1991, the employer shall further pay a sum
24 equal to one half of 1% of all compensation payments made by
25 him from January 1, 1990 through June 30, 1990 either under
26 this Act or under the Workers' Occupational Diseases Act,
27 whether by lump sum settlement or weekly compensation payments,
28 but not including hospital, surgical or rehabilitation
29 payments, into an additional Special Fund which shall be
30 designated as the "Rate Adjustment Fund". On March 15, 1991,
31 the employer shall pay into the Rate Adjustment Fund a sum
32 equal to one half of 1% of all such compensation payments made
33 from July 1, 1990 through December 31, 1990. Within 60 days
34 after July 15, 1991, the employer shall pay into the Rate
35 Adjustment Fund a sum equal to one half of 1% of all such
36 compensation payments made from January 1, 1991 through June

1 30, 1991. Within 60 days after January 15 of 1992 and each
2 subsequent year through 1996, the employer shall pay into the
3 Rate Adjustment Fund a sum equal to one half of 1% of all such
4 compensation payments made in the last 6 months of the
5 preceding calendar year. Within 60 days after July 15 of 1992
6 and each subsequent year through 1995, the employer shall pay
7 into the Rate Adjustment Fund a sum equal to one half of 1% of
8 all such compensation payments made in the first 6 months of
9 the same calendar year. Within 60 days after January 15 of 1997
10 and each subsequent year through 2005, the employer shall pay
11 into the Rate Adjustment Fund a sum equal to three-fourths of
12 1% of all such compensation payments made in the last 6 months
13 of the preceding calendar year. Within 60 days after July 15 of
14 1996 and each subsequent year through 2004, the employer shall
15 pay into the Rate Adjustment Fund a sum equal to three-fourths
16 of 1% of all such compensation payments made in the first 6
17 months of the same calendar year. Within 60 days after January
18 15 of 2006 and each subsequent year, the employer shall pay
19 into the Rate Adjustment Fund a sum equal to 1% of such
20 compensation payments made in the last 6 months of the
21 preceding calendar year. Within 60 days after July 15 of 2005
22 and each subsequent year, the employer shall pay into the Rate
23 Adjustment Fund a sum equal to 1% of such compensation payments
24 made in the first 6 months of the same calendar year. The
25 administrative costs of collecting assessments from employers
26 for the Rate Adjustment Fund shall be paid from the Rate
27 Adjustment Fund. The cost of an actuarial audit of the Fund
28 shall be paid from the Rate Adjustment Fund ~~and the audit shall~~
29 ~~be completed no later than July 1, 1997.~~ The State Treasurer is
30 ex officio custodian of such Special Fund and the same shall be
31 held and disbursed for the purposes hereinafter stated in
32 paragraphs (f) and (g) of Section 8 upon the order of the
33 Commission or of a competent court. The Rate Adjustment Fund
34 shall be deposited the same as are State funds and any interest
35 accruing thereon shall be added thereto every 6 months. It
36 shall be subject to audit the same as State funds and accounts

1 and shall be protected by the general bond given by the State
2 Treasurer. It is considered always appropriated for the
3 purposes of disbursements as provided in paragraphs (f) and (g)
4 of Section 8 of this Act and shall be paid out and disbursed as
5 therein provided and shall not at any time be appropriated or
6 diverted to any other use or purpose. Within 5 days after the
7 effective date of this amendatory Act of 1990, the Comptroller
8 and the State Treasurer shall transfer \$1,000,000 from the
9 General Revenue Fund to the Rate Adjustment Fund. By February
10 15, 1991, the Comptroller and the State Treasurer shall
11 transfer \$1,000,000 from the Rate Adjustment Fund to the
12 General Revenue Fund. The Comptroller and Treasurer are
13 authorized to make transfers at the request of the Chairman up
14 to a total of \$19,000,000 ~~\$15,000,000~~ from the Second Injury
15 Fund, the General Revenue Fund, and the Workers' Compensation
16 Benefit Trust Fund to the Rate Adjustment Fund to the extent
17 that there is insufficient money in the Rate Adjustment Fund to
18 pay claims and obligations. Amounts may be transferred from the
19 General Revenue Fund only if the funds in the Second Injury
20 Fund or the Workers' Compensation Benefit Trust Fund are
21 insufficient to pay claims and obligations of the Rate
22 Adjustment Fund. All amounts transferred from the Second Injury
23 Fund, the General Revenue Fund, and the Workers' Compensation
24 Benefit Trust Fund shall be repaid from the Rate Adjustment
25 Fund within 270 days of a transfer, together with interest at
26 the rate earned by moneys on deposit in the Fund or Funds from
27 which the moneys were transferred.

28 Upon a finding by the Commission, after reasonable notice
29 and hearing, that any employer has willfully and knowingly
30 failed to pay the proper amounts into the Second Injury Fund or
31 the Rate Adjustment Fund required by this Section or if such
32 payments are not made within the time periods prescribed by
33 this Section, the employer shall, in addition to such payments,
34 pay a penalty of 20% of the amount required to be paid or
35 \$2,500, whichever is greater, for each year or part thereof of
36 such failure to pay. This penalty shall only apply to

1 obligations of an employer to the Second Injury Fund or the
2 Rate Adjustment Fund accruing after the effective date of this
3 amendatory Act of 1989. All or part of such a penalty may be
4 waived by the Commission for good cause shown.

5 Any obligations of an employer to the Second Injury Fund
6 and Rate Adjustment Fund accruing prior to the effective date
7 of this amendatory Act of 1989 shall be paid in full by such
8 employer within 5 years of the effective date of this
9 amendatory Act of 1989, with at least one-fifth of such
10 obligation to be paid during each year following the effective
11 date of this amendatory Act of 1989. If the Commission finds,
12 following reasonable notice and hearing, that an employer has
13 failed to make timely payment of any obligation accruing under
14 the preceding sentence, the employer shall, in addition to all
15 other payments required by this Section, be liable for a
16 penalty equal to 20% of the overdue obligation or \$2,500,
17 whichever is greater, for each year or part thereof that
18 obligation is overdue. All or part of such a penalty may be
19 waived by the Commission for good cause shown.

20 The Chairman of the Illinois Workers' Compensation
21 Commission shall, annually, furnish to the Director of the
22 Department of Insurance a list of the amounts paid into the
23 Second Injury Fund and the Rate Adjustment Fund by each
24 insurance company on behalf of their insured employers. The
25 Director shall verify to the Chairman that the amounts paid by
26 each insurance company are accurate as best as the Director can
27 determine from the records available to the Director. The
28 Chairman shall verify that the amounts paid by each
29 self-insurer are accurate as best as the Chairman can determine
30 from records available to the Chairman. The Chairman may
31 require each self-insurer to provide information concerning
32 the total compensation payments made upon which contributions
33 to the Second Injury Fund and the Rate Adjustment Fund are
34 predicated and any additional information establishing that
35 such payments have been made into these funds. Any deficiencies
36 in payments noted by the Director or Chairman shall be subject

1 to the penalty provisions of this Act.

2 The State Treasurer, or his duly authorized
3 representative, shall be named as a party to all proceedings in
4 all cases involving claim for the loss of, or the permanent and
5 complete loss of the use of one eye, one foot, one leg, one arm
6 or one hand.

7 The State Treasurer or his duly authorized agent shall have
8 the same rights as any other party to the proceeding, including
9 the right to petition for review of any award. The reasonable
10 expenses of litigation, such as medical examinations,
11 testimony, and transcript of evidence, incurred by the State
12 Treasurer or his duly authorized representative, shall be borne
13 by the Second Injury Fund.

14 If the award is not paid within 30 days after the date the
15 award has become final, the Commission shall proceed to take
16 judgment thereon in its own name as is provided for other
17 awards by paragraph (g) of Section 19 of this Act and take the
18 necessary steps to collect the award.

19 Any person, corporation or organization who has paid or
20 become liable for the payment of burial expenses of the
21 deceased employee may in his or its own name institute
22 proceedings before the Commission for the collection thereof.

23 For the purpose of administration, receipts and
24 disbursements, the Special Fund provided for in paragraph (f)
25 of this Section shall be administered jointly with the Special
26 Fund provided for in Section 7, paragraph (f) of the Workers'
27 Occupational Diseases Act.

28 (g) All compensation, except for burial expenses provided
29 in this Section to be paid in case accident results in death,
30 shall be paid in installments equal to the percentage of the
31 average earnings as provided for in Section 8, paragraph (b) of
32 this Act, at the same intervals at which the wages or earnings
33 of the employees were paid. If this is not feasible, then the
34 installments shall be paid weekly. Such compensation may be
35 paid in a lump sum upon petition as provided in Section 9 of
36 this Act. However, in addition to the benefits provided by

1 Section 9 of this Act where compensation for death is payable
2 to the deceased's widow, widower or to the deceased's widow,
3 widower and one or more children, and where a partial lump sum
4 is applied for by such beneficiary or beneficiaries within 18
5 months after the deceased's death, the Commission may, in its
6 discretion, grant a partial lump sum of not to exceed 100 weeks
7 of the compensation capitalized at their present value upon the
8 basis of interest calculated at 3% per annum with annual rests,
9 upon a showing that such partial lump sum is for the best
10 interest of such beneficiary or beneficiaries.

11 (h) In case the injured employee is under 16 years of age
12 at the time of the accident and is illegally employed, the
13 amount of compensation payable under paragraphs (a), (b), (c),
14 (d) and (f) of this Section shall be increased 50%.

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

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

25 (i) Whenever the dependents of a deceased employee are
26 aliens not residing in the United States, Mexico or Canada, the
27 amount of compensation payable is limited to the beneficiaries
28 described in paragraphs (a), (b) and (c) of this Section and is
29 50% of the compensation provided in paragraphs (a), (b) and (c)
30 of this Section, except as otherwise provided by treaty.

31 In a case where any of the persons who would be entitled to
32 compensation is living at any place outside of the United
33 States, then payment shall be made to the personal
34 representative of the deceased employee. The distribution by
35 such personal representative to the persons entitled shall be
36 made to such persons and in such manner as the Commission

1 orders.

2 (Source: P.A. 92-714, eff. 1-1-03; 93-721, eff. 1-1-05.)

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

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

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

25 The employee may at any time elect to secure his own
26 physician, surgeon and hospital services at the employer's
27 expense, or,

28 Upon agreement between the employer and the employees, or
29 the employees' exclusive representative, and subject to the
30 approval of the Illinois Workers' Compensation Commission, the
31 employer shall maintain a list of physicians, to be known as a
32 Panel of Physicians, who are accessible to the employees. The
33 employer shall post this list in a place or places easily
34 accessible to his employees. The employee shall have the right
35 to make an alternative choice of physician from such Panel if

1 he is not satisfied with the physician first selected. If, due
2 to the nature of the injury or its occurrence away from the
3 employer's place of business, the employee is unable to make a
4 selection from the Panel, the selection process from the Panel
5 shall not apply. The physician selected from the Panel may
6 arrange for any consultation, referral or other specialized
7 medical services outside the Panel at the employer's expense.
8 Provided that, in the event the Commission shall find that a
9 doctor selected by the employee is rendering improper or
10 inadequate care, the Commission may order the employee to
11 select another doctor certified or qualified in the medical
12 field for which treatment is required. If the employee refuses
13 to make such change the Commission may relieve the employer of
14 his obligation to pay the doctor's charges from the date of
15 refusal to the date of compliance.

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

28 The maintenance benefit shall not be less than the
29 temporary total disability rate determined for the employee. In
30 addition, maintenance shall include costs and expenses
31 incidental to the vocational rehabilitation program.

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

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

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

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

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

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

26 (3) all medical, surgical and hospital services
27 provided by any second physician, surgeon or hospital
28 subsequently chosen by the employee or by any other
29 physician, consultant, expert, institution or other
30 provider of services recommended by said second service
31 provider or any subsequent provider of medical services in
32 the chain of referrals from said second service provider.

33 Thereafter the employer shall select and pay for all
34 necessary medical, surgical and hospital treatment and the
35 employee may not select a provider of medical services at
36 the employer's expense unless the employer agrees to such

1 selection. At any time the employee may obtain any medical
2 treatment he desires at his own expense. This paragraph
3 shall not affect the duty to pay for rehabilitation
4 referred to above.

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

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

32 The furnishing by the employer of any such services or
33 appliances is not an admission of liability on the part of the
34 employer to pay compensation.

35 The furnishing of any such services or appliances or the
36 servicing thereof by the employer is not the payment of

1 compensation.

2 (b) If the period of temporary total incapacity for work
3 lasts more than 3 working days, weekly compensation as
4 hereinafter provided shall be paid beginning on the 4th day of
5 such temporary total incapacity and continuing as long as the
6 total temporary incapacity lasts. In cases where the temporary
7 total incapacity for work continues for a period of 14 days or
8 more from the day of the accident compensation shall commence
9 on the day after the accident.

10 1. The compensation rate for temporary total
11 incapacity under this paragraph (b) of this Section shall
12 be equal to 66 2/3% of the employee's average weekly wage
13 computed in accordance with Section 10, provided that it
14 shall be not less than 66 2/3% of the sum of the Federal
15 minimum wage under the Fair Labor Standards Act, or the
16 Illinois minimum wage under the Minimum Wage Law, whichever
17 is more, multiplied by 40 hours. This percentage rate shall
18 be increased by 10% for each spouse and child, not to
19 exceed 100% of the total minimum wage calculation, the
20 ~~following amounts in the following cases:~~

21 ~~\$100.90 in case of a single person;~~

22 ~~\$105.50 in case of a married person with no~~
23 ~~children;~~

24 ~~\$108.30 in case of one child;~~

25 ~~\$113.40 in case of 2 children;~~

26 ~~\$117.40 in case of 3 children;~~

27 ~~\$124.30 in case of 4 or more children;~~

28 nor exceed the employee's average weekly wage computed in
29 accordance with the provisions of Section 10, whichever is
30 less.

31 2. The compensation rate in all cases other than for
32 temporary total disability under this paragraph (b), and
33 other than for serious and permanent disfigurement under
34 paragraph (c) and other than for permanent partial
35 disability under subparagraph (2) of paragraph (d) or under
36 paragraph (e), of this Section shall be equal to 66 2/3% of

1 the employee's average weekly wage computed in accordance
2 with the provisions of Section 10, provided that it shall
3 be not less than 66 2/3% of the sum of the Federal minimum
4 wage under the Fair Labor Standards Act, or the Illinois
5 minimum wage under the Minimum Wage Law, whichever is more,
6 multiplied by 40 hours. This percentage rate shall be
7 increased by 10% for each spouse and child, not to exceed
8 100% of the total minimum wage calculation, the following
9 amounts in the following cases:

10 ~~\$80.90 in case of a single person;~~

11 ~~\$83.20 in case of a married person with no~~
12 ~~children;~~

13 ~~\$86.10 in case of one child;~~

14 ~~\$88.90 in case of 2 children;~~

15 ~~\$91.80 in case of 3 children;~~

16 ~~\$96.90 in case of 4 or more children;~~

17 nor exceed the employee's average weekly wage computed in
18 accordance with the provisions of Section 10, whichever is
19 less.

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

33 ~~\$80.90 in case of a single person;~~

34 ~~\$83.20 in case of a married person with no~~
35 ~~children;~~

36 ~~\$86.10 in case of one child;~~

1 ~~\$88.90 in case of 2 children;~~
2 ~~\$91.80 in case of 3 children;~~
3 ~~\$96.90 in case of 4 or more children;~~

4 nor exceed the employee's average weekly wage computed in
5 accordance with the provisions of Section 10, whichever is
6 less.

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

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

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

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

35 The maximum weekly compensation rate, for the period
36 January 1, 1981 through December 31, 1983, except as

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

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

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

28 4.1. Any provision herein to the contrary
29 notwithstanding, the weekly compensation rate for
30 compensation payments under subparagraph 18 of paragraph
31 (e) of this Section and under paragraph (f) of this Section
32 and under paragraph (a) of Section 7 and for amputation of
33 a member or enucleation of an eye under paragraph (e) of
34 this Section, shall in no event be less than 50% of the
35 State's average weekly wage in covered industries under the
36 Unemployment Insurance Act.

1 4.2. Any provision to the contrary notwithstanding,
2 the total compensation payable under Section 7 shall not
3 exceed the greater of \$500,000 ~~\$250,000~~ or 25 ~~20~~ years.

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

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

26 7. The payment of compensation by an employer or his
27 insurance carrier to an injured employee shall not
28 constitute an admission of the employer's liability to pay
29 compensation.

30 (c) For any serious and permanent disfigurement to the
31 hand, head, face, neck, arm, leg below the knee or the chest
32 above the axillary line, the employee is entitled to
33 compensation for such disfigurement, the amount determined by
34 agreement at any time or by arbitration under this Act, at a
35 hearing not less than 6 months after the date of the accidental
36 injury, which amount shall not exceed 162 ~~150~~ weeks at the

1 applicable rate provided in subparagraph 2.1 of paragraph (b)
2 of this Section.

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

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

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

24 2. If, as a result of the accident, the employee sustains
25 serious and permanent injuries not covered by paragraphs (c)
26 and (e) of this Section or having sustained injuries covered by
27 the aforesaid paragraphs (c) and (e), he shall have sustained
28 in addition thereto other injuries which injuries do not
29 incapacitate him from pursuing the duties of his employment but
30 which would disable him from pursuing other suitable
31 occupations, or which have otherwise resulted in physical
32 impairment; or if such injuries partially incapacitate him from
33 pursuing the duties of his usual and customary line of
34 employment but do not result in an impairment of earning
35 capacity, or having resulted in an impairment of earning
36 capacity, the employee elects to waive his right to recover

1 under the foregoing subparagraph 1 of paragraph (d) of this
2 Section then in any of the foregoing events, he shall receive
3 in addition to compensation for temporary total disability
4 under paragraph (b) of this Section, compensation at the rate
5 provided in subparagraph 2.1 of paragraph (b) of this Section
6 for that percentage of 500 weeks that the partial disability
7 resulting from the injuries covered by this paragraph bears to
8 total disability. If the employee shall have sustained a
9 fracture of one or more vertebra or fracture of the skull, the
10 amount of compensation allowed under this Section shall be not
11 less than 6 weeks for a fractured skull and 6 weeks for each
12 fractured vertebra, and in the event the employee shall have
13 sustained a fracture of any of the following facial bones:
14 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
15 mandible, the amount of compensation allowed under this Section
16 shall be not less than 2 weeks for each such fractured bone,
17 and for a fracture of each transverse process not less than 3
18 weeks. In the event such injuries shall result in the loss of a
19 kidney, spleen or lung, the amount of compensation allowed
20 under this Section shall be not less than 10 weeks for each
21 such organ. Compensation awarded under this subparagraph 2
22 shall not take into consideration injuries covered under
23 paragraphs (c) and (e) of this Section and the compensation
24 provided in this paragraph shall not affect the employee's
25 right to compensation payable under paragraphs (b), (c) and (e)
26 of this Section for the disabilities therein covered.

27 (e) For accidental injuries in the following schedule, the
28 employee shall receive compensation for the period of temporary
29 total incapacity for work resulting from such accidental
30 injury, under subparagraph 1 of paragraph (b) of this Section,
31 and shall receive in addition thereto compensation for a
32 further period for the specific loss herein mentioned, but
33 shall not receive any compensation under any other provisions
34 of this Act. The following listed amounts apply to either the
35 loss of or the permanent and complete loss of use of the member
36 specified, such compensation for the length of time as follows:

- 1 1. Thumb-~~76~~ 70 weeks.
- 2 2. First, or index finger-~~43~~ 40 weeks.
- 3 3. Second, or middle finger-~~38~~ 35 weeks.
- 4 4. Third, or ring finger-~~27~~ 25 weeks.
- 5 5. Fourth, or little finger-~~22~~ 20 weeks.
- 6 6. Great toe-~~38~~ 35 weeks.
- 7 7. Each toe other than great toe-~~13~~ 12 weeks.
- 8 8. The loss of the first or distal phalanx of the thumb
9 or of any finger or toe shall be considered to be equal to
10 the loss of one-half of such thumb, finger or toe and the
11 compensation payable shall be one-half of the amount above
12 specified. The loss of more than one phalanx shall be
13 considered as the loss of the entire thumb, finger or toe.
14 In no case shall the amount received for more than one
15 finger exceed the amount provided in this schedule for the
16 loss of a hand.
- 17 9. Hand-~~205~~ 190 weeks. The loss of 2 or more digits, or
18 one or more phalanges of 2 or more digits, of a hand may be
19 compensated on the basis of partial loss of use of a hand,
20 provided, further, that the loss of 4 digits, or the loss
21 of use of 4 digits, in the same hand shall constitute the
22 complete loss of a hand.
- 23 10. Arm-~~253~~ 235 weeks. Where an accidental injury
24 results in the amputation of an arm below the elbow, such
25 injury shall be compensated as a loss of an arm. Where an
26 accidental injury results in the amputation of an arm above
27 the elbow, compensation for an additional 17 ~~15~~ weeks shall
28 be paid, except where the accidental injury results in the
29 amputation of an arm at the shoulder joint, or so close to
30 shoulder joint that an artificial arm cannot be used, or
31 results in the disarticulation of an arm at the shoulder
32 joint, in which case compensation for an additional 70 ~~65~~
33 weeks shall be paid.
- 34 11. Foot-~~167~~ 155 weeks.
- 35 12. Leg-~~215~~ 200 weeks. Where an accidental injury
36 results in the amputation of a leg below the knee, such

1 injury shall be compensated as loss of a leg. Where an
2 accidental injury results in the amputation of a leg above
3 the knee, compensation for an additional 27 ~~25~~ weeks shall
4 be paid, except where the accidental injury results in the
5 amputation of a leg at the hip joint, or so close to the
6 hip joint that an artificial leg cannot be used, or results
7 in the disarticulation of a leg at the hip joint, in which
8 case compensation for an additional 81 ~~75~~ weeks shall be
9 paid.

10 13. Eye-162 ~~150~~ weeks. Where an accidental injury
11 results in the enucleation of an eye, compensation for an
12 additional 11 ~~10~~ weeks shall be paid.

13 14. Loss of hearing of one ear-54 ~~50~~ weeks; total and
14 permanent loss of hearing of both ears-215 ~~200~~ weeks.

15 15. Testicle-54 ~~50~~ weeks; both testicles-162 ~~150~~
16 weeks.

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

24 (a) Loss of hearing for compensation purposes
25 shall be confined to the frequencies of 1,000, 2,000
26 and 3,000 cycles per second. Loss of hearing ability
27 for frequency tones above 3,000 cycles per second are
28 not to be considered as constituting disability for
29 hearing.

30 (b) The percent of hearing loss, for purposes of
31 the determination of compensation claims for
32 occupational deafness, shall be calculated as the
33 average in decibels for the thresholds of hearing for
34 the frequencies of 1,000, 2,000 and 3,000 cycles per
35 second. Pure tone air conduction audiometric
36 instruments, approved by nationally recognized

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

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

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

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

25 (f) No claim for loss of hearing due to industrial
 26 noise shall be brought against an employer or allowed
 27 unless the employee has been exposed for a period of
 28 time sufficient to cause permanent impairment to noise
 29 levels in excess of the following:

30 Sound Level DBA

31	Slow Response	Hours Per Day
32	90	8
33	92	6
34	95	4
35	97	3
36	100	2

1	102	1-1/2
2	105	1
3	110	1/2
4	115	1/4

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

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

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

26 Any employee who has previously suffered the loss or
27 permanent and complete loss of the use of any of such
28 members, and in a subsequent independent accident loses
29 another or suffers the permanent and complete loss of the
30 use of any one of such members the employer for whom the
31 injured employee is working at the time of the last
32 independent accident is liable to pay compensation only for
33 the loss or permanent and complete loss of the use of the
34 member occasioned by the last independent accident.

35 19. In a case of specific loss and the subsequent death
36 of such injured employee from other causes than such injury

1 leaving a widow, widower, or dependents surviving before
2 payment or payment in full for such injury, then the amount
3 due for such injury is payable to the widow or widower and,
4 if there be no widow or widower, then to such dependents,
5 in the proportion which such dependency bears to total
6 dependency.

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

25 On August 1, 1996 and on February 1 and August 1 of each
26 subsequent year, the Commission shall examine the special fund
27 designated as the "Rate Adjustment Fund" and when, after
28 deducting all advances or loans made to said fund, the amount
29 therein is \$4,000,000, the amount required to be paid by
30 employers pursuant to paragraph (f) of Section 7 shall be
31 reduced by one-half. When the Rate Adjustment Fund reaches the
32 sum of \$5,000,000 the payment therein shall cease entirely.
33 However, when said Rate Adjustment Fund has been reduced to
34 \$3,000,000 the amounts required by paragraph (f) of Section 7
35 shall be resumed in the manner herein provided.

36 (f) In case of complete disability, which renders the

1 employee wholly and permanently incapable of work, or in the
2 specific case of total and permanent disability as provided in
3 subparagraph 18 of paragraph (e) of this Section, compensation
4 shall be payable at the rate provided in subparagraph 2 of
5 paragraph (b) of this Section for life.

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

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

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

26 If an employee who had previously incurred loss or the
27 permanent and complete loss of use of one member, through the
28 loss or the permanent and complete loss of the use of one hand,
29 one arm, one foot, one leg, or one eye, incurs permanent and
30 complete disability through the loss or the permanent and
31 complete loss of the use of another member, he shall receive,
32 in addition to the compensation payable by the employer and
33 after such payments have ceased, an amount from the Second
34 Injury Fund provided for in paragraph (f) of Section 7, which,
35 together with the compensation payable from the employer in
36 whose employ he was when the last accidental injury was

1 incurred, will equal the amount payable for permanent and
2 complete disability as provided in this paragraph of this
3 Section.

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

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

31 As of July 1, 1980 to July 1, 1982, all claims against and
32 obligations of the Second Injury Fund shall become claims
33 against and obligations of the Rate Adjustment Fund to the
34 extent there is insufficient money in the Second Injury Fund to
35 pay such claims and obligations. In that case, all references
36 to "Second Injury Fund" in this Section shall also include the

1 Rate Adjustment Fund.

2 (g) Every award for permanent total disability entered by
3 the Commission on and after July 1, 1965 under which
4 compensation payments shall become due and payable after the
5 effective date of this amendatory Act, and every award for
6 death benefits or permanent total disability entered by the
7 Commission on and after the effective date of this amendatory
8 Act shall be subject to annual adjustments as to the amount of
9 the compensation rate therein provided. Such adjustments shall
10 first be made on July 15, 1977, and all awards made and entered
11 prior to July 1, 1975 and on July 15 of each year thereafter.
12 In all other cases such adjustment shall be made on July 15 of
13 the second year next following the date of the entry of the
14 award and shall further be made on July 15 annually thereafter.
15 If during the intervening period from the date of the entry of
16 the award, or the last periodic adjustment, there shall have
17 been an increase in the State's average weekly wage in covered
18 industries under the Unemployment Insurance Act, the weekly
19 compensation rate shall be proportionately increased by the
20 same percentage as the percentage of increase in the State's
21 average weekly wage in covered industries under the
22 Unemployment Insurance Act. The increase in the compensation
23 rate under this paragraph shall in no event bring the total
24 compensation rate to an amount greater than the prevailing
25 maximum rate at the time that the annual adjustment is made.
26 Such increase shall be paid in the same manner as herein
27 provided for payments under the Second Injury Fund to the
28 injured employee, or his dependents, as the case may be, out of
29 the Rate Adjustment Fund provided in paragraph (f) of Section 7
30 of this Act. Payments shall be made at the same intervals as
31 provided in the award or, at the option of the Commission, may
32 be made in quarterly payment on the 15th day of January, April,
33 July and October of each year. In the event of a decrease in
34 such average weekly wage there shall be no change in the then
35 existing compensation rate. The within paragraph shall not
36 apply to cases where there is disputed liability and in which a

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

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

11 For every accident occurring after the effective date of
12 this amendatory Act of the 94th General Assembly, the annual
13 adjustments to the compensation rate in awards for death
14 benefits or permanent total disability, as provided in this
15 Act, shall be paid by the employer. The adjustment shall be
16 made by the employer on July 15 of the second year next
17 following the date of the entry of the award and shall further
18 be made on July 15 annually thereafter. If during the
19 intervening period from the date of the entry of the award, or
20 the last periodic adjustment, there shall have been an increase
21 in the State's average weekly wage in covered industries under
22 the Unemployment Insurance Act, the employer shall increase the
23 weekly compensation rate proportionately by the same
24 percentage as the percentage of increase in the State's average
25 weekly wage in covered industries under the Unemployment
26 Insurance Act. The increase in the compensation rate under this
27 paragraph shall in no event bring the total compensation rate
28 to an amount greater than the prevailing maximum rate at the
29 time that the annual adjustment is made. In the event of a
30 decrease in such average weekly wage there shall be no change
31 in the then existing compensation rate. Such increase shall be
32 paid by the employer in the same manner and at the same
33 intervals as the payment of compensation in the award. This
34 paragraph shall not apply to cases where there is disputed
35 liability and in which a compromise lump sum settlement between
36 the employer and the injured employee, or his or her

1 dependents, as the case may be, has been duly approved by the
2 Illinois Workers' Compensation Commission.

3 The annual adjustments for every award of death benefits or
4 permanent total disability involving accidents occurring
5 before the effective date of this amendatory Act of the 94th
6 General Assembly shall continue to be paid from the Rate
7 Adjustment Fund pursuant to this paragraph and Section 7(f) of
8 this Act.

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

18 (h-1) In case an injured employee is under legal disability
19 at the time when any right or privilege accrues to him or her
20 under this Act, a guardian may be appointed pursuant to law,
21 and may, on behalf of such person under legal disability, claim
22 and exercise any such right or privilege with the same effect
23 as if the employee himself or herself had claimed or exercised
24 the right or privilege. No limitations of time provided by this
25 Act run so long as the employee who is under legal disability
26 is without a conservator or guardian.

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

31 However, where an employer has on file an employment
32 certificate issued pursuant to the Child Labor Law or work
33 permit issued pursuant to the Federal Fair Labor Standards Act,
34 as amended, or a birth certificate properly and duly issued,
35 such certificate, permit or birth certificate is conclusive
36 evidence as to the age of the injured minor employee for the

1 purposes of this Section.

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

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

25 Any excess benefits paid to or on behalf of a State
26 employee by the State Employees' Retirement System under
27 Article 14 of the Illinois Pension Code on a death claim or
28 disputed disability claim shall be credited against any
29 payments made or to be made by the State of Illinois to or on
30 behalf of such employee under this Act, except for payments for
31 medical expenses which have already been incurred at the time
32 of the award. The State of Illinois shall directly reimburse
33 the State Employees' Retirement System to the extent of such
34 credit.

35 2. Nothing contained in this Act shall be construed to give
36 the employer or the insurance carrier the right to credit for

1 any benefits or payments received by the employee other than
2 compensation payments provided by this Act, and where the
3 employee receives payments other than compensation payments,
4 whether as full or partial salary, group insurance benefits,
5 bonuses, annuities or any other payments, the employer or
6 insurance carrier shall receive credit for each such payment
7 only to the extent of the compensation that would have been
8 payable during the period covered by such payment.

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

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

18 (820 ILCS 305/8.2 new)

19 Sec. 8.2. Fee schedule.

20 (a) Except as provided for in subsection (c), on and after
21 February 1, 2006, the maximum allowable payment for procedures,
22 treatments, or services covered under this Act shall be 90% of
23 the 80th percentile of charges and fees as determined by the
24 Commission utilizing information provided by employers' and
25 insurers' national databases, with a minimum of 12,000,000
26 Illinois line item charges and fees comprised of health care
27 provider and hospital charges and fees as of August 1, 2004 but
28 not earlier than August 1, 2002. These charges and fees are
29 provider billed amounts and shall not include discounted
30 charges. The 80th percentile is the point on an ordered data
31 set from low to high such that 80% of the cases are below or
32 equal to that point and at most 20% are above or equal to that
33 point. The Commission shall adjust these historical charges and
34 fees as of August 1, 2004 by the Consumer Price Index-U for the
35 period August 1, 2004 through September 30, 2005. The

1 Commission shall establish fee schedules for procedures,
2 treatments, or services for hospital inpatient, hospital
3 outpatient, emergency room and trauma, ambulatory surgical
4 treatment centers, and professional services. These charges
5 and fees shall be designated by geozip or any smaller
6 geographic unit. The data shall in no way identify or tend to
7 identify any patient, employer, or health care provider. As
8 used in this Section, "geozip" means a three-digit zip code
9 based on data similarities, geographical similarities, and
10 frequencies. A geozip does not cross state boundaries. As used
11 in this Section, "three-digit zip code" means a geographic area
12 in which all zip codes have the same first 3 digits. If a
13 geozip does not have the necessary number of charges and fees
14 to calculate a valid percentile for a specific procedure,
15 treatment, or service, the Commission may combine data from the
16 geozip with up to 4 other geozips that are demographically and
17 economically similar and exhibit similarities in data and
18 frequencies until the Commission reaches 9 charges or fees for
19 that specific procedure, treatment, or service. In cases where
20 the compiled data contains less than 9 charges or fees for a
21 procedure, treatment, or service, reimbursement shall occur at
22 76% of charges and fees as determined by the Commission in a
23 manner consistent with the provisions of this paragraph. The
24 Commission has the authority to set the maximum allowable
25 payment to providers of out-of-state procedures, treatments,
26 or services covered under this Act in a manner consistent with
27 this Section. Not later than September 30 in 2006 and each year
28 thereafter, the Commission shall automatically increase or
29 decrease the maximum allowable payment for a procedure,
30 treatment, or service established and in effect on January 1 of
31 that year by the percentage change in the Consumer Price
32 Index-U for the 12 month period ending August 31 of that year.
33 The increase or decrease shall become effective on January 1 of
34 the following year. As used in this Section, "Consumer Price
35 Index-U" means the index published by the Bureau of Labor
36 Statistics of the U.S. Department of Labor, that measures the

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

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

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

16 (d) When a patient notifies a provider that the treatment,
17 procedure, or service being sought is for a work-related
18 illness or injury and furnishes the provider the name and
19 address of the responsible employer, the provider shall bill
20 the employer directly. The employer shall make payment and
21 providers shall submit bills and records in accordance with the
22 provisions of this Section. All payments to providers for
23 treatment provided pursuant to this Act shall be made within 60
24 days of receipt of the bills as long as the claim contains
25 substantially all the required data elements necessary to
26 adjudicate the bills. In the case of nonpayment to a provider
27 within 60 days of receipt of the bill which contained
28 substantially all of the required data elements necessary to
29 adjudicate the bill or nonpayment to a provider of a portion of
30 such a bill up to the lesser of the actual charge or the
31 payment level set by the Commission in the fee schedule
32 established in this Section, the bill, or portion of the bill,
33 shall incur interest at a rate of 1% per month payable to the
34 provider.

35 (e) Except as provided in subsections (e-5), (e-10), and
36 (e-15), a provider shall not hold an employee liable for costs

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

16 (e-5) If an employer notifies a provider that the employer
17 does not consider the illness or injury to be compensable under
18 this Act, the provider may seek payment of the provider's
19 actual charges from the employee for any procedure, treatment,
20 or service rendered. Once an employee informs the provider that
21 there 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
27 that the employee files the application with the Commission
28 until the date that the provider is permitted to resume
29 collection efforts under the provisions of this Section.

30 (e-10) If an employer notifies a provider that the employer
31 will pay only a portion of a bill for any procedure, treatment,
32 or service rendered in connection with a compensable illness or
33 disease, the provider may seek payment from the employee for
34 the remainder of the amount of the bill up to the lesser of the
35 actual charge, negotiated rate, if applicable, or the payment
36 level set by the Commission in the fee schedule established in

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

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

32 (e-20) Upon a final award or judgment by an Arbitrator or
33 the Commission, or a settlement agreed to by the employer and
34 the employee, a provider may resume any and all efforts to
35 collect payment from the employee for the services rendered to
36 the employee and the employee shall be responsible for payment

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

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

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

23 (820 ILCS 305/8.3 new)

24 Sec. 8.3. Workers' Compensation Medical Fee Advisory
25 Board. There is created a Workers' Compensation Medical Fee
26 Advisory Board consisting of 9 members appointed by the
27 Governor with the advice and consent of the Senate. Three
28 members of the Advisory Board shall be representative citizens
29 chosen from the employee class, 3 members shall be
30 representative citizens chosen from the employing class, and 3
31 members shall be representative citizens chosen from the
32 medical provider class. Each member shall serve a 4-year term
33 and shall continue to serve until a successor is appointed. A
34 vacancy on the Advisory Board shall be filled by the Governor
35 for the unexpired term.

1 Members of the Advisory Board shall receive no compensation
2 for their services but shall be reimbursed for expenses
3 incurred in the performance of their duties by the Commission
4 from appropriations made to the Commission for that purpose.

5 The Advisory Board shall advise the Commission on
6 establishment of fees for medical services and accessibility of
7 medical treatment.

8 (820 ILCS 305/8.7 new)

9 Sec. 8.7. Utilization review programs.

10 (a) As used in this Section:

11 "Utilization review" means the evaluation of proposed or
12 provided health care services to determine the appropriateness
13 of both the level of health care services medically necessary
14 and the quality of health care services provided to a patient,
15 including evaluation of their efficiency, efficacy, and
16 appropriateness of treatment, hospitalization, or office
17 visits based on medically accepted standards. The evaluation
18 must be accomplished by means of a system that identifies the
19 utilization of health care services based on standards of care
20 or nationally recognized peer review guidelines as well as
21 nationally recognized evidence based upon standards as
22 provided in this Act. Utilization techniques may include
23 prospective review, second opinions, concurrent review,
24 discharge planning, peer review, independent medical
25 examinations, and retrospective review. Nothing in this
26 Section applies to prospective review of necessary first aid or
27 emergency treatment.

28 (b) No person may conduct a utilization review program for
29 workers' compensation services in this State unless once every
30 2 years the person registers the utilization review program
31 with the Department of Financial and Professional Regulation
32 and certifies compliance with the Workers' Compensation
33 Utilization Management standards or Health Utilization
34 Management Standards of URAC sufficient to achieve URAC
35 accreditation or submits evidence of accreditation by URAC for

1 its Workers' Compensation Utilization Management Standards or
2 Health Utilization Management Standards. Nothing in this Act
3 shall be construed to require an employer or insurer or its
4 subcontractors to become URAC accredited.

5 (c) In addition, the Secretary of Financial and
6 Professional Regulation may certify alternative utilization
7 review standards of national accreditation organizations or
8 entities in order for plans to comply with this Section. Any
9 alternative utilization review standards shall meet or exceed
10 those standards required under subsection (b).

11 (d) This registration shall include submission of all of
12 the following information regarding utilization review program
13 activities:

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

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

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

20 (4) Hours of operation of each utilization review
21 program.

22 (5) Description of the grievance process for each
23 utilization review program.

24 (6) Number of covered lives for which utilization
25 review was conducted for the previous calendar year for
26 each utilization review program.

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

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

33 (1) kept confidential in accordance with applicable
34 State and federal laws; and

35 (2) shared only with the employee, the employee's
36 designee, and the employee's health care provider, and

1 those who are authorized by law to receive the information.

2 Summary data shall not be considered confidential if it
3 does not provide information to allow identification of
4 individual patients or health care providers.

5 Only a health care professional may make determinations
6 regarding the medical necessity of health care services during
7 the course of utilization review.

8 When making retrospective reviews, utilization review
9 programs shall base reviews solely on the medical information
10 available to the attending physician or ordering provider at
11 the time the health care services were provided.

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

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

30 (h) The Secretary of Financial and Professional Regulation
31 may by rule establish a registration fee for each person
32 conducting a utilization review program.

33 (i) A utilization review will be considered by the
34 Commission, along with all other evidence and in the same
35 manner as all other evidence, in the determination of the
36 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 (820 ILCS 305/12) (from Ch. 48, par. 138.12)

23 Sec. 12. An employee entitled to receive disability
24 payments shall be required, if requested by the employer, to
25 submit himself, at the expense of the employer, for examination
26 to a duly qualified medical practitioner or surgeon selected by
27 the employer, at any time and place reasonably convenient for
28 the employee, either within or without the State of Illinois,
29 for the purpose of determining the nature, extent and probable
30 duration of the injury received by the employee, and for the
31 purpose of ascertaining the amount of compensation which may be
32 due the employee from time to time for disability according to
33 the provisions of this Act. An employee may also be required to
34 submit himself for examination by medical experts under
35 subsection (c) of Section 19.

1 An employer requesting such an examination, of an employee
2 residing within the State of Illinois, shall deliver to the
3 employee with the notice of the time and place of examination
4 ~~pay in advance of the time fixed for the examination~~ sufficient
5 money to defray the necessary expense of travel by the most
6 convenient means to and from the place of examination, and the
7 cost of meals necessary during the trip, and if the examination
8 or travel to and from the place of examination causes any loss
9 of working time on the part of the employee, the employer shall
10 reimburse him for such loss of wages upon the basis of his
11 average daily wage. Such examination shall be made in the
12 presence of a duly qualified medical practitioner or surgeon
13 provided and paid for by the employee, if such employee so
14 desires.

15 In all cases where the examination is made by a surgeon
16 engaged by the employer, and the injured employee has no
17 surgeon present at such examination, it shall be the duty of
18 the surgeon making the examination at the instance of the
19 employer to deliver to the injured employee, or his
20 representative, a statement in writing of the condition and
21 extent of the injury to the same extent that said surgeon
22 reports to the employer and the same shall be an exact copy of
23 that furnished to the employer, said copy to be furnished the
24 employee, or his representative as soon as practicable but not
25 later than 48 hours before the time the case is set for
26 hearing. Such delivery shall be made in person either to the
27 employee or his representative, or by registered mail to
28 either, and the receipt of either shall be proof of such
29 delivery. If such surgeon refuses to furnish the employee with
30 such statement to the same extent as that furnished the
31 employer said surgeon shall not be permitted to testify at the
32 hearing next following said examination.

33 If the employee refuses so to submit himself to examination
34 or unnecessarily obstructs the same, his right to compensation
35 payments shall be temporarily suspended until such examination
36 shall have taken place, and no compensation shall be payable

1 under this Act for such period.

2 It shall be the duty of surgeons treating an injured
3 employee who is likely to die, and treating him at the instance
4 of the employer, to have called in another surgeon to be
5 designated and paid for by either the injured employee or by
6 the person or persons who would become his beneficiary or
7 beneficiaries, to make an examination before the death of such
8 injured employee.

9 In all cases where the examination is made by a surgeon
10 engaged by the injured employee, and the employer has no
11 surgeon present at such examination, it shall be the duty of
12 the surgeon making the examination at the instance of the
13 employee, to deliver to the employer, or his representative, a
14 statement in writing of the condition and extent of the injury
15 to the same extent that said surgeon reports to the employee
16 and the same shall be an exact copy of that furnished to the
17 employee, said copy to be furnished the employer, or his
18 representative, as soon as practicable but not later than 48
19 hours before the time the case is set for hearing. Such
20 delivery shall be made in person either to the employer, or his
21 representative, or by registered mail to either, and the
22 receipt of either shall be proof of such delivery. If such
23 surgeon refuses to furnish the employer with such statement to
24 the same extent as that furnished the employee, said surgeon
25 shall not be permitted to testify at the hearing next following
26 said examination.

27 (Source: P.A. 81-1482.)

28 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

29 Sec. 13. There is created an Illinois Workers' Compensation
30 Commission consisting of 10 ~~7~~ members to be appointed by the
31 Governor, by and with the consent of the Senate, 3 ~~2~~ of whom
32 shall be representative citizens of the employing class
33 operating under this Act and 3 ~~2~~ of whom shall be
34 representative citizens of the class of employees covered under
35 this Act, and 4 ~~3~~ of whom shall be representative citizens not

1 identified with either the employing or employee classes. Not
2 more than 6 4 members of the Commission shall be of the same
3 political party.

4 One of the ~~3~~ members not identified with either the
5 employing or employee classes shall be designated by the
6 Governor as Chairman. The Chairman shall be the chief
7 administrative and executive officer of the Commission; and he
8 or she shall have general supervisory authority over all
9 personnel of the Commission, including arbitrators and
10 Commissioners, and the final authority in all administrative
11 matters relating to the Commissioners, including but not
12 limited to the assignment and distribution of cases and
13 assignment of Commissioners to the panels, except in the
14 promulgation of procedural rules and orders under Section 16
15 and in the determination of cases under this Act.

16 Notwithstanding the general supervisory authority of the
17 Chairman, each Commissioner, except those assigned to the
18 temporary panel, shall have the authority to hire and supervise
19 2 staff attorneys each. Such staff attorneys shall report
20 directly to the individual Commissioner.

21 A formal training program for newly-appointed
22 Commissioners shall be implemented. The training program shall
23 include the following:

24 (a) substantive and procedural aspects of the office of
25 Commissioner;

26 (b) current issues in workers' compensation law and
27 practice;

28 (c) medical lectures by specialists in areas such as
29 orthopedics, ophthalmology, psychiatry, rehabilitation
30 counseling;

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

33 (e) observation of experienced arbitrators and
34 Commissioners conducting hearings of cases, combined with
35 the opportunity to discuss evidence presented and rulings
36 made;

1 (f) the use of hypothetical cases requiring the
2 newly-appointed Commissioner to issue judgments as a means
3 to evaluating knowledge and writing ability;

4 (g) writing skills.

5 A formal and ongoing professional development program
6 including, but not limited to, the above-noted areas shall be
7 implemented to keep Commissioners informed of recent
8 developments and issues and to assist them in maintaining and
9 enhancing their professional competence.

10 The Commissioner candidates, other than the Chairman, must
11 meet one of the following qualifications: (a) licensed to
12 practice law in the State of Illinois; or (b) served as an
13 arbitrator at the Illinois Workers' Compensation Commission
14 for at least 3 years; or (c) has at least 4 years of
15 professional labor relations experience. The Chairman
16 candidate must have public or private sector management and
17 budget experience, as determined by the Governor.

18 Each Commissioner shall devote full time to his duties and
19 any Commissioner who is an attorney-at-law shall not engage in
20 the practice of law, nor shall any Commissioner hold any other
21 office or position of profit under the United States or this
22 State or any municipal corporation or political subdivision of
23 this State, nor engage in any other business, employment, or
24 vocation.

25 The term of office of each member of the Commission holding
26 office on the effective date of this amendatory Act of 1989 is
27 abolished, but the incumbents shall continue to exercise all of
28 the powers and be subject to all of the duties of Commissioners
29 until their respective successors are appointed and qualified.

30 The Illinois Workers' Compensation Commission shall
31 administer this Act.

32 In the promulgation of procedural rules, the determination
33 of cases heard en banc, and other matters determined by the
34 full Commission, the Chairman's vote shall break a tie in the
35 event of a tie vote.

36 The members shall be appointed by the Governor, with the

1 advice and consent of the Senate, as follows:

2 (a) After the effective date of this amendatory Act of
3 1989, 3 members, at least one of each political party, and
4 one of whom shall be a representative citizen of the
5 employing class operating under this Act, one of whom shall
6 be a representative citizen of the class of employees
7 covered under this Act, and one of whom shall be a
8 representative citizen not identified with either the
9 employing or employee classes, shall be appointed to hold
10 office until the third Monday in January of 1993, and until
11 their successors are appointed and qualified, and 4
12 members, one of whom shall be a representative citizen of
13 the employing class operating under this Act, one of whom
14 shall be a representative citizen of the class of employees
15 covered in this Act, and two of whom shall be
16 representative citizens not identified with either the
17 employing or employee classes, one of whom shall be
18 designated by the Governor as Chairman (at least one of
19 each of the two major political parties) shall be appointed
20 to hold office until the third Monday of January in 1991,
21 and until their successors are appointed and qualified.

22 (a-5) Notwithstanding any other provision of this
23 Section, the term of each member of the Commission who was
24 appointed by the Governor and is in office on June 30, 2003
25 shall terminate at the close of business on that date or
26 when all of the successor members to be appointed pursuant
27 to this amendatory Act of the 93rd General Assembly have
28 been appointed by the Governor, whichever occurs later. As
29 soon as possible, the Governor shall appoint persons to
30 fill the vacancies created by this amendatory Act. Of the
31 initial commissioners appointed pursuant to this
32 amendatory Act of the 93rd General Assembly, 3 shall be
33 appointed for terms ending on the third Monday in January,
34 2005, and 4 shall be appointed for terms ending on the
35 third Monday in January, 2007.

36 (a-10) After the effective date of this amendatory Act

1 of the 94th General Assembly, the Commission shall be
2 increased to 10 members. As soon as possible after the
3 effective date of this amendatory Act of the 94th General
4 Assembly, the Governor shall appoint, by and with the
5 consent of the Senate, the 3 members added to the
6 Commission under this amendatory Act of the 94th General
7 Assembly, one of whom shall be a representative citizen of
8 the employing class operating under this Act, one of whom
9 shall be a representative of the class of employees covered
10 under this Act, and one of whom shall be a representative
11 citizen not identified with either the employing or
12 employee classes. Of the members appointed under this
13 amendatory Act of the 94th General Assembly, one shall be
14 appointed for a term ending on the third Monday in January,
15 2007, and 2 shall be appointed for terms ending on the
16 third Monday in January, 2009, and until their successors
17 are appointed and qualified.

18 (b) Members shall thereafter be appointed to hold
19 office for terms of 4 years from the third Monday in
20 January of the year of their appointment, and until their
21 successors are appointed and qualified. All such
22 appointments shall be made so that the composition of the
23 Commission is in accordance with the provisions of the
24 first paragraph of this Section.

25 The Chairman shall receive an annual salary of \$42,500, or
26 a salary set by the Compensation Review Board, whichever is
27 greater, and each other member shall receive an annual salary
28 of \$38,000, or a salary set by the Compensation Review Board,
29 whichever is greater.

30 In case of a vacancy in the office of a Commissioner during
31 the recess of the Senate, the Governor shall make a temporary
32 appointment until the next meeting of the Senate, when he shall
33 nominate some person to fill such office. Any person so
34 nominated who is confirmed by the Senate shall hold office
35 during the remainder of the term and until his successor is
36 appointed and qualified.

1 The Illinois Workers' Compensation Commission created by
2 this amendatory Act of 1989 shall succeed to all the rights,
3 powers, duties, obligations, records and other property and
4 employees of the Industrial Commission which it replaces as
5 modified by this amendatory Act of 1989 and all applications
6 and reports to actions and proceedings of such prior Industrial
7 Commission shall be considered as applications and reports to
8 actions and proceedings of the Illinois Workers' Compensation
9 Commission created by this amendatory Act of 1989.

10 Notwithstanding any other provision of this Act, in the
11 event the Chairman shall make a finding that a member is or
12 will be unavailable to fulfill the responsibilities of his or
13 her office, the Chairman shall advise the Governor and the
14 member in writing and shall designate a certified arbitrator to
15 serve as acting Commissioner. The certified arbitrator shall
16 act as a Commissioner until the member resumes the duties of
17 his or her office or until a new member is appointed by the
18 Governor, by and with the consent of the Senate, if a vacancy
19 occurs in the office of the Commissioner, but in no event shall
20 a certified arbitrator serve in the capacity of Commissioner
21 for more than 6 months from the date of appointment by the
22 Chairman. A finding by the Chairman that a member is or will be
23 unavailable to fulfill the responsibilities of his or her
24 office shall be based upon notice to the Chairman by a member
25 that he or she will be unavailable or facts and circumstances
26 made known to the Chairman which lead him to reasonably find
27 that a member is unavailable to fulfill the responsibilities of
28 his or her office. The designation of a certified arbitrator to
29 act as a Commissioner shall be considered representative of
30 citizens not identified with either the employing or employee
31 classes and the arbitrator shall serve regardless of his or her
32 political affiliation. A certified arbitrator who serves as an
33 acting Commissioner shall have all the rights and powers of a
34 Commissioner, including salary.

35 Notwithstanding any other provision of this Act, the
36 Governor shall appoint a special panel of Commissioners

1 comprised of 3 members who shall be chosen by the Governor, by
2 and with the consent of the Senate, from among the current
3 ranks of certified arbitrators. Three members shall hold office
4 until the Commission in consultation with the Governor
5 determines that the caseload on review has been reduced
6 sufficiently to allow cases to proceed in a timely manner or
7 for a term of 18 months from the effective date of their
8 appointment by the Governor, whichever shall be earlier. The 3
9 members shall be considered representative of citizens not
10 identified with either the employing or employee classes and
11 shall serve regardless of political affiliation. Each of the 3
12 members shall have only such rights and powers of a
13 Commissioner necessary to dispose of those cases assigned to
14 the special panel. Each of the 3 members appointed to the
15 special panel shall receive the same salary as other
16 Commissioners for the duration of the panel.

17 The Commission may have an Executive Director; if so, the
18 Executive Director shall be appointed by the Governor with the
19 advice and consent of the Senate. The salary and duties of the
20 Executive Director shall be fixed by the Commission.

21 On the effective date of this amendatory Act of the 93rd
22 General Assembly, the name of the Industrial Commission is
23 changed to the Illinois Workers' Compensation Commission.
24 References in any law, appropriation, rule, form, or other
25 document: (i) to the Industrial Commission are deemed, in
26 appropriate contexts, to be references to the Illinois Workers'
27 Compensation Commission for all purposes; (ii) to the
28 Industrial Commission Operations Fund are deemed, in
29 appropriate contexts, to be references to the Illinois Workers'
30 Compensation Commission Operations Fund for all purposes;
31 (iii) to the Industrial Commission Operations Fund Fee are
32 deemed, in appropriate contexts, to be references to the
33 Illinois Workers' Compensation Commission Operations Fund Fee
34 for all purposes; and (iv) to the Industrial Commission
35 Operations Fund Surcharge are deemed, in appropriate contexts,
36 to be references to the Illinois Workers' Compensation

1 Commission Operations Fund Surcharge for all purposes.

2 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05.)

3 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

4 Sec. 13.1. (a) There is created a Workers' Compensation
5 Advisory Board hereinafter referred to as the Advisory Board.
6 After the effective date of this amendatory Act of the 94th
7 General Assembly, the Advisory Board shall consist,~~consisting~~
8 of 12 ~~9~~ members appointed by the Governor with the advice and
9 consent of the Senate. Six ~~Three~~ members of the Advisory Board
10 shall be representative citizens chosen from the employee
11 class, and 6 ~~3~~ members shall be representative citizens chosen
12 from the employing class ~~and 3 members shall be representative~~
13 ~~citizens not identified with either the employing or employee~~
14 ~~class.~~ The Chairman of the Commission shall serve as the ex
15 officio Chairman of the Advisory Board. After the effective
16 date of this amendatory Act of the 94th General Assembly, each
17 member of the Advisory Board shall serve a ~~4-year~~ term ending
18 on the third Monday in January 2007 and shall continue to serve
19 until his or her successor is appointed and qualified. Members
20 of the Advisory Board shall thereafter be appointed for 4 year
21 terms from the third Monday in January of the year of their
22 appointment, and until their successors are appointed and
23 qualified. ~~The Governor shall select one of the members not~~
24 ~~identified with either the employing or employee class to serve~~
25 ~~as Chairman.~~ Seven ~~Five~~ members of the Advisory Board shall
26 constitute a quorum to do business, but in no case shall there
27 be less than one representative from each class, ~~employee,~~
28 ~~employing and representative citizen not identified with~~
29 ~~either the employing or employee class.~~ A vacancy on the
30 Advisory Board shall be filled by the Governor for the
31 unexpired term.

32 (b) Members of the Advisory Board shall receive no
33 compensation for their services but shall be reimbursed for
34 expenses incurred in the performance of their duties by the
35 Commission from appropriations made to the Commission for such

1 purpose.

2 (c) The Advisory Board shall aid the Commission in
3 formulating policies, discussing problems, setting priorities
4 of expenditures and establishing short and long range
5 administrative goals. Prior to making appointments to the
6 Commission, the Governor shall request that the Advisory Board
7 make recommendations as to candidates to consider for
8 appointment and the Advisory Board may then make such
9 recommendations.

10 (Source: P.A. 86-998.)

11 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

12 Sec. 14. The Commission shall appoint a secretary, an
13 assistant secretary, and arbitrators and shall employ such
14 assistants and clerical help as may be necessary.

15 Each arbitrator appointed after November 22, 1977 shall be
16 required to demonstrate in writing and in accordance with the
17 rules and regulations of the Illinois Department of Central
18 Management Services his or her knowledge of and expertise in
19 the law of and judicial processes of the Workers' Compensation
20 Act and the Occupational Diseases Act.

21 A formal training program for newly-hired arbitrators
22 shall be implemented. The training program shall include the
23 following:

24 (a) substantive and procedural aspects of the
25 arbitrator position;

26 (b) current issues in workers' compensation law and
27 practice;

28 (c) medical lectures by specialists in areas such as
29 orthopedics, ophthalmology, psychiatry, rehabilitation
30 counseling;

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

33 (e) observation of experienced arbitrators conducting
34 hearings of cases, combined with the opportunity to discuss
35 evidence presented and rulings made;

1 (f) the use of hypothetical cases requiring the trainee
2 to issue judgments as a means to evaluating knowledge and
3 writing ability;

4 (g) writing skills.

5 A formal and ongoing professional development program
6 including, but not limited to, the above-noted areas shall be
7 implemented to keep arbitrators informed of recent
8 developments and issues and to assist them in maintaining and
9 enhancing their professional competence.

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

24 Each arbitrator appointed after the effective date of this
25 amendatory Act of 1989 shall be appointed for a term of 6
26 years. Each arbitrator shall be appointed for a subsequent term
27 unless the Chairman makes a recommendation to the Commission,
28 no later than 60 days prior to the expiration of the term, not
29 to reappoint the arbitrator. Notice of such a recommendation
30 shall also be given to the arbitrator no later than 60 days
31 prior to the expiration of the term. Upon such recommendation
32 by the Chairman, the arbitrator shall be appointed for a
33 subsequent term unless 8 ~~5~~ of 10 ~~7~~ members of the Commission,
34 including the Chairman, vote not to reappoint the arbitrator.

35 All arbitrators shall be subject to the provisions of the
36 Personnel Code, and the performance of all arbitrators shall be

1 reviewed by the Chairman on an annual basis. The Chairman shall
2 allow input from the Commissioners in all such reviews.

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

7 The members of the Commission, Arbitrators and other
8 employees whose duties require them to travel, shall have
9 reimbursed to them their actual traveling expenses and
10 disbursements made or incurred by them in the discharge of
11 their official duties while away from their place of residence
12 in the performance of their duties.

13 The Commission shall provide itself with a seal for the
14 authentication of its orders, awards and proceedings upon which
15 shall be inscribed the name of the Commission and the words
16 "Illinois--Seal".

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

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

33 (820 ILCS 305/16) (from Ch. 48, par. 138.16)

34 Sec. 16. The Commission shall make and publish procedural
35 rules and orders for carrying out the duties imposed upon it by

1 law and for determining the extent of disability sustained,
2 which rules and orders shall be deemed prima facie reasonable
3 and valid.

4 The process and procedure before the Commission shall be as
5 simple and summary as reasonably may be.

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

27 The Commission, or any member thereof, or any Arbitrator
28 designated by the Commission shall have the power to administer
29 oaths, subpoena and examine witnesses; to issue subpoenas duces
30 tecum, requiring the production of such books, papers, records
31 and documents as may be evidence of any matter under inquiry
32 and to examine and inspect the same and such places or premises
33 as may relate to the question in dispute. The Commission, or
34 any member thereof, or any Arbitrator designated by the
35 Commission, shall on written request of either party to the
36 dispute, issue subpoenas for the attendance of such witnesses

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

20 The records, reports, and bills kept by a treating
21 hospital, treating physician, or other treating healthcare
22 provider that renders treatment to the employee as a result of
23 accidental injuries in question, certified to as true and
24 correct by the hospital, physician, or other healthcare
25 provider or by designated agents of the hospital, physician, or
26 other healthcare provider, ~~superintendent or other officer in~~
27 charge, showing the medical and surgical treatment given an
28 injured employee by ~~in~~ such hospital, physician, or other
29 healthcare provider, shall be admissible without any further
30 proof as evidence of the medical and surgical matters stated
31 therein, but shall not be conclusive proof of such matters.
32 There shall be a rebuttable presumption that any such records,
33 reports, and bills received in response to Commission subpoena
34 are certified to be true and correct. This paragraph does not
35 restrict, limit, or prevent the admissibility of records,
36 reports, or bills that are otherwise admissible. This provision

1 does not apply to reports prepared by treating providers for
2 use in litigation.

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

15 The Commission shall have the power to determine the
16 reasonableness and fix the amount of any fee of compensation
17 charged by any person, including attorneys, physicians,
18 surgeons and hospitals, for any service performed in connection
19 with this Act, or for which payment is to be made under this
20 Act or rendered in securing any right under this Act.

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

34 (Source: P.A. 86-998.)

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

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

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

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

35 (b) The Arbitrator shall make such inquiries and
36 investigations as he or they shall deem necessary and may

1 examine and inspect all books, papers, records, places, or
2 premises relating to the questions in dispute and hear such
3 proper evidence as the parties may submit.

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

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

17 The decision of the Arbitrator shall be filed with the
18 Commission which Commission shall immediately send to each
19 party or his attorney a copy of such decision, together with a
20 notification of the time when it was filed. As of the effective
21 date of this amendatory Act of the 94th General Assembly
22 ~~Beginning January 1, 1981,~~ all decisions of the Arbitrator
23 shall set forth in writing findings of fact and conclusions of
24 law, separately stated, if requested by either party. Unless a
25 petition for review is filed by either party within 30 days
26 after the receipt by such party of the copy of the decision and
27 notification of time when filed, and unless such party
28 petitioning for a review shall within 35 days after the receipt
29 by him of the copy of the decision, file with the Commission
30 either an agreed statement of the facts appearing upon the
31 hearing before the Arbitrator, or if such party shall so elect
32 a correct transcript of evidence of the proceedings at such
33 hearings, then the decision shall become the decision of the
34 Commission and in the absence of fraud shall be conclusive. The
35 Petition for Review shall contain a statement of the
36 petitioning party's specific exceptions to the decision of the

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

12 Whether the employee is working or not, if the employee is
13 not receiving or has not received medical, surgical, or
14 hospital services or other services or compensation as provided
15 in paragraph (a) of Section 8, or compensation as provided in
16 paragraph (b) of Section 8, the employee may at any time
17 petition for an expedited hearing by an Arbitrator on the issue
18 of whether or not he or she is entitled to receive payment of
19 the services or compensation. Provided the employer continues
20 to pay compensation pursuant to paragraph (b) of Section 8, the
21 employer may at any time petition for an expedited hearing on
22 the issue of whether or not the employee is entitled to receive
23 medical, surgical, or hospital services or other services or
24 compensation as provided in paragraph (a) of Section 8, or
25 compensation as provided in paragraph (b) of Section 8. When an
26 employer has petitioned for an expedited hearing, the employer
27 shall continue to pay compensation as provided in paragraph (b)
28 of Section 8 unless the arbitrator renders a decision that the
29 employee is not entitled to the benefits that are the subject
30 of the expedited hearing or unless the employee's treating
31 physician has released the employee to return to work at his or
32 her regular job with the employer or the employee actually
33 returns to work at any other job. If the arbitrator renders a
34 decision that the employee is not entitled to the benefits that
35 are the subject of the expedited hearing, a petition for review
36 filed by the employee shall receive the same priority as if the

1 employee had filed a petition for an expedited hearing by an
2 Arbitrator. Neither party shall be entitled to an expedited
3 hearing when the employee has returned to work and the sole
4 issue in dispute amounts to less than 12 weeks of unpaid
5 compensation pursuant to paragraph (b) of Section 8.

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

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

32 (b-1) If the employee is not receiving medical, surgical or
33 hospital services as provided in paragraph (a) of Section 8 or
34 compensation as provided in paragraph (b) of Section 8, the
35 employee, in accordance with Commission Rules, may file a
36 petition for an emergency hearing by an Arbitrator on the issue

1 of whether or not he is entitled to receive payment of such
2 compensation or services as provided therein. Such petition
3 shall have priority over all other petitions and shall be heard
4 by the Arbitrator and Commission with all convenient speed.

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

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

9 (ii) the approximate location of the accident;

10 (iii) a description of the accident;

11 (iv) the nature of the injury incurred by the employee;

12 (v) the identity of the person, if known, to whom the
13 accident was reported and the date on which it was
14 reported;

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

21 (vii) a statement that the employer has refused to pay
22 compensation pursuant to paragraph (b) of Section 8 of this
23 Act or for medical, surgical or hospital services pursuant
24 to paragraph (a) of Section 8 of this Act;

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

28 (ix) the dates of treatment related to the accident by
29 medical practitioners, and the names and addresses of such
30 practitioners, including the dates of treatment related to
31 the accident at any hospitals and the names and addresses
32 of such hospitals, and a signed authorization permitting
33 the employer to examine all medical records of all
34 practitioners and hospitals named pursuant to this
35 paragraph;

36 (x) a copy of a signed report by a medical

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

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

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

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

27 Fifteen days after receipt by the employer of the petition
28 with the required information the employee may file said
29 petition and required information and shall serve notice of the
30 filing upon the employer. The employer may file a motion
31 addressed to the sufficiency of the petition. If an objection
32 has been filed to the sufficiency of the petition, the
33 arbitrator shall rule on the objection within 2 working days.
34 If such an objection is filed, the time for filing the final
35 decision of the Commission as provided in this paragraph shall
36 be tolled until the arbitrator has determined that the petition

1 is sufficient.

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

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

24 No document or other evidence not previously identified by
25 either party with the petition or written response, or by any
26 other means before the hearing, may be introduced into evidence
27 without good cause. If, at the hearing, material information is
28 discovered which was not previously disclosed, the Arbitrator
29 may extend the time for closing proof on the motion of a party
30 for a reasonable period of time which may be more than 30 days.
31 No evidence may be introduced pursuant to this paragraph as to
32 permanent disability. No award may be entered for permanent
33 disability pursuant to this paragraph. Either party may
34 introduce into evidence the testimony taken by deposition of
35 any medical practitioner.

36 The Commission shall adopt rules, regulations and

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

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

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

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

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

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

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

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

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

25 (e) This paragraph shall apply to all hearings before the
26 Commission. Such hearings may be held in its office or
27 elsewhere as the Commission may deem advisable. The taking of
28 testimony on such hearings may be had before any member of the
29 Commission. If a petition for review and agreed statement of
30 facts or transcript of evidence is filed, as provided herein,
31 the Commission shall promptly review the decision of the
32 Arbitrator and all questions of law or fact which appear from
33 the statement of facts or transcript of evidence.

34 In all cases in which the hearing before the arbitrator is
35 held after December 18, 1989, no additional evidence shall be
36 introduced by the parties before the Commission on review of

1 the decision of the Arbitrator. In reviewing decisions of an
2 arbitrator the Commission shall award such temporary
3 compensation, permanent compensation and other payments as are
4 due under this Act. The Commission shall file in its office its
5 decision thereon, and shall immediately send to each party or
6 his attorney a copy of such decision and a notification of the
7 time when it was filed. Decisions shall be filed within 60 days
8 after the Statement of Exceptions and Supporting Brief and
9 Response thereto are required to be filed or oral argument
10 whichever is later.

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

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

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

20 If a reporter does not for any reason furnish a transcript
21 of the proceedings before the Arbitrator in any case for use on
22 a hearing for review before the Commission, within the
23 limitations of time as fixed in this Section, the Commission
24 may, in its discretion, order a trial de novo before the
25 Commission in such case upon application of either party. The
26 applications for adjustment of claim and other documents in the
27 nature of pleadings filed by either party, together with the
28 decisions of the Arbitrator and of the Commission and the
29 statement of facts or transcript of evidence hereinbefore
30 provided for in paragraphs (b) and (c) shall be the record of
31 the proceedings of the Commission, and shall be subject to
32 review as hereinafter provided.

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

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

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

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

36 (1) Except in cases of claims against the State of

1 Illinois, in which case the decision of the Commission
2 shall not be subject to judicial review, the Circuit Court
3 of the county where any of the parties defendant may be
4 found, or if none of the parties defendant can be found in
5 this State then the Circuit Court of the county where the
6 accident occurred, shall by summons to the Commission have
7 power to review all questions of law and fact presented by
8 such record.

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

36 The Commission shall not be required to certify the

1 record of their proceedings to the Circuit Court, unless
2 the party commencing the proceedings for review in the
3 Circuit Court as above provided, shall pay to the
4 Commission the sum of 80¢ per page of testimony taken
5 before the Commission, and 35¢ per page of all other
6 matters contained in such record, except as otherwise
7 provided by Section 20 of this Act. Payment for photostatic
8 copies of exhibit shall be extra. It shall be the duty of
9 the Commission upon such payment, or failure to pay as
10 permitted under Section 20 of this Act, to prepare a true
11 and correct typewritten copy of such testimony and a true
12 and correct copy of all other matters contained in such
13 record and certified to by the Secretary or Assistant
14 Secretary thereof.

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

27 (2) No such summons shall issue unless the one against
28 whom the Commission shall have rendered an award for the
29 payment of money shall upon the filing of his written
30 request for such summons file with the clerk of the court a
31 bond conditioned that if he shall not successfully
32 prosecute the review, he will pay the award and the costs
33 of the proceedings in the courts. The amount of the bond
34 shall be fixed by any member of the Commission and the
35 surety or sureties of the bond shall be approved by the
36 clerk of the court. The acceptance of the bond by the clerk

1 of the court shall constitute evidence of his approval of
2 the bond.

3 Every county, city, town, township, incorporated
4 village, school district, body politic or municipal
5 corporation against whom the Commission shall have
6 rendered an award for the payment of money shall not be
7 required to file a bond to secure the payment of the award
8 and the costs of the proceedings in the court to authorize
9 the court to issue such summons.

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

22 It shall be the duty of the clerk of any court
23 rendering a decision affecting or affirming an award of the
24 Commission to promptly furnish the Commission with a copy
25 of such decision, without charge.

26 The decision of a majority of the members of the panel
27 of the Commission, shall be considered the decision of the
28 Commission.

29 (g) Except in the case of a claim against the State of
30 Illinois, either party may present a certified copy of the
31 award of the Arbitrator, or a certified copy of the decision of
32 the Commission when the same has become final, when no
33 proceedings for review are pending, providing for the payment
34 of compensation according to this Act, to the Circuit Court of
35 the county in which such accident occurred or either of the
36 parties are residents, whereupon the court shall enter a

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

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

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

29 However, as to accidents occurring subsequent to July 1,
30 1955, which are covered by any agreement or award under this
31 Act providing for compensation in installments made as a result
32 of such accident, such agreement or award may at any time
33 within 30 months, or 60 months in the case of an award under
34 Section 8(d)1, after such agreement or award be reviewed by the
35 Commission at the request of either the employer or the
36 employee on the ground that the disability of the employee has

1 subsequently recurred, increased, diminished or ended.

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

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

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

29 (j) Whenever in any proceeding testimony has been taken or
30 a final decision has been rendered and after the taking of such
31 testimony or after such decision has become final, the injured
32 employee dies, then in any subsequent proceedings brought by
33 the personal representative or beneficiaries of the deceased
34 employee, such testimony in the former proceeding may be
35 introduced with the same force and effect as though the witness
36 having so testified were present in person in such subsequent

1 proceedings and such final decision, if any, shall be taken as
2 final adjudication of any of the issues which are the same in
3 both proceedings.

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

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

18 (l) If the employee has made written demand for payment of
19 benefits under Section 8(a) or Section 8(b), the employer shall
20 have 14 days after receipt of the demand to set forth in
21 writing the reason for the delay. In the case of demand for
22 payment of medical benefits under Section 8(a), the time for
23 the employer to respond shall not commence until the expiration
24 of the allotted 60 days specified under Section 8.2(d). In case
25 the employer or his or her insurance carrier shall without good
26 and just cause fail, neglect, refuse, or unreasonably delay the
27 payment of benefits under Section 8(a) or Section 8(b), the
28 Arbitrator or the Commission shall allow to the employee
29 additional compensation in the sum of \$30 per day for each day
30 that the benefits under Section 8(a) or Section 8(b) have been
31 so withheld or refused, not to exceed \$10,000. A delay in
32 payment of 14 days or more shall create a rebuttable
33 presumption of unreasonable delay. ~~In case the employer or his~~
34 ~~insurance carrier shall without good and just cause fail,~~
35 ~~neglect, refuse or unreasonably delay the payment of weekly~~
36 ~~compensation benefits due to an injured employee during the~~

~~period of temporary total disability the arbitrator or the Commission shall allow to the employee additional compensation in the sum of \$10 per day for each day that a weekly compensation payment has been so withheld or refused, provided that such additional compensation shall not exceed the sum of \$2,500. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay.~~

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

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

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

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

10 The insured employer may challenge, in proceeding before
11 the Commission, payments made by the insurer without
12 arbitration and payments made after a case is determined to be
13 noncompensable. If the Commission finds that the case was not
14 compensable, the insurer shall purge its records as to that
15 employer of any loss or expense associated with the claim,
16 reimburse the employer for attorneys' fees arising from the
17 challenge and for any payment required of the employer to the
18 Rate Adjustment Fund or the Second Injury Fund, and may not
19 reflect the loss or expense for rate making purposes. The
20 employee shall not be required to refund the challenged
21 payment. The decision of the Commission may be reviewed in the
22 same manner as in arbitrated cases. No challenge may be
23 initiated under this paragraph more than 3 years after the
24 payment is made. An employer may waive the right of challenge
25 under this paragraph on a case by case basis.

26 (p) After filing an application for adjustment of claim but
27 prior to the hearing on arbitration the parties may voluntarily
28 agree to submit such application for adjustment of claim for
29 decision by an arbitrator under this subsection (p) where such
30 application for adjustment of claim raises only a dispute over
31 temporary total disability, permanent partial disability or
32 medical expenses. Such agreement shall be in writing in such
33 form as provided by the Commission. Applications for adjustment
34 of claim submitted for decision by an arbitrator under this
35 subsection (p) shall proceed according to rule as established
36 by the Commission. The Commission shall promulgate rules

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

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

30 (820 ILCS 305/25.5 new)

31 Sec. 25.5. Unlawful acts; penalties.

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

34 (1) Intentionally present or cause to be presented any
35 false or fraudulent claim for the payment of any workers'

1 compensation benefit.

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

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

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

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

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

25 (7) Intentionally make or cause to be made any false or
26 fraudulent material statement to the Division of
27 Insurance's fraud and insurance non-compliance unit in the
28 course of an investigation of fraud or insurance
29 non-compliance.

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

34 For the purposes of paragraphs (2), (3), (5), (6), and (7),
35 the term "statement" includes any writing, notice, proof of
36 injury, bill for services, hospital or doctor records and

1 reports, or X-ray and test results.

2 (b) Any person violating subsection (a) is guilty of a
3 Class 4 felony. Any person or entity convicted of any violation
4 of this Section shall be ordered to pay complete restitution to
5 any person or entity so defrauded in addition to any fine or
6 sentence imposed as a result of the conviction.

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

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

27 (d) Any person may report allegations of insurance
28 non-compliance and fraud pursuant to this Section to the
29 Division of Insurance's fraud and insurance non-compliance
30 unit whose duty it shall be to investigate the report. The unit
31 shall notify the Commission of reports of insurance
32 non-compliance. Any person reporting an allegation of
33 insurance non-compliance or fraud against either an employee or
34 employer under this Section must identify himself. Except as
35 provided in this subsection and in subsection (e), all reports
36 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 by an employee, (i) the
12 employee must have filed with the Commission an Application for
13 Adjustment of Claim and the employee must have either received
14 or attempted to receive benefits under this Act that are
15 related to the reported fraud or (ii) the employee must have
16 made a written demand for the payment of benefits that are
17 related to the reported fraud. Upon receipt of a report of
18 fraud, the employee or employer shall receive immediate notice
19 of the reported conduct, including the verified name and
20 address of the complainant if that complainant is connected to
21 the case and the nature of the reported conduct. The fraud and
22 insurance non-compliance unit shall resolve all reports of
23 fraud against employees or employers within 120 days of receipt
24 of the report. There shall be no immunity, under this Act or
25 otherwise, for any person who files a false report or who files
26 a report without good and just cause. Confidentiality of
27 medical information shall be strictly maintained.
28 Investigations that are not referred for prosecution shall be
29 immediately expunged and shall not be disclosed except that the
30 employee or employer who was the subject of the report and the
31 person making the report shall be notified that the
32 investigation is being closed, at which time the name of any
33 complainant not connected to the case shall be disclosed to the
34 employee or the employer. It is unlawful for any employer,
35 insurance carrier, or service adjustment company to file or
36 threaten to file a report of fraud against an employee because

1 of the exercise by the employee of the rights and remedies
2 granted to the employee by this Act.

3 For purposes of this subsection (e), "employer" means any
4 employer, insurance carrier, third party administrator,
5 self-insured, or similar entity.

6 For purposes of this subsection (e), "complainant" refers
7 to the person contacting the fraud and insurance non-compliance
8 unit to initiate the complaint.

9 (f) Any person convicted of fraud related to workers'
10 compensation pursuant to this Section shall be subject to the
11 penalties prescribed in the Criminal Code of 1961 and shall be
12 ineligible to receive or retain any compensation, disability,
13 or medical benefits as defined in this Act if the compensation,
14 disability, or medical benefits were owed or received as a
15 result of fraud for which the recipient of the compensation,
16 disability, or medical benefit was convicted. This subsection
17 applies to accidental injuries or diseases that occur on or
18 after the effective date of this amendatory Act of the 94th
19 General Assembly.

20 (g) Civil liability. Any person convicted of fraud who
21 knowingly obtains, attempts to obtain, or causes to be obtained
22 any benefits under this Act by the making of a false claim or
23 who knowingly misrepresents any material fact shall be civilly
24 liable to the payor of benefits or the insurer or the payor's
25 or insurer's subrogee or assignee in an amount equal to 3 times
26 the value of the benefits or insurance coverage wrongfully
27 obtained or twice the value of the benefits or insurance
28 coverage attempted to be obtained, plus reasonable attorney's
29 fees and expenses incurred by the payor or the payor's subrogee
30 or assignee who successfully brings a claim under this
31 subsection. This subsection applies to accidental injuries or
32 diseases that occur on or after the effective date of this
33 amendatory Act of the 94th General Assembly.

34 (h) All proceedings under this Section shall be reported by
35 the fraud and insurance non-compliance unit on an annual basis
36 to the Workers' Compensation Advisory Board.

1 Section 15. The Workers' Occupational Diseases Act is
2 amended by changing Sections 12 and 19 as follows:

3 (820 ILCS 310/12) (from Ch. 48, par. 172.47)

4 Sec. 12. (a) An employee entitled to receive disability
5 payments shall be required, if requested by the employer, to
6 submit himself, at the expense of the employer, for examination
7 to a duly qualified medical practitioner or surgeon selected by
8 the employer, at any time and place reasonably convenient for
9 the employee, either within or without the State of Illinois,
10 for the purpose of determining the nature, extent and probable
11 duration of the occupational disease and the disability
12 therefrom suffered by the employee, and for the purpose of
13 ascertaining the amount of compensation which may be due the
14 employee from time to time for disability according to the
15 provisions of this Act. An employee may also be required to
16 submit himself for examination by medical experts under
17 subsection (c) of Section 19.

18 An employer requesting such an examination, of an employee
19 residing within the State of Illinois, shall deliver to the
20 employee with the notice of the time and place of examination
21 ~~pay in advance of the time fixed for the examination~~ sufficient
22 money to defray the necessary expense of travel by the most
23 convenient means to and from the place of examination, and the
24 cost of meals necessary during the trip, and if the examination
25 or travel to and from the place of examination causes any loss
26 of working time on the part of the employee, the employer shall
27 reimburse him for such loss of wages upon the basis of his
28 average daily wage. Such examination shall be made in the
29 presence of a duly qualified medical practitioner or surgeon
30 provided and paid for by the employee, if such employee so
31 desires.

32 In all cases where the examination is made by a physician
33 or surgeon engaged by the employer, and the employee has no
34 physician or surgeon present at such examination, it shall be

1 the duty of the physician or surgeon making the examination at
2 the instance of the employer to deliver to the employee, or his
3 representative, a statement in writing of the examination and
4 findings to the same extent that said physician or surgeon
5 reports to the employer and the same shall be an exact copy of
6 that furnished to the employer, said copy to be furnished the
7 employee, or his representative as soon as practicable but not
8 later than the time the case is set for hearing. Such delivery
9 shall be made in person either to the employee or his
10 representative, or by registered mail to either, and the
11 receipt of either shall be proof of such delivery. If such
12 physician or surgeon refuses to furnish the employee with such
13 statement to the same extent as that furnished the employer
14 said physician or surgeon shall not be permitted to testify at
15 the hearing next following said examination.

16 If the employee refuses so to submit himself to examination
17 or unnecessarily obstructs the same, his right to compensation
18 payment shall be temporarily suspended until such examination
19 shall have taken place, and no compensation shall be payable
20 under this Act for such period.

21 It shall be the duty of physicians or surgeons treating an
22 employee who is likely to die, and treating him at the instance
23 of the employer, to have called in another physician or surgeon
24 to be designated and paid for by either the employee or by the
25 person or persons who would become his beneficiary or
26 beneficiaries, to make an examination before the death of such
27 employee.

28 In all cases where the examination is made by a physician
29 or surgeon engaged by the employee, and the employer has no
30 physician or surgeon present at such examination, it shall be
31 the duty of the physician or surgeon making the examination at
32 the instance of the employee, to deliver to the employer, or
33 his representative, a statement in writing of the condition and
34 extent of the examination and findings to the same extent that
35 said physician or surgeon reports to the employee and the same
36 shall be an exact copy of that furnished to the employee, said

1 copy to be furnished the employer, or his representative, as
2 soon as practicable but not later than the time the case is set
3 for hearing. Such delivery shall be made in person either to
4 the employer, or his representative, or by registered mail to
5 either, and the receipt of either shall be proof of such
6 delivery. If such physician or surgeon refuses to furnish the
7 employer with such statement to the same extent as that
8 furnished the employee, said physician or surgeon shall not be
9 permitted to testify at the hearing next following said
10 examination.

11 (b) Whenever, after the death of an employee, any party in
12 interest files an application for adjustment of claim under
13 this Act, and it appears that an autopsy may disclose material
14 evidence as to whether or not such death was due to the
15 inhalation of silica or asbestos dust, the commission, upon
16 petition of either party, may order an autopsy at the expense
17 of the party requesting same, and if such autopsy is so
18 ordered, the commission shall designate a competent
19 pathologist to perform the same, and shall give the parties in
20 interest such reasonable notice of the time and place thereof
21 as will afford a reasonable opportunity to witness such autopsy
22 in person or by a representative.

23 It shall be the duty of such pathologist to perform such
24 autopsy as, in his best judgment, is required to ascertain the
25 cause of death. Such pathologist shall make a complete written
26 report of all his findings to the commission (including
27 laboratory results described as such, if any). The said report
28 of the pathologist shall contain his findings on post-mortem
29 examination and said report shall not contain any conclusion of
30 the said pathologist based upon the findings so reported.

31 Said report shall be placed on file with the commission,
32 and shall be a public record. Said report, or a certified copy
33 thereof, may be introduced by either party on any hearing as
34 evidence of the findings therein stated, but shall not be
35 conclusive evidence of such findings, and either party may
36 rebut any part thereof.

1 Where an autopsy has been performed at any time with the
2 express or implied consent of any interested party, and without
3 some opposing party, if known or reasonably ascertainable,
4 having reasonable notice of and reasonable opportunity of
5 witnessing the same, all evidence obtained by such autopsy
6 shall be barred upon objection at any hearing. This paragraph
7 shall not apply to autopsies by a coroner's physician in the
8 discharge of his official duties.

9 (Source: P.A. 81-1482.)

10 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

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

13 (a) It shall be the duty of the Commission upon
14 notification that the parties have failed to reach an agreement
15 to designate an Arbitrator.

16 (1) The application for adjustment of claim filed with
17 the Commission shall state:

18 A. The approximate date of the last day of the last
19 exposure and the approximate date of the disablement.

20 B. The general nature and character of the illness
21 or disease claimed.

22 C. The name and address of the employer by whom
23 employed on the last day of the last exposure and if
24 employed by any other employer after such last exposure
25 and before disablement the name and address of such
26 other employer or employers.

27 D. In case of death, the date and place of death.

28 (2) Amendments to applications for adjustment of claim
29 which relate to the same disablement or disablement
30 resulting in death originally claimed upon may be allowed
31 by the Commissioner or an Arbitrator thereof, in their
32 discretion, and in the exercise of such discretion, they
33 may in proper cases order a trial de novo; such amendment
34 shall relate back to the date of the filing of the original
35 application so amended.

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

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

31 (b) The Arbitrator shall make such inquiries and
32 investigations as he shall deem necessary and may examine and
33 inspect all books, papers, records, places, or premises
34 relating to the questions in dispute and hear such proper
35 evidence as the parties may submit.

36 The hearings before the Arbitrator shall be held in the

1 vicinity where the last exposure occurred, after 10 days'
2 notice of the time and place of such hearing shall have been
3 given to each of the parties or their attorneys of record.

4 The Arbitrator may find that the disabling condition is
5 temporary and has not yet reached a permanent condition and may
6 order the payment of compensation up to the date of the
7 hearing, which award shall be reviewable and enforceable in the
8 same manner as other awards, and in no instance be a bar to a
9 further hearing and determination of a further amount of
10 temporary total compensation or of compensation for permanent
11 disability, but shall be conclusive as to all other questions
12 except the nature and extent of such disability.

13 The decision of the Arbitrator shall be filed with the
14 Commission which Commission shall immediately send to each
15 party or his attorney a copy of such decision, together with a
16 notification of the time when it was filed. As of the effective
17 date of this amendatory Act of the 94th General Assembly
18 Beginning January 1, 1981, all decisions of the Arbitrator
19 shall set forth in writing findings of fact and conclusions of
20 law, separately stated, if requested by either party. Unless a
21 petition for review is filed by either party within 30 days
22 after the receipt by such party of the copy of the decision and
23 notification of time when filed, and unless such party
24 petitioning for a review shall within 35 days after the receipt
25 by him of the copy of the decision, file with the Commission
26 either an agreed statement of the facts appearing upon the
27 hearing before the Arbitrator, or if such party shall so elect
28 a correct transcript of evidence of the proceedings at such
29 hearings, then the decision shall become the decision of the
30 Commission and in the absence of fraud shall be conclusive. The
31 Petition for Review shall contain a statement of the
32 petitioning party's specific exceptions to the decision of the
33 arbitrator. The jurisdiction of the Commission to review the
34 decision of the arbitrator shall not be limited to the
35 exceptions stated in the Petition for Review. The Commission,
36 or any member thereof, may grant further time not exceeding 30

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

8 Whether the employee is working or not, if the employee is
9 not receiving or has not received medical, surgical, or
10 hospital services or other services or compensation as provided
11 in paragraph (a) of Section 8 of the Workers' Compensation Act,
12 or compensation as provided in paragraph (b) of Section 8 of
13 the Workers' Compensation Act, the employee may at any time
14 petition for an expedited hearing by an Arbitrator on the issue
15 of whether or not he or she is entitled to receive payment of
16 the services or compensation. Provided the employer continues
17 to pay compensation pursuant to paragraph (b) of Section 8 of
18 the Workers' Compensation Act, the employer may at any time
19 petition for an expedited hearing on the issue of whether or
20 not the employee is entitled to receive medical, surgical, or
21 hospital services or other services or compensation as provided
22 in paragraph (a) of Section 8 of the Workers' Compensation Act,
23 or compensation as provided in paragraph (b) of Section 8 of
24 the Workers' Compensation Act. When an employer has petitioned
25 for an expedited hearing, the employer shall continue to pay
26 compensation as provided in paragraph (b) of Section 8 of the
27 Workers' Compensation Act unless the arbitrator renders a
28 decision that the employee is not entitled to the benefits that
29 are the subject of the expedited hearing or unless the
30 employee's treating physician has released the employee to
31 return to work at his or her regular job with the employer or
32 the employee actually returns to work at any other job. If the
33 arbitrator renders a decision that the employee is not entitled
34 to the benefits that are the subject of the expedited hearing,
35 a petition for review filed by the employee shall receive the
36 same priority as if the employee had filed a petition for an

1 expedited hearing by an arbitrator. Neither party shall be
2 entitled to an expedited hearing when the employee has returned
3 to work and the sole issue in dispute amounts to less than 12
4 weeks of unpaid compensation pursuant to paragraph (b) of
5 Section 8 of the Workers' Compensation Act.

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

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

33 (b-1) If the employee is not receiving, pursuant to Section
34 7, medical, surgical or hospital services of the type provided
35 for in paragraph (a) of Section 8 of the Workers' Compensation
36 Act or compensation of the type provided for in paragraph (b)

1 of Section 8 of the Workers' Compensation Act, the employee, in
2 accordance with Commission Rules, may file a petition for an
3 emergency hearing by an Arbitrator on the issue of whether or
4 not he is entitled to receive payment of such compensation or
5 services as provided therein. Such petition shall have priority
6 over all other petitions and shall be heard by the Arbitrator
7 and Commission with all convenient speed.

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

11 (i) the date and approximate time of the last exposure;

12 (ii) the approximate location of the last exposure;

13 (iii) a description of the last exposure;

14 (iv) the nature of the disability incurred by the
15 employee;

16 (v) the identity of the person, if known, to whom the
17 disability was reported and the date on which it was
18 reported;

19 (vi) the name and title of the person, if known,
20 representing the employer with whom the employee conferred
21 in any effort to obtain pursuant to Section 7 compensation
22 of the type provided for in paragraph (b) of Section 8 of
23 the Workers' Compensation Act or medical, surgical or
24 hospital services of the type provided for in paragraph (a)
25 of Section 8 of the Workers' Compensation Act and the date
26 of such conference;

27 (vii) a statement that the employer has refused to pay
28 compensation pursuant to Section 7 of the type provided for
29 in paragraph (b) of Section 8 of the Workers' Compensation
30 Act or for medical, surgical or hospital services pursuant
31 to Section 7 of the type provided for in paragraph (a) of
32 Section 8 of the Workers' Compensation Act;

33 (viii) the name and address, if known, of each witness
34 to the last exposure and of each other person upon whom the
35 employee will rely to support his allegations;

36 (ix) the dates of treatment related to the disability

1 by medical practitioners, and the names and addresses of
2 such practitioners, including the dates of treatment
3 related to the disability at any hospitals and the names
4 and addresses of such hospitals, and a signed authorization
5 permitting the employer to examine all medical records of
6 all practitioners and hospitals named pursuant to this
7 paragraph;

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

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

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

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

36 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
27 such Section.

28 Any employer who does not timely file and serve a written
29 response without good cause may not introduce any evidence to
30 dispute any claim of the employee but may cross examine the
31 employee or any witness brought by the employee and otherwise
32 be heard.

33 No document or other evidence not previously identified by
34 either party with the petition or written response, or by any
35 other means before the hearing, may be introduced into evidence
36 without good cause. If, at the hearing, material information is

1 discovered which was not previously disclosed, the Arbitrator
2 may extend the time for closing proof on the motion of a party
3 for a reasonable period of time which may be more than 30 days.
4 No evidence may be introduced pursuant to this paragraph as to
5 permanent disability. No award may be entered for permanent
6 disability pursuant to this paragraph. Either party may
7 introduce into evidence the testimony taken by deposition of
8 any medical practitioner.

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

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

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

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

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

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

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

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

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

34 (e) This paragraph shall apply to all hearings before the
35 Commission. Such hearings may be held in its office or
36 elsewhere as the Commission may deem advisable. The taking of

1 testimony on such hearings may be had before any member of the
2 Commission. If a petition for review and agreed statement of
3 facts or transcript of evidence is filed, as provided herein,
4 the Commission shall promptly review the decision of the
5 Arbitrator and all questions of law or fact which appear from
6 the statement of facts or transcripts of evidence. In all cases
7 in which the hearing before the arbitrator is held after the
8 effective date of this amendatory Act of 1989, no additional
9 evidence shall be introduced by the parties before the
10 Commission on review of the decision of the Arbitrator. The
11 Commission shall file in its office its decision thereon, and
12 shall immediately send to each party or his attorney a copy of
13 such decision and a notification of the time when it was filed.
14 Decisions shall be filed within 60 days after the Statement of
15 Exceptions and Supporting Brief and Response thereto are
16 required to be filed or oral argument whichever is later.

17 In the event either party requests oral argument, such
18 argument shall be had before a panel of 3 members of the
19 Commission (or before all available members pursuant to the
20 determination of 7 ~~5~~ members of the Commission that such
21 argument be held before all available members of the
22 Commission) pursuant to the rules and regulations of the
23 Commission. A panel of 3 members, which shall be comprised of
24 not more than one representative citizen of the employing class
25 and not more than one representative citizen of the employee
26 class, shall hear the argument; provided that if all the issues
27 in dispute are solely the nature and extent of the permanent
28 partial disability, if any, a majority of the panel may deny
29 the request for such argument and such argument shall not be
30 held; and provided further that 7 ~~5~~ members of the Commission
31 may determine that the argument be held before all available
32 members of the Commission. A decision of the Commission shall
33 be approved by a majority of Commissioners present at such
34 hearing if any; provided, if no such hearing is held, a
35 decision of the Commission shall be approved by a majority of a
36 panel of 3 members of the Commission as described in this

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

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

27 If a reporter does not for any reason furnish a transcript
28 of the proceedings before the Arbitrator in any case for use on
29 a hearing for review before the Commission, within the
30 limitations of time as fixed in this Section, the Commission
31 may, in its discretion, order a trial de novo before the
32 Commission in such case upon application of either party. The
33 applications for adjustment of claim and other documents in the
34 nature of pleadings filed by either party, together with the
35 decisions of the Arbitrator and of the Commission and the
36 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 after the effective
25 date of this amendatory Act of 1980 and dissents, if any, shall
26 be published together by the Commission. The conclusions of law
27 set out in such decisions shall be regarded as precedents by
28 arbitrators, for the purpose of achieving a more uniform
29 administration of this Act.

30 (f) The decision of the Commission acting within its
31 powers, according to the provisions of paragraph (e) of this
32 Section shall, in the absence of fraud, be conclusive unless
33 reviewed as in this paragraph hereinafter provided. However,
34 the Arbitrator or the Commission may on his or its own motion,
35 or on the motion of either party, correct any clerical error or
36 errors in computation within 15 days after the date of receipt

1 of any award by such Arbitrator or any decision on review of
2 the Commission, and shall have the power to recall the original
3 award on arbitration or decision on review, and issue in lieu
4 thereof such corrected award or decision. Where such correction
5 is made the time for review herein specified shall begin to run
6 from the date of the receipt of the corrected award or
7 decision.

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

17 A proceeding for review shall be commenced within 20
18 days of the receipt of notice of the decision of the
19 Commission. The summons shall be issued by the clerk of
20 such court upon written request returnable on a designated
21 return day, not less than 10 or more than 60 days from the
22 date of issuance thereof, and the written request shall
23 contain the last known address of other parties in interest
24 and their attorneys of record who are to be served by
25 summons. Service upon any member of the Commission or the
26 Secretary or the Assistant Secretary thereof shall be
27 service upon the Commission, and service upon other parties
28 in interest and their attorneys of record shall be by
29 summons, and such service shall be made upon the Commission
30 and other parties in interest by mailing notices of the
31 commencement of the proceedings and the return day of the
32 summons to the office of the Commission and to the last
33 known place of residence of other parties in interest or
34 their attorney or attorneys of record. The clerk of the
35 court issuing the summons shall on the day of issue mail
36 notice of the commencement of the proceedings which shall

1 be done by mailing a copy of the summons to the office of
2 the Commission, and a copy of the summons to the other
3 parties in interest or their attorney or attorneys of
4 record and the clerk of the court shall make certificate
5 that he has so sent such notices in pursuance of this
6 Section, which shall be evidence of service on the
7 Commission and other parties in interest.

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

23 In its decision on review the Commission shall
24 determine in each particular case the amount of the
25 probable cost of the record to be filed as a return to the
26 summons in that case and no request for a summons may be
27 filed and no summons shall issue unless the party seeking
28 to review the decision of the Commission shall exhibit to
29 the clerk of the Circuit Court proof of payment by filing a
30 receipt showing payment or an affidavit of the attorney
31 setting forth that payment has been made of the sums so
32 determined to the Secretary or Assistant Secretary of the
33 Commission.

34 (2) No such summons shall issue unless the one against
35 whom the Commission shall have rendered an award for the
36 payment of money shall upon the filing of his written

1 request for such summons file with the clerk of the court a
2 bond conditioned that if he shall not successfully
3 prosecute the review, he will pay the award and the costs
4 of the proceedings in the court. The amount of the bond
5 shall be fixed by any member of the Commission and the
6 surety or sureties of the bond shall be approved by the
7 clerk of the court. The acceptance of the bond by the clerk
8 of the court shall constitute evidence of his approval of
9 the bond.

10 Every county, city, town, township, incorporated
11 village, school district, body politic or municipal
12 corporation having a population of 500,000 or more against
13 whom the Commission shall have rendered an award for the
14 payment of money shall not be required to file a bond to
15 secure the payment of the award and the costs of the
16 proceedings in the court to authorize the court to issue
17 such summons.

18 The court may confirm or set aside the decision of the
19 Commission. If the decision is set aside and the facts
20 found in the proceedings before the Commission are
21 sufficient, the court may enter such decision as is
22 justified by law, or may remand the cause to the Commission
23 for further proceedings and may state the questions
24 requiring further hearing, and give such other
25 instructions as may be proper. Appeals shall be taken to
26 the Appellate Court in accordance with Supreme Court Rules
27 22(g) and 303. Appeals shall be taken from the Appellate
28 Court to the Supreme Court in accordance with Supreme Court
29 Rule 315.

30 It shall be the duty of the clerk of any court
31 rendering a decision affecting or affirming an award of the
32 Commission to promptly furnish the Commission with a copy
33 of such decision, without charge.

34 The decision of a majority of the members of the panel
35 of the Commission, shall be considered the decision of the
36 Commission.

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

24 Judgment shall not be entered until 15 days' notice of the
25 time and place of the application for the entry of judgment
26 shall be served upon the employer by filing such notice with
27 the Commission, which Commission shall, in case it has on file
28 the address of the employer or the name and address of its
29 agent upon whom notices may be served, immediately send a copy
30 of the notice to the employer or such designated agent.

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

1 However, as to disablements occurring subsequently to July
2 1, 1955, which are covered by any agreement or award under this
3 Act providing for compensation in installments made as a result
4 of such disablement, such agreement or award may at any time
5 within 30 months after such agreement or award be reviewed by
6 the Commission at the request of either the employer or the
7 employee on the ground that the disability of the employee has
8 subsequently recurred, increased, diminished or ended.

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

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

26 (i) Each party, upon taking any proceedings or steps
27 whatsoever before any Arbitrator, Commission or court, shall
28 file with the Commission his address, or the name and address
29 of any agent upon whom all notices to be given to such party
30 shall be served, either personally or by registered mail,
31 addressed to such party or agent at the last address so filed
32 with the Commission. In the event such party has not filed his
33 address, or the name and address of an agent as above provided,
34 service of any notice may be had by filing such notice with the
35 Commission.

36 (j) Whenever in any proceeding testimony has been taken or

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

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

21 When determining whether this subsection (k) shall apply,
22 the Commission shall consider whether an arbitrator has
23 determined that the claim is not compensable or whether the
24 employer has made payments under Section 8(j) of the Workers'
25 Compensation Act.

26 (k-1) If the employee has made written demand for payment
27 of benefits under Section 8(a) or Section 8(b) of the Workers'
28 Compensation Act, the employer shall have 14 days after receipt
29 of the demand to set forth in writing the reason for the delay.
30 In the case of demand for payment of medical benefits under
31 Section 8(a) of the Workers' Compensation Act, the time for the
32 employer to respond shall not commence until the expiration of
33 the allotted 60 days specified under Section 8.2(d) of the
34 Workers' Compensation Act. In case the employer or his or her
35 insurance carrier shall without good and just cause fail,
36 neglect, refuse, or unreasonably delay the payment of benefits

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

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

18 The insured employer may challenge, in proceeding before
19 the Commission, payments made by the insurer without
20 arbitration and payments made after a case is determined to be
21 noncompensable. If the Commission finds that the case was not
22 compensable, the insurer shall purge its records as to that
23 employer of any loss or expense associated with the claim,
24 reimburse the employer for attorneys fee arising from the
25 challenge and for any payment required of the employer to the
26 Rate Adjustment Fund or the Second Injury Fund, and may not
27 effect the loss or expense for rate making purposes. The
28 employee shall not be required to refund the challenged
29 payment. The decision of the Commission may be reviewed in the
30 same manner as in arbitrated cases. No challenge may be
31 initiated under this paragraph more than 3 years after the
32 payment is made. An employer may waive the right of challenge
33 under this paragraph on a case by case basis.

34 (m) After filing an application for adjustment of claim but
35 prior to the hearing on arbitration the parties may voluntarily
36 agree to submit such application for adjustment of claim for

1 decision by an arbitrator under this subsection (m) where such
2 application for adjustment of claim raises only a dispute over
3 temporary total disability, permanent partial disability or
4 medical expenses. Such agreement shall be in writing in such
5 form as provided by the Commission. Applications for adjustment
6 of claim submitted for decision by an arbitrator under this
7 subsection (m) shall proceed according to rule as established
8 by the Commission. The Commission shall promulgate rules
9 including, but not limited to, rules to ensure that the parties
10 are adequately informed of their rights under this subsection
11 (m) and of the voluntary nature of proceedings under this
12 subsection (m). The findings of fact made by an arbitrator
13 acting within his or her powers under this subsection (m) in
14 the absence of fraud shall be conclusive. However, the
15 arbitrator may on his own motion, or the motion of either
16 party, correct any clerical errors or errors in computation
17 within 15 days after the date of receipt of such award of the
18 arbitrator and shall have the power to recall the original
19 award on arbitration, and issue in lieu thereof such corrected
20 award. The decision of the arbitrator under this subsection (m)
21 shall be considered the decision of the Commission and
22 proceedings for review of questions of law arising from the
23 decision may be commenced by either party pursuant to
24 subsection (f) of Section 19. The Advisory Board established
25 under Section 13.1 of the Workers' Compensation Act shall
26 compile a list of certified Commission arbitrators, each of
27 whom shall be approved by at least 7 members of the Advisory
28 Board. The chairman shall select 5 persons from such list to
29 serve as arbitrators under this subsection (m). By agreement,
30 the parties shall select one arbitrator from among the 5
31 persons selected by the chairman except, that if the parties do
32 not agree on an arbitrator from among the 5 persons, the
33 parties may, by agreement, select an arbitrator of the American
34 Arbitration Association, whose fee shall be paid by the State
35 in accordance with rules promulgated by the Commission.
36 Arbitration under this subsection (m) shall be voluntary.

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

2 Section 95. Applicability. The amendatory changes to the
3 first paragraph of subsection (f) of Section 7 relating to
4 payment for burial expenses, subsections (a) and (b) of Section
5 8, and subsections (h), (k), and (l) of Section 19 of the
6 Workers' Compensation Act and subsections (k) and (k-1) of
7 Section 19 of the Workers' Occupational Diseases Act apply to
8 accidental injuries or diseases that occur on or after February
9 1, 2006.

10 Section 98. Inseverability. The provisions of this Act are
11 mutually dependent and inseverable. If any provision or its
12 application to any person or circumstance is held invalid, then
13 this entire Act is invalid.

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