**Section 7020.80 Petitions for Immediate Hearing**

a) Petition for Immediate Hearing Under Section 19(b)

1) Petition alleging that

A) he is unable to work because of a disability compensable under Workers' Compensation Act or Workers' Occupational Diseases Act, and

B) he is not receiving temporary total disability or medical benefits to which he is entitled, may file a Petition for Immediate Hearing, as provided for in Section 19(b) of the Workers' Compensation Act, on an appropriate form provided by the Commission. Said Petition shall set forth:

i) a description of the attempts by parties or counsel to resolve the dispute requiring an immediate hearing, including the name of the representative of the opposing party with whom the Petitioner or his attorney has conferred, the date of the conference, and the result of the conference;

ii) a statement that a signed physician's report of recent date relating to the employee's current inability to work, or a description of such other evidence of temporary total disability as is appropriate under the circumstances, has been delivered to the Respondent.

C) A response to said Petition shall be filed on an appropriate form provided by the Commission within 15 days of service of Petition for Immediate Hearing. Failure to respond timely or in good faith may result in the assessment of the attorneys' fees under Section 16 of the Workers' Compensation Act. The Petition for Immediate Hearing shall be filed and heard in accordance with Section 7020.70.

2) The Arbitrator to whom the case is assigned shall attempt to resolve the matter informally. If the matter cannot be resolved at that time, and the Arbitrator determines the Petitioner is not receiving temporary total disability or medical benefits, said Arbitrator shall order the case to formal hearing on a date certain as soon as possible.

b) Petition for Immediate Hearing under Section 19(b-1).

1) Filing Petition for Emergency Hearing under Section 19(b-1)

An employee alleging that:

A) he is unable to work because of disability compensable under the Workers' Compensation Act or Workers' Occupational Diseases Act, and

B) he is not receiving temporary total disability and/or medical, surgical, or hospital benefits to which he is entitled under Section 8(a) or 8(b) of the Workers' Compensation Act,

may file a Petition for Immediate Hearing before an Arbitrator as provided for in Section 19(b-1) of the Workers' Compensation Act, on an appropriate form provided by the Commission. Such Petition must comply with all requirements of the Workers' Compensation Act.

2) Section 19(b-1) Proceedings before Arbitrators: Pre-trial Conferences

A) The Arbitrator will hold a pre-trial conference within 20 days after the Petition for Emergency Hearing is filed. If the venue is outside of Cook County the pre-trial conference will be held at either the regularly scheduled hearing site or at another hearing site for the same Arbitrator available within that time period and located as close as practical to the original hearing site. Notice of pre-trial conference will be sent by the Commission to all parties of record.

B) Any challenges to the sufficiency of the Section 19(b-1) Petition will be heard at the pre-trial conference.

C) If the Section 19(b-1) Petition is found by the Arbitrator to be insufficient, the Arbitrator will allow the Petitioner 5 business days to cure all insufficiencies and all time limits under the statute are tolled until the Arbitrator has determined that the amended Petition is sufficient. During the aforementioned time period the amended Section 19(b-1) Petition with proof of service to opposing party shall be filed with the Commission. If the insufficiencies are not cured within the time limit, the Section 19(b-1) Petition will be dismissed without prejudice by the Arbitrator and notices of the dismissal will be sent by the Industrial Commission to all parties of record.

D) If within the time period provided above the insufficiencies are cured and the parties have not received from the Commission notices of dismissal of the Section 19(b-1) Petition, the Respondent shall have 15 days from receipt of the amended Section 19(b-1) Petition to respond thereto.

3) Section 19(b-1) Hearing, Decisions, and Transcripts

A) Hearings

i) If at the pre-trial conference the Arbitrator finds the Section 19(b-1) Petition to be sufficient he will set the case to be tried within 15 days at either the regularly scheduled hearing site or at another hearing site for the same Arbitrator available within that time period and located as closely as practical to original hearing site.

ii) If the Section 19(b-1) Petition is insufficient, the Arbitrator will set the case to be tried within 35 days of the pre-trial conference at either the regularly scheduled hearing site for the same Arbitrator or at another hearing site for the same Arbitrator available within the time period and located as closely as practical to the original hearing site. If within the time period provided in subsection (b)(2)(A)(iii) above, the insufficiencies are cured and the parties have not received from the Commission notices of dismissal of the Section 19(b-1) Petition, the trial will be held as scheduled.

iii) Proofs are to be closed within 45 days after a Section 19(b-1) Petition, or an amended Petition curing any insufficiencies as provided above is filed, unless for good cause the Arbitrator extends the time for closing proofs for an additional period of periods not to exceed a total extension period of 30 days. Good cause is defined as, but not limited to; additional medical records needed and taking of depositional evidence.

B) Arbitrator Decision

The Arbitrator's decision is to be filed with the Commission within 25 days after proofs are closed. The Arbitrator's decision shall contain the final cost of the arbitration transcript, or the estimated cost of the transcript if the final cost is not available at the time the Arbitrator's decision is issued.

C) Transcripts

i) At the beginning of each hearing at which a record is made the Arbitrator will state the following rule for the record: Upon the closing of proofs, at the request of any party, the Arbitrator shall order the Court Reporter to prepare an original transcript of this hearing, to be authenticated by the Arbitrator for use by the Commission in the event it is required for further proceedings including any proceedings for a review of the Arbitrator's decision. The parties may order copies of the transcript of today's hearing at the close of the hearing, to be charged at the rate provided in Section 16 of the Workers' Compensation Act for copies of transcript. Each party shall pay the cost of its copy. If a Petition for Review is filed, the appealing party shall pay the cost of the original transcript. If no Petition for Review is filed, the parties shall pay the cost of the original transcript, such cost to be divided equally among the parties. At the close of each day's hearing on Arbitration, the Court Reporter shall provide an estimate of the cost of preparing the transcript. The estimated cost of the transcript may not be the final cost of the transcript for which a party is liable. If the party orders the transcript at a later time, it is unlikely it will be received in sufficient time for use in preparation of the party's statement of exception(s) and supporting brief, or a response thereto, in the event either party files a petition for review of the Arbitrator's decision. If the original is not on file, in the event a transcript is ordered it will be prepared as an original and the party will be charged at a rate provided for in Section 16 of the Workers' Compensation Act. The Commission will not consider the unavailability of the transcript good cause for the failure to file a timely statement of exception(s) and supporting brief, or a response thereto.

ii) Where the transcript of proceedings has been ordered pursuant to subsection (b)(3)(C)(i) above, the transcript authenticated by the Arbitrator and copy of the statement of the final cost of the preparation of the transcript shall be filed by the Court Reporter at the Commission within 25 days after proofs are closed. Where the transcript of proceedings is ordered at the time a Petition for Review is filed, the transcript shall be authenticated and filed pursuant to Section 7020.80(b)(4)(A)(iii).

4) Section 19(b-1) Proceedings before the Commission

A) Perfecting a Review

A Petition for Review must be filed in duplicate at the Commission within the time provided by Section 19 of the Workers' Compensation Act. The Petition must contain or be accompanied by the following:

i) A Certificate of Service on the opposing party by personal service or certified mail;

ii) A certification that payment for the transcript in the amount set forth in the Arbitrator's Decision has been made to the Court Reporter. The Petition shall be accompanied by a copy of the check or money order sent to the Court Reporter. Where the amount paid is an estimate, the balance of the cost, if any, shall be paid upon receipt of the statement from the Court Reporter setting forth the final cost of the transcript. An order entered pursuant to Section 20 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.20) may be submitted for payment of the transcript;

iii) An order for the transcript of proceedings at Arbitration, where said transcript was not ordered at Arbitration. The transcript of proceedings authenticated by the Arbitrator shall be filed by the Court Reporter at the Commission within 25 days of the filing of the Petition for Review.

iv) A statement of Appellant's specific exception(s) to the Arbitrator's Decision; attachment of the statement of exception(s) and supporting brief required by sub-section (4)(B) below will satisfy this requirement.

B) Statement of Exception(s) and Supporting Brief

i) Any party filing a Petition for Review with the Commission shall file a statement of exception(s) and supporting brief with attached proof of service within 15 days of the filing of the Petition for Review. The Appellee may elect to file a response thereto, in which case the response must be filed and served on the opposing party within 15 days from the last day allowed for the filing of the Appellant's statement of exception(s) and supporting brief. Each party filing a statement of exception(s) and/or additions and supporting brief or response thereto shall file three (3) copies. Such statement of exception(s) and/or additions and supporting brief, or response thereto shall be written or printed on one side of no more than twenty (20) 8 – ½" x 11" sheets of paper and shall follow the format set forth in 50 Ill. Adm Code 7040.70(a). Failure of any appellant or petitioning party to file timely a statement of exception(s) and supporting brief may result in denial of oral argument.

ii) Timely filing shall be shown by: the date file stamped on the document at the time of receipt by the Commission at its office in Chicago, Illinois; a legible postmark date at least two (2) calendar days prior to and exclusive of the date on which such document was due to be filed in accordance with this rule, applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its office in Chicago, Illinois, or the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the document was received by the Commission at its offices in Chicago, Illinois, showing a date of mailing which is not less than two (2) calendar days prior to and exclusive of the date on which document was due to be filed. If the date required for filing or mailing falls on a Saturday, Sunday, or holiday, the time for filing or mailing shall be the next date which is not a Saturday, Sunday or holiday.

C) Hearing on Review and Oral Arguments

No hearing on Review will be held by the Commission. Immediately after the Petition for Review has been filed it will be assigned to a Commissioner who will promptly schedule the case for oral argument before a panel of three Commissioners as provided in Section 19(e) of the Act.

D) The Commission shall file its decision no more than 90 days after the filing of the Petition for Review, and not later than 180 days from the filing of the Petition under Section 19(b-1), whichever is sooner.

5) Service in Section 19(b-1) Proceedings

All service required pursuant to this rule must be by personal service or certified mail with return receipt. After initial service to the employer, service shall be made on the employer's attorney or designated representative.

(Source: Amended at 17 Ill. Reg. 2206, effective February 16, 1993)