**Section 7030.60 Depositions**

a) Evidence depositions of any witness may be taken, before hearing, only upon stipulation of the parties or upon order, called a dedimus potestatem in Section 16 of the Act, issued by the Arbitrator or Commissioner to whom the case has been assigned upon application of either party. Evidence depositions of any witness may be taken after the hearing begins only upon order of the Arbitrator or Commissioner, for good cause shown. Except as provided in subsection (f) below, such application shall be in writing and shall contain the following:

1) The reasons for the issuance of the dedimus potestatem clearly and concisely stated.

2) The date upon which the dedimus should be issued and the name and address of the party to whom the dedimus is to be directed.

3) The names and addresses of the witnesses whose depositions are sought to be taken.

4) A statement as to whether the depositions are to be taken by oral or written interrogatories. Such written application shall be made either upon a printed form prescribed and furnished by the Commission or in a similar document prepared by the party applying for the dedimus.

b) The time for taking depositions pursuant to the issuance of the dedimus potestatem shall be on a date set not less than ten (10) days after the issuance of such dedimus potestatem.

c) Notice and Objection

1) Except as provided in subsection (f) below, no dedimus potestatem shall be issued unless a copy of the application, together with all documents required by this rule to be attached to said application, has been served on the opposing party and proof of service of such copy made as provided in 50 Ill. Adm. Code 7020(a), Pre Arbitration.

2) The opposing party may, within five (5) days after the receipt of the copy of the application, file written objections to the issuance of the dedimus potestatem. The Commission shall rule on such objections before the issuance of the dedimus potestatem.

d) Except as provided in subsection (f) below, notice of the issuance of the dedimus potestatem shall be given in sufficient time so that the receipt of such copy of the dedimus potestatem shall not be less than ten (10) days before the date set for the taking of the deposition. If the deposition is to be taken by written interrogatories, such interrogatories shall be filed in triplicate with the application for dedimus potestatem and a copy of such interrogatories shall be attached to the copy of the dedimus potestatem mailed to each party. If cross-interrogatories are desired, the same shall be filed with the Commission, not more than five (5) days after the receipt of the written interrogatories, and the party filing same shall mail a copy thereof within the same period of time to the applicant for dedimus potestatem.

e) No dedimus potestatem shall be issued to take the depositions of any medical witnesses:

A) where the party applying for the dedimus potestatem has refused or failed to comply with the provisions of Section 12 of the Act, and

B) unless he shall have served the other side with a signed report of such medical witness-other than a treating physician-giving his findings and conclusions.

f) Exceptions

1) Provided, however, where it is shown that by complying with the time requirements prescribed herein, the party seeking the dedimus may be deprived of the evidence sought to be obtained by the deposition, that the Arbitrator or Commissioner to whom a case has been assigned for hearing may, in his discretion:

A) on notice and hearing before trial waive or reduce such requirements, or

B) permit a party to present an oral application of a dedimus potestatem immediately before or during trial and, after due consideration of such application and any objections thereto that may be orally raised by the opposite party, rule upon the application.

2) Where a dedimus potestatem is issued upon such oral application, the hearing officer shall allow the parties reasonable time to complete the deposition and submit the transcript thereof before closing proofs in the case.

g) When any party takes an evidence deposition, said deposition shall be filed and become part of the record as an exhibit of the party who applied for the dedimus to take the deposition, unless the parties agree otherwise.

h) All objections to questions propounded or answers adduced in the evidence deposition shall be fully explained on the record of said deposition. It shall be the duty of the hearing officer to note his ruling on each objection in the margin of the transcript of said deposition or at a hearing on the record.

(Source: Amended at 20 Ill. Reg. 4053, effective February 15, 1996)