

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Independent Agencies**
(DLS Control No. 20-014)

Overview and Legal and Fiscal Impact

The regulations (1) make changes to reflect the move by the Workers' Compensation Commission from the Web-Enabled File Management System to CompHub; (2) clarify that "paper" includes a document in electronic form or format; (3) simplify the provisions governing subscribers of CompHub; (4) alter the list of persons to whom health information could be disclosed under the authorization required to be signed by a certain claimant; (5) alter the requirements governing a party that files a form or document under power of attorney; and (6) change the procedures under which an attorney may withdraw an appearance.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Independent Agencies:

Workers' Compensation Commission: Procedural Regulations: COMAR 14.09.01.01
Procedural Regulations: COMAR 14.09.01.02
Procedural Regulations: COMAR 14.09.01.04
Procedural Regulations: COMAR 14.09.01.09
Requirements for Filing and Amending Claims: COMAR 14.09.02.02
Legal Representation and Fees: COMAR 14.09.04.01

Legal Analysis

Summary of Regulations

The regulations make changes to reflect the move from the Web-Enabled File Management System to CompHub and clarify that "paper" includes a document in electronic form or format. The regulations also simplify the provisions governing subscribers and require a subscriber to CompHub to abide by the terms of the service agreement applicable to the role for which the user is authorized in CompHub.

Additionally, the regulations add the Subsequent Injury Fund (SIF) and the Uninsured Employers' Fund (UEF) to the list of persons to whom health information could be disclosed under

the authorization required to be signed by a claimant when filing a claim for benefits or an amendment of a claim to add or remove a body part.

Under the regulations, a party that files a form or document under power of attorney is required to use a statutory form in accordance with §§ 17-101 through 17-204 of the Estates and Trusts Article and electronically file a copy of the power of attorney with the Workers' Compensation Commission. Only one copy of the power of attorney needs to be filed.

Finally, the regulations change the procedures under which an attorney may withdraw an appearance. An attorney may withdraw by filing a notice of withdrawal when the client has another attorney of record or the claim has been settled and there is no possibility of any future medical benefits. If those conditions do not apply, an attorney wishing to withdraw is required to file a motion to withdraw. The motion must be accompanied by either the client's written consent or the attorney's certificate that notice of the withdrawal has been mailed to the client at least five days before the motion was filed unless the motion is made in an open hearing with the client present. The notice must inform the client of the attorney's intention to move for withdrawal and advise the client to have another attorney enter an appearance or to notify the commission in writing or through CompHub of the client's intention to proceed in proper person. The commission may deny the motion if the withdrawal would cause undue delay, prejudice, or injustice. An attorney whose appearance has been entered on behalf of a party to a claim remains the attorney of record unless the appearance is withdrawn.

Legal Issues

The regulations presents no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §4–303 of the Health – General Article, §§ 9-307, 9-309, 9-310.2, 9-314, 9-402, 9-405, 9-410, 9-602, 9-603, 9-610.1, 9-625, 9-635, 9-689, 9-6A-07, 9-701, 9-709 through 9-711, 9-721, 9-731, 9-736, and 9-739 of the Labor and Employment Article, § 19-405 and 19-406 of the Insurance Article, and § 10-1103 of the State Government Article as statutory authority for the regulations. More specifically, § 9-309(a) of the Labor and Employment Article authorizes the commission to adopt regulations to carry out the Maryland Workers' Compensation Act. Section 9-701(1) of the Labor and Employment Article requires the commission, subject to the Workers' Compensation Act, to adopt reasonable and proper regulations to govern the procedures of the commission, which must be as simple and brief as reasonably possible. Sections 9-709(a)(2), 9-710(b)(2), and 9-711(a)(2) require that a claim application related to an accidental personal injury, death from accidental personal injury, or disablement or death from occupational disease, respectively, include an authorization by the claimant for the release of certain medical information to the claimant's attorney, the claimant's employer, and the insurer of the claimant's employer, or an agent of any of those persons. The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. As discussed below under “Technical Corrections and Special Notes,” the regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to a suggestion from the Department of Legislative Services, staff for the commission agrees to add a description of the change being made to COMAR 14.09.02.02A(5) and C(5) to the Statement of Purpose.

The Department of Legislative Services also inquired about the change being made to those provisions, as statute does not require a claimant to authorize the release of medical information to SIF or UEF. Staff for the commission noted that SIF is required to be impleaded as a party whenever payment from the fund may occur. Proceedings regarding SIF concern subsequent injuries and, as a result, access to medical records by SIF is routine. Regarding UEF, when UEF makes a payment to a claimant of an uninsured employer, UEF is subrogated to the rights of the uninsured employer and, as a result, basically acts as the employer for the purposes of the claim. While the statutory requirement regarding the authorization of the release of medical information does not include release to SIF or UEF, the Department of Legislative concurs that the inclusion of those funds complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The commission advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Jodie L. Chilson – (410) 946/(301) 970-5350

Fiscal Analysis: Richard L. Duncan – (410) 946/(301) 970-5510