

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	02/19/2020	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 3/27/2020

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
14	09	01	01
14	09	01	02
14	09	01	04
14	09	01	09
14	09	02	02
14	09	04	01

3. Name of Promulgating Authority

Workers Compensation Commission

4. Name of Regulations Coordinator

Amy Lackington

Telephone Number

410-864-5300

Mailing Address

10 E. Baltimore Street

City	State	Zip Code
Baltimore	MD	21202

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alackington@wcc.state.md.us

5. Name of Person to Call About this Document
Amy S. Lackington

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410-864-5302

Email Address
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6. Check applicable items:

- New Regulations
 Amendments to Existing Regulations
Date when existing text was downloaded from COMAR online: 2/6/20 and 2/10/20.
 Repeal of Existing Regulations
 Recodification
 Incorporation by Reference of Documents Requiring DSD Approval
 Reproposal of Substantively Different Text:
:
Md. R
(vol.) (issue) (page nos) (date)
Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by H. Scott Curtis, Assistant Attorney General, (telephone #410-864-5313) on February 13, 2020. A written copy of the approval is on file at this agency.

Name of Authorized Officer

R. Karl Aumann

Title
Chairman

Telephone No.
410-864-5300

Date

February 19, 2020

Title 14

INDEPENDENT AGENCIES

Subtitle 09 WORKERS' COMPENSATION COMMISSION

14.09.01 General Administrative

Subtitle 09 WORKERS' COMPENSATION COMMISSION

14.09.02 Requirements for Filing and Amending Claims

Subtitle 09 WORKERS' COMPENSATION COMMISSION

14.09.04 Legal Representation and Fees

Authority: Health-General Article, § 4-303; Labor and Employment Article, §§ 9-307, 9-309, 9-310.2, 9-314, 9-402, 9-404, 9-405, 9-410, 9-602, 9-603, 9-610.1, 9-625, 9-635, 9-689, 9-701, 9-709, 9-710, 9-711, 9-721, 9-731, 9-736, 9-739, and 9-6A-07; Insurance Article, §§ 19-405 and 19-406; State Government Article, § 10-1103; Annotated Code of Maryland

Notice of Proposed Action

□

The Workers' Compensation Commission proposes to amend Regulations .01, .02, .04 and .09 under COMAR 14.09.01 - General Administrative; Regulation .02 under COMAR 14.09.02 - Requirements for Filing and Amending Claims; and Regulation .01 under COMAR 14.09.04 - Legal Representation and Fees.

This action was considered at a public meeting held on February 13, 2020, notice of which was given by publication in 47:3 Md. R. 234 (January 31, 2020), pursuant to General Provisions Article, § 3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to facilitate migration from legacy system WFMS to CompHub by updating WFMS references to CompHub; to simplify the regulation regarding roles for subscribers to CompHub to require that subscribers adhere to the terms of service assigned to their designated roles; to clarify that "papers" filed electronically need not be on physical paper, and to use the term "paper" as that term is

used in the Maryland Rules; to permit filing by power of attorney in CompHub and to ensure that the power of attorney form meets minimum statutory requirements; and to bring the regulation concerning terminating the appearance of an attorney into alignment with the practice in civil matters before the District Court of Maryland (see Md. Rule 3-132), while recognizing that claims under the Maryland Workers' Compensation Law never "close" unless they are settled AND there is no possibility of future medical benefits.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Amy S. Lackington, Administrator, Workers' Compensation Commission, 10 E. Baltimore Street, Baltimore, MD 21202, or call 410-864-5300, or email to alackington@wcc.state.md.us, or fax to 410-864-5301. Comments will be accepted through April 27, 2020. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Workers' Compensation Commission during a public meeting to be held on May 14, 2020 at 9:30 a.m., at 10 E. Baltimore Street, Baltimore, MD 21202.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2020
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No additional funds are necessary for implementation of these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:
These regulations have no economic impact under Part A.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations have minimal or no economic impact on small businesses under Part B.

G. Small Business Worksheet:

Attached Document:

14.09.01.01 (downloaded 02/06/20)

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) *"CompHub" means the Commission's online system designed to facilitate the filing and adjudication of workers' compensation claims, and to provide other services related to workers' compensation benefits.*

[(5)] (6) (text unchanged)

(a) —(d) (text unchanged)

[(6)] (7) (text unchanged)

[(7)] (8) (text unchanged)

[(8)] (9) (text unchanged)

[(9)] (10) (text unchanged)

[(10)] (11) (text unchanged)

(a) —(e) (text unchanged)

[(11)] (12) (text unchanged)

[(12)] (13) (text unchanged)

(14) *"Paper" means a document filed with the Commission, whether in physical paper form or electronic form or format.*

[(13)] (15) (text unchanged)

(a) —(j) (text unchanged)

[(14)] (16) (text unchanged)

[(15)] (17) *"Role" means the functionality and type of account for which a user is authorized in [the WFMS system] CompHub and includes the following (including their delegates and proxies): attorney, [attorney proxy] claimant, employer, insurer, healthcare provider[, insurer delegate and healthcare provider delegate] or practitioner, and vocational rehabilitation provider or practitioner.*

[(16)] (18) (text unchanged)

[(17)] (19) (text unchanged)

[(18)] (20) (text unchanged)

(21) *"Subscriber" means an authorized user in CompHub having the access applicable to the role for which the user is authorized.*

[(19)] (22) (text unchanged)

[(20)] (23) (text unchanged)

(a) —(c) (text unchanged)

[(21)] (24) (text unchanged)

[(22)] (25) *"Web-Enabled File Management System" or "WFMS" means the Commission's legacy subscriber-based web-enabled electronic file management system designed to facilitate the filing and adjudication of workers' compensation claims. Until the transition from WFMS to CompHub is complete, references to CompHub include WFMS.*

14.09.01.02 (downloaded 02/10/20)

.02 [Commission] Forms and Documents.

A. Forms prepared by the Commission, and made available on the Commission's website or through [WFMS] *CompHub*, are mandatory and shall be used for filing claims, notices, requests, motions, and other papers as required by law, or by these regulations.

B. (text unchanged)

C. *Power of Attorney.*

(1) *If a party files a form or document under power of attorney, the party shall:*

(a) *Use a statutory form power of attorney in accordance with Md. Ann. Code, Estates and Trusts art., §§17-101 – 17-204; and*

(b) *File electronically a copy of the power of attorney with the Commission.*

(2) *Only one copy of the power of attorney need be filed with the Commission.*

14.09.01.04 (downloaded 02/10/20)

.04 Filing Forms and Documents with the Commission.

Forms and documents may be filed with the Commission by one of the following methods:

A. Electronically through [the WFMS] *CompHub*;

B.—C. (text unchanged)

14.09.01.09 (downloaded 02/10/20)

.09 [Web-Enabled File Management System] *CompHub* Conditions of Use.

[A. The WFMS is a subscriber-based web-enabled electronic file management system designed to facilitate the filing and adjudication of workers' compensation claims.

B. An attorney, employer, insurer, or healthcare provider may register for a no-cost subscription to the WFMS by:

(1) Completing an online application available at the Commission's website; and

(2) Satisfying the requirements applicable to the type of account (role).

C. After filing the online application, an attorney seeking to register for a subscription shall appear before a Commission official to validate his or her identity by:

(1) Scheduling an appointment with a court reporter at a remote hearing site; or

(2) Appearing before the public service unit at the Commission's principal office.

D. An attorney shall present a valid government-issued photo identification to validate his or her identity.

E. Each attorney seeking to use the WFMS shall register for and maintain his or her own individual subscription.

F. No law firm subscriptions are permitted.

G. Conditions of use.]

[(1)] A. A subscriber shall:

[(a)] (1) Provide the Commission with current contact information and update this information as it changes;

and

[(b)] (2) Abide by the terms of the service agreement *available on CompHub, applicable to the role for which the user is authorized in CompHub.*

[(2)] B. A [WFMS] *subscriber's CompHub* subscription may be suspended or terminated if the subscriber:

[(a)] (1) Fails to provide the Commission with a current email address and contact information;

[(b)] (2) Fails to protect the subscriber's user name and password;

[(c)] (3) Uses the system in a manner inconsistent with its stated purpose;

[(d)] (4) Permits unauthorized use of the subscriber's account; or

[(e)] (5) Violates the terms of the service agreement *available on CompHub, applicable to the role for which the user is authorized in CompHub.*

the user is authorized in CompHub.

[H. Proxies.

(1) An attorney subscriber may authorize administrative or support staff to function as the attorney's proxy.

(2) The proxy shall complete an online proxy application.

(3) The attorney subscriber may validate the proxy's registration electronically by selecting and acknowledging the proxy.

(4) An attorney may not designate another attorney as a proxy.

(5) Once validated, the proxy may have access to all claim documents in all claims in which the attorney has entered the attorney's appearance.

(6) The attorney subscriber is responsible for all actions and conduct of the attorney's designated proxies.

(7) The attorney proxy shall abide by the terms and conditions of the subscription.

(8) An attorney proxy may not use any other subscriber's account to access the WFMS system.

I. Insurer Delegates.

(1) An insurer subscriber may authorize administrative or support staff to function as the insurer's delegate.

(2) The insurer delegate shall complete the online insurer delegate application.

(3) The insurer subscriber may validate the insurer delegate's registration electronically by selecting and acknowledging the delegate.

(4) Once validated, the insurer delegate may have access to all claim documents, excluding protected and confidential documents, in all claims in which the insurer is a party.

(5) The insurer subscriber is responsible for all actions and conduct of its delegates.

(6) If an insurer subscriber's access is terminated, the access afforded to its delegates will also be terminated.

(7) An insurer delegate shall use his or her individual subscription to access the WFMS system.

(8) An insurer delegate may not use any other subscriber's account to access the WFMS system.

(9) An insurer delegate shall abide by the terms and conditions of the subscription.

(10) An insurer subscriber may not designate another subscriber as the insurer's delegate.

J. Healthcare Provider Delegates.

(1) A healthcare provider subscriber may authorize administrative or support staff as the healthcare provider's delegate

(2) The healthcare provider delegate shall complete the online healthcare provider delegate application.

(3) The healthcare provider subscriber may validate the healthcare provider delegate's registration electronically by selecting and acknowledging the delegate.

(4) Once validated, the healthcare provider delegate may have access to claim documents, excluding protected and confidential documents, for the purpose of obtaining settlement, claim and hearing status information.

(5) The healthcare provider subscriber is responsible for all actions and conduct of its delegates.

(6) If a healthcare provider subscriber's access is terminated, the access afforded to its delegates will also be terminated.

(7) A healthcare provider delegate shall use his or her individual subscription to access the WFMS system.

(8) A healthcare provider delegate may not use any other subscriber's account to access the WFMS system.

(9) A healthcare provider delegate shall abide by the terms and conditions of the subscription.

(10) An healthcare provider subscriber may not designate another subscriber as the healthcare provider delegate.]

14.09.02.02 (downloaded 02/10/20)

.02 Requirements for Filing and Amending Claims.

A. Claim for Benefits.

(1) To initiate a claim for benefits, an employee shall file a claim form with the Commission as follows:

(a) If represented by counsel, counsel shall file the claim on behalf of the employee electronically through [the WFMS] *CompHub*; or

(b) If unrepresented by counsel, the employee may file the claim:

(i) Electronically through [the public portal] *CompHub*; or

(ii) By paper form.

(2)—(4) (text unchanged)

(5) When completing the claim form, the claimant shall sign an authorization for disclosure of health information [directing the claimant's health care providers to disclose] *for the release* to the claimant's attorney, the claimant's employer, the employer's insurer, *the Subsequent Injury Fund, the Uninsured Employers' Fund*, or any agent thereof, the claimant's medical [records] *information* that [are] *is* relevant to:

(a)—(b) (text unchanged)

(6)—(9) (text unchanged)

B. (text unchanged)

C. Amendment of Claim to Add or Remove a Body Part.

(1)—(3) (text unchanged)

(4) When completing the claim amendment form, the claimant shall sign an authorization for disclosure of health information authorizing the claimant's health care providers to disclose to the claimant's attorney, the claimant's

employer, the employer's insurer, *the Subsequent Injury Fund, the Uninsured Employers' Fund*, or any agent thereof, the claimant's medical [records] *information* that [are] *is* relevant to the member of the body identified by the claim amendment form.

(5) (text unchanged)

14.09.04.01 (downloaded 02/10/20)

.01 Legal Representation.

A. (text unchanged)

B. Attorney Registration with Commission.

(1) An attorney wishing to practice before the Commission shall [:

(a) R] register for [the WFMS] *CompHub* [in accordance with COMAR 14.09.01.09;

(b) Complete and file an Attorney Registration form; and

(c) Submit the attorney registration fee].

(2) (text unchanged)

C.—D. (text unchanged)

E. Termination of Representation. [An attorney whose appearance has been entered on behalf of a party to a claim remains the attorney of record for the party to that claim until the attorney files a Notice to Withdraw Appearance form accompanied by:

(1) The client's written consent to the withdrawal; or

(2) Certification that, at least 15 days prior to the filing of the Notice, a copy of the following was mailed to the client and that the client had consented or had not responded:

(a) Notice to Withdraw Appearance; and

(b) Notice advising the client:

(i) To have another attorney enter an appearance; or

(ii) To notify the Commission in writing of the client's intention to proceed in proper person.

F. The attorney filing the Notice to Withdraw Appearance shall also certify that:

(1) Copies of the Notice to Withdraw Appearance form with the attachment required by this regulation were served on all parties; and

(2) Notice of any pending hearing was mailed to the attorney's client.]

(1) *By notice. An attorney may withdraw an appearance by filing a notice of withdrawal when (1) the client has another attorney of record; or (2) the claim has been settled and there is no possibility of any future medical benefits.*

(2) *By motion. When an attorney is not permitted to withdraw an appearance by notice under section (1) of this regulation, the attorney wishing to withdraw an appearance shall file a motion to withdraw. Except when the motion is made in an open hearing with the client present, the motion shall be accompanied by the client's written consent to the withdrawal or the moving attorney's certificate that notice has been mailed to the client at least five days prior to the filing of the motion, informing the client of the attorney's intention to move for withdrawal and advising 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 withdrawal of the appearance would cause undue delay, prejudice, or injustice.*

(3) *An attorney whose appearance has been entered on behalf of a party to a claim remains the attorney of record for the party to that claim unless the appearance was terminated under sections (1) or (2) of this regulation.*