

WORKERS' COMPENSATION COMMISSION
EMERGENCY RULES RELATED TO EDI

Revised August 1, 2018

Effective November 17, 2017 to September 14, 2018
Unless Superseded by another Rule or Disapproved by the Legislature

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION
CHAPTER 1. GENERAL INFORMATION

810:1-1-2. Definitions [SUPERSEDED]

810:1-1-6. Requests for agency public information

(a) Public access to Commission records is subject to the Oklahoma Open Records Act, 51 O.S. § 24A.1, et seq. and 85A O.S. § 120. Any person making a request for a Commission record shall comply with the following:

(1) The request must be in writing and directed to the Clerk of the Commission when the request is to access information on workers' compensation claims information, to the Commission's Insurance Division Director when the request is for workers' compensation insurance related information maintained by the Commission, or to the Executive Director for all other requests.

(2) Requests to access to information on workers' compensation claims ~~information~~ are subject to the written request and search fee requirements of 85A O.S. § 120, unless an exemption outlined in the law applies. The Commission may request information of a requester sufficient to determine whether or not an exemption pertains.

(A) To access information on workers' compensation ~~claim information~~ claims, the request must be made in writing, on a form prescribed by the Commission. The request form requires identification of the person requesting the information and the person for whom a search is being made. The request form must contain an affidavit signed by the requester under penalty of perjury stating that the information sought is not requested for a purpose in violation of state or federal law. Those making a request shall pay the Commission One Dollar (\$1.00) per search request, not to exceed One Dollar (\$1.00) per claims record of a particular worker, plus applicable copy charges set forth in 85A O.S. § 119(A), any applicable fees according to the Oklahoma Open Records Act, 51 O.S. § 24A.5(3), and certification fees if any.

(B) Electronic searches of workers' compensation claims data using public terminals at the Commission's offices may be made. The search function permits searches using the name of a claimant or the Commission file number. Certain information related to the search criteria will be displayed on the terminal. Access to additional information on claims ~~information~~ pertaining to the search results is subject to the written request and search fee requirements described in this Paragraph.

(3) Requests not subject to Paragraph (2) of this Subsection, should describe the record(s) requested, indicate the name of the party making the request, and have the party's mailing address and telephone number. The requesting party shall pay for copies and research of such records in accordance with 85A O.S. § 119(A) and the Oklahoma Open Records Act, 51 O.S. § 24A.5(3), and, if applicable, for certification of the record according to a fee established by the Commission if any.

(4) Copy charges may be waived at the Commission's discretion for copies requested by the media or by a public officer or public employee in the performance of his or her duties on behalf of a governmental entity.

(b) This Section does not apply to records specifically required by state or federal law, or by state or federal administrative rule, or by order of a court of competent jurisdiction, to be kept confidential, including, but not limited to, financial data obtained by or submitted to the Commission for the purpose of obtaining a license or permit and records subject to proprietary agreements, confidentiality orders and sealed exhibits.

810:1-1-8. Electronic data interchange

(a) **Mandatory compliance.** Mandatory compliance with all provisions of Commission rules pertaining to electronic data interchange shall commence ~~January 1, 2018~~ on the mandatory EDI implementation date. ~~Beginning January 1, 2018~~ On the mandatory EDI implementation date, claim administrators shall submit all claim information via EDI, according to electronic record layouts adopted by the International Association of Industrial Accident Board and Commissions (IAIABC) in its Release ~~33.1~~ standards, until such time as the Commission may adopt a subsequent release of the IAIABC standards. Any subsequent version of the IAIABC standards is deemed adopted upon approval by the Commission. Claim administrators shall adhere to the IAIABC standards most recently adopted by the Commission. Paper forms ~~postmarked~~ received before the mandatory EDI implementation date ~~of January 1, 2018~~ will be accepted and filed.

(b) **Trading partner profile.** Each claim administrator shall submit to the Commission's EDI vendor a completed EDI trading partner profile at least two (2) business days before submitting claim information via EDI. A claim administrator shall have a trading partner profile on file with the Commission before EDI submissions from that claim administrator will be accepted. The claim administrator shall report changes to its profile information at least two (2) business days prior to sending transactions containing revised profile-related information to the Commission. Failure to report changes to the trading partner profile information may result in the rejection of an entire transmission or individual transaction(s) containing profile information different from information reported on profile documents most recently submitted to the Commission.

(c) **Trading partner agreement.** If required by the Commission, a trading partner agreement adopted by the Commission shall be submitted by each trading partner prior to submitting claims information via EDI. The signing party understands 85A O.S., §6 is applicable to each FROI and SROI submission, and the party is signing under penalty of perjury as prescribed by 85A O.S., §123.

~~(c)~~(d) **Implementation guides incorporated by reference.** Claim administrators shall file all claim information according to the IAIABC EDI Implementation Guide for claims, the Oklahoma Workers' Compensation Commission EDI Implementation Guide, which includes, but is not limited to, the Event Table, Element Requirements and Edit Matrix as referenced, and as otherwise specified in these rules. The IAIABC EDI Implementation Guide for claims and the Oklahoma Workers' Compensation Commission EDI Implementation Guide are herein incorporated by reference. The Commission's EDI Implementation Guide can be found at www.okwccedi.info.

~~(d)~~(e) **Paper forms.** On or after ~~January 1, 2018~~ the mandatory EDI implementation date, paper copies of the following forms will not be accepted and will only be satisfied by filing FROI and SROI as specified in the Oklahoma Workers' Compensation Commission EDI Implementation Guide:

- (1) CC-Form-2 Employer's First Notice of Injury;
- (2) CC-Form-2A Employer's Intent to Controvert Claim;
- (3) CC-Form-2A Extension Employer's Application and Authorization for Extension of Time to File CC-Form-2A; and
- (4) CC-Form-4 Report of Compensation Paid/Suspension of Payments.

~~(e)~~(f) **Social security number.** All EDI reports submitted to the Commission shall include the last five (5) digits of the claimant's social security number, in addition to other information that may be required. If no social security number can be obtained, the report shall include the worker's USCIS (green card) number, employment visa number, or passport number.

~~(f)~~(g) **Catastrophic event.** Claim administrators, who directly or through a third party vendor, experience a catastrophic event resulting in the insurer's failure to meet timely filing requirements, shall submit a written or electronic request to the Commission for approval to submit required electronic form equivalents in an alternative filing timeline. The request shall be sent to the Commission within fifteen (15) days after the catastrophic event. The request shall contain a detailed explanation of the nature of the event, date of occurrence, and measures being taken to resume electronic submission. The claim administrator shall also provide an estimated date by which electronic submission of affected EDI filings will be resumed. Approval to submit in an alternative filing timeline shall be granted by the Commission if a catastrophic event prevents electronic submission. If approved, the electronic form equivalents that were due to be filed during the time the claim administrator was unable to file due to a catastrophic event, shall be sent with Late Reason Code "LB" (Late notification/payment due to Natural Disaster) or "LC" (Late notification/payment due to an act of Terrorism).

CHAPTER 10. PRACTICE AND PROCEDURE

SUBCHAPTER 1. GENERAL PROVISIONS

810:10-1-3. Definitions

In addition to the terms defined in 85A O.S. § 2, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Acceptable Electronic Signature Technology" means technology that is capable of creating a signature that is unique to the person using it, is capable of verification, is under the sole control of the person using it, and is linked to the data in such a manner that if the data is changed, the electronic signature is invalidated.

"Administrative Law Judge" means an Administrative Law Judge of the Commission to whom the Commission has delegated by order or otherwise, the authority to conduct a hearing.

"Attorney" means an attorney licensed to practice law in Oklahoma and a member in good standing of the Oklahoma Bar Association, or an out-of-state attorney.

"AWCA" means the Administrative Workers' Compensation Act, 85A O.S. §§1, et seq.

"Business day" means a day that is not a Saturday, Sunday, or legal holiday.

"Certified workplace medical plan" means an organization that is certified by the Oklahoma State Department of Health to provide management of quality treatment to injured employees for injuries and diseases compensable pursuant to the workers' compensation laws of the State of Oklahoma.

"Claim administrator" means the trading partner sending electronic transactions to the Commission, which can be an insurer filing directly with the Commission on its own behalf, or a servicing company/third party administrator filing on behalf of the insurer.

"Claim for compensation" means a Commission prescribed form filed by or on behalf of an injured worker or the worker's dependents to initiate a claim for benefits pursuant to the AWCA for an alleged work injury, occupational disease or illness, or death.

"Claim Information" means data submitted via First Report of Injury (FROI) or Subsequent Report of Injury (SROI).

"Claimant" means a person who claims benefits for an alleged work injury, occupational disease or illness, or death, pursuant to the provisions of the AWCA.

"Commission" means the Oklahoma Workers' Compensation Commission, a designee, or an Administrative Law Judge to whom the Commission has delegated responsibility as authorized by 85A O.S. § 21(D).

"Commission Chair" means the Chair of the Oklahoma Workers' Compensation Commission.

"Continuance" means postponing a hearing from the time or date set, and rescheduling it on a later time or date.

"Controverted claim" means there has been a contested hearing before the Commission over whether there has been a compensable injury or whether the employee is entitled to temporary total disability, temporary partial disability, permanent partial disability, permanent total disability, or death compensation.

"Discovery" means the process by which a party may, before the hearing, obtain evidence relating to the disputed issue or issues from the other parties and witnesses.

"Document" means any written matter filed in a cause, including any attached appendices.

"Electronic Data Interchange" means the transmission of claim information through electronic means, in a format established by the Commission.

"EDI" means electronic data interchange.

"Electronic Signature" means an electronic symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Executive Director" means the Executive Director of the Commission.

"FROI" means first report of injury.

"Good cause" means, in the context of a request for continuance or failure of a party to comply with the Rules of this Chapter, circumstances beyond the party's control or that the party could not reasonably foresee. In the context of a claim, defense, or order, it means a reasonable legal basis.

"Insurance carrier" means any stock company, mutual company, or reciprocal or interinsurance exchange authorized to write or carry on the business of workers' compensation insurance in this state, and includes an individual own risk employer or group self-insurance association duly authorized by the Commission to self fund its workers' compensation obligations.

"Insurer" means the entity responsible for making electronic filings as prescribed by law and these rules. This term includes self-insurers.

"Joint Petition Settlement" means a settlement between the employer/insurance carrier and the employee, of all or some issues and matters in a claim for compensation.

"Legal holiday" means only those days declared legal holidays pursuant to 25 O.S. § 82.1 or by proclamation of the Governor of Oklahoma.

"Mandatory EDI implementation date" means September 1, 2018, unless a subsequent date is adopted by the Commission.

"Mediation" means the process of resolving disputes with the assistance of a mediator, outside of a formal administrative hearing.

"Out-of-state attorney" means a person who is not admitted to practice law in the State of Oklahoma, but who is admitted in another state or territory of the United States, the District of Columbia, or a foreign country.

"Pro se" means without an attorney.

"Proceeding" means any action, case, hearing, or other matter pending before the Commission.

"Representative" means a person designated in writing by an injured employee, person claiming a death benefit, employer, insurance carrier or health or rehabilitation provider, to assist or represent them before the Commission in a matter arising under the AWCA.

"Sanction" means a penalty or other punitive action or remedy imposed by the Commission on an insurance carrier, representative, employee, employer, or health care provider for an act or omission in violation of the AWCA or a rule, judgment, order, or decision of the Commission.

"Self-insurer" means any duly qualified individual employer or group self-insurance association authorized by the Commission to self fund its workers' compensation obligations.

"SROI" means subsequent report of injury.

"Subpoena" means a Commission issued writ commanding a person to attend as a witness to testify or to produce documents, including books, papers and tangible things, at a deposition or at a hearing.

"Trading Partner" means an entity that has registered with the Commission to exchange data through Electronic Data Interchange.

"Workers' compensation fee schedule" means a state mandated schedule of maximum allowable reimbursement levels for health care providers, including hospitals, ambulatory surgical centers, and inpatient rehabilitation facilities, rendering reasonable and necessary health care services and supplies to an injured employee for a compensable injury pursuant to the Oklahoma workers' compensation laws.

"Written" means that which is expressed in writing, and includes electronic records.

810:10-1-4. Reporting injuries or deaths

(a) **Employer's first report of injury (~~formerly CC-Form 2~~).**

(1) Within ten (10) days after the date of receipt of notice or of knowledge of death or injury which results in the loss of time beyond the shift or which requires medical attention away from the work site the ~~claim administrator~~ employer shall file a CC-Form-2 Employer's First Notice of Injury with the Commission or effective on or after the mandatory EDI implementation date, the ~~claim administrator~~ shall file a FROI with the Commission via EDI.

(2) The report shall contain the information required by 85A O.S. § 63 and any additional information prescribed by the Commission.

(3) Failure or refusal of an ~~insurer~~ employer to comply with the reporting requirements of this Section may subject the ~~insurer~~ employer to sanctions prescribed in 85A O.S. § 63.

(b) **Employer's First or Subsequent Report of Injury (~~formerly, CC-Form 2A and CC-Form 2A Extension~~).**

(1) Each ~~insurer~~ employer is required by 85A O.S. § 86 to file a report of controversion, if intending to controvert, within fifteen (15) days of notice or knowledge of injury. ~~Insurer~~ Employer, if intending to controvert, shall do so by ~~the claim administrator making the appropriate filing~~ the CC-Form-2A Employer's Intent to Controvert Claim or, effective on or after the mandatory EDI implementation date, by the claim administrator submitting the appropriate FROI and/or SROI filings as provided in the Oklahoma Workers' Compensation Commission EDI Implementation Guide.

(2) A ~~FROI UI (Under Investigation) or SROI UI (Under Investigation)~~ CC-Form-2A Extension is submitted to request an extension to investigate compensability of the claim. Effective on or after the mandatory EDI implementation date, a FROI UI (under investigation) or SROI UI (under investigation) shall be filed to request such extension. The request must be submitted within the fifteen (15) days after notice of the injury, or by such later date as fixed by the Commission, in its discretion. The extension shall be deemed granted upon request, and extends the filing deadline for a standard time period of thirty (30) days from the original due date of the CC-Form-2A or FROI or SROI, as applicable, for a total of forty-five (45) days from the date of the employer's notice or knowledge of injury/death. The Commission reserves the right to alter the extension period and may audit extension requests.

(3) ~~Within fifteen (15) days of notice or knowledge of injury~~ Effective on or after the mandatory EDI implementation date, the claim administrator, if not controverting, shall report

first payment of benefits on either a FROI or SROI within fifteen (15) days of notice or knowledge of injury, in accordance with the Oklahoma Workers' Compensation Commission EDI Implementation Guide.

- (c) **Employer's Subsequent Report of Injury, Report of Compensation Paid (formerly CC-Form-4).**
- (1) ~~Within~~ Effective on or after the mandatory EDI implementation date, the claim administrator shall, within fifteen (15) days of the initial payment of a benefit, change in benefit amount, change in benefit type, reinstatement of a benefit or suspension of a benefit, ~~the employer shall~~ file a SROI reporting such initial payment, change, suspension or reinstatement and the reason therefore.
 - (2) Within thirty (30) days of making the final payment of compensation, including payments made for medical treatment, the employer shall file a CC-Form-4. Effective on or after the mandatory EDI implementation date, the claim administrator shall file a SROI FN (Final) reporting such final payment.
 - (3) ~~The~~ Effective on or after the mandatory EDI implementation date, the claim administrator shall file a sub-annual report (SROI SA) every 6 months for every indemnity or medical only claim where indemnity and/or medical benefits were paid during the reporting year. For ongoing claims, reports are due six months from the date of injury and every six months following. If the claim is closed prior to the initial six months from when the SROI SA (Sub-Annual) is due, a SROI FN (Final) shall be filed.
- (d) **Additional reporting requirements.** Reports or additional reports with respect to the death, injury and of the condition of the employee shall be sent by the employer to the Commission at such time and in such manner as the Commission may prescribe.
- (e) **Evidentiary effect of reports.** Any report provided pursuant to this Section shall not be evidence of any fact stated in the report in any proceeding with respect to the injury or death for which the report is made.

810:10-1-7. Forms and other documents generally

- (a) All forms, pleadings, proposed orders, correspondence or other documents submitted to the Commission shall:
- (1) be typewritten or printed legibly on 8 ½" by 11" paper, unless electronically filed;
 - (2) refer to the Commission file number if assigned;
 - (3) bear the typed or printed name, mailing address, telephone number, and signature, of the person who prepared the document, including the firm name if applicable; and
 - (4) include the attorney's Oklahoma Bar Association number, if the document is submitted by an attorney licensed to practice law in Oklahoma.
- (b) The signature of an attorney or party constitutes the following:
- (1) a certification that the claim, request for benefits, request for additional benefits, controversion of benefits, request for a hearing, pleading, form, motion, or other paper has been read;
 - (2) that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and
 - (3) that it is not brought for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
- (c) If a claim, request for benefits, request for additional benefits, request for hearing, pleading, motion, or other paper:
- (1) is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant; or

- (2) is signed in violation of the AWCA, the Commission, including Administrative Law Judges, on motion or on their own initiative, shall impose an appropriate sanction as prescribed in 85A O.S. § 83.
- (d) An electronic signature using acceptable electronic signature technology may be used to sign a document or a form and shall have the same force and effect as a hand written signature.
- (e) All documents filed with the Commission shall be served on all parties and shall have a certificate of service setting forth the manner of such service. A copy of all correspondence addressed to the Commission with respect to a pending matter shall be sent to all parties at the time it is sent to the Commission and shall list the parties to whom copies were sent.
- (f) All forms filed with the Commission, except forms submitted ~~via EDI~~ electronically, shall be file-stamped by the Clerk of the Commission on the date of receipt.
- (g) All FROI and SROI filings properly submitted through EDI according to the standards specified in 810:1-1-8 shall be deemed to comply with the requirements of this section.

SUBCHAPTER 3. INFORMAL DISPUTE RESOLUTION PROCESS

810:10-3-3. Counselor program

- (a) The Commission shall maintain a workers' compensation counselor program to assist injured employees, employers and persons claiming death benefits under the AWCA. The program shall be administered by the Counselor Division of the Commission.
- (b) A Division counselor shall:
- (1) meet with or otherwise provide information to injured employees;
 - (2) investigate complaints;
 - (3) communicate with employers, insurance carriers, individual own risk employers, group self-insurance associations, and health care providers on behalf of injured employees;
 - (4) provide informational seminars and workshops on workers' compensation for medical providers, insurance adjusters, and employee and employer groups; and
 - (5) develop informational materials for employees, employers and medical providers.
- (c) Notice of the availability of the services of the counselor program and of the availability of mediation and other forms of alternative dispute resolution to assist injured workers shall be mailed to the injured worker within ten (10) days of the filing of the applicable Employer's First Notice of Injury or FROI as provided in 810:10-1-4(a). Information about the counselor program and the availability of alternative dispute resolution also shall be made part of the Commission's training materials for self-insurers and claims representatives handling Oklahoma workers' compensation claims.

SUBCHAPTER 5. HEARINGS CONDUCTED BY ADMINISTRATIVE LAW JUDGES AND COMMISSIONERS

PART 15. SETTLEMENTS

810:10-5-95. Joint petition settlements

- (a) Under 85A O.S. § 87 and 85A O.S. § 115, upon and after the filing of a claim for compensation, or, in the absence of a claim for compensation, the filing of the applicable Employer's First Notice of Injury or FROI per 810:10-1-4(a) in a claim involving a pro se employee, the parties may engage in a compromise and release of any and all liability which is claimed to exist under the AWCA on account of the injury or

occupational disease or illness, subject to approval by the Commission, an Administrative Law Judge, or a Benefit Review Officer.

(b) The parties in interest to a claim for compensation may settle upon and determine any and all issues and matters by agreement, subject to the terms and conditions of this Section.

(c) Any agreement submitted to the Commission, Administrative Law Judge or Benefit Review Officer of the Commission's Counselor Division, for approval shall be set forth in a Commission prescribed CC-Joint Petition Settlement. Nothing in this rule shall preclude the Multiple Injury Trust Fund from compromising a claim as authorized by 85A O.S. § 32(F).

(d) No CC-Joint Petition Settlement agreement shall be binding on the parties in interest unless it is approved by the Commission pursuant to 85A O.S. § 22, Administrative Law Judge of the Commission pursuant to 85A O.S. § 115, or a Commission Benefit Review Officer pursuant to 85A O.S. § 70. The CC-Joint Petition Settlement, including any attached appendix as provided in 85A O.S. § 115(B), identifying the outstanding issues that are subject to the Commission's continuing jurisdiction and possible reopen, shall be approved unless it is determined that:

- (1) The agreement is unfair, unconscionable, or improper as a matter of law; or
- (2) The agreement is the result of an intentional misrepresentation of a material fact; or
- (3) The agreement, if for permanent disability, is not supported by competent medical evidence as required by 85A O.S. § 2(33).

(e) As used in this Section, "parties in interest" means the respondent (employer and the employer's insurance carrier if insured), and an employee. An employee who is not represented by legal counsel may effect a CC-Joint Petition Settlement upon the employer's filing of the applicable Employer's First Notice of Injury or FROI as provided in 810:10-1-4(a), or the employee's filing of a claim for compensation (CC-Form-3 or CC-Form-3B), regarding the injury or occupational disease or illness which is the subject of the CC-Joint Petition Settlement.

(f) In no instance shall the total attorney's fee amount provided for in a CC-Joint Petition Settlement exceed the maximum attorney fee allowed by law.

(g) No CC-Joint Petition Settlement shall be made upon written interrogatory or deposition except in cases where the claimant is currently engaged in the military service of the United States, is outside of the state, is a nonresident of Oklahoma, or in cases of extreme circumstances.

(h) A stenographic record of the terms and conditions of an approved joint petition settlement and the understanding of the claimant concerning the effect of the settlement must be made by a Commission court reporter and transcribed at the expense of the employer or insurance carrier. The transcript shall be prepared and provided to the parties within ninety (90) days. Medical reports and other exhibits submitted in support of a CC-Joint Petition Settlement shall not be transcribed. The original exhibits or duplicate copies thereof shall be affixed to the original transcript and placed in the Commission file.

(i) A file-stamped copy of an approved CC-Joint Petition Settlement shall be mailed by the Commission to all unrepresented parties and attorneys of record.

(j) A CC-Joint Petition Settlement that fully and finally resolves all issues in a claim for compensation between the employee and the employer, shall not be deemed an adjudication of the rights between the medical or rehabilitation provider and the employer for reasonable and necessary medical and rehabilitation expenses incurred by the employee due to the injury before the file-stamped date of the approved CC-Joint Petition Settlement.

(k) Within seven (7) days of the date a medical provider provides initial treatment for a work-related accident, the medical provider shall provide notice in writing to the Commission, if and only if, a CC-Form-3 or CC-Form-3B has been filed with the Commission, and in all cases shall provide notice in writing to the patient's employer, and if known, the employer's insurance carrier. If the medical provider fails to provide the required notification, the medical provider forfeits any rights to future notification, including those circumstances where a case is fully and finally settled by a CC-Joint Petition Settlement, unless the medical provider is actually known to the employer or insurance carrier or is listed by the employee.

(l) If the issue of medical treatment is fully and finally settled by a CC-Joint Petition Settlement, the employee shall provide to the employer or insurance carrier a list of all medical providers known to the employee. The Commission prescribed Form CC-Joint Petition Settlement shall be used for that purpose. Within ten (10) days from the file-stamped date of the CC-Joint Petition Settlement, the employer or insurance carrier shall send notice of the CC-Joint Petition Settlement to all medical providers listed by the employee and to all medical providers known to the employer or insurance carrier. The employee is liable for payment of any medical services rendered after the CC-Joint Petition Settlement is filed. The employee also is responsible for informing any future medical providers that the case or issue of medical treatment was fully and finally disposed of by a CC-Joint Petition Settlement and that the employee, rather than the employer or insurance carrier, is the party financially responsible for such services.