AWCC Rule 099.39
#099.39

FILING REQUIREMENTS / REPORT CARDS / SANCTIONS

I. FORM FILING / PAYMENT REQUIREMENTS

A. Form Filing

1. General

a. Claims to be filed with the Commission shall include, but not be limited to:

(1) Claims involving more than seven (7) days of disability;
(2) Controverted medical only claims;
(3) Claims involving Commission assisted change of physician;
(4) Any other claim where filing with the Commission is desired to preserve any rights.

b. All forms filed with the Commission shall reference, if previously established, the Commission file number.

c. Any form, notice, or First Payment of compensation required by the Act, Commission Rule and/or Advisory shall be filed or paid in the form and manner, and within the time prescribed by the Commission.

d. Any claim filed with the Commission and receiving a Commission file number must include a Form 1, Form 2, Form 3 (where applicable), and a Form 4, filed in the form and manner prescribed by the Commission.

(1) Form 1 filings may be returned if determined by the Commission the claim involves medical only benefits, unless the Form1 is clearly marked to indicate anticipated indemnity benefits or pending controversion.

(2)

(a) All original claims filed with the Commission require a response from the carrier or self-insurer as to the acceptance or controversion of the claim via a Form 2 filing. If the claim

is controverted, the Form 2 shall clearly state the reason(s) the claim is not accepted as compensable. If, after the initial indication as to acceptance or controversion of a claim, the position of the carrier or self-insurer changes, the claim office shall make an amended Form 2 filing reflecting its current position as to acceptance or controversion.

(b) All claims filed with the Commission will be deemed to be temporary total disability (TTD) cases unless specifically marked otherwise via a Form 2 filing.

(3) A Form 4 must be filed with the Commission in order for a claim to be closed by a carrier or self-insurer.

2. Acceptability

All applicable boxes/blanks are to be completed on all submitted Commission forms. Any form filed with the Commission with missing, incomplete, or inaccurate information or containing data that requires additional documentation may be "rejected" and shall be considered as not filed. Any carrier or self-insured having a form rejected by the Commission may be subject to sanctions. Upon determination of a form as "rejected", the Commission shall provide notice to the designated claim office of the determination and the specific reason(s) for the rejection of the form.

3. Claims for Compensation - Form C Filings

a. All claims established with the Commission by a claimant (or claimant's attorney) utilizing Commission Form C (Claim for Compensation) will be subject to the established Report Card standards for form filing timeliness.

b. Upon receipt of a Form C, the Commission shall send notice to the designated claim office of the carrier or self-insurer (includes group self-insurers and individual self-insurers) on record as having coverage for the employer listed on the Form C as of the date of the injury or death. The date of such notice shall serve as the date on which the employer was notified for Report Card purposes, and shall not relieve the employer of its obligation to file a Form 1, Form 2, or any other form required within the time frames provided by law.

c. If a Form C is filed subsequent to the establishment of a claim, the designated claim office shall provide to the Commission a narrative

response indicating the current status of the claim and addressing the claim(s) made in the Form C filing. If a Form 2 has previously been filed, an amended Form 2 is only necessary if the position of acceptance or controversion has changed.

II. TIMELINESS STANDARDS / REPORTS

A. Timeliness Standards

1. The Commissioners have established minimum filing standards, including time frames by which the standard will be based, for the timely filing of a particular form or notice or for the timely making of any compensation payments. Establishment of a minimum standard shall not be considered as condoning a late filing or payment or preclude the Commission from assessing civil penalties (fines) as provided under Arkansas law.

2. The established minimum, acceptable standards as to the timely filing of specific forms and the timely making of compensation payments for all claims involving indemnity benefits, whether accepted or controverted, are as follows:

   a. **Form 1** - (Workers' Compensation - First Report of Injury or Illness) - A minimum 70.00% of Form 1 filings required by Arkansas law, Commission Rule, or Commission Advisory shall be filed in a timely manner.

   b. **Form 2** - (Employer's Intent to Accept or Controvert Claim) **-** A minimum 70.00% of Form 2 filings required by Arkansas law, Commission Rule, or Commission Advisory shall be filed in a timely manner.

   c. **First Payment -** (First payment of compensation paid to the claimant) - A minimum 80.00% of First Payments are to be paid to claimants in uncontroverted cases as required by Arkansas law, Commission Rule, or Commission Advisory in a timely manner.

   d. **Form 4 -** Zero claims appearing in the "Unresolved" section of the "AR-4 Monitoring Report".

B. Calculation of Timeliness -

For Report Card purposes only, timeliness shall be calculated from the latter of, the date of employer's receipt of notice or knowledge of injury, or the first date of disability or date indemnity triggered to the earliest receipt of an acceptable version of the specific form. First Payments shall be calculated to the date on which the first payment of compensation was issued to the claimant.

1. Date indemnity triggered applies only in those cases where disability is not continuous from the first day of disability to the eighth (8th) day of disability. In the event of intermittent disability, the eighth (8^{th}) day of disability shall be used as the date indemnity triggered and indicated on the Form 2.

2. Cases involving only Permanent Partial Disability (PPD) benefits shall use the date on which medical documentation of the PPD rating was received by the employer, carrier, self-insurer, designated claim office, or any claim office handling the claim for the carrier as the date indemnity triggered (disability date) and indicated on the Form 2.

3. Form submissions via Electronic Data Interchange (EDI)

    a. Form transmissions via EDI that do not meet the Technical Edit and Mandatory Data requirements will be rejected and returned to the reporting entity.
    b. EDI transmissions received on the "transmission date" indicated in the EDI Trading Partner Agreement shall reflect the date the form was input into the reporting entities system as the date received by the Commission.
    c. EDI transmissions received after the "transmission date" indicated in the EDI Trading Partner Agreement shall reflect the date of the transmission to the Commission as the date received by the Commission.

C. Reports

The Commission shall issue, to each carrier and each self-insurer, reports reflecting the performance or status of the carrier or self-insurer in meeting any standard for any filing or payment for which a standard has been established. No report shall be issued to a carrier or self-insurer when, for a specific standard, there are no cases for which performance or status can be rated. Reports shall be issued with a frequency to coincide with any time frame established for such standard. Reports shall be furnished to the designated Administrator and designated claim office.

1. Report Card

    The Commission shall issue to each carrier and self-insurer a "Report Card" indicating its performance as to the timely filing of Form 1, Form 2 and the timely making of the First Payment of compensation. The Report Card shall indicate the percentage of timely filings or payments for that quarter and also provide a year to date (calendar year basis) percentage. The Report Card will consist of two (2) parts; The Form 1 Report Card and the Form 2 Report Card (which will include First Payments).

a. The Form 1 Report Card shall list claims based on the receipt date of the Form 1.

b. The Form 2 Report Card shall list claims based on the "due date" of the Form 2. The due date of the First Payment will always be the same as the due date of the Form 2.

For Form 1 and Form 2 "grades," the Report Card shall list all claims reported to the Commission during the previous quarter involving indemnity benefits (whether accepted or controverted). For the First Payment grade, claims involving controversion of benefits shall not be considered in grade determination.

2. Form AR-4 Monitoring Report

The Commission shall issue to each carrier and self-insurer a report indicating those claims for which a Form 4 has been rejected, and an acceptable Form 4 has not been received. This report will have two (2) sections; "Rejected AR-4's" and "Unresolved AR-4's"

(1) The "Rejected AR-4" section will list all claims for which a submitted AR-4 was rejected in the quarter immediately preceding the date of the report and the Commission has not yet received an acceptable Form 4 (and/or required documentation).

(2) The Unresolved AR-4 section will list all claims appearing in the "Rejected" section of the previous quarter's Form AR-4 Monitoring Report for which the Commission has not yet received an acceptable Form 4 (and/or required documentation). Any claim appearing in the "Unresolved" section will remain in unresolved status until an acceptable Form 4 (and supporting documentation) is received.

The Form AR-4 Monitoring Report shall be cumulative. Any claim listed shall continue to be listed until any deficiencies are corrected.

D. Correction Requests

1. Report Cards - For any claim listed on either the Form 1 or Form 2 Report Cards which reflects incorrect data, a "correction request" may be made. Correction requests may be made for only those claims listed in the quarter immediately preceding the issuance of the Report Card. Such correction request shall:

(1) Be submitted to the Commission only by the designated claim office (even if other claim offices are utilized) or by the Administrator.
(2) Be made in writing, including contact information for the writer;
(3) Be received by the Commission within thirty (30) days of the issuance of the Report Card;
(4) Identify the claim in question by AWCC file number, claimant's name, and date of injury.
(5) State the specific nature of the correction to be made;
(6) State why the correction should be made;
(7) Include any necessary documentation to support why the correction should be made; the Commission may require a revised form.

All correction requests are subject to approval or rejection by the Commission, on a case by case basis and for good cause. The Commission may allow corrections to prior quarters at its discretion.

2. Form AR-4 Monitoring Report

As this report is cumulative in nature, and is based on the acceptability of the Form 4, "corrections" are not typically required or necessary; however, situations may arise that necessitate a "review" of a particular claim.

a. Should a claim be listed for which proper documentation and/or a revised Form 4 has been previously submitted, a "review" request may be submitted. Such request shall:

(1) Identify the claim in question by AWCC file number and claimant's name;
(2) Indicate the reason for review (specify corrections and/or documentation submitted);
(3) Indicate the date on which the revised Form 4 and/or documentation was provided (including the method of submission).

b. Should a claim be listed for which the claim has reopened, the claimant has resumed treatment, and/or additional indemnity benefits have been or are being paid, a review request shall be submitted along with documentation substantiating an "open" status of the claim.

The Commission file will be reviewed and the claim removed from the Form 4 Monitoring Report if appropriate. If additional information is required, the Commission will provide notice specifying the corrections/documentation

needed.

III. SANCTIONS

A. Report Cards

1. Imposition of Sanctions

   If any two (2) consecutive quarterly Report Cards for any one carrier or self-insurer reflect a performance level, for either Form 1, Form 2 and/or First Payment, that falls below the minimum standards established, the Commission shall impose sanctions.

2. Sanction Levels

   Any carrier or self-insurer failing to meet any standards established by the Commission, shall be subject to sanctions in the form and manner the Commission deems appropriate.

B. Form AR-4 Monitoring Report

1. Imposition of Sanctions

   Any carrier or self-insurer having a claim, or claims, appearing in the "Unresolved" section of the report may have sanctions imposed.

IV. Fines

Any fines assessed shall be assessed against the carrier or self-insurer. Responsibility for the payment of any fine rests with the carrier or self-insurer, whether or not actually paid by a third party administrator (TPA). All fines shall be payable to the Arkansas Workers' Compensation Commission.

A. Report Card Fines

1. At the close of the Report Card correction period and after the processing of correction requests received for that quarter, each carrier or self-insured employer to which fines are applicable will be issued a "revised" Report Card incorporating the approved corrections. Fines shall then be administratively assessed on each late filing and on each late payment reflected in the revised Report Card in accordance with the sanction level applicable to that carrier or self-insurer.

2. An invoice for each carrier and self-insurer assessed with a fine(s) will be

generated in sufficient detail to document the fine assessments by claim file number, claimant name, form on which the fine is assessed, and amount. The invoice, a copy of the re-calculated Report Card and or a copy of the Form AR-4 Monitoring Report, and a cover letter shall be sent to the Administrator advising of the assessment of the fine(s) and the due date by which the assessed fine(s) are to be paid.

B. Form AR-4 Monitoring Report Fines

1. A hearing for contempt may result from either of the following: (1) the fine imposed is not paid and an acceptable Form 4 is not filed, (2) a request for a hearing is not received in the time frame specified.

C. Fine Payment Due Date / Unpaid Fines

1. All fines assessed with regard to forms are to be paid within thirty (30) days of the cover letter date.

2. Any unpaid fines may be subject to contempt proceedings and/or termination of authority as follows:

    a. Carriers - pursue revocation of carrier's authority to write workers' compensation coverage in Arkansas following the procedures of the Arkansas Insurance Department.
    b. Self-Insurers - pursue revocation of authority to self-insure following the procedures of Commission Rule 099.05.

(Effective date January 1, 2008.)