

TITLE 85
EXEMPT LEGISLATIVE RULE
WORKERS' COMPENSATION RULES OF THE
WEST VIRGINIA INSURANCE COMMISSIONER

SERIES 2
WORKERS' COMPENSATION CLAIMS INDEX

§85-2-1. General.

1.1. Scope. -- This rule governs the administration of the West Virginia Workers' Compensation Claims Index established pursuant to W. Va. Code §23-2C-5(c)(8).

1.2. Authority. -- W. Va. Code §§23-2C-22; 33-2-10(b); and 33-2-21(a). Pursuant to W. Va. Code §§23-2C-5(c)(2) and 33-2-10(b), workers' compensation rules proposed by the Insurance Commissioner and approved by the Industrial Council are not subject to legislative approval as would otherwise be required under W. Va. Code §29A-3-1 et seq. Public notice requirements of that chapter and article, however, must be followed.

1.3. Filing Date. -- July 18, 2008.

1.4. Effective Date. -- August 17, 2008.

§85-2-2. Purpose.

The purpose of this rule is to establish guidelines to govern the administration of the Workers' Compensation Claims Index pursuant to W. Va. Code §23-2C-5(c)(8).

§85-2-3. Definitions.

As used in this exempt legislative rule, the following terms have the stated meanings unless the context of a specific use clearly indicates another meaning is intended.

3.1. "Commissioner" means the Insurance Commissioner of West Virginia as provided in W. Va. Code §33-2-1, or any designated third-party administrator of the Insurance Commissioner.

3.2. "EDI" is the Electronic Data Interchange Project of the International Association of Industrial Accident Boards and Commissions ("IAIABC"), Release 3 standards.

3.3. "Industrial Council" means the Industrial Council created pursuant to W. Va. Code §23-2C-5.

3.4. "Private carrier" means any insurer authorized by the Commissioner to provide workers' compensation insurance pursuant to chapters twenty-three and thirty-three of the West

Virginia Code and any third-party administrator designated by the private carrier to adjust West Virginia workers' compensation claims.

3.5. "Self-insured employer" means an employer who is eligible and has been granted self-insured status pursuant to the provisions of W. Va. Code §23-2-9 and the rules promulgated thereunder, and any third-party administrator designated by the self-insured employer to adjust West Virginia workers' compensation claims.

3.6. "Special Funds," mean all workers' compensation related funds created in W. Va. Code §23-2C-1 et seq., and administered by the Commissioner, which are responsible for paying certain West Virginia workers' compensation benefits, and any third-party administrator designated by the Commissioner to adjust West Virginia workers' compensation claims on behalf of such funds.

3.7. "WV OIC EDI IG" is the West Virginia Offices of the Insurance Commissioner's EDI Implementation Guide.

3.8. "Workers' Compensation Claims Index" or "claims index" is a method for indexing claims of injured workers filing for West Virginia workers' compensation benefits that will make information concerning West Virginia's injured workers available to insurers or self-insured employers, as required by the Industrial Council pursuant to W. Va. Code §23-2C-5(c)(8).

3.9. "West Virginia workers' compensation" means workers' compensation coverage which provides workers' compensation benefits to injured employees consistent with chapter twenty-three of the West Virginia Code and the rules promulgated thereunder.

§85-2-4. Claims Index.

4.1. Consistent with the provisions of W. Va. Code §23-2C-5(c)(8), a West Virginia Workers' Compensation Claims Index shall be maintained in the form of an electronic database and administered by staff of the Commissioner, utilizing selected data reported by private carriers, special funds and self-insured employers to the Commissioner through EDI. The purpose of the claims index is to make basic information regarding claims filed by injured workers available to private carriers, self-insured employers and the Commissioner.

4.2. The claims index shall contain basic information on all West Virginia workers' compensation claims reported consistent with this rule, including the following minimum requirements, based upon the best information available to the private carrier, self-insured employer or Commissioner:

- a. Claim number;
- b. Accident date/Date of injury or last exposure;
- c. Claimant's full name;
- d. Claimant's social security number;

- e. Name, address and phone number of a contact person for the private carrier, self-insured employer or third-party administrator, as applicable;
- f. Body part that is the subject of the claim;
- g. The percentage of permanent partial disability award granted in the claim; and
- h. Any other fields of information as the Commissioner deems necessary.

4.3. The required fields for the claims index shall be established by the Commissioner with advice and consent of the Industrial Council consistent with an objective of providing sufficient basic information regarding West Virginia workers' compensation claims to private carriers, self-insured employers and the Commissioner without creating unduly burdensome reporting requirements.

§85-2-5. Access to Claims Index.

5.1. Upon application to the Commissioner on forms prescribed by the Commissioner, a private carrier, self-insured employer or any designated agent thereof, including, but not limited to, an attorney for the private carrier or self-insured employer, may be granted access to the claims index. Such access shall be permitted in a method and manner prescribed by the Commissioner.

5.2. Any information in the claims index may be used only for the purposes of administering and defending the workers' compensation claim upon which the request was based in a manner consistent with chapter twenty-three of the West Virginia Code and the rules promulgated thereunder.

5.3. A claimant, an attorney representing a claimant or a healthcare provider duly authorized by the claimant may request a list of the claimant's prior claims available from the claims index. Such request shall be permitted in a method, manner and form created by the Commissioner.

§85-2-6. Duty to Timely Report Claims Data.

6.1. All private carriers, special funds and self-insured employers shall report claims data to the Commissioner consistent with the provisions of the WV OIC EDI IG.

6.2. Failure of an insurer or self-insured employer to timely report data to the Commissioner as required in subsection 6.1. of this section may subject the private carrier or self-insured employer to a fine not to exceed \$500 per occurrence of untimely reporting.