

## **4123-3-08 Preparation and filing of applications for compensation and/or benefits.**

### (A) Preparation and execution of forms.

- (1) The "First Report of Injury" form (FROI-1) for applying for payment from the state insurance fund due to an injury, occupational disease, or death shall be completed by the employee. The employee shall sign the FROI-1 at the points designated on the form. To accept or deny the validity of the claim, the employer may complete and sign the form at the designated point or may use a separate writing, telephone, or other means of telecommunication.
- (2) The FROI-1 for applying for payment from a self-insuring employer shall be completed, signed by the employee, and returned to the self-insuring employer. In situations where there is no prescribed form, a notice in writing shall be given in a manner sufficient to inform that a claim for benefits is being presented.
- (3) An injured or disabled employee who is a minor (under eighteen years of age) shall file a claim in his or her own name and right. A report of injury signed by such minor employee shall be sufficient to initiate proceedings for compensation and/or benefits.
- (4) In the event the injured or disabled employee is unable to complete the first report of injury by reason of physical or mental disability, the report may be completed and filed by the employee's spouse, next friend, the guardian of the employee, or the employee's employer. In claims for death benefits where the dependents are a spouse and one or more minor children, it shall be sufficient for the spouse to make application for benefits on behalf of the spouse and the minor children. In the event a dependent minor child has a guardian of the person other than the spouse of the deceased, such guardian shall execute the report on behalf of such minor child. If there is no spouse surviving, the report on behalf of the dependent minor children, or children who are mentally or physically incapacitated, may be filed by a guardian or next friend of such children.
- (5) If the employee is unable to sign the FROI-1 because the employee is in the armed services of the United States, the bureau shall process the claim in the regular manner under section 4123.511 of the Revised Code.
- (6) It shall be the duty of every employer to assist injured or disabled employees in the preparation and submission of reports for compensation and/or benefits. In the event that the employer refuses, neglects or unduly delays the completion of a report, the report may be filed without the part pertaining to the employer having been completed. The fact of refusal or neglect should be noted upon the report or with it by way of separate letter.

- (7) In cases where the death of the employee is not the result of injury or occupational disease, the application for compensation may be made as provided in sections 4123.57 and 4123.60 of the Revised Code.
- (8) Application for payment of the balance of percentage permanent partial disability compensation, awarded under division (A) of section 4123.57 of the Revised Code prior to the employee's death, shall be made by the injured employee's dependents. The application may be filed whether the death was related or unrelated to an industrial injury or occupational disease.

(B) Certification by the employer.

- (1) An employer shall accept or reject the validity of a claim filed against its risk within the time as required by sections 4123.511 and 4123.84 of the Revised Code and the rules of the industrial commission and bureau of workers' compensation. If the employer fails to comply with the established time limits, the bureau shall take such further action in the claim as provided for by section 4123.511 of the Revised Code and the rules of the industrial commission and the bureau.
- (2) If the employer accepts or denies the validity of the claim, the employer may sign the report at the designated point and return the requested information to the bureau, or the bureau may obtain the employer's certification or denial of the claim by a separate writing, by telephone, or by other forms of telecommunication.

If the employer denies the validity of the claim, the employer shall state the reasons for rejecting the validity of the claim.

- (3) Certification by the employer in state fund cases shall not be determinative of compensability. Every such claim is subject to administrative review as to compensability.
- (4) An employer's certification of a claim may be made by the employer, by an officer of the business entity which is the employer, or by a duly designated representative of the employer. The person certifying a claim for the employer shall indicate in what capacity the person is employed (title). No other person or entity may make such certification. No person may certify his or her own claim, except in cases of a sole proprietor who has obtained coverage as an employee within Chapter 4123. of the Revised Code.

(C) Place and manner of filing applications for benefits.

Any first report of injury shall be accepted for filing in any office of the bureau or industrial commission during working hours, and reports may be filed by mail or reported by telecommunication.

(D) Time limitations within which claims must be filed.

- (1) Injury claims applying for compensation and/or benefits shall be in writing or by telecommunication as provided for in division (E) of section 4123.84 of the Revised Code, and shall include the specific part or parts of the body alleged to have been injured, the injured worker's name and address, and the date of injury. Such claims shall be forever barred unless said written notice is filed with the bureau of workers' compensation or the industrial commission within two years from the date when injured, unless the applicable statute of limitations is extended due to the employer's failure to file a report as required by section 4123.28 of the Revised Code. Except as provided in paragraph (D)(3) of this rule, any claim or application for compensation and/or benefits for an injury to any part or parts of the body not specified in the original claim will be barred unless written notice of the additional part or parts of the body claimed to have been injured is filed by the claimant with the bureau of workers' compensation or the industrial commission within two years of the date when injured.
- (2) In self-insuring employers' claims, the two-year time limitation is tolled if the employer has provided treatment by a licensed physician in the employ of the employer or has paid compensation or benefits within the period. "Benefits" means payment by the self-insuring employer to, or on behalf of, an employee for:
  - (a) A hospital bill;
  - (b) A medical bill for treatment by a licensed physician, other than a salaried physician in the employ of the self-insuring employer;
  - (c) An orthopedic or prosthetic device.
- (3) The bureau of workers' compensation and the industrial commission have continuing jurisdiction over a claim which meets the requirement of section 4123.84 of the Revised Code, including jurisdiction to award compensation and/or benefits for a condition (or conditions) or disability developing in part or parts of the body not specified pursuant to division (A)(1) of section 4123.84 of the Revised Code, if it is found that the condition (or conditions) or disability was due to and a result of or a residual of the injury to one of the parts of the body set forth in the written notice filed pursuant to division (A)(1) of section 4123.84 of the Revised Code.
- (4) Claims for occupational disease must be filed within two years after the disability begins, or within such longer period as does not exceed six months after

diagnosis by a licensed physician, as provided in section 4123.85 of the Revised Code, excepting claims enumerated in paragraph (D)(5) of this rule, other than berylliosis, or where the applicable statute of limitations is extended due to the employer's failure to file a report as required by section 4123.28 of the Revised Code. The filing limitation of six months after diagnosis, where it applies, can only lengthen, not shorten, the two-year statute of limitations.

- (5) Special statutory provisions (section 4123.68 of the Revised Code) exist as to claims for silicosis, cardiovascular and pulmonary diseases of fire fighters and police officers, coal miners' pneumoconiosis, asbestosis, berylliosis, radiation illness and all other occupational diseases of the respiratory tract resulting from injurious exposures to dust:
  - (a) Compensation is payable in silicosis, coal miners' pneumoconiosis, cardiovascular and pulmonary disease of fire fighters and police officers and in all other dust caused diseases of the respiratory tract, except berylliosis, only for temporary total or permanent total disability or death and only if such disability and/or death occurs within eight years after the last injurious exposure.
  - (b) If disability or death is from injurious exposure occurring after January 1, 1976, the eight-year limitation shall not apply.
  - (c) There must be injurious exposure in this state. In cases of cardiovascular and pulmonary disease of fire fighters and/or police officers, some of this must be after January 1, 1967. In cases of silicosis, asbestosis and coal miners' pneumoconiosis, part of the injurious exposure must be after October 12, 1945.
  - (d) In the event of death following continuous total disability commencing within eight years after the last injurious exposure, the requirement of death within eight years does not apply.
  - (e) The above provisions govern asbestosis claims except that the eight-year limitation does not apply.
  - (f) The above provisions govern berylliosis and radiation claims except that payment of compensation is not restricted to temporary total, permanent total disability and/or death, and that exposure in this state is not required for radiation claims. In radiation claims, where disability began prior to November 2, 1959, the general occupational disease provisions apply.
  - (g) The above claims, except claims for berylliosis, must be filed within one year after total disability begins or within such longer period as does not exceed six months after diagnosis by a licensed physician. Claims for berylliosis must be filed within the time as provided in paragraph (D)(4) of

this rule. If the disability due to the disease began on or after January 1, 1979, or was diagnosed by a licensed physician on or after January 1, 1979, such claims shall be forever barred unless, within two years after the date of disability due to the disease, or within such longer period as does not exceed six months after diagnosis of the occupational disease by a licensed physician, application is made to the industrial commission, the bureau, or to the employer in the event such employer has elected to pay compensation or benefits directly, or the applicable statute of limitations is extended due to the employer's failure to file a report as required by section 4123.28 of the Revised Code.

- (6) Death claims, alleging that death is the result of injury, must be filed within two years of death or be forever barred, except as provided in paragraphs (D)(8) and (D)(9) of this rule.
- (7) Where the death is due to an occupational disease and death occurred on or after November 2, 1959, the claim must be filed within two years of the death, as provided in section 4123.85 of the Revised Code.
- (8) Emergency management claims for injury or death must be filed within one year from the date when injured or from the date of death, or be forever barred. If an injury claim has been filed within the one-year period and the claimant subsequently dies, a death claim must be filed within six months after the death or be forever barred.
- (9) Public works relief employees' claims must be filed within two years after the date when injured or the date of death, or be forever barred.
- (10) Militia claims, special contract claims and apprentice claims are governed by the general time limits applicable to injury and occupational disease claims, as provided by sections 4123.84 and 4123.85 of the Revised Code.

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