

4123-3-10 Awards.

(A) Compensation check issuance, delivery and endorsement.

(1) Definition of claimant.

As used in this rule the word "claimant" shall apply to an employee who sustained an injury or contracted an occupational disease in the course of and arising out of employment, to the dependent of a deceased employee, as well as to any person who was awarded compensation under the Ohio Workers' Compensation Act.

(2) Time limit for issuance.

(a) Any order, finding or decision of the bureau, the industrial commission, or its hearing officers wherein payment of compensation is to be made shall be promptly forwarded to the appropriate department of the bureau charged with the duty of making the payment, or in the case of a self-insuring employer to the personnel of such employer charged with the disbursement of funds in industrial claims.

(b) The initial payment of the bureau in payment of compensation under an order shall be issued within the time limits set forth in division (H) of section 4123.511 of the Revised Code. The payment will include compensation accrued and due the claimant at that time. Further payment of compensation due under that order shall be made by the bureau in biweekly installments. In self-insuring employers' claims payment will be made in accordance with the law and the rules of the bureau.

(3) To whom paid.

(a) Awards of compensation shall be made payable only to the claimant as defined in paragraph (A)(1) of this rule, except in cases of lump sum advancements, or where the claimant is an incompetent person or is a minor awarded a lump sum of compensation, or in the case of attorneys fees as provided in paragraph (A)(8) of this rule.

(b) In cases of lump sum advancements, claimant's creditors may be co-payees.

(c) If the claimant is an incompetent person, payment shall be issued payable and shall be mailed to the claimant's legally appointed guardian upon the receipt of documentary proof establishing the existence of such guardianship.

(d) If the claimant is a minor and was awarded a lump sum of compensation, such sum shall be paid to the claimant's legally appointed guardian or in accordance with section 2111.05 of the Revised Code.

(e) If the bureau or the industrial commission determines that it is to the best interest of the claimant that a guardian of the property be appointed to receive the benefits payable, payment shall be withheld until such guardian is appointed.

(4) Information to accompany payment.

All payments for compensation shall be accompanied by information which clearly indicates the source of payment, type of payment, method of computation, inclusive days of payment, the reason for any changes in payment and the telephone number or address for inquiries concerning the payment that was made.

(5) Delivery of the bureau's payment to claimant and exceptions.

The standard method of delivering payment to a claimant or benefit recipient shall be by electronic fund transfer, as provide in paragraph (D) of this rule. Where the bureau issues a check, the bureau's checks payable to a claimant shall be mailed to the claimant's address, as officially recorded in the claim file, except as provided below:

(a) The mailing of the bureau's compensation check to a place requested by the claimant in a power of attorney, executed in accordance with paragraph (A)(6) of this rule, must be approved by the administrator or the administrator's designee, or by the industrial commission or designee.

(b) Checks for lump sum settlements or lump sum advancements shall be disbursed in accordance with instructions of the bureau or industrial commission, as indicated in the order approving such advancements.

(c) In cases of advancements made by the employer during a period of disability, the bureau's checks shall be delivered in accordance with rule 4123-5-20 of the Administrative Code.

(6) Personal pick-up of the bureau's checks by a claimant and/or by parties other than a claimant.

(a) Provided approval has been given by a member of the industrial commission or designee, the administrator of the bureau of workers' compensation or the administrator's designee, or a hearing officer, a claimant, an attorney for a claimant, or any other person authorized by a claimant, may pick-up a compensation check issued by the bureau.

(b) When a claimant authorizes another person to pick up the claimant's compensation check, the authorization shall be by a power of attorney. On all types of compensation, other than percentage of permanent partial compensation, the authorization must be filed prior to or at the hearing. For authorization to receive compensation checks in connection with permanent partial disability applications and applications for increases thereof, the authorization must be filed with the application, with the agreement of permanent partial disability, with the election, or with the industrial commission at formal hearing or not later than prior to the date of mailing of the findings resulting from the formal hearing.

(c) The warrant will be made payable to the claimant and sent in care of the attorney/representative identified on the power of attorney. The warrant shall be mailed to the address that the claimant indicated on the request, or may be designated for pick-up at the bureau's central office.

(d) A person authorized to pick-up the check at the bureau shall furnish adequate identification and sign a dated receipt verifying acceptance of the check.

(e) In self-insuring employers' claims, the claimant and the employer may agree on check delivery or pick-up, such agreement to be based on the same principles as outlined in this rule.

(7) Endorsement of checks and procedure in the event of claimant's death.

(a) A power of attorney, allowing an attorney or an employee of an attorney to cash or endorse a check on behalf of the claimant is prohibited. Checks payable to claimant's guardian must be endorsed by said guardian in the guardian's official capacity.

(b) When a claimant dies prior to endorsing a compensation check or accessing an electronic benefit payment, no one has the right to endorse and cash such check or access the electronic benefit funds. In order to ensure that the bureau or commission effectively obtains notice of death of a claimant, each check payable to a claimant shall bear on the reverse side, immediately above the point specified for endorsement, a printed certification to the effect that the signer or endorser certifies that he or she is the person to whom the check is payable and that the signature is his or her signature.

(c) Checks that cannot be endorsed because the claimant is deceased must be returned to the bureau's benefits payable section, PO box 15429, Columbus, Ohio 43215-0429 by the party handling the claimant's affairs, notifying the bureau of the date of death, if known. Upon receipt of

information of claimant's death, payment of compensation shall be terminated and proper entry made in the records of the bureau.

(8) Procedure for a lump sum payment and attorney fees where the claimant is an obligor for child support payments.

(a) If a claimant is entitled to a lump sum payment of one hundred and fifty dollars or greater and the claimant is an obligor for child support payments, prior to issuing the lump sum payment, the bureau shall notify the claimant and the claimant's attorney in writing that the claimant is subject to a support order. The bureau shall hold the lump sum payment for thirty days, pending application by the attorney for attorney fees as provided in paragraph (A)(8)(b) of this rule.

(b) The bureau shall instruct the claimant's attorney in writing to file a copy of the fee agreement signed by the claimant, along with an affidavit signed by the attorney setting forth the amount of the attorney's fee with respect to that lump sum payment award to the claimant and the amount of all necessary expenses, along with documentation of those expenses, incurred by the attorney with respect to obtaining that lump sum award. The attorney shall file the fee agreement and affidavit with the bureau within thirty days after the date the bureau sends the notice under paragraph (A)(8)(a) of this rule.

(i) The attorney shall file a copy of the fee agreement that clearly establishes the fee for the lump sum payment in the claim. The attorney's failure to file a copy of the fee agreement shall be a reason for the bureau to reject the application.

(ii) The attorney shall file an affidavit in the form provided by the bureau. The attorney may complete the affidavit on the form provided by the bureau or in an affidavit that contains at least all of the elements of the form established by the bureau. The affidavit shall be notarized. The attorney's failure to file an affidavit in the form proscribed by the bureau or failure to obtain a notary signature shall be a reason for the bureau to reject the application.

(iii) The attorney fee shall be limited to the fee for obtaining the specific lump sum payment that is the subject of the bureau notice provided in paragraph (A)(8)(a) of this rule. The attorney fee shall be limited to the written fee agreement of the initial lump sum payment of the award. The bureau will reject a fee application that includes fees from awards other than the subject lump sum payment or that request a fee from future payments of the award after the lump sum payment.

(iv) If the attorney claims reimbursement for expenses in the affidavit, the expenses shall be limited to the expenses for obtaining the specific lump sum payment that is the subject of the bureau notice provided in paragraph (A)(8)(a) of this rule. The attorney shall provide itemized expenses and documentation to support the expenses. If the attorney fails to provide the required information on expenses, the bureau may reject that portion of the fee application, but shall process the attorney fee portion of the application.

(v) Where the bureau has paid the attorney fee under paragraph (A)(8)(c) of this rule, the bureau will not honor a power of attorney for that award under paragraph (A)(6) of this rule, except in cases of court settlement of the workers' compensation claim.

(vi) Before rejecting an attorney fee affidavit or fee agreement due to noncompliance with any part of this rule, the bureau shall notify the attorney of the noncompliance and provide the attorney an opportunity to submit additional information during the thirty day hold period provided in paragraph (A)(8)(a) of this rule.

(c) Upon receipt of the fee agreement and attorney affidavit, the bureau shall review the affidavit as provided in this rule. If the affidavit complies with this rule, the bureau shall deduct from the lump sum payment the amount of the attorney's fee and necessary expenses and pay that amount directly to and solely in the name of the attorney within fourteen days after the fee agreement and attorney affidavit have been filed with the bureau.

(d) After deducting any attorney's fee and necessary expenses, if the lump sum payment is one hundred fifty dollars or more, the bureau shall hold the balance of the lump sum award in accordance with division (A)(10) of section 3121.037 of the Revised Code.

(B) Medical awards.

Medical awards shall be paid by the bureau within the time limits set forth in rule 4123-6-12 of the Administrative Code.

(C) Rules for self-insuring employers.

Self-insuring employers shall make payment of compensation and benefits within the time as required by law and rules of the bureau.

(1) It is the duty of the employer to pay, in accordance with the act, the amount of compensation due a claimant whose injury or occupational disease has resulted in

more than seven days lost time. Payment to be made in the manner provided by law and the rules of the bureau.

(2) It is the duty of the employer to pay for necessary medical services rendered by health care providers as a result of an injury or occupational disease for which a claim was recognized by the employer or allowed by the industrial commission.

(3) It is the duty of the employer to pay the amount of compensation and/or benefits due in a compensable death case, and to make payment to the proper dependents or to such other persons who may be entitled thereto in accordance with the governing statutes and the orders and rules of the bureau. In the event death is the result of a compensable injury or occupational disease, the employer shall also pay the funeral allowance provided by statute at the time of death.

(4) All awards made by self-insuring employers must be at least equal to the amounts specified in the applicable statutes, the rules of the bureau and the industrial commission.

(5) Self-insuring employers shall follow the procedures in paragraph (A)(8) of this rule relating to a lump sum payment and attorney fees where the claimant is an obligor for child support payments.

(D) Electronic payment of compensation and benefits.

(1) Pursuant to section 4123.311 of the Revised Code, this rule describes the bureau's program of electronic payments to:

(a) Utilize direct deposit of funds by electronic transfer for disbursements the administrator is authorized to pay;

(b) Require a payee to provide a written authorization designating a financial institution and an account number to which a payment may be made;

(c) Contract with an agent to supply debit cards for claimants to access payments made to them and credit the debit cards with the amounts specified by the administrator by utilizing direct deposit of funds by electronic transfer;

(d) Enter into agreements with financial institutions to credit the debit cards with the amounts specified by the administrator;

(e) Inform claimants about the bureau's utilization of direct deposit of funds by electronic transfer, furnish debit cards to claimants as appropriate, and provide claimants with instructions regarding use of those debit cards.

(2) For any compensation paid directly to an injured worker or a dependent, the bureau shall require either an electronic fund transfer into a savings or checking account, or shall issue to the payee an electronic benefits card.

(a) The bureau shall provide to the public notice of the types of compensation or payments paid directly to a benefit recipient that are included in the electronic benefits program.

(b) The bureau shall provide to the public notice of the types of compensation or payments not paid directly to a benefit recipient that are not included in the electronic benefits program. Payments made under an authorization to receive workers' compensation checks are excluded from the electronic benefits program.

(3) The bureau shall notify a benefit recipient of the requirement for electronic payment of benefits and compensation and ask the benefit recipient to provide the financial institution and account to which the bureau shall deposit the compensation or benefits. If the benefit recipient does not have an account or does not respond, the bureau shall issue the payment by a bureau debit card. The debit card shall be used to deliver compensation payments electronically.

(4) The bureau shall contract with a vendor for the debit cards to allow benefit recipients to receive payment without a monthly maintenance fee. The bureau shall issue the debit card only to the benefit recipient.

(5) The bureau shall provide to a benefit recipient who lives in a foreign country an electronic benefit card.

(6) The bureau shall provide notice of electronic payment delivery on the payment remittance of each paper warrant issued to eligible benefit recipients. The notice shall include the two different payment options and shall provide the benefit recipient the opportunity to select between the two electronic payment options.

(7) A benefit recipient may request a waiver of the electronic payment delivery of compensation or benefits under this rule for special circumstances due to hardship in establishing a personal checking or savings account or in accepting the bureau debit card. The request for a waiver shall be referred to the bureau benefits payable department and may be reviewed by the administrator's designee.

Effective: 2/15/08

Prior Effective Dates: 1/1/64, 1/16/78, 10/4/04, 4/1/07