

# **TITLE 631 WORKER'S COMPENSATION BOARD OF INDIANA**

*NOTE: 631 IAC was transferred from 630 IAC. Whenever in any promulgated rule text there appears a reference to 630 IAC, substitute 631 IAC.*

## **ARTICLE 1. WORKER'S COMPENSATION**

### **Rule 1. Procedures Before the Board; Compensation Payments; Reports; Second Injury Fund**

#### **631 IAC 1-1-1 Location and hours of board office (Expired)**

Sec. 1. *(Expired under IC 4-22-2.5, effective January 1, 2002.)*

#### **631 IAC 1-1-2 Forms; publication and distribution of pamphlets**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 2. (a) The worker's compensation board (board) will prepare and furnish free of charge all proper sample forms required by the provisions of the Indiana worker's compensation act (IC 22-3-2 through IC 22-3-6) and the Indiana worker's occupational diseases act (IC 22-3-7) (collectively referred to as the act), and all pleadings, reports, and papers filed with the board must be in the prescribed form.

(b) Any pamphlets prepared and published by the board containing a concise text of the Indiana worker's compensation act (IC 22-3-2 through IC 22-3-6), the Indiana worker's occupational diseases act (IC 22-3-7), and rules of the board (630 IAC 1-1-39 [630 IAC 1-1-39 was repealed filed May 12, 1983, 10:15 a.m.: 6 IR 1248, eff September 1, 1983.], 630 IAC 1-1-41 [630 IAC 1-1-41 was repealed filed May 12, 1983, 10:15 a.m.: 6 IR 1248, eff September 1, 1983.], and 630 IAC 1-1-42 [630 IAC 1-1-42 was repealed filed May 12, 1983, 10:15 a.m.: 6 IR 1248, eff September 1, 1983.]) shall be made available on the board's website and distributed by the board to anyone requesting the pamphlets, provided, however, that the board may make a reasonable cost charge for the pamphlets. All monies collected from the sale of the pamphlets shall be turned over to the general fund of the state of Indiana to help defray the printing expenses for the pamphlets. (*Worker's Compensation Board of Indiana; Rule 2; filed Jul 17, 1963, 11:10 p.m.: Rules and Regs. 1964, p. 105; filed Aug 31, 1966, 2:15 p.m.: Rules and Regs. 1967, p. 83; filed May 12, 1983, 10:15 a.m.: 6 IR 1239, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) *NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-2) to the Worker's Compensation Board of Indiana (631 IAC 1-1-2) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

#### **631 IAC 1-1-3 Rules of practice in proceedings**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 3. Except as provided below, the board will not be bound by any technical rules of practice in conducting hearings, but will conduct hearings and make investigations in reference to the questions at issue in a manner as in its judgment is best adapted to ascertain and determine expeditiously and accurately the substantial rights of the parties and to carry out justly the spirit of the Indiana worker's compensation act (IC 22-3-2 through IC 22-3-6) and the Indiana worker's occupational diseases act (IC 22-3-7). However, the board incorporates by reference the provisions of Trial Rules 26 through 37, as amended, of the Indiana Rules of Trial Procedure, into this rule. (*Worker's Compensation Board of Indiana; Rule 3; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 72; filed May 12, 1983, 10:15 a.m.: 6 IR 1240, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) *NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-3) to the Worker's Compensation Board of Indiana (631 IAC 1-1-3) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

**631 IAC 1-1-4 Pleadings in subsequent proceedings**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-2; IC 22-3-7-24

Sec. 4. The applications or petitions for the review or modification of any award or order of the board shall be entitled with parties, plaintiff and defendant, as in the proceedings, in which the award or order was made, bear the number of the original proceedings and be filed therein. (*Worker's Compensation Board of Indiana; Rule 5; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 72; filed May 12, 1983, 10:15 a.m.: 6 IR 1240, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-5) to the Worker's Compensation Board of Indiana (631 IAC 1-1-4) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-5 Pleadings and papers to be printed or typewritten; filing; service**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-2; IC 22-3-7-24

Sec. 5. (a) All applications must be:

(1) printed or typewritten in the manner prescribed by the board; and

(2) filed in triplicate with an adequate number of addressed stamped envelopes to effect service of the filing.

(b) After filing the original application with the board, all subsequent petitions, motions, complaints, answers, special answers, appearances, briefs, or other pleadings filed with the board shall contain the street and e-mail address and telephone number of the party or counsel filing the document and a certification that on or before the day of filing a copy of the document was served upon the opposing party or counsel. The board incorporates the provisions of Trial Rule 5, as amended, Indiana Rules of Trial Procedure, by reference into this rule for the purposes of the calculation of time limitations with regard to service and filing of documents with the board.

(c) Parties desiring to file briefs must do so on or before the date of hearing or at such time as the board may determine. Applications and other documents should be filed on eight and one-half (8 1/2) inch by eleven (11) inch paper. (*Worker's Compensation Board of Indiana; Rule 6; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 72; filed Aug 31, 1966, 2:15 p.m.: Rules and Regs. 1967, p. 83; filed May 12, 1983, 10:15 a.m.: 6 IR 1240, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-6) to the Worker's Compensation Board of Indiana (631 IAC 1-1-5) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-6 Plaintiffs**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-2; IC 22-3-7-24

Sec. 6. All persons should be joined as plaintiffs in whom any right to any relief, arising out of the same transaction, is alleged to exist.

If any such person should refuse to join as a plaintiff, such person should then be joined as a defendant, and the fact of such refusal to join as plaintiff should be stated in the application, petition or complaint. (*Worker's Compensation Board of Indiana; Rule 7; filed Aug 2, 1949, 3:50 pm: Rules and Regs. 1950, p. 73; filed May 12, 1983, 10:15 am: 6 IR 1241, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-7) to the Worker's Compensation Board of Indiana (631 IAC 1-1-6) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-7 Defendants**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-2; IC 22-3-7-24

Sec. 7. All persons should be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, and the board at any time, upon a proper showing, or of its own motion, may order that any additional party be joined, when it deems the presence of the party necessary. (*Worker's Compensation Board of Indiana; Rule 8; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 73; filed May 12, 1983, 10:15 a.m.: 6 IR 1241, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-8) to the Worker's Compensation Board of Indiana (631 IAC 1-1-7) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-8 Answers; affirmative defenses**

Authority: IC 22-3-1-3

Affected: IC 22-3-2-8; IC 22-3-4-2; IC 22-3-7-24

Sec. 8. The defendant may file a responsive pleading to any application, petition or complaint of the plaintiff at any time before the date set for the hearing, but no such answer is required, and if none is filed, the allegations contained in the application, petition or complaint will be deemed to be denied.

If the defendant relies upon the special defenses allowed by IC 22-3-2-8, such special defense must be pleaded by an affirmative answer filed no later than forty-five (45) days before the date set for hearing unless good cause is shown for delay. (*Worker's Compensation Board of Indiana; Rule 10; filed Aug 2, 1949, 3:50 pm: Rules and Regs. 1950, p. 74; filed Aug 31, 1966, 2:15 pm: Rules and Regs. 1967, p. 84; filed May 12, 1983, 10:15 am: 6 IR 1241, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-10) to the Worker's Compensation Board of Indiana (631 IAC 1-1-8) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-9 Disclaimer**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-2; IC 22-3-7-24

Sec. 9. Any defendant who is joined as such because of an alleged claim of an interest in the compensation sought to be recovered, may at any time before the hearing is commenced file a written disclaimer of such interest in the compensation. (*Worker's Compensation Board of Indiana; Rule 11; filed Aug 2, 1949, 3:50 pm: Rules and Regs. 1950, p. 74; filed May 12, 1983, 10:15 am: 6 IR 1241, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-11) to the Worker's Compensation Board of Indiana (631 IAC 1-1-9) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-10 Expediting proceedings; notice of hearings; continuances**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 10. (a) The policy of the board, implementing the spirit of the worker's compensation act (IC 22-3-2 through IC 22-3-6), is to determine all questions brought before it as speedily and expeditiously as possible. Therefore, proceedings before the board shall be conducted with the least possible expense and with the greatest practical dispatch. Notice of all hearings and proceedings before the board, unless otherwise directed by statute, shall be given by electronic mail when possible. If not, notice shall be by U.S. mail, and proof of the mailing of any such notice shall be prima facie proof of the service thereof.

(b) The board shall give notice by electronic or U.S. mail to all parties or their counsel of each hearing scheduled before either a single hearing member or the full board. When it appears from the board's records that any party in a proceeding pending before it is represented by an attorney, the notices as well as all other communications concerning the proceeding shall be sent to the attorney or attorneys. Unless otherwise ordered by the board, at least ten (10) days notice of all hearings will be given from the date of mailing the notice thereof.

(c) There shall be no continuances granted to either party except for good cause shown by motion. All requests for continuances must be filed not less than ten (10) days before a scheduled hearing. Any request for continuance filed less than ten (10) days prior to a scheduled hearing will be denied unless there shall be conclusively shown in the motion or petition that, in addition to good cause for the continuance, an emergency exists excusing the late filing of the request.

(d) If a request for a continuance is refused by the board, the board may proceed to make any adjudication necessary for a final determination of a pending application. (*Worker's Compensation Board of Indiana; Rule 12; filed Jul 17, 1963, 11:10 p.m.: Rules and Regs. 1964, p. 106; filed Aug 31, 1966, 2:15 p.m.: Rules and Regs. 1967, p. 84; filed May 12, 1983, 10:15 a.m.: 6 IR 1241, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-12) to the Worker's Compensation Board of Indiana (631 IAC 1-1-10) by P.L.28-1988, SECTION 121, effective July 1, 1988.

### **631 IAC 1-1-11 Stipulations**

Authority: IC 22-3-1-3

Affected: IC 22-3-3-6; IC 22-3-7-24

Sec. 11. (a) The parties to any proceeding before the board shall stipulate the facts in writing. If all related facts and issues are so stipulated, the board may make its order or award without a hearing.

(b) Where the stipulation covers a permanent partial impairment, it will be necessary to file with the stipulation a report of a physician furnished by the employer and also a report of a physician employed by and representing the employee, as to their opinions of percent of permanent partial impairment unless such reports have been previously filed. The employee may waive examination by a physician other than the one provided by the employer. In such cases, the employee's written waiver shall be filed with the report of the employer's physician.

(c) To the end that proceedings may be disposed of expeditiously and with the least possible expense to the parties and the state, the board encourages the parties to stipulate facts whenever it can reasonably be done. (*Worker's Compensation Board of Indiana; Rule 13; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 75; filed May 12, 1983, 10:15 a.m.: 6 IR 1242, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-13) to the Worker's Compensation Board of Indiana (631 IAC 1-1-11) by P.L.28-1988, SECTION 121, effective July 1, 1988.

### **631 IAC 1-1-12 Testimony; depositions**

Authority: IC 22-3-1-3

Affected: IC 22-3-7-27

Sec. 12. In all hearings proof may be made by oral testimony, or by depositions, when the convenience of the witnesses or the parties so requires. (*Worker's Compensation Board of Indiana; Rule 14; filed Aug 2, 1949, 3:50 pm: Rules and Regs. 1950, p. 75; filed May 12, 1983, 10:15 am: 6 IR 1242, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-14) to the Worker's Compensation Board of Indiana (631 IAC 1-1-12) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-13 Pleadings or depositions in foreign language; translation**

Authority: IC 22-3-1-3

Affected: IC 22-3-1-3

Sec. 13. No paper or document or deposition written in any foreign language shall be introduced in evidence unless it be accompanied by a correct English translation thereof, with proof that such translation is a correct copy of the original. (*Worker's Compensation Board of Indiana; Rule 15; filed Aug 2, 1949, 3:50 pm: Rules and Regs. 1950, p. 75; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-15) to the Worker's Compensation Board of Indiana (631 IAC 1-1-13) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-14 Foreign plaintiffs; power of attorney**

Authority: IC 22-3-1-3

Affected: IC 22-3-1-3

Sec. 14. No complaint filed by a foreign plaintiff will be heard by said Board until such plaintiff shall file with said Board a duly authenticated power of attorney in the English language, designating therein an attorney in fact, authorized to act for such plaintiff. (*Worker's Compensation Board of Indiana; Rule 16; filed Aug 2, 1949, 3:50 pm: Rules and Regs. 1950, p. 75; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-16) to the Worker's Compensation Board of Indiana (631 IAC 1-1-14) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-15 Facts upon review; additional evidence; oral arguments**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-7; IC 22-3-7-27

Sec. 15. (a) The facts upon review by the full board will be determined upon the evidence introduced in the original hearing, without hearing new or additional evidence, at the discretion of the board. Any party desiring to introduce new or additional evidence shall file an affidavit setting forth therein the names and residences of the witnesses to be called to testify before the full board, the facts to which they will testify, or, if the new evidence be documentary, then a copy of the document proposed to be introduced setting forth good reason for failure to introduce such evidence at the original hearing. If the petition is granted, the opposing party shall have the right to introduce such additional evidence as may be necessary in rebuttal.

(b) Oral argument shall not be required in cases coming before the full board on applications for review. No later than thirty (30) days prior to the date set by notice for consideration of an application by the full board, the applicant or counsel may file with the board a brief or statement specifically setting forth the errors alleged for review, argument on those errors, and authorities, if any, supporting such argument. The brief or statement shall be filed with seven (7) copies. The opposing party or counsel may file, no later than ten (10) days prior to the hearing date, any rebuttal. (*Worker's Compensation Board of Indiana; Rule 18; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 76; filed May 12, 1983, 10:15 a.m.: 6 IR 1242, eff Sep 1, 1983; errata, 6 IR 1751; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-18) to the Worker's Compensation Board of Indiana (631 IAC 1-1-15) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-16 X-ray films; admissibility**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-11; IC 22-3-7-27

Sec. 16. Upon hearings before the board or any of its members, x-ray films may be exhibited to show the existing condition of an injured employee, but such films themselves will not be considered a part of the evidence. (*Worker's Compensation Board of Indiana; Rule 19; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 76; filed May 12, 1983, 10:15 a.m.: 6 IR 1243, eff Sep 1, 1983; errata, 6 IR 1751; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-19) to the Worker's Compensation Board of Indiana (631 IAC 1-1-16) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-17 Number of witnesses; challenging jurisdiction of board; insurance as proof of compliance**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 17. (a) Upon hearings before the board or any of its members, the board or such member may refuse to hear more than three (3) witnesses produced by the same party to prove the same fact.

(b) When a motion or pleading is filed presenting the question of jurisdiction of the board, the motion or pleading shall be heard and the question presented thereby determined before the application for compensation shall be heard on its merits.

(c) Where an employer has insurance under the Indiana worker's compensation act (IC 22-3-2 through IC 22-3-6) and the Indiana worker's occupational diseases act (IC 22-3-7), the signature of the compensation carrier by its representative on behalf of the employer in the discharge of their duties under the act may be accepted by the board as compliance with the compensation law. (*Worker's Compensation Board of Indiana; Rule 20; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 77; filed May 12, 1983, 10:15 a.m.: 6 IR 1243, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-20) to the Worker's Compensation Board of Indiana (631 IAC 1-1-17) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-18 Advice and information furnished by executive administrator**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-3; IC 22-3-7-25

Sec. 18. The executive administrator will, upon request, advise any party as to the form of petition, answer, or other paper necessary to be filed in any case and furnish the information from the files of the board as will conduce to a full presentation of facts material to the controversy. (*Worker's Compensation Board of Indiana; Rule 21; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 77; filed May 12, 1983, 10:15 a.m.: 6 IR 1243, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-21) to the Worker's Compensation Board of Indiana (631 IAC 1-1-18) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-19 Powers and duties of board's executive administrator**

Authority: IC 22-3-1-3

Affected: IC 22-3-1-1

Sec. 19. (a) The board's executive administrator is charged with the duty of coordinating the duties of the board's staff with the needs of the worker's compensation community, the board members, and other state agencies. The executive administrator shall manage the operation of the board's office in the absence of the chairman.

(b) The executive administrator shall also serve as the administrator of the self insurance and fiscal officer program and oversee the second injury fund in conjunction with the chairman. (*Worker's Compensation Board of Indiana; Rule 22; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 77; filed May 12, 1983, 10:15 a.m.: 6 IR 1243, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20*

*p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-22) to the Worker's Compensation Board of Indiana (631 IAC 1-1-19) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

**631 IAC 1-1-20 Record of claims; electronic record**

Authority: IC 22-3-1-3

Affected: IC 22-3-1-3

Sec. 20. (a) The board shall maintain an electronic system of recording claims filed in the office of the board (the cause system), in which all cases shall be entered at the time and in the order in which they are filed. Each case shall be numbered in the order in which it is filed.

(b) The cause system of claims shall show the title of the cause, the date of filing, the order or award, and the name of the board member making it. The original award shall be filed with the original papers in the case. (*Worker's Compensation Board of Indiana; Rule 23; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 78; filed May 12, 1983, 10:15 a.m.: 6 IR 1244, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-23) to the Worker's Compensation Board of Indiana (631 IAC 1-1-20) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

**631 IAC 1-1-21 Certified copies of records, orders, and transcripts**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-3; IC 22-3-7-25

Sec. 21. (a) Certified copies of the files, orders, awards, records, and transcripts of evidence will be furnished only on the written order of the party desiring the copies and upon payment of the fee for preparation of the transcript.

(b) When a certified copy of an award or an agreement ordering payment of compensation is requested, there shall be attached to the copy the memorandum, if one has been filed, provided for by Rule 32 (630 IAC 1-1-32 [*630 IAC 1-1-32 was repealed filed May 12, 1983, 10:15 a.m.: 6 IR 1248, eff September 1, 1983.*]), and the certification by the executive administrator shall include the memorandum as a part of the records of the board with reference to the award or agreement. (*Worker's Compensation Board of Indiana; Rule 25; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 78; filed May 12, 1983, 10:15 a.m.: 6 IR 1244, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Renumbered Rule 24 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-24) to the Worker's Compensation Board of Indiana (631 IAC 1-1-21) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

**631 IAC 1-1-22 Appeal to court of appeals**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-3

Sec. 22. Any party desiring to appeal to the court of appeals from an award of the board must file with the board within fifteen (15) days from the date of the award, a written praecipe designating specifically the pleadings to be incorporated into the transcript for the appeal. (*Worker's Compensation Board of Indiana; Rule 26; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 79; filed May 12, 1983, 10:15 a.m.: 6 IR 1244, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Renumbered Rule 25 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-25) to the Worker's Compensation Board of Indiana (631 IAC 1-1-22) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

**631 IAC 1-1-23 Representing litigants before board**

Authority: IC 22-3-1-3

Affected: IC 22-3-8-1; IC 22-3-8-2

Sec. 23. (a) The parties to a proceeding before the board may appear either in person or by an attorney. Before any person shall be permitted to represent any party litigant before the board, he or she shall make an oath in writing, showing qualifications as prescribed by law, in the form as follows:

STATE OF INDIANA ) SS:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ the undersigned affirms under the penalties for perjury, that the foregoing representations are true: that he or she has been duly admitted to practice law in the Circuit and/or Superior Court of \_\_\_\_\_ County, Indiana, and in the Supreme Court of the State of Indiana, and is at this time in good standing as a practitioner before said Courts.

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Office Address

( )

\_\_\_\_\_  
Telephone Number

( )

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Attorney #

(b) Failure of any such attorney to comply with the worker's compensation or occupational diseases act as set out at IC 22 may subject the attorney to revocation of the attorney's certificate to practice before the board, upon a hearing on the issue by the full board. (*Worker's Compensation Board of Indiana; Rule 27; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 79; filed Aug 31, 1966, 2:15 p.m.: Rules and Regs. 1967, p. 84; filed May 12, 1983, 10:15 a.m.: 6 IR 1244, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Renumbered Rule 26 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-26) to the Worker's Compensation Board of Indiana (631 IAC 1-1-23) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-24 Schedule of attorney fees (Expired)**

Sec. 24. (*Expired under IC 4-22-2.5, effective January 1, 2002.*)

**631 IAC 1-1-25 Claims for fees; disputes**

Authority: IC 22-3-1-3

Affected: IC 22-3-3-5.2

Sec. 25. (a) Unless otherwise ordered by the board, all claims for physician's fees, attorney's fees, nurses' fees, hospital or medical facility bills, and all disputes pertaining thereto will be scheduled and heard in the same manner as contested claims for benefits. In such cases, the parties may make their proof by oral testimony, by depositions, or by affidavits, or by all of such methods.

(b) Billing review services wishing to review worker's compensation medical provider claims under IC 22-3-3-5.2 must



complete a certification annually, on a form prescribed by the board. (*Worker's Compensation Board of Indiana; Rule 29; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 80; filed May 12, 1983, 10:15 a.m.: 6 IR 1245, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Renumbered Rule 28 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-28) to the Worker's Compensation Board of Indiana (631 IAC 1-1-25) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-26 Compensation agreements; failure to make payments**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-5; IC 22-3-7-27

Sec. 26. (a) No later than fifteen (15) days from the date upon which the first weekly installment of compensation shall be due to an injured employee or his or her dependents within this state, the employer or his or her insurance carrier shall present to the injured employee or his or her dependents, if the injured employee or his or her dependents be at the time within the state and his, her, or their address is known to the employer or his or her insurance carrier, for signature, a properly prepared compensation agreement in the form prescribed by the board, and at such time shall pay or tender to the person or persons all compensation then due.

(b) After the compensation agreement has been executed by the parties, it shall be filed with the board and a copy shall be served upon the injured employee or his or her dependents within fifteen (15) days of execution.

(c) The presentation to the person or persons of the check or draft of the employer or insurance carrier for the proper amount, drawn upon a bank in which money is on deposit to pay the same on demand, shall be sufficient tender of the compensation.

(d) If the agreement is not so presented and payment made or tender of the full amount of compensation then due, so made within said time, then the failure so to do may be sufficient cause for the revocation of the certificate of the employer that has authorized him or her to carry his or her own risk without insurance or of the insurance policy form of the insurance carrier, provided, that this rule shall not apply to injuries of which the employer has no notice or knowledge, or when the employer and the injured employee or his or her dependents, in good faith, have failed to reach an agreement in regard to the compensation payable or when the employer has reported to the board within the time and in the manner required by law, and in which report the employer, in good faith, shall have denied compensation liability and shall have stated therein a valid reason for such denial. (*Worker's Compensation Board of Indiana; Rule 31; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 81; filed May 12, 1983, 10:15 a.m.: 6 IR 1245, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Renumbered Rule 30 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-30) to the Worker's Compensation Board of Indiana (631 IAC 1-1-26) by P.L.28-1988, SECTION 121, effective July 1, 1988.

**631 IAC 1-1-27 Time period of payments; memorandum of termination**

Authority: IC 22-3-1-3

Affected: IC 22-3-4-14; IC 22-3-7-34

Sec. 27. (a) If an injured employee, or his or her dependents have been awarded compensation for temporary total disability by the board, either by approval of an agreement or by an award, the employer shall continue the payments of compensation under the terms of the award or agreement for the specific period therein fixed, or until the employee returns to work, or the dependency ends, or the employer shall have in good faith disagreed with the injured employee or the dependents as to the continuation of the compensation payments.

(b) The employer or employer's insurance carrier or third party administrator (TPA) shall file with the board and the injured worker a memorandum prescribed by the board noticing compensation payment termination whenever a notice of termination is due to the injured worker according to the act.

(c) The memoranda shall be issued for each period of compensation payments showing the following:

(1) The total amount of all payments made.

- (2) The date of the employee's return to work, if applicable.
- (3) The first date for which compensation was paid.
- (4) The last date for which compensation was paid.
- (5) The reason for termination of the payments.
- (6) Any other fact or facts pertaining to the termination of the payments of compensation that the board requires on the approved form.

*(Worker's Compensation Board of Indiana; Rule 32; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 82; filed May 12, 1983, 10:15 a.m.: 6 IR 1246, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Renumbered Rule 31 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-31) to the Worker's Compensation Board of Indiana (631 IAC 1-1-27) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

### **631 IAC 1-1-28 Reports by employers**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 28. (a) Employers who have been granted by the board a certificate of financial ability to pay direct compensation in the amount and manner and when due, as provided in the Indiana worker's compensation act (IC 22-3-2 through IC 22-3-6) and the Indiana worker's occupational diseases act (IC 22-3-7), as well as those who have not been granted such certificate, must make all reports required by the act upon forms that are prescribed by the board.

(b) All accident reports under IC 22-3-4-13 shall be filed electronically with the board as prescribed by the board for that purpose.

(c) Reports of disablements occasioned by an occupational disease under IC 22-3-7-37 shall also be filed electronically. *(Worker's Compensation Board of Indiana; Rule 35; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 83; filed May 12, 1983, 10:15 a.m.: 6 IR 1246, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Renumbered Rule 34 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-34) to the Worker's Compensation Board of Indiana (631 IAC 1-1-28) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

### **631 IAC 1-1-28.5 Exempt entities**

Authority: IC 22-3-1-3

Affected: IC 22-3-2-5

Sec. 28.5. Exempt entities under IC 22-3-2-5(a) shall provide notice to the board of their election. The name and contact information of a person authorized to act for the purposes of worker's compensation matters, along with other pertinent data, shall be provided on the form prescribed by the board for that purpose and updated annually. Details regarding excess coverage must be included. *(Worker's Compensation Board of Indiana; 631 IAC 1-1-28.5; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA)*

### **631 IAC 1-1-29 Self-insurers; application for certification**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 29. Any employer, other than those excepted in IC 22-3-2-5, desiring a certificate of financial ability to pay compensation directly without insurance shall file with the board, upon the form prescribed by the board, an application for the certificate and shall furnish therein all the information required. The employer shall certify to the board that it has adequate facilities for making necessary accident reports, executing compensation agreements and other necessary documents for the handling of worker's compensation

matters and that it has placed in charge of this work a person or persons within the state familiar with the Indiana worker's compensation act (IC 22-3-2 through IC 22-3-6) and the Indiana worker's occupational diseases act (IC 22-3-7) and the rules of the board. Failure of such employer to timely fulfill its obligations under these laws may result in revocation of its certificate. (*Worker's Compensation Board of Indiana; Rule 37; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 84; filed May 12, 1983, 10:15 a.m.: 6 IR 1246, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Renumbered Rule 36 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-36) to the Worker's Compensation Board of Indiana (631 IAC 1-1-29) by P.L.28-1988, SECTION 121, effective July 1, 1988.

### **631 IAC 1-1-30 Request for certification of compliance**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 30. (a) Upon written request, from any person, to the board for a showing of compliance by any principal contractor, intermediate contractor, or subcontractor with IC 22-3-5, IC 22-3-5-1, and IC 22-3-5-2 as required by IC 22-3-2-14 and with IC 22-3-7-34(a) and IC 22-3-7-34(b) as required by IC 22-3-7-34(i), the board will issue a certificate showing such compliance as is reflected by its records.

(b) Each request must be accompanied by a preaddressed, stamped envelope for each party who is to receive a copy of the certificate. (*Worker's Compensation Board of Indiana; Rule 38; filed Aug 2, 1949, 3:50 p.m.: Rules and Regs. 1950, p. 84; filed Aug 3, 1973, 3:00 p.m.: Rules and Regs. 1974, p. 361; filed May 12, 1983, 10:15 a.m.: 6 IR 1247, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA*) NOTE: Renumbered Rule 37 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-37) to the Worker's Compensation Board of Indiana (631 IAC 1-1-30) by P.L.28-1988, SECTION 121, effective July 1, 1988.

### **631 IAC 1-1-31 Second injury fund**

Authority: IC 22-3-1-3

Affected: IC 22-3

Sec. 31. The board, in order to carry out the intent and purpose of the second injury fund (fund), adopts the following:

- (1) All employers and insurance carriers, subject to the provisions of the fund, shall keep an accurate record of all compensation claims paid to injured employees or their dependents under the act (IC 22-3-2 through IC 22-3-6); that the board may examine under oath or otherwise, any person, firm, or corporation, concerning the records of the compensation payments; that the board may regulate the method and manner and provide the necessary forms whereby payments are made to the fund.
- (2) All claims made of the fund will be determined like other compensation claims, as provided for in IC 22-3-4-5.
- (3) Awards for the payment of compensation from the fund shall set forth that no payments out of the fund will be made to a claimant until the full amount due from the employer for whom he or she was working when he or she received his or her second injury, shall have been fully paid; said payments of compensation from the fund shall commence on the filing date of claimant's application for said benefits; or the date eligibility exists or is established, whichever is latest. All compensation payments paid out of the fund shall be ordered payable every six (6) weeks. Under no circumstances will the board consider any request for a lump sum settlement. Any award made under the provisions of the fund shall be subject to review, modification, or cancellation, as provided for under the provision of the Indiana worker's compensation act.
- (4) The fund shall be under the direction and supervision of an administrator named and appointed by the full board. The administrator shall be charged with the duty of administering the fund as prescribed and, additionally, the administrator shall personally review each application filed with the board requesting benefits from the fund. In any case where the administrator of the fund determines that there is a question of legal entitlement to any benefits from the fund, the administrator shall refer a copy of the application to the office of the attorney general of Indiana along with a letter or memorandum indicating wherein the administrator believes a question of legal entitlement exists. Before the application is set for hearing before a single member

of the board, the attorney general shall have the right to defend the fund against the application for allowance of fund benefits.

The attorney general of Indiana may designate which duly appointed deputy shall appear for the defense.

*(Worker's Compensation Board of Indiana; Rule 39; filed Jul 17, 1963, 11:10 p.m.: Rules and Regs. 1964, p. 106; filed Dec 27, 1976, 3:45 p.m.: Rules and Regs. 1977, p. 219; filed May 12, 1983, 10:15 a.m.: 6 IR 1247, eff Sep 1, 1983; errata, 6 IR 1751; readopted filed Nov 13, 2001, 12:20 p.m.: 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.: 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA) NOTE: Renumbered Rule 38 by 1967; 84. NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-38) to the Worker's Compensation Board of Indiana (631 IAC 1-1-31) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

### **631 IAC 1-1-32 Medical provider fee claims**

Authority: IC 22-3-1-3

Affected: IC 22-3-3-5

Sec. 32. The board, under IC 22-3-1-3, and in order to regulate proceedings under IC 22-3-3-5, adopts the following:

(1) The following definitions shall apply:

(A) "CMS" refers to Centers for Medicare and Medicaid Services, an agency of the U.S. Department of Health and Human Services.

(B) "CPT" refers to the current procedural terminology manual published annually by the American Medical Association.

(C) "Payer" means an agent, a designee, an employee, an assignee, or an independent contractor of the employer including a billing review service utilized by the payer for services performed under the act.

(D) "Written communication" means the written statement made by a payer to a health care provider, in response to a claim for payment submitted to the payer by the provider, wherein the payer notifies the provider of the payer's determination of the employer's pecuniary liability for the medical treatment, services, and supplies that comprised the provider's claim for payment.

(2) Payment of medical benefits shall be made as follows:

(A) Where the compensability of billed services is not contested, payment for billed services shall be as follows:

(i) Providers shall submit bills for services rendered within one hundred twenty (120) days of the date of service. Bills submitted by providers for payment shall state the provider's actual charges for the treatment rendered. A provider's statement of actual charges is not to be construed as a request for payment in excess of the medical fee cap or schedule. The billing statement must be in detailed line item form. The payer to whom the bill is submitted shall calculate the proper amount of the payment for the treatment rendered.

(ii) Unless contested in accordance with the provisions set forth in this section, all bills submitted by a provider are due and payable in accordance with IC 22-3-3-5 within ninety (90) days after receipt of the bill by the payer. Date of receipt may be established by the payer's date stamp or electronic acknowledgement date; otherwise, receipt is presumed to occur three (3) days after the date the bill was mailed to the payer's correct address. Payer may request additional documentation to support medical bills submitted for payment by the provider, as long as the additional documentation is relevant to the treatment for which payment is sought. If a payer requests additional information or records from a provider, the ninety (90) day period shall be tolled until the documentation is received by payer.

(iii) The payer shall supply a written explanation of review (EOR) to the provider describing the calculation of payment of medical bills submitted by the provider. If payment is based on changes to a provider's codes, the EOR shall specifically state the justification for changing the original codes. If payment of a bill is denied entirely, the payer shall provide a written, detailed explanation for the denial of each covered item.

(B) If the payer agrees a service or procedure was reasonable and necessary, the provider's lack of prior authorization for payment does not warrant denial of liability for payment of the appropriate amount due under the act.

(C) The payer may only make changes to a provider's billing codes consistent with American Medical Association (AMA) guidelines and definitions in CPT coding instructions, Medicare guidelines, the act, and the Indiana Administrative Code.

- (3) Medical bill disputes shall be addressed as follows:
- (A) When the payer fails to make timely payment of uncontested billed services, the provider shall first attempt to resolve payment with the payer or the medical review service, or both, by any means set out in a relevant contract between the parties and those steps set out on the board's website. Where such attempts are unsuccessful, the billing party may request assistance from the board by first contacting the board's medical claims reviewer and thereafter filing an application for adjustment of claim for provider fee (application) if necessary.
  - (B) In all cases where a billed service is contested by the payer, the payer shall, within ninety (90) days of receipt of the bill, submit to the provider a written notification of contest setting out the reason for denial.
  - (C) The written notification of contest shall include the following information:
    - (i) The name of the injured worker.
    - (ii) The date or dates of the service or services being contested.
    - (iii) The payer's accident number or board's claim number, or both, if applicable.
    - (iv) If applicable, acknowledgement of specific uncontested and paid items submitted on the same bill as contested services.
    - (v) Reference to the bill and each item of the bill being contested.
    - (vi) The reason or reasons for contesting the payment of any item. The explanation shall include the citing of appropriate statutes, rules, and documents supporting the payer's reasons for contesting payment.
  - (D) The provider shall have sixty (60) days to respond to the payer's written or electronic notification of contest. Thereafter, the payer shall have thirty (30) days to respond to the provider's response to the notification of contest. If the parties are unable to resolve a dispute relating to the correct payment of a bill, an application may be filed after first contacting the board's medical claims reviewer for assistance.
- (4) The responsibilities of the provider seeking adjudication of a claim for fees shall be as follows:
- (A) Prior to filing an application, the medical provider, the employer, its insurer, and/or its billing review service must engage in a good faith attempt to negotiate an agreed payment.
  - (B) When seeking clarification or dispute resolution from the board, the provider must provide the following upon the request of the board:
    - (i) The fully completed and signed provider fee application, which must identify the specific charges for which provider seeks (additional) reimbursement beyond any reimbursement allowed by the payer.
    - (ii) A copy of CMS 1500 or UB04, whichever is applicable, or its replacement.
    - (iii) A copy of the first and final requests for reimbursement by the provider to the payer. These requests must indicate the following:
      - (AA) The name and address of the person contacted.
      - (BB) The employee's name, address, and date of service.
      - (CC) Any other information that will assist the carrier or employer in identifying the claim.
    - (iv) All information submitted by the provider to the payer including a detailed copy of the bill with the contested codes and dates of service in dispute.
    - (v) A complete copy of the payer's explanation as to why the billed services are being contested.
    - (vi) Documentation of provider and payer's negotiation proceedings and independent attempts to settle the matter.
    - (vii) A copy of all relevant medical record documentation.
    - (viii) Applications submitted without all of the necessary documentation will not be filed.
  - (C) The provider shall furnish a copy of the application and all attachments to the employer, its insurer, or the billing review service if designated by the employer or its insurer.
- (5) The payer's responsibilities in the adjudication of a claim for medical fees shall be as follows:
- (A) Within thirty (30) days of the filing of providers' application, the payer must submit to the board a written response setting forth the reasons that (additional) reimbursement is not required. Evidence rebutting the provider's demand shall accompany its response, including the data relied on to adjust the bill, if relevant.
  - (B) The payer shall furnish the provider with copies of the evidence provided to the board in response to the provider's application. Thereafter, within thirty (30) days of the filing of the payer's response, the provider shall file with the board rebuttal evidence, if any, it intends to use in support of its claim.
- (6) Multiple procedures. When performing more than one (1) surgical procedure in a single surgical setting, multiple surgery

guidelines (one hundred percent (100%) of the listed value for the primary procedure and fifty percent (50%) of the listed value for additional procedures) shall apply. The fifty percent (50%) reduction does not apply to procedures that are identified in the applicable edition of the CPT as "Add-on" or Modifier 51-exempt procedures.

(7) Fragmenting or unbundling of charges by providers. A provider may not fragment or unbundle charges except as consistent with AMA guidelines, CPT coding instructions, or Medicare rules and regulations.

(8) Payment for out-of-state medical treatment of the injured worker shall be made as follows:

(A) Out-of-state medical providers treating injured employees pursuant to the Indiana act shall be reimbursed according to the worker's compensation act of Indiana and these administrative provisions. The filing of a first report of injury with the board shall be prima facie proof of jurisdiction in Indiana.

(B) When an injured employee is treated outside of Indiana, the applicable fee shall be that which would apply if the care had been provided in this state, at a location with a similar population and medical community as that of the location of care. If such comparison is not possible or practicable, reimbursement shall be that which would apply in the community defined as the geographic service area served by the Zip codes with the first three (3) digits 462. Categorization of a hospital or facility provider according to any Indiana standards shall also apply.

(9) Reimbursement for special reports shall be as follows:

(A) Payment shall be made for special reports (CPT code 99080) only if these reports are specifically requested by the payer. Office notes and other documentation that are necessary to support billed provider codes may not be considered special reports.

(B) Payment for special reports shall be at one hundred percent (100%) of the provider's usual and customary charge.

(10) Surgical assists. Assists in surgery will be reimbursed if indicated by the relevant surgical specialty society, CMS, or Medicare guidelines as medically necessary. The rate of reimbursement is indicated by attaching modifier 80, 81, or 82 to surgical procedures. Reimbursement for procedures modified by 80 or 82 will be at twenty percent (20%) of the applicable fee schedule or rate for the code presented. Reimbursement for procedures modified by 81 will be made at ten percent (10%). Multiple and bilateral procedure rules apply.

(11) Utilization review. The board recognizes the Utilization Review Accreditation Commission's (URAC) Workers' Compensation Management 2008 guidelines to medical utilization practices, as well as the Official Disability Guidelines (ODG) published by the Work Loss Data Institute and the American College of Occupational and Environmental Medicine (ACOEM) guidelines. Recommendations from these, and other, reputable sources may be offered as one (1) form of evidence regarding appropriate medical care; however, it will not be considered as conclusive evidence by the single hearing member or the full board.

*(Worker's Compensation Board of Indiana; 631 IAC 1-1-32; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA)*

### **631 IAC 1-1-33 Fees for mediation by the board**

Authority: IC 22-3-4-4.5

Affected: IC 22-3-1-3; IC 22-3-4-5

Sec. 33. The charge for mediation by a qualified employee of the board shall be a flat fee of three hundred fifty dollars (\$350) for five (5) hours of mediation, with an hourly rate of fifty dollars (\$50) for each hour thereafter. No travel expenses will be paid by the parties. *(Worker's Compensation Board of Indiana; 631 IAC 1-1-33; filed May 4, 2012, 10:15 a.m.: 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.: 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.: 20200101-IR-631190175RFA)*

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