

ALABAMA DEPARTMENT OF WORKFORCE  
WORKERS' COMPENSATION DIVISION  
ADMINISTRATIVE CODE

CHAPTER 480-5-1  
GENERAL PROVISIONS

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480-5-1-.01	<u>Reporting Instructions For Insurance Companies And Self-Insured Employers For Workers' Compensation Claims.</u>

(1) WCC 2 - Employer's First Report of Injury - Forward one completed copy signed in ink to the above address within fifteen (15) days for all injuries for which compensation is claimed or paid. This includes deaths, permanent disabilities, and temporary disabilities exceeding three (3) days.

(2) WCC 3 - Supplementary Report - Forward one copy signed in ink to the above address with the applicable section or sections completed within ten (10) days following: A. The date of first payment of compensation after the initial claim or the date of first payment after previous payments were stopped or interrupted for any reason. B. The expiration of a thirty-day period of nonpayment of compensation after the employer has knowledge of a claim. C. The date of cessation or termination of payment of compensation, for any reason whatever, including the interruption or suspension of periodic payments.

(3) WCC 4 - Final Report and Settlement Receipt - Forward one completed copy to the above address within ten (10) days if

possible, but in no case later than thirty (30) days, after the last or final payment of compensation has been made. Enter the amount of medical expenses paid as of the date of the report. If compensation payments are resumed, complete Section A of WCC Form 3 and file within ten (10) days. If additional compensation is claimed, but is not paid within thirty (30) days, complete Section B of WCC Form 3 and file within ten (10) days after the expiration of such thirty-day period.

(4) WCC 5 - Surgeon's Report - Required only upon specific request by this Department. The use of similar forms is permissible.

(5) One of the purposes of the above reports is to keep this department advised at all times of the current status of any claim. If the reporting forms do not contain items fully explaining the current status of a claim, a note of explanation should be made on or attached to the report.

(a) Reporting forms other than the Employer's First Report of Injury must be signed in ink by the adjuster in charge of the claim.

(b) Incomplete reports, illegible reports, or reports filed on unapproved forms will not be accepted.

(c) Reporting forms may be reproduced or purchased from a private printing company.

**Author:** Randy Richie, Workers' Compensation Director

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History:** Previous Rule effective September 30, 1982; Effective February 16, 1993.

#### **480-5-1-.02      Procedures For Collecting Assessments.**

(1) On or before the 1st day of March each entity providing coverage or paying benefits under the law, shall file with the Department of Industrial Relations on the current revision of WCC Form 10 the gross claims for compensation and medical payments paid by the entity during the preceding one year period ending on the 31st day of December.

(2) After receipt and verification of the compensation and medical payments paid, the Department will assess each entity providing coverage \$250.00, plus their proportionate share of the total assessment based on their percentage of gross claims for compensation and medical payments to defray the necessary administrative expense of the Workers' Compensation Program.

(3) If the amount of the assessment is not paid by the entity within thirty days, a civil penalty equal to ten (10%) percent of the amount unpaid is added to the assessment. The amount of the

civil penalty shall be collected at the same time the amount assessed is collected. If the insurance company fails to pay the amount assessed against it within sixty (60) days from the time the notice is served, the Department may request that the Department of Insurance revoke the authority of the insurance company to insure workers' compensation. If the self-insured employer or group fund fails to pay the amounts assessed against them within sixty (60) days from the time the notice is served the Department may suspend or revoke the authorization of the self-insured employer or group fund to continue their self-insurance privileges.

**Author:** Wilbon S. Spates, Chief, Workers' Compensation Division

**Statutory Authority:** Code of Ala. 1975, Act 92-537.

**History:** Emergency Rule effective July 1, 1992; Permanent Rule effective October 15, 1992; Previous Rule Number 480-3-2-.18; Effective: February 16, 1993. **Amended:** Filed October 9, 1997; effective November 13, 1997.

#### **480-5-1-.03      Penalty For Not Filing WCC Form 10.**

Any entity providing coverage which neglects to file the annual written statement within the time provided shall pay a penalty of twenty-five dollars (\$25) per day for each day that this report is late. Any entity which fails to report true and accurate amounts of payments made for compensation and medical on the current revision of WCC Form 10 shall pay the additional assessment and a penalty of fifty percent (50%) of the additional assessment. All money collected under this rule shall be deposited into the Workers' Compensation Administrative Trust Fund.

**Author:** Wilbon S. Spates, Chief, Workers' Compensation Division

**Statutory Authority:** Code of Ala. 1975, Act 92-537.

**History:** **New Rule:** effective October 15, 1992; effective February 16, 1993. **Amended:** Filed October 9, 1997; effective November 13, 1997.

#### **480-5-1-.04      Contracts For Excess Insurance.**

(1) No contract or policy of excess insurance shall be recognized by the Director in considering the ability of an applicant to fulfill its financial obligations under the Law unless such contract or policy:

(a) Is issued by an admitted insurance company.

(b) Contains a sixty (60) day written notice of cancellation and a sixty (60) day written notice of non-renewal to the covered entity and the Director by registered or certified mail.

(c) If it contains any type of commutation clause, it must provide (1) that any commutation effected thereunder shall not relieve the underwriter or underwrites of further liability in respect to claims and expenses unknown at the time of such payment or in regard to claims apparently closed but which may be subsequently revived by or through a competent authority, and (2) that in the event the underwriter proposes to redeem any further payments payable as compensation for accidents occurring during the term of the policy by the payment of a lump sum to be fixed as provided in the commutation clause of the policy, not less than thirty (30) days prior to, notice of such commutation shall be given to the service agent and the director by registered or certified mail by the underwriter or its agent.

(2) Funds that become members of any Alabama reinsurance trust fund, as allowed by 25-5-9(b), Code of Ala. 1975, as last amended, shall not be required to provide other excess insurance during the period of time in which they are members of the reinsurance trust fund.

(3) Any reinsurance trust fund shall adhere to the following regulations:

(a) A reinsurance trust fund may assess its member funds. The assessment against each member for any fund year is limited to an amount equal to the premium paid by the member fund in the fund year for which the assessment is being levied.

(b) Specific and Aggregate Reinsurance is permitted for a reinsurance trust fund, but it not required.

(c) No Self-Insurance bonds or other types of collateral are required of a reinsurance trust fund.

(d) Participants in member funds are not assessable by a reinsurance trust fund.

(e) Quarterly funds status reports will be provided to the Department.

**Author:** Wilbon S. Spates, Chief, Workers' Compensation Division

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History:** Effective February 16, 1993. **Amended:** Filed October 9, 1997; effective November 13, 1997.

**480-5-1-.05      Reasonable Cost Of Copies Of Certain Records**  
**Defined (Repealed 4/12/00).**

REPEALED.

**Author:** Workers' Compensation Medical Services Board

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6)

**History:** Effective February 16, 1993. **Repealed:** Filed March 8, 2000; effective April 12, 2000.

**480-5-1-.06      Continuing Education Requirements For Workers' Compensation Claims Personnel.**

(1) The Department of Industrial Relations through the Workers' Compensation Division will conduct continuing education seminars for all personnel associated with workers' compensation claims and collect necessary registration fees in order to cover any related expenditures.

(2) All workers' compensation claims personnel shall be required to attend approved continuing education seminars in order to accumulate 8 continuing education credits each calendar year. All continuing education credits must be credits approved by the Department of Industrial Relations/Workers' Compensation Division. Violation shall result in the suspension of the privilege to handle workers' compensation claims.

**Author:** Scottie Spates, Workers' Compensation Director

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History:** Effective February 16, 1993. **Amended:** Filed March 30, 2004; effective May 4, 2004.

**480-5-1-.07      Workers' Compensation Assigned Risk Plan.**

(1) Every insurer undertaking to transact in this state the business of either workers' compensation or employer's liability insurance or both, and every rating organization which files rates or prospective loss costs for such insurance shall cooperate in the preparation and submission to the State Insurance Commissioner of Alabama a plan for the equitable apportionment among insurers of applicants for insurance who are in good faith entitled to, but who are unable to procure through ordinary methods, such insurance. Such plan shall provide reasonable rules governing the equitable distribution of risks by direct assignment, reinsurance, or otherwise, and their assignment to insurers, and shall provide a method whereby applicants for insurance, insured, and insurers may have a hearing on grievances and the right of appeal to the State Insurance Commissioner of Alabama.

(2) Once such a plan has been approved, no insurer shall thereafter issue a policy of workers' compensation or employer's liability insurance or undertake to transact such business in this State unless such insurer shall participate in such plan.

**Author:** Randy Richie, Workers' Compensation Division

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History:** Emergency Rule effective November 25, 1992, Permanent Rule effective March 18, 1993.

**480-5-1-.08      Policies And Procedures For Mediation Of Workers' Compensation Disputes By An Ombudsmen.**

(1) Agreement of Parties - Mediation is a process where the parties to a dispute, with the help of an impartial third party (the "mediator"), attempt to work out a mutually satisfactory settlement of the dispute. Mediation is a process whereby either party may terminate the mediation at any time. Neither the Department of Industrial Relations (DIR) nor any mediator has the power of authority to force the parties to mediate or to accept an agreement or settlement.

(2) Initiating the Mediation Process - To begin the mediation process, either party should contact the DIR. When all parties have acknowledged a willingness to mediate, they will then enter into an Agreement to Mediate, and an Ombudsmen shall inform all parties of their rights and responsibilities under the Workers' Compensation Act of Alabama.

(3) Appointment of a Mediator - Following an agreement of the parties to mediate, DIR will select a mediator from its ombudsmen. No Person shall serve as a mediator in any dispute in which that person has any financial or personal interest in the result of the mediation. Prior to accepting an appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or interest in the outcome of the proceedings, or prevent a prompt meeting with the parties. The fact that the selected mediator may already have some familiarity with the case through work as an ombudsmen shall not disqualify the ombudsmen as a mediator unless either party objects to such mediator. In the event that a mediator is objected to, the DIR will select a new mediator from its ombudsmen. If a mediator is not able to continue the mediation process once started, the DIR will select another mediator from its ombudsmen.

(4) Scheduling - Upon appointment, the mediator will work with the parties to establish the time and location of a mediation session. Additional mediation sessions may be scheduled as agreed by the parties and the mediator.

(5) Conduct of Mediation Sessions - Prior to the first scheduled session the mediator may require the parties to provide the mediator with a brief memorandum setting forth the party's position with regard to the issues that need to be resolved. At the direction of the mediator, the memorandum may be exchanged by the parties.

(a) At the first session, the parties shall produce all information reasonably required for the mediator to understand

the issues presented. The mediator may require either party to supplement this information.

(b) At the mediation session(s), the mediator will conduct an orderly settlement negotiation. Parties shall be represented by a person with authority to settle the case. The mediator will be impartial in such proceedings and has no authority to force the parties to agree to a settlement. The mediator may conduct separate meetings (caucus) with each party in order to improve the mediator's understanding of the respective positions of each party or to move the mediation process forward. The mediator shall not disclose to the adverse party confidential information provided by a party unless that party authorizes the disclosure.

(6) Authority of Mediator - The mediator does not have authority to impose a settlement upon the parties, but shall attempt to help the parties reach a satisfactory resolution of their dispute. The mediator may direct questions to any of the parties or their representatives to supplement or clarify information. Whenever necessary, the mediator may obtain expert advice concerning technical aspects of the dispute. Arrangements for obtaining such advice shall be made by the mediator or by the parties. The mediator is authorized to end the mediation whenever, in the judgment of the mediator, further efforts at mediation would not contribute to a resolution of the dispute between the parties.

(7) Privacy - Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with permission of the parties and with the consent of the mediator.

(8) Confidentiality - The mediator shall not divulge information disclosed to the mediator by the parties or by witnesses in the course of mediation. All records, reports, or other documents received by a mediator or prepared by the mediator while serving as a mediator shall be considered confidential. The mediator shall not be compelled in any adversary proceeding or judicial forum to divulge the contents of such documents or the fact that such documents exist or testify in regard to the mediation.

(a) The parties recognize that mediation sessions are settlement negotiations and that all offers, promises, conduct and statements, whether written or oral, made in the course of the proceedings are confidential and inadmissible in any litigation or arbitration of their dispute, including, but not limited to: views expressed or settlement suggestions made by the parties or the mediator; admissions made by any party; responsibility for termination or failure of the mediation process; or the fact that one party backed out of a settlement before it became binding on the parties. By participating in the mediation process; or the fact that one party backed out of a settlement before it became binding on the parties. By

participating in the mediation process, the parties agree not to subpoena or otherwise require the mediator to testify or produce records, notes or work product in any adversarial proceedings between the parties. Any party that attempts to obtain such confidential information shall, and hereby agrees to, reimburse the mediator and the DIR for all fees and costs associated with resisting said attempts. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation session.

(b) In the event the parties do reach a settlement agreement during the mediation which becomes final and binding in accordance with the provisions of Section 39 of Act No. 92-537, that settlement agreement will be admissible in court or arbitration proceedings to enforce it.

(9) No record - There shall be no formal record made of the mediation proceedings and no recordings or stenographic records shall be made.

(10) Counsel - The parties may be represented by an attorney at any stage of the mediation process. An employee shall be advised at the first mediation session of his or her right to be represented by counsel by a writing which shall be notarized.

(11) Settlement - If a dispute is resolved in whole or in part during mediation, the ombudsmen shall reduce the agreement in writing, and the ombudsmen and each party shall sign the agreement. The signed agreement shall be binding on all parties unless within 60 days after the agreement is signed a court of competent jurisdiction relieves all parties of the effect of the agreement because of fraud, newly discovered evidence, or other good cause. At the end of said 60 day period, the agreement shall be final and irrevocable. At any time during the 60 day period, the parties may present the settlement agreement to a court of competent jurisdiction for approval in accordance with the Workers' Compensation Act of Alabama.

(a) At the first mediation session the employee shall be advised by the ombudsmen in writing which is notarized that he or she have a right to have any settlement or his or her claim reviewed by a court of competent jurisdiction at any time within 60 days after the date of the settlement and that at the end of 60 days the settlement shall be final and irrevocable.

(12) Termination - The mediation shall be terminated by the parties reaching a settlement; by a declaration by the mediator to the effect that, in the opinion of the mediator, further efforts at mediation are no longer worthwhile; or by a declaration by any party, at any time, that the mediation proceedings are terminated.

**Author:** Randy Richie, Workers' Compensation Division



**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History:** Emergency Rule effective January 25, 1993. Permanent

**New Rule:** Filed April 13, 1993; effective May 17, 1993.

**480-5-1-.09      Independent Contractor Exemption (Repealed  
3/18/11).**

REPEALED.

**Author:** W. F. Willett, Jr., Acting Workers' Compensation  
Administrator

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History:** Emergency Rule effective August 2, 1993. Permanent Rule:  
Filed October 8, 1993; effective November 12, 1993. **Repealed:**  
Filed February 11, 2011; effective March 18, 2011.