

8 AAC 45.020(d) is amended to read:

(d) Papers and documents filed by facsimile transmission or by electronic mail must be in compliance with **the following:** [DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT COMMISSIONER'S ORDER NO. 001, DATED APRIL 23, 2015.]

(1) a party may file a document by electronic mail with the division or the board by emailing the document, as an attachment, to the division's electronic mail address or by facsimile transmission, except that a party may file a reemployment benefits administrator document by electronic mail with the reemployment benefits administrator by emailing the document, as an attachment, to the administrator's electronic mail address or by facsimile transmission.

(2) a document

(A) sent by facsimile transmission to the division, board, or administrator may not exceed 50 pages;

(B) electronically mailed to the division, board, or administrator in an email submission may not exceed 10 MB;

(C) electronically mailed to the to the division, board, or administrator for filing must be sent as attachments in .pdf format.

(3) The filing party must attach proof of service as required by 8 AAC 45.060 by including it on, or attaching it to, the filed document.

(4) filing of a document by:

(A) facsimile transmission is considered complete upon receipt of the entire document by the division's facsimile machine;

(B) electronic mail with the division or the board is considered complete upon receipt of the entire document at the division's electronic mail address;

(C) electronic mail with the administrator is considered complete upon receipt of the entire document at the administrator's electronic mail address;

(5) a document is considered filed upon receipt unless received on a Saturday, Sunday, a day the board is closed due to a state-recognized closure, or after 5:00 PM Alaska standard time. If the document is filed on a Saturday, Sunday, a state-recognized closure, or after 5:00 PM Alaska standard time, the filing date will be the next working day.

(6) the division, the board, and the administrator are not responsible for verifying that documents filed electronically are received correctly, i.e., that all pages were transmitted, that the document is legible, etc. The division and the board are not responsible for technological problems that may occur as a party tries to transmit documents electronically. Electronic mail that is identified as having a virus will be deleted immediately, the filing party will be informed by the division, and a document attached to the electronic mail will be considered rejected.

(7) original documents of all electronically filed pleadings must be kept by the party to resolve questions pertaining to authenticity. No follow-up originals may be

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

filed, electronically or otherwise, unless specifically ordered by the board, division, or administrator.

(8) a party filing documents by electronic mail must include in the subject line of the transmitting email

(A) the division's case number for the attached documents; and

(B) a brief description of the documents to be filed.

(9) a party filing documents by facsimile must include a cover sheet with the division's case number and identify the documents to be filed. The party may not provide extraneous narrative or explanation in the body of the transmitting email or on the facsimile cover sheet. Information in the email or on the cover sheet is limited to the case name, case number, title of the document or documents that are attached for filing, and the number of pages to be filed.

(10) permission to deviate from this process may only be granted for good cause by order of the designee assigned to the case.

(11) failure to adhere to this process may result in rejection of the submitted documents. (In effect before 7/28/59; am 5/28/83, Register 86; am 4/9/2016, Register 218; am ___/___/___, Register _____)

Authority: [AS 23.05.055] AS 23.30.005

8 AAC 45.025(c) is amended to read:

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

(c) A list or form referred to in this chapter may be obtained by writing to the State of Alaska, Workers' Compensation Division, P.O. Box **115512** [25512], Juneau, Alaska **99811-5512** [99802-5512] **or on the division's Internet website at http://www.labor.alaska.gov/wc/pdf_list.htm**. (Eff. 5/28/83, Register 86; am 3/16/90, Register 113; am ___/___/___, Register _____)

Authority: AS 23.30.005

8 AAC 45.060(b) is amended to read:

(b) A party may file a document with the board, other than the annual report under AS 23.30.155(m), personally, by mail, or by electronic filing through facsimile transmission or electronic mail in compliance with **8 AAC 45.020(d)** [DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT COMMISSIONER'S ORDER NO. 001, DATED APRIL 23, 2015]. Except for a claim, a party shall serve a copy of a document filed with the board upon all parties or, if a party is represented, upon the party's representative. Service must be done personally, by facsimile, by electronic mail, or by mail, in accordance with due process. Service by mail is complete **when deposited** [AT THE TIME OF DEPOSIT] in the mail if mailed with sufficient postage and properly addressed to the party at the party's last known address. If a right may be exercised or an act is to be done, three days must be added to the prescribed period when a document is served by mail.

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

(In effect before 7/28/59; am 5/28/83, Register 86; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 4/9/2016, Register 218; am ___/___/___, Register _____)

Authority: [AS 23.05.055] AS 23.30.110 AS 23.30.135
AS 23.30.005

The introductory language of 8 AAC 45.070(b) is amended to read:

(b) Except as provided in **8 AAC 45.070(b)(1)(A)** [THIS SECTION] and 8 AAC 45.074(c), a hearing will not be scheduled unless a claim or petition has been filed, and an affidavit of readiness for hearing has been filed and that affidavit is not returned by the board or designee nor is the affidavit the basis for scheduling a hearing that is cancelled or continued under 8 AAC 45.074(b). The board has available an Affidavit of Readiness for Hearing form that a party may complete and file. The board or its designee will return an affidavit of readiness for hearing, and a hearing will not be set if the affidavit lacks proof of service upon all other parties, or if the affiant fails to state that the party has completed all necessary discovery, has all the necessary evidence, and is fully prepared for the hearing.

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8 AAC 45.070(b)(1)(A) is amended to read:

(A) For review of an administrator's decision issued under AS 23.30.041[(d)], a party shall file a [CLAIM OR] petition asking for review of the

administrator's decision [AND AN AFFIDAVIT OF READINESS FOR HEARING. THE AFFIDAVIT OF READINESS FOR HEARING MAY BE FILED AT THE SAME TIME AS THE CLAIM OR PETITION.] **An affidavit of readiness for hearing form is not required.** In reviewing the administrator's decision, the board may not consider evidence that was not available to the administrator at the time of the administrator's decision unless the board determines the evidence is newly discovered and could not with due diligence have been produced for the administrator's consideration.

8 AAC 45.070(f)(1) is amended to read:

(1) proceed with the hearing in the party's absence and, after taking evidence, decide the issues in the **claim** [APPLICATION] or petition;

8 AAC 45.070(f)(2) is amended to read:

(2) dismiss the **claim or petition** [CASE] without prejudice; or
(In effect before 7/28/59; am 5/28/83, Register 86; am 12/14/86, Register 100; am 7/1/88, Register 107; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 3/31/2012, Register 161; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.110 AS 23.30.135

8 AAC 45.083(m) is repealed and readopted to read:

(m) The following material is adopted by reference:

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

(1) *Current Procedural Terminology Codes*, 2015 edition, produced by the American Medical Association, as may be amended;

(2) *Healthcare Common Procedure Coding System*, 2015 edition, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(3) *International Classification of Diseases*, 2016 edition, valid October 1, 2015 through September 30, 2016, published by the World Health Organization, as may be amended;

(4) *Relative Value Guide*, 2015 edition, produced by the American Society of Anesthesiologists, as may be amended;

(5) *Diagnostic and Statistical Manual of Mental Disorders*, 5th edition, produced by the American Psychiatric Association, as may be amended;

(6) *Current Dental Terminology*, 2015 edition, published by the American Dental Association, as may be amended;

(7) *Resource-Based Relative Value Scale*, effective January 1, 2015, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(8) *Ambulatory Payment Classifications*, effective January 1, 2015, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(9) *Medicare Severity Diagnosis Related Groups*, effective January 1, 2015, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(10) *International Classification of Diseases*, 10th Revision, Clinical Modification, developed by the National Center for Health Statistics, as may be amended;

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

(11) *Clinical Diagnostic Laboratory Services*, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(12) *Durable Medical Equipment, Prosthetics, Orthotics, and Supplies*, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(13) *Payment Allowance Limits for Medicare Part B Drugs, Average Sale Price*, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(14) *Ambulance Fee Schedule*, produced by the federal Centers for Medicare and Medicaid Services, as may be amended;

(15) *Hospital Outpatient Prospective Payment System*, effective January 1, 2018, produced by the federal Centers for Medicare and Medicaid Services.

(Eff. 12/1/2015, Register 216; am 3/11/2016, Register 217; am 4/1/2017, Register 221; am 1/1/2018, Register 224; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.097 AS 23.30.098

8 AAC 45.085 is amended to read:

(a) An insurer subject to this chapter shall file, **in a format** [ON A FORM] prescribed by the **director** [BOARD], notice with the **division** [BOARD] **not later than** [WITHIN] 10 days after the initiation or renewal of the employer's workers' compensation insurance.

(b) A self-insured employer or insurer subject to this chapter, unless exempted, shall file, **in a format** [ON A FORM] prescribed by the **director** [BOARD], notice with the **division** [BOARD] **not later than** [WITHIN] 10 days after changing insurance adjusting services.

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

(Eff. 2/27/2000, Register 153; am ___/___/___, Register _____)

Authority: AS 23.05.005 AS 23.30.030 AS 23.30.085
AS 23.30.025

The introductory language of 8 AAC 45.092(g) is amended to read:

(g) If there exists a medical dispute under [IN] AS 23.30.095(k),

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The introductory language of 8 AAC 45.092(h) is amended to read:

(h) **In an** [IF THE BOARD REQUIRES] evaluation under AS 23.30.095(k), **the board or the board's designee shall identify the medical disputes at issue and prepare and submit questions addressing the medical disputes to the medical examiners selected under this section. The** [THE] board may direct

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8 AAC 45.092(h)(5) is repealed:

(5) Repealed ___/___/___.

8 AAC 45.092(j)(1) is amended to read:

(1) submit **written questions** [INTERROGATORIES] or depose the examiner, the party must

(A) file with the board and serve upon the examiner and all parties, **not later than** [WITHIN] 30 days after receiving the examiner's report, a notice of scheduling a deposition or copies of the **written questions** [INTERROGATORIES]; if notice or the **written questions** [INTERROGATORIES] are not served in accordance with this paragraph, the party waives the right to question the examiner unless the opposing party gives timely notice of scheduling a deposition or serves **written questions** [INTERROGATORIES]; and

(B) initially pay the examiner's charges to respond to the **written questions** [INTERROGATORIES] or for being deposed; after a hearing and in accordance with AS 23.30.145 or AS 23.30.155(d), the charges may be awarded as costs to the prevailing party;

(Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 2/27/2000, Register 153; am 3/13/2004, Register 169; am 2/28/2010, Register 193; am 4/1/2017, Register 221; am 7/27/2017, Register 223; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.095 AS 23.30.110

8 AAC 45.110(b) is amended to read:

(b) Exhibits submitted at hearings will be kept by the board during the time for appeal. When the time for the filing of an appeal has passed, the exhibits may be returned to the party who submitted the evidence. If the party is either unavailable or declines to take the exhibits, the exhibits may be destroyed. Medical reports submitted into evidence will remain in the case file **unless removed by an order of the board or the board's designee for good cause or under AS 23.30.108.**

The introductory language of 8 AAC 45.110(c) is amended to read:

(c) The hearing before the board will be [TAPE] recorded by the board. The board's [TAPE] recording will be

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(In effect before 7/28/59; am 5/28/83, Register 86; am 7/20/97, Register 143; am 7/2/98, Register 146; am ___ / ___ / ___, Register _____)

Authority: AS 23.30.005 AS 23.30.107

8 AAC 45.134(c) is repealed:

(c) Repealed ___ / ___ / ___. (Eff. 5/28/83, Register 86; am 3/16/90, Register 113; am ___ / ___ / ___, Register _____)

Authority: AS 23.30.005(h) AS 23.30.155(j) AS 23.30.180

8 AAC 45.136 is repealed and readopted to read:

(a) When an insurer or adjuster begins, increases, decreases, terminates, suspends or otherwise modifies compensation payments to the employee, the insurer or adjuster shall notify the division of the nature and substance of the commencement or change not later than 28 days after the commencement or change by filing a subsequent report of injury. The notice must be filed through Electronic Data Interchange.

(b) For purposes of this section and AS 23.30.155(c), "filed" means submitted through Electronic Data Interchange and subsequent receipt of a Transaction Accepted acknowledgement.

(c) For purposes of AS 23.30.155(m) a "complete" annual report means

(1) submitted through Electronic Data Interchange and subsequent receipt of a Transaction Accepted acknowledgement; and

(2) the difference, if any, between the amount listed as paid in each payment category is no greater than 10 percent of the amount reported to the division on the subsequent report of injuries filed under AS 23.30.155(c) in the preceding year.

(d) The division will compare the amount listed for each payment category on the annual report with the division's records to determine if the annual report is complete. The division will serve the insurer or adjuster written notice that the annual report was incomplete, based on the differences. Not later than 30 days after the date notice is served, the insurer or adjuster must respond in writing to the division and provide documentation that the division's records are in error and the annual report was complete as initially filed. If the insurer or adjuster fails to timely respond in accordance with this section or the evidence submitted in the response does not prove

the error was in the division's records, the annual report is incomplete for purposes of AS 23.30.155(m).

(e) Penalties assessed under AS 23.30.155(c) are due after application of AS 23.30.155(m) and (d) of this section. The division will notify the insurer or adjuster of the amount of penalties due, if penalties are not paid within 30 days after notification by the division of the amount due, the insurer or adjuster shall pay

- (1) an additional 25 percent of the penalties due under AS 23.30.155(m); and
- (2) interest on the penalties at the rate established by AS 45.45.010 until the penalties are paid. (Eff. 5/28/83, Register 86; am 12/14/86, Register 100; am 3/16/90, Register 113; am 7/20/97, Register 143; am 4/15/99, Register 150; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.155

8 AAC 45.182(a) is amended to read:

(a) To controvert a claim the employer shall file form 07-6105 in accordance with AS 23.30.155(a) and shall serve a copy of the notice of controversion upon all parties in accordance with 8 AAC 45.060. **This notice must be filed in addition to the notice required under AS 23.30.155(c) and 8 AAC 45.136.**

(Eff. 5/28/83, Register 100; am 3/16/90, Register 113; am 7/2/98, Register 146; am 7/9/2011, Register 199; am ___/___/___, Register _____)

Authority: AS 23.30.005 AS 23.30.155

Register _____, _____ 2019 LABOR AND WORKFORCE DEV.

8 AAC 45.890 is repealed:

8 AAC 45.890. Determining employee status. Repealed. (Eff. 3/16/90, Register 113;
am 12/13/2009, Register 192; repealed ___/___/___, Register _____)