

COST OF LIVING ADJUSTMENT
REIMBURSEMENT RULES AND PROCEDURES

In acknowledgement of the burden placed on insurers who were required to provide Cost of Living Adjustment (COLA) payments pursuant to RI General Laws sections 28-33-17 and 28-33-18.3, 1990 RI Public Laws chapter 332, articles 1, 3 and 4, the following Rules and Regulations are hereby promulgated pursuant to RI General Laws section 42-16-2 for the purpose of affording relief in the form of reimbursement for COLA payments to qualifying insurers:

- I. Definitions. As used in these Rules and Regulations:
 - A. "Assessments" means those payments made by insurers pursuant to R.I.G.L. section 28-37-13, et seq.
 - B. "COLA" means the cost of living adjustment as that index is formulated and computed by the Bureau of Labor Statistics of the United States Department of Labor.
 - C. "Court" means Workers' Compensation Court, unless otherwise indicated.
 - D. "Director" means the Director of the Department of Labor and Training or his/her designee.
 - E. "Fund" means the Workers' Compensation Administrative Account.
 - F. "Insurers" means those organizations licensed and regulated by the Department of Business Regulation to write workers' compensation insurance in the State of Rhode Island, exclusive of self-insurers, group self-insurers, and entities exempt from regulations pursuant to R.I.G.L. section 45-5-20.1.
 - G. "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency.
 - H. "Necessary Filing Requirements" include, but are not limited to:
 - Court orders, decisions, decrees
 - Interim and final reports of payment
 - Memorandum of agreement, non-prejudicial agreement
 - Termination of benefits, suspension agreements, mutual agreements
 - Wage statements, dependency forms
 - Proof of payment

- II. Eligibility
 - A. Only insurers, who are deemed current with the Workers' Compensation Administrative Fund Assessments and have paid all assessments due, including penalties may be reimbursed from the Fund pursuant to R.I.G.L. section 28-37-13(f).

- B. Reimbursement will be made only for claims with injury dates prior to September 1, 1990 pursuant to 28-37-1(8). The initial claim for reimbursement must be made prior to June 30, 1996. Reimbursement requests are to be submitted on form DWC-39 prescribed by the Department of Labor and Training.
- C. Liability must be established on all claims for Cost of Living Adjustment reimbursement by Memorandum of Agreement or Order of the Workers' Compensation Court. Final decision for reimbursement will be held on claims for which litigation is pending regarding the liability of the claim.
- D. Once an application submitted has been approved for reimbursement continuing reimbursement requests are to be submitted on an individual claim basis on form (DWC-40) prescribed by the Department of Labor and Training. Reimbursement will not be considered until all the necessary filing requirements have been met.
- E. Request for Cost of Living Adjustment reimbursement should be addressed to the Rhode Island Department of Labor and Training, Workers' Compensation Administrative Account.
- F. Proof of payment must accompany all requests for reimbursement to the Fund. The Department of Labor and Training may accept a list including check date, check number, payee name, dates covered by payment, and amount of payment, signed by an authorized representative of the insurer verifying that the list is a true and accurate accounting of the payments made as proof of payment. When deemed necessary the Department of Labor and Training may require actual check copies as proof of payment.
- G. Once a claim is accepted for reimbursement of the COLA benefits, continuing reimbursement requests must be submitted to the Department of Labor and Training on a semi-annual basis until the employee is no longer eligible for COLA benefits. If an insurer fails to file its requests by the deadline, stated in III(c) below, with the Department of Labor and Training, those requests that are not filed within the stated deadline will be considered delinquent by the Fund.

III Forfeiture of Benefits.

- A. Requests will be reviewed and a letter will be sent, if necessary, notifying the applicant of the status of their requests. If the information supplied is incomplete, the applicant shall have sixty (60) days to comply with all necessary filing requirements. A claim will be deemed delinquent if the applicant has failed to supply the additional information requested within

sixty (60) days. Once a claim is deemed delinquent, the file will be closed.

- B. The Department will only reimburse the actual cost of living increase payments that are appropriate under the Workers' Compensation Act. The Department will not reimburse for overpayment errors paid by the insurer.
- C. A semi-annual claim for cost of living adjustment reimbursement shall be submitted on or before August 15 for the period from January 1 through June 30 of the current year. Claims must be submitted on or before February 15 of the current year for the period from July 1 through December 31 of the prior year.
- D. Delinquent requests will not be reimbursed by the Department of Labor and Training.

IV. Appeals.

- A. Any party disputing an initial denial by the claims unit may file an objection within thirty (30) days of the mailing date with the Director of the Department of Labor & Training for a determination of the claim for reimbursement. Upon receipt of a written objection, proper hearing notice shall be sent to all parties. Failure to file an objection within thirty (30) days will constitute a waiver of said party's right to object, and the Director/designee will proceed with the final decision.
- B. The Director/designee on its own motion may schedule a pre-hearing conference in order to reduce the issues in dispute and to arrange a hearing schedule. The pre-hearing conference will be scheduled within thirty (30) days of the request and proper notice will be sent.
- C. Continuances shall be addressed to the sound discretion of the Director/designee assigned to the hearing. The Director/designee shall give due regard to provide prompt hearings. No continuances will be granted without good cause.
- D. If any party, or an officer or agent of a party, without good cause fails to appear for hearing after being served with proper notice, the Director/designee may make such orders in regard to the failure, including, but not limited to (1) entering orders adverse to that party and (2) requiring that party to pay the reasonable costs associated with the hearing.
- E. The Department will arrange for a stenographer to be present at all Administrative Account hearings.

- F. If any party disagrees with the final decision of the Director/designee, the party may file a petition to review at the Workers' Compensation Court together with a copy of the decision and order to be reviewed. Appeal of the final agency decision shall be made pursuant to the Workers' Compensation Rules of Procedure, section 2.32.

Promulgated as a Rule and Regulation of the Department of Labor and Training April 9, 1998.