

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 sending 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 sending 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 electronic mail submission may not exceed 10 megabytes (MB);

(C) electronically mailed 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 p.m. Alaska time; if the document is filed on a Saturday, Sunday, a day the board is closed due to a state-recognized closure, or after 5:00 p.m. Alaska 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, that all pages were transmitted, that the document is legible, or that receipt was correct in any other respect; the division, the board, and the administrator 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; follow-up originals may not be 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 message

(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;

(10) the party may not provide extraneous narrative or explanation in the body of the transmitting electronic mail message or on the facsimile cover sheet; information in the electronic mail message or on the facsimile cover sheet is limited to the case name, case number, title of each document that is attached for filing, and the number of pages to be filed;

(11) permission to deviate from the process under this subsection may only be granted for good cause by order of the designee assigned to the case;

(12) failure to adhere to the process under this subsection 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 5/12/2019, Register 230)

Authority: [AS 23.05.055] AS 23.30.005

Register 230, May 2019 LABOR AND WORKFORCE DEV.

8 AAC 45.025(c) is amended to read:

(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 5/12/2019, Register 230)

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 230, May 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 5/12/2019, Register 230)

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 **(1)(A) of this subsection** [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** [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 5/12/2019, Register 230)

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:

(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*, 10th Revision, Clinical Modification, developed by the National Center for Health Statistics, 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) *Hospital Outpatient Prospective Payment System*, effective January 1, 2019, produced by the federal Centers for Medicare and Medicaid Services;

(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.

(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 1/1/2019, Register 228; am 5/12/2019, Register 230)

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.

(Eff. 2/27/2000, Register 153; am 5/12/2019, Register 230)

Authority: AS 23.30.005 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** [IF THE BOARD REQUIRES] **an** evaluation under AS 23.30.095(k), **the board or the board's designee will 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 5/12/2019, Register 230)

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

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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 5/12/2019, Register 230)

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 5/12/2019, Register 230)

Authority: AS 23.30.005 AS 23.30.155 AS 23.30.180

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

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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 5/12/2019, Register 230)

Authority: AS 23.30.005 AS 23.30.155

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 5/12/2019, Register 230)