

ORIGINAL: #2484

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From: Cicola, David
Sent: Wednesday, May 17, 2006 10:50 AM
To: Kupchinsky, John
Subject: Proposed Bureau Reg 121.25

INDEPENDENT REGULATORY
REVIEW COMMISSION

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Kindly allow me to comment on the following proposed regulation:

Section 121.25(b)(1) of the Proposed Regulations amending Chpt. 121. This section states in pertinent part that:

(b) The claimant's compensation checks shall be mailed by first-class mail to the claimant's last known address, unless the claimant has authorized another method of delivery on a form to be prescribed by the Bureau. In no event shall a claimant or his representative be required to appear at a specific place designated by the employer or insurer in order to receive his compensation payments.] Compensation payments shall be issued according to the following:

(1) Unless the claimant and the employer have executed an Authorization for Alternative Delivery of Compensation Payments, Form LIBC-10, or a court orders payment, a claimant's payment for workers' compensation or occupational disease compensation may not be made payable to, or delivered to, an attorney unless the attorney is the administrator or executor of the claimant's estate, a court-appointed trustee, a court-appointed guardian or acting in some other fiduciary capacity.

I recommend that subparagraph (b)(1) be amended to read as follows:

(1) Unless the claimant and the employer have executed an Authorization for Alternative Delivery of Compensation Payments, Form LIBC-10, or a Workers' Compensation Judge, the Workers' Compensation Appeal Board or a court orders payment, a claimant's payment for workers' compensation or occupational disease compensation may not be made payable to, or delivered to, an attorney unless the attorney is the administrator or executor of the claimant's estate, a court-appointed trustee, a court-appointed guardian or acting in some other fiduciary capacity.

The word "court" in the proposed regulation does not clearly encompass the compensation authorities. I have encountered requests for alternative delivery in connection with Compromise and Release Agreements. These agreements are frequently time-sensitive. If WCJs did not have clear authority to authorize alternative delivery, the parties would be inconvenienced and settlements delayed as they obtain orders from the judicial system. The LIBC-10 is an imperfect alternative, as parties sometimes neglect such details (again delaying hearings or decisions) and the WCJ factfinding process reduces the odds of misunderstanding among parties and counsel.

The WCAB should have the same authority. The Board might have occasion to order alternative delivery in a remand/reversal order. Also, since it retains the authority to hear commutations, the Board requires the power to order alternative payment in connection with them.

Thank you for considering my views.

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