

THOMAS C. LOWRY, ESQ., P.C. & ASSOCIATES

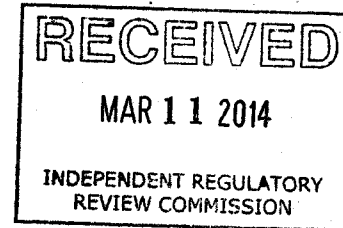
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March 5, 2014

Elizabeth A. Crum, Director
Workers' Compensation Office of Adjudication
WCAB/WCJ Regulations – Comments
1010 N. 7th Street
Harrisburg, PA 17102



RE: Proposed Rulemaking for Special Rules of Administrative Practice and Procedure before Workers' Compensation Appeal Board and Workers' Compensation Judges Published in the PA Bulletin 2/22/2014

Dear Director Crum:

As a practicing workers' compensation attorney, I am writing to you regarding my concerns and suggestions regarding subpoenas and counsel fees as set forth in the proposed rules.

Section 31.81 discusses that upon written or electronic requests of a party or counsel, a Workers' Compensation Judge will issue a subpoena to require the production of books, documents, records, CD Roms, diskettes, or other digital recordings or other things relevant to the proceedings at a scheduled hearing or deposition within the scope of, and scheduled under this chapter. The new revisions proposed that "the party requesting the subpoena shall complete the subpoena and serve the Judge with the original written request and serve a copy of the written request upon unrepresented parties and counsel of record as provided...

It has been my experience, that in writing to a Workers' Compensation Judge to request a subpoena, the subpoena is filled out in detail as to what information is being requested but because of the inherent time delay in receiving the subpoena back from the Workers' Compensation Judge, the date of the records deposition is usually left blank. Upon receipt of the approved subpoena, an attorney can then fill in the records deposition date to afford the appropriate time for the subpoenaed entity/individual to respond. I have very little experience with WCAIS in electronic request for a subpoena and I am uncertain how quickly they can be approved and returned. Therefore, perhaps my concern over the time delay between the approval and the return of the subpoena upon written request and a self addressed stamped envelope will diminish over time if the electronic format is utilized. I also wish to suggest that in the service of the subpoena (131.81 (c)), that a copy be served upon the Workers' Compensation Judge so that the Judge can be aware of the timing and manner of service of the subpoena which the Judge had approved.

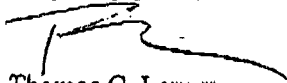
March 5, 2014

Page 2

I also wish to comment on Section 131.55 new proposed language regarding attorney's fees and costs. Overall, it is well written but I wish to seek clarification as to whether or not an attorney with a signed contingent fee agreement with his client can request that client to advance litigation costs where specified in the agreement itself without seeking approval of the Workers' Compensation Judge. Does the proposed rule preclude an attorney who is operating with such a fee agreement signed by a client from obtaining an advance from the Claimant upon written request for sufficient funds to pay all costs associated with his work injury litigation including medical reports and the witness fees of an expert. Please advise.

The purpose of my comments is to raise possible concerns that I foresee in the proposed Rules which I do regard to be well written in general. I welcome any additional dialogue and clarification regarding the same.

Very truly yours,



Thomas C. Lowry
Attorney at Law

TCL/ss