

4123-3-15 Claim procedures subsequent to allowance.

- (A) Requests for subsequent actions when a state fund claim has not had activity or a request for further action within a period of time in excess of twenty-four months.
- (1) The bureau shall consider a request for subsequent action in a claim in the following situations:
- (a) Where the employee requests that the bureau or commission modify or alter an award of compensation or benefits that has been previously granted; or
 - (b) Where the employee request that the bureau or commission grant a new award of compensation or to settle the claim; or
 - (c) Where the claimant request that the allowance of a disability or condition not previously considered; or
 - (d) Where the claimant dies and there is potential entitlement for accrued benefits or payment of medical bills, or the decedent's dependent is requesting death benefits due to relatedness between the recognized injury and death.
 - (e) Except for a medical issue relating to a prosthetic device or durable medical equipment as designated by the administrator, the bureau, in consultation with the MCO assigned to the claim, shall issue an order on a medical treatment reimbursement request in a claim which has not had activity or a request for further action within a period of time in excess of twenty-four months as follows:
 - (i) The MCO shall refer a medical treatment reimbursement request in a claim which has not had activity or a request for further action within a period of time in excess of twenty-four months to the bureau for an order when the request is accompanied by supporting medical evidence dated not more than sixty days prior to the date of the request, or when such evidence is subsequently provided to the MCO upon request (via "Form C-9A" or equivalent). The bureau's order shall address both the causal relationship between the original injury and the current incident precipitating the medical treatment reimbursement request in a claim and the necessity and appropriateness of the requested treatment. The employer or the employee or the representative may appeal the bureau's order to the industrial commission pursuant to section 4123.511 of the Revised Code.
 - (ii) The MCO may dismiss without prejudice, and without referral to the bureau for an order, a medical treatment reimbursement request in a claim which has not had activity or a request for further action within a period of time in excess of twenty-four months when the request is not accompanied by supporting medical evidence dated not more than sixty days prior to the date of the request and such evidence is not provided to the MCO upon request (via "Form C-9A" or equivalent).
- (2) Requests which require proof shall conform to the standards required by paragraph (C) of rule 4123-3-09 of the Administrative Code and rules 4123-5-18 and 4123-6-20 of the Administrative Code.
- (a) Medical evidence is required to substantiate a request for temporary total disability.
 - (b) Medical evidence is required to substantiate the allowance of a disability or condition not previously considered.
- (3) In state fund cases, upon a request for subsequent action under paragraph (A)(1) of this rule, the bureau

shall, upon notification, inform the parties to the claim of the pending action prior to issuing a decision. Upon request, the bureau shall provide a copy of the request and proof to the employer and the claimant, and their representatives, where applicable. Requests in self-insuring employers' cases shall be submitted to the self-insuring employer which shall accept or refuse the matters sought.

- (4) The bureau or commission may require the filing of additional proof or legal citations by either party or may make such investigation or inquiry as the circumstances may require.
 - (5) A state fund employer shall, upon receipt of notification of the request, notify the bureau of any objection to the granting of the relief requested. Such notification must be filed within the time as required by the rules of the bureau and industrial commission.
 - (6) Such requests shall be determined with or without formal (public) hearing as the circumstances presented require. If the request is within the jurisdiction of the bureau and the matter is not contested or disputed, the bureau shall adjudicate the request in the usual manner. In all other cases, the request shall be acted upon by the industrial commission's hearing officer or as otherwise required by the rules of the commission, depending on the subject matter.
 - (7) Failure by the employee to furnish information as specifically requested by the bureau or commission shall be considered sufficient reason for the dismissal of the request. If the employer fails to furnish any information requested by the bureau or commission, the request may be adjudicated upon the proof filed.
- (B) "Application for Determination of Percentage of Permanent Partial Disability or Increase of Permanent Partial Disability" pursuant to division (A) of section 4123.57 of the Revised Code in state fund and self-insured claims.
- (1) An "Application for Determination of Percentage of Permanent Partial Disability or Increase of Permanent Partial Disability" shall be completed and signed by the applicant or applicant's representative and shall be filed with the bureau of workers' compensation. An application for an increase in permanent partial disability must be accompanied by substantial evidence of new and changed circumstances which have developed since the time of the hearing on the original or last determination. The bureau shall dismiss an unsigned application. Except where an additional condition has been allowed in the claim and the request is for an increase in permanent partial disability based solely on that additional condition, the bureau shall dismiss a request for an increase in permanent partial disability filed without medical documentation. Whenever the applicant or applicant's representative leaves a question or questions in the application form unanswered, the bureau shall contact the applicant and applicant's representative to obtain the information necessary to process the application. Should the applicant or applicant's representative inform the bureau that the failure to provide the information necessary to process the application is beyond the applicant's control, the bureau shall take appropriate action to obtain such information.
 - (2) Upon the filing of the application for either of these requests, the application shall be referred to the bureau for review and processing. The bureau shall send notice of the application to the employer and the employer's representative, unless the employer is out of business. The employer shall submit any proof within its possession bearing upon the issue to the bureau within thirty days of the receipt of the claimant's application.

- (3) The bureau shall contact each applicant for a determination of the percentage of permanent partial disability to schedule an examination by a physician designated by the bureau. If the applicant fails to respond to the bureau's attempt to schedule the examination or fails to appear for the examination, the bureau may dismiss the application as provided in rule 4123-3-15.1 of the Administrative Code. The examining physician shall file a report of such examination, together with an evaluation of the degree of impairment as a part of the claim file. The bureau shall send a copy of the report of the medical examination to the employee, the employer, and their representatives.
- (4) Upon receipt of the examining physician's report, the bureau shall review the medical evidence in the employee's claim file and shall make a tentative order as the evidence at the time of the making of the order warrants. If the bureau determines that there is a conflict of evidence, the bureau shall forward the application, along with the claimant's file, to the industrial commission to set the application for hearing before a district hearing officer.
- (5) Where there is no conflict of evidence, the bureau shall enter a tentative order on the request for percentage of permanent partial disability and shall notify the employee, the employer, and their representatives, in writing, of the tentative order and of the parties' right to request a hearing. Unless the employee, the employer, or their representative notifies the bureau, in writing, of an objection to the tentative order within twenty days after receipt of the notice thereof, the tentative order shall go into effect and the employee shall receive the compensation provided in the order. In no event shall there be a reconsideration of a tentative order issued under this division.
- (6) If the employee, the employer, or their representatives timely notify the bureau of an objection to the tentative order, the bureau shall refer the matter to a district hearing officer who shall set the application for hearing in accordance with the rules of the industrial commission. Upon referral to a district hearing officer, the employer may obtain a medical examination of the employee, pursuant to the rules of the industrial commission.
- (7) Where the application is for an increase in the percentage of permanent partial disability, no sooner than sixty days from the date of mailing of the application to the employer and the employer's representative, the applicant shall either be examined, or the claim referred for review by a physician designated by the bureau. Such period may be extended or the processing of the application suspended by the bureau for good cause shown. If the bureau has determined that the employer is out of business the bureau will not mail the application and may process the application without waiting the sixty day period. The bureau physician shall file a report of such examination or review of the record, together with an evaluation of the degree of impairment, as part of the claim file. Either the employee or the employer may submit additional medical evidence following the examination by the bureau medical section as long as copies of the evidence are submitted to all parties.
- (8) After completion of the review or examination by a physician designated by the bureau, the bureau may issue a tentative order based upon the evidence in file. If the bureau determines that there is a conflict in the medical evidence, the bureau shall adopt the recommendation of the medical report of the bureau medical examination or medical review.
- (9) The bureau shall enter a tentative order on the request for an increase of permanent partial disability and shall notify the employee, the employer, and their representatives, in writing, of the nature and amount

of any tentative order issued on the application requesting an increase in the percentage of the employee's permanent disability. The employee, the employer, or their representatives may object to the tentative order within twenty days after the receipt of the notice thereof. If no timely objection is made, the tentative order shall go into effect. In no event shall there be a reconsideration of a tentative order issued under this division. If an objection is timely made, the bureau shall refer the matter to a district hearing officer who shall set the application for a hearing in accordance with the rules of the industrial commission. The employer may obtain a medical examination of the employee and submit a defense medical report at any stage of the proceedings up to a hearing before a district officer.

(10) Where an award under division (A) of section 4123.57 of the Revised Code has been made prior to the death of an employee, the bureau shall pay all unpaid installments accrued or to accrue to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no such children surviving, then to such other dependents as the bureau may determine.

(C) Payment of permanent partial disability pursuant to division (B) of section 4123.57 of the Revised Code (scheduled loss) in state fund and self-insured employer claims.

- (1) The bureau or self-insuring employer will determine the payment of scheduled loss for a loss by amputation or for a loss of use upon the motion of a party for such award. To determine the payment of the award, the bureau or self-insuring employer may review the medical evidence in the file, may request additional medical information from the parties, or may refer the injured worker for an examination by a physician designated by the bureau or self-insuring employer.
- (2) The bureau shall enter an order on or the self-insuring employer shall make a decision on the payment of scheduled loss for a loss by amputation or for a loss of use and shall notify the employee, the employer, and their representatives, in writing, of the order or decision. The parties have a right to appeal the order or contest the decision pursuant to section 4123.511 of the Revised Code.
- (3) Upon an order for the payment of scheduled loss for a loss by amputation or for a loss of use, the bureau or self-insuring employer shall calculate such award pursuant to the statutory schedule of division (B) of section 4123.57 of the Revised Code. The bureau or self-insuring employer shall pay the award to the injured worker in weekly payments as provided in division (B) of section 4123.57 of the Revised Code.
- (4) Where a scheduled loss has been ordered but not paid prior to the death of an employee, upon application, the award is payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no such children surviving, then to such other dependents as the bureau may determine.

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