

Revision to Implementation of the SIF Request for Interpleader Rule 14.09.01.13

The Commission rule prohibiting the practice of orally impleading the SIF on or near the date of a scheduled hearing went into effect on March 15, 2004. The new rule requires that the SIF be impleaded in writing, with a specific requirement that the impleading party identify the evidence which supports the claim that the SIF may be liable.

Initially, the Commission posted a web notice strongly discouraging the practice of producing voluminous medical records when satisfying the requirements of the new rule. Three (3) hypothetical examples were given to demonstrate the proper identification of evidence.

In the first six (6) weeks during which the new rule has been in effect, the Commissioners have concluded that attorneys have failed, in many cases, to adequately identify the evidence necessary to make a prima facie case supporting the interpleader of the SIF. Specifically, ratings are frequently not given, prior operations and past medical treatment are only vaguely described.

Consequently, the Commission has decided that the new rule will require the attachment of medical records to the request for interpleader. Below are three (3) revised hypothetical examples demonstrating the proper identification of evidence.

Example 1 (Medical records identified below are attached)

Evaluation/Rating by Dr. Feelgood – 2001 pre-existing injury-15% R. Leg
WCC Order in Claim#555555-2001 pre-existing injury-10% R. Leg
Records of cardiologist -1985 – 2003 hypertension
Work attendance records 2000-2003 related to lost time for hypertension
Hospital Records-1975 MVA-fractured L. hip
Evaluation/Rating by Dr. Humble for this accident-43% neck

Example 2 (Medical records identified below are attached)

Blindness at birth-R. Eye
Records of primary care physician for diabetes
WCC Order in Claim #555555-pre-existing injury-5% neck
Industrial Loss from pre-existing injury-\$25,000 annual salary reduction
Evaluation/Rating by Dr. Isee for this accident-90% L. eye

Example 3 (Medical records identified below are attached)

WCC Order in Claim #555555-5% other cases (neck)(25 weeks)
WCC Order in Claim #555556-15% L. Hand(37.5 weeks)
WCC Order in Claim #555557-22% other cases (back)(110 weeks)
Evaluation/Rating by Dr. Payme for this accident-70% L. elbow/arm