

Executive Secretary's Office Update

Meredith R. Henderson, Executive Secretary
North Carolina Industrial Commission

25th Annual N.C. Workers' Compensation Virtual Education Conference

Agenda Outline

- ▶ Mission Statement
- ▶ Personnel Update
- ▶ FY 2019-2020 Report
- ▶ COVID-19 Response and Trends
- ▶ Coming Changes in Technology
- ▶ Practice Tips

Executive Secretary's Office

- ▶ “The mission of the Executive Secretary's Office is to efficiently address, handle, and rule on administrative filings in as summary and simple a manner as feasible and in as quick a manner as possible. The shared mission of the Executive Secretary, Special Deputy Commissioners, and support staff is to assist all parties in the field of workers' compensation in a professional manner through streamlined processes and consistent practices, effective communications with the parties, and responsiveness on all matters with which we come into contact.”

Executive Secretary's Office

- ▶ Executive Secretary
- ▶ Special Deputy Commissioners
 - ▶ Lucy Austin
 - ▶ Kim Fennell
 - ▶ Alexandra Hagerty
 - ▶ Mike Kelly
 - ▶ Tony Lucas
 - ▶ Jessi Sherman

Executive Secretary's Office

- ▶ ESO Staff Members
 - ▶ Kimberly Allmond
 - ▶ General Administrative Motions
 - ▶ Medical Motions
 - ▶ 3rd Party Distributions
 - ▶ Attorney Withdrawals
 - ▶ Tiffany Davalos
 - ▶ Form 23 Applications
 - ▶ Form 24 Applications
 - ▶ Scott Horton
 - ▶ Compromise Settlement Agreements
 - ▶ Mandy Liang
 - ▶ Compromise Settlement Agreements

Executive Secretary's Office

- ▶ FY 2019-20 Statistics
 - ▶ 10,399 Orders on Compromise Settlement Agreements
 - ▶ 4,106 Orders/Dispositions on Administrative Motions
 - ▶ 1,947 Orders on Medical Motions
 - ▶ 1,518 Orders/Dispositions on Form 24 Applications
 - ▶ 1,406 Orders on Motions to Withdraw as Counsel
 - ▶ 760 Orders Distributing Third Party Settlements
 - ▶ 234 Orders/Dispositions on Form 23 Applications
 - ▶ 20,370 Total Orders/Dispositions

Executive Secretary's Office

- ▶ Medical Fees Section

- ▶ Bernadine Singh, Medical Fee Examiner
- ▶ Garrett Griffin, Processing Assistant

- ▶ FY 2019-20

- ▶ Assisted with 170 medical provider fee disputes, resulting in \$139,010.78 in medical fees being paid to providers.
- ▶ Processed 944 medical bills to assist providers and carriers.

Executive Secretary's Office

- ▶ Nurses Section
 - ▶ Vicki Hewitt-McNeil, MSN, RN, CCM, CBIS, Rehabilitation Nurse Consultant
 - ▶ Yolanda Newsome, Processing Assistant
 - ▶ Garrett Griffin, Processing Assistant
- ▶ FY 2019-20
 - ▶ Assisted with medical case management in 36 cases.
 - ▶ Processed 12,880 Form 25Ns.
 - ▶ Conducted mandatory training for 284 rehabilitation professionals.

Executive Secretary's Office: COVID-19 Response

- ▶ Effects on Office Procedures
 - ▶ Transition to working from home - mid-March 2020
 - ▶ Limited visits to office to handle paper mail and restock paper and toner supplies.
 - ▶ Utilization of Stamps.com in order to mail from home where needed.
 - ▶ Utilization of Microsoft Teams or dedicated conference line for meetings and informal telephone hearings.
 - ▶ Utilization of email communication where possible.
 - ▶ Transition to emailing orders instead of faxing based on requests from stakeholder law firms.
 - ▶ **TIP: Include email addresses on cover letters, signature pages, proposed orders.**

Executive Secretary's Office: COVID-19 Response

▶ Effects on Legal Procedures

- ▶ No changes needed to administrative procedures because motions and informal telephone hearings are not affected by quarantine requirements.
- ▶ Written affirmation without notarization allowed
 - ▶ No rules requiring notarization of settlement agreement.
 - ▶ Affidavits submitted as documentation affected.
- ▶ Electronic signatures
 - ▶ IC accepts agreements that have been signed by one or more parties via electronic signature services that provide a graphic image of a signature placed on the document using secure software that verifies the identity of the user.
 - ▶ Employee's attorney may not electronically sign on behalf of client.

Executive Secretary's Office: COVID-19 Response

▶ Effects on Rehabilitation Case Management

The Commission's Rehabilitation Nurse Consultant received many inquiries from rehabilitation case management companies regarding how to provide case management services during the pandemic while adhering to the Rules for Rehabilitation Professionals in Workers' Compensation Claims. Frequent issues addressed included the following:

- ▶ How to obtain injured employee signatures on necessary forms remotely.
- ▶ How to participate in telehealth appointments and document necessary medical information.
- ▶ How to communicate with physicians when unable to attend appointments or if injured employees declined case manager attendance.

Executive Secretary's Office: COVID-19 Response

- ▶ Effects on Medical Treatment: Telehealth
 - ▶ Are telehealth visits allowed by the Industrial Commission in workers' compensation cases?
 - ▶ Neither the Workers' Compensation Act nor any Industrial Commission Rules disallow telehealth.
 - ▶ Does the Industrial Commission's Workers' Compensation Fee Schedule cover telehealth visits?
 - ▶ Evaluation & Management visits conducted via telehealth can be billed using the same Evaluation & Management codes that are used for an in-person office visit, except that "02" should be used as the "Place of Service" code. For any services with CPT codes that do not have a specific fee schedule amount, the charges would be paid per agreement between the carrier and medical provider.
 - ▶ What should an employee do if a Carrier refuses to authorize a telehealth visit?
 - ▶ As with any dispute regarding medical treatment, the injured employee may file a medical motion with the Industrial Commission asking the Commission to order the carrier or third-party administrator to authorize and pay for the telehealth visit.

Executive Secretary's Office: COVID-19 Trends

- ▶ **Compromise Settlement Agreements**
 - ▶ Settlement of claims for COVID-19 injury
 - ▶ Many are for healthcare personnel.
 - ▶ Some accepted, some denied.
 - ▶ No significant increase in number of settlements.
 - ▶ Many settlements reference COVID-19 as a complicating factor in returning to work.
 - ▶ Anecdotal? Some decrease in parties seeking CMS approval.
 - ▶ Orders are being emailed → Include email addresses on proposed orders!

Executive Secretary's Office: COVID-19 Trends

- ▶ Interesting trends in motions and Form 24 and Form 23 applications
 - ▶ Motions to compel compliance
 - ▶ Failure to attend appointments due following CDC guidelines.
 - ▶ Failure to attend appointments due to high risk status.
 - ▶ Form 23 Applications
 - ▶ Trial RTW with restrictions not possible due to COVID-related layoff.
 - ▶ Form 24 Application
 - ▶ Refusal to return to work due to high risk status.

Executive Secretary's Office: Coming Changes in Technology

- ▶ New Case Management System
 - ▶ Improved tracking and management of motions and settlement agreements.
 - ▶ Contact information will be stored in attorney and party accounts and related to each case as needed.
 - ▶ Contact information will include email addresses. IC will save time in searching for email addresses to serve orders.
 - ▶ Review Rule 11 NCAC 23A .0109.
 - ▶ Increased communication by email using email templates for common notices and memos.
 - ▶ Templates will draw in data related to the case and save staff time normally spent hunting for and typing in information.

Nurses and Medical Fees: Coming Changes in Technology

- ▶ New Case Management System and Electronic Filing Portal
 - ▶ Documents filed via email with the Medical Rehabilitation Nurses Section and Medical Fees Section will be filed via the new EDFP portal.
 - ▶ Form 25N
 - ▶ Rehabilitation Referral
 - ▶ Medical Bill Analysis Request
 - ▶ Medical Provider Fee Dispute
 - ▶ Registration for mandatory Primer and Refresher classes online with confirmation following payment online.
 - ▶ IC file numbers not required for filing in new portal if not available.

Executive Secretary's Office: Practice Tips

- ▶ Pre-Hearing Subpoenas - Parties may request permission to serve pre-hearing subpoenas pursuant to Rule 11 NCAC 23A .0605(7).
 - ▶ Increase in subpoenas served on parties in lieu of requests for production.
 - ▶ Increase in motions to quash subpoenas.
- ▶ Communication with Physicians - N.C. Gen. Stat. 97-25.6(d)
 - ▶ Attach a copy of the proposed communication with the physician to any motion for protective order.
 - ▶ Proposed additional relevant medical information alone does not invoke Subsection (d). The employer must provide the proposed written communication and the additional medical information to the employee pursuant to (d)(1).

Executive Secretary's Office: Practice Tips

- ▶ Proposed Orders - Comply fully with Rule 11 NCAC 23A .0609(k):
 - ▶ Include a proposed Order with motions and responses that includes:
 - ▶ (1) the Industrial Commission file number(s);
 - ▶ (2) the case caption;
 - ▶ (3) the subject of the proposed Order;
 - ▶ (4) the procedural posture; and
 - ▶ (5) the party appearances or contact information. If a party is represented by counsel, then the appearance shall include the attorney and firm name, email address, telephone number, and fax number. If a party is unrepresented, then the proposed Order shall include the party's email address, telephone number, and fax number, if available.
 - ▶ Failure to comply may result in a delay in ruling while a revised order is requested.