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ILLINOIS REGISTER

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WORKERS' COMPENSATION COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 9030
- 3) Section Numbers: 9030.70                      Emergency Action:  
Emergency Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.1(b), 13 and 16 of the Illinois Workers' Compensation Act [820 ILCS 305] and Section 16 of the Illinois Workers' Occupational Diseases Act [820 ILCS 310].
- 5) Effective Date of Emergency Rules: April 16, 2020
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rule will not expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: April 16, 2020
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Workers' Compensation Commission's principal office and is available for public inspection.
- 9) Reason for Emergency: The rapid spread of COVID-19 and uncertainty created within regulated industry has necessitated the modification of evidentiary rules regarding practice before the Commission to ensure first responders and essential front-line workers, who are most susceptible to exposure to COVID-19, are afforded the full protections of the Workers' Compensation Act in the event they are exposed to or contract the virus.

Due to the unprecedented and extreme exigencies created by the nature and timeline of the spread of COVID-19, going through the normal proposed rulemaking process under section 5-40 of the Illinois Administrative Procedure Act (5 ILCS 100/5-40) would create the potential for causing irreparable and irreversible harm to the public interest, public safety, and public welfare. Without the passage of this emergency rule, the uncertainty associated with the prior rules may put an individual in the untenable position of balancing their need to receive a continued paycheck to support their family and making the correct decision to miss work and self-isolate and self-quarantine. Without the emergency rule, individuals may feel forced to act against the public interest,

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potentially creating an even more dire hazard than the State already faces. There is also the further potential that an individual who is a first responder or essential front-line worker and is capable of providing essential services may choose to miss work or to temporarily withdraw from the workforce out of fear of contracting the virus and being uncertain whether or not they would be afforded the protections of the Workers' Compensation Act—protections that every working Illinoisan deserves to be confident in and reassured by.

The rule is written to be narrowly tailored to only apply to those people who are first responders or essential front-line workers, to only apply to their employment as first responders or essential front-line workers, and to only apply to exposures that occur during a COVID-19-related state of emergency declared by the Governor. Further, the emergency rule does not guarantee or assure an award of benefits to any individual who suspects he or she has contracted COVID-19 or self-isolates and self-quarantines due to an alleged or suspected exposure to COVID-19, but, instead, creates a reasonable rebuttable presumption that a first responder or front-line worker's exposure to the virus is connected to their employment.

The emergency rule does not create or diminish any substantive rights of any party, but, instead, speaks to the rules of evidence and procedural rules to be followed by the Commission's hearing officers for carrying out the duties imposed upon the Commission in the conduct of hearings.

- 10) A Complete Description of the Subjects and Issues Involved: The proposed rules are designed to ensure in any case before the Workers' Compensation Commission where any COVID-19 First Responder or Front-Line Worker, defined within the Rule, is exposed to COVID-19 during the State of Emergency, it will be rebuttably presumed that the individual's exposure arises out of and in the course of their COVID-19 First Responder or Front-Line Worker employment and rebuttably presumed to be causally connected to their COVID-19 First Responder or Front-Line Worker employment.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking neither creates nor expands any state mandates on units of local government.
- 13) Information and questions regarding these emergency rules shall be directed to:

Cole D. Garrett  
Deputy General Counsel

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Illinois Workers' Compensation Commission  
100 W. Randolph St., Suite 8-200  
Chicago, IL 60601  
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The full text of the Emergency Amendments begins on the next page:

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TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9030  
ARBITRATION

Section

9030.10 Arbitration Assignments

9030.20 Setting a Case for Trial

9030.30 Disqualification of Commissioners and Arbitrators

9030.40 Request for Hearing

9030.50 Subpoena Practice

9030.60 Depositions

9030.70 Rules of Evidence

**EMERGENCY**

9030.80 Briefs, Arbitrators' Decisions

9030.90 Opening and/or Closing Statements

9030.100 Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

**AUTHORITY:** Implementing and authorized by the Workers' Compensation Act [820 ILCS 305] and the Workers' Occupational Diseases Act [820 ILCS 310].

**SOURCE:** Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency amendment at 5 Ill. Reg. 8547, effective August 3, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 7, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2514; amended at 9 Ill. Reg. 19722, effective December 6, 1985; emergency amendment at 14 Ill. Reg. 4913, effective March 9, 1990, for a maximum of 150 days; emergency expired August 6, 1990; amended at 14 Ill. Reg. 13141, effective August 1, 1990; amended at 15 Ill. Reg. 8214, effective May 17, 1991; amended at 20 Ill. Reg. 4053, effective February 15, 1996; amended at 36 Ill. Reg. 17913, effective December 4, 2012; recodified from 50 Ill. Adm. Code 7030 to 50 Ill. Adm. Code 9030 at 39 Ill. Reg. 9605; amended at 40 Ill. Reg. 15732, effective November 9, 2016; emergency amendment at 44 Ill. Reg. \_\_\_\_\_, effective April 16, 2020, for a maximum of 150 days.

**Section 9030.70 Rules of Evidence**

**EMERGENCY**

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- a) The Illinois Rules of Evidence shall apply in all proceedings before the Commission, either upon Arbitration or Review, except to the extent they conflict with the Act, the Workers' Occupational Diseases Act [820 ILCS 310], or the Rules Governing Practice Before the Workers' Compensation Commission (50 Ill. Adm. Code Chapter VI).
- 1) [In any proceeding before the Commission in which the petitioner is a COVID-19 First Responder or Front-Line Worker as defined in Section \(a\)\(2\), if the petitioner's injury, occupational disease, or period of incapacity resulted from exposure to the COVID-19 virus during the Gubernatorial Disaster Proclamation 2020-38 and any subsequent COVID-19 disaster proclamations, the exposure will be rebuttably presumed to have arisen out of and in the course of the petitioner's COVID-19 First Responder or Front-Line Worker employment and, further, will be rebuttably presumed to be causally connected to the hazards or exposures of the petitioner's COVID-19 First Responder or Front-Line Worker employment.](#)
  - 2) [The term "COVID-19 First Responder or Front-Line Worker" means any individuals employed as police, fire personnel, emergency medical technicians, or paramedics and all individuals employed and considered as first responders, health care providers engaged in patient care, corrections officers, and the crucial personnel identified under Section 1 Parts 7, 8, 9, 10, 11, and 12 of Executive Order 2020-10 dated March 20, 2020](#)
- b) Exhibits offered in evidence, whether admitted or rejected, shall be retained by the assigned Arbitrator or Commissioner until a decision is issued in the matter. Exhibits may not be removed by the parties. Once a final decision is rendered, exhibits shall be retained by the Commission pursuant to the requirements of Section 17 of the Act.

(Source: Amended by emergency rulemaking at 44 Ill. Reg. \_\_\_\_\_, effective April 16, 2020, for a maximum of 150 days)