



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	30 Virginia Workers' Compensation Commission
VAC Chapter Number:	50
Regulation Title:	Rules of the Virginia Workers' Compensation Commission
Action Title:	Promulgating Rules Governing Expedited Hearings
Date:	08/19/02

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The Virginia Workers' Compensation Commission submits this action in its effort to comply with the General Assembly's mandate (Chapter 538 of the 2002 Acts of Assembly), directing that it promulgate rules and regulations by July 1, 2003, "instituting an expedited calendar for the administration of claims under the Virginia Workers' Compensation Act in which the employer's denial of benefits satisfies criteria establishing that delays will cause an injured employee to incur severe economic hardship."

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

As a general matter, the General Assembly empowered the Virginia Workers' Compensation Commission to "make rules and regulations for carrying out the provisions" of the Virginia Workers' Compensation Act. *See* § 65.2-201 (A) of the Code of Virginia. Specifically, with regard to the present action, the Commission seeks to promulgate new procedural rules upon the express direction of the Virginia General Assembly. **Chapter 538 of the 2002 Acts of Assembly** (website link: <http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+CHAP0538>) states that the Commission "shall" promulgate rules and regulations by July 1, 2003, instituting an expedited calendar for the administration of claims meeting certain criteria.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Commission anticipates that the present action will lead to the adoption of one or more new procedural rules within regulation VAC 30-50, and will likely result in minor amendments to the existing rules therein.

The Commission made no determination as to whether the proposed regulatory action is essential to protect the health, safety or welfare of the citizens of the Commonwealth. The Commission is acting at the express direction of the General Assembly, which made its own determination that the proposed regulation was necessary.

The Commission recognizes that there are several significant issues that must be addressed as the present rules are developed. Of particular importance is developing a balance between the goal of providing expedited proceedings for employees suffering severe economic hardship, and providing employers and insurers with a sufficient process by which to protect their rights. Other issues to be addressed include: (1) the standards to be employed to determine what constitutes "severe economic hardship"; (2) how to incorporate the new rules into the existing procedural framework; and (3) the means by which determinations made under the new rules are to be reviewed.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Because the Commission is acting under the express direction of the General Assembly to promulgate rules to achieve a defined purpose, it has not considered any other alternatives.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Commission is an independent state agency, administering the Virginia Workers' Compensation Act. The Commission's jurisdiction extends to disputes involving injuries or occupational diseases suffered by employees arising out of and in the course of employment. While the Commission's administration of the claims and adjudication process in Virginia has some impact on parenting, economic self-sufficiency and marital commitment, the Commission believes that such impact is remote and undeterminable. The proposed regulation, if adopted, will lead to expedited adjudication of cases where the claimant-employee is suffering severe economic hardship. This will result, in cases where the claim is found compensable, in the stabilization of the claimant-employee's economic situation faster than under present rules and adjudicatory procedure.