

Chapter 9.00: Other Agency Administrative Proceedings

Section

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9.01: Scope and Authority

452 CMR 9.00 is promulgated pursuant to M.G.L. c. 152, § 5, as most recently amended, for the purpose of carrying out a portion of the adjudicatory responsibilities mandated under M.G.L. c. 152. The administrative rules and procedures contained in this chapter set forth uniform procedures which apply to all administrative proceedings before the Department other than those heard before the Division of Dispute Resolution and conducted under the adjudicatory rules set forth in 452 CMR 1.00 et seq.

9.02 Employers Report of Injury

(1) An employer who is aggrieved by an assessment of a fine imposed for a violation under the provisions of MGL c. 152, § 6, may ~~seek~~request an administrative review by the Department's Director of ~~Claims~~-Administration or his ~~or her~~ designee by giving written notice of such request to said director within 30 days of the issuance of the fine and shall include any relevant documentation with such request. Said director shall make a finding within 30 days of receipt of a documented request for review.

(2) An employer who is aggrieved by the finding of said director shall have 14 days from receipt of said finding to request a hearing before the ~~Director of the Department's~~ Director-Department or his ~~or her~~ designee, who shall schedule such hearing in Boston within 30 days of receipt of such request. At the hearing ~~said the~~ employer shall ~~be given~~have the right to be represented by counsel, to call witnesses, and to question the Director of ~~Claims~~-Administration or his designee. The hearing shall ~~not be subject to rules of evidence~~ be conducted in conformance with M.G.L. c. 30A and 801 CMR 1.00 et seq.

(3) No employer shall be granted more than one administrative review for any alleged work-related injury.

9.03 Medical Reports and Records

(1) Within 14 calendar days of the completion of an initial medical examination by an attending physician of an employee, or any subsequent examination by such physician indicating a change in the capacity of an employee to work, the physician shall submit to the Department and to each party a medical report. No medical examination shall be deemed to have been completed until all tests ordered have been received by the physician. On the written request of a party, the Department shall send a notice to the physician to make immediate submission of a medical report. Each failure to submit a report within 14 days of receipt of a Departmental notice to submit shall be a separate violation and shall be punished by a fine of \$25.00 provided that:

(a) No fine shall be levied against physicians employed by the United States Veterans Administration to the extent that such fine would conflict with federal law; and

(b) No fine shall be levied when compensation has been agreed to, the medical treatment is reasonable and necessary, but payments for the physician's services at reasonable rates in accordance with MGL c. 152, § 13, have not been made within 45 calendar days of the submission of a bill.

(2) Any physician aggrieved by the assessment of a penalty pursuant to MGL. c. 152, § 30A, ~~who is aggrieved by any such assessment~~ may seek an administrative review by the Director of Administration or his designee by giving written notice of said request within 30 days of the issuance of the fine and shall include any relevant documentation with such request. Said director shall make a finding within 30 days of receipt of a documented request for review.

(3) A physician who is aggrieved by the finding of said director shall have 14 days from receipt of said finding to request a hearing before the Director of the Department or his ~~or her~~ designee, who shall schedule such hearing in Boston within 30 days of receipt of such request. At the hearing, said physician shall be given have the right to be represented by counsel, to call witnesses, and to question the Director of Administration or his designee. The hearing shall ~~not be subject to rules of evidence~~ be conducted in conformance with M.G.L. c. 30A and 801 CMR 1.00 et seq-

9.04 Adjudicatory Procedures for Departmental Administrative Hearings

(1) Other than proceedings covered by 452 CMR 1.00 et seq., administrative hearings convened by the Department of Industrial Accidents shall be conducted pursuant to M.G. L. c. 30A and 801 CMR 1.00 et seq., and M.G.L. c. 152 § 25A where applicable.

(2) Hearings conducted pursuant to M.G.L. c. 152 § 30H (OEVR determinations of suitability), M.G.L. c. 152 § 25A(c)(3) (refusals to grant license, or revoking or refusing to renew license, of self insurer), M.G.L. c. 152 § 25C (appeals of Stop Work Orders), M.G.L. c. 152 § 6 (timely

filing of notice of injury), M.G.L. c. 152 § 65B (cancellation of insurance), M.G.L. c. 152 § 7C (denial or suspension of practice before the Board) and any other administrative hearings required by M.G.L. c. 152 other than those provided for under ~~801-452~~ CMR 1.00 et seq. shall be governed by paragraph (1) of this section.