

Supreme Court of Florida

No. 86,035

IN RE: AMENDMENTS TO THE FLORIDA RULES
OF WORKERS' COMPENSATION PROCEDURE

[May 16, 1996]

WELLS, J.

This matter is before the Court upon a report filed by the Workers' Compensation Rules Committee of The Florida Bar recommending emergency amendments to the Florida Rules of Workers' Compensation Procedure. We have jurisdiction pursuant to article V, section 2(a) of the Florida Constitution.

A synopsis of the proposed amended rules was published for comment in The Florida Bar News. Upon the request of the chief judge of the First District Court of Appeal, we approved part B of the Florida Rules of Workers' Compensation Procedure relating

to appellate procedure. See In re Amendments to the Fla. Rules of Workers' Comp. Pro., 664 So. 2d 945 (Fla. 1995).

The Court has received comments concerning the remaining proposed amended rules and has held oral arguments on these proposed rules. After oral argument, we directed the Workers' Compensation Rules Committee to consider several of the submitted comments. The committee thereafter submitted a supplemental report addressing these comments. Additionally, we received comments from a subcommittee of the Mediation and Arbitration Rules Committee. In response to the submitted comments and oral arguments, we have made the following substantive changes to the proposed rules.¹

Proposed rule 4.025(b) is amended to specifically exclude a claim for reimbursement from the Special Disability Trust Fund from being consolidated with other claims not contained in a petition.

Proposed rule 4.028(a)(5)(D) is amended to clarify that in cases in which an injured employee is required to exhaust all managed care grievance procedures before filing a petition for benefits under section 440.192(3), Florida Statutes (1995), any claims for benefits under section 440.13(2)(a) and (b), Florida Statutes (1995), brought after the grievance procedures required

¹ We have also made some word changes throughout the rules, forms, and appendices, which we do not list because we do not consider that these changes substantively alter what was submitted.

by section 440.134(15) are exhausted are to be determined by a judge of compensation claims and not by administrative appeal brought under chapter 120, Florida Statutes (1995).

Proposed rule 4.310(e) is revised to reflect that the mediator has ten days following the conclusion of the mediation conference to file a written report to the presiding judge as to the status of the case.

Proposed rule 4.361(a) is revised to reflect that the mediator shall have control of the mediation and not just the mediation conference.

Accordingly, we now approve and adopt the remainder of the committee's proposed amendments as modified and reflected in the appendix to this opinion. New language is indicated by underscoring; deleted language is indicated by overstriking. Committee comments are included for explanation and guidance only and are not adopted as an official part of the rules. These amendments shall take effect upon the release of this opinion.

No motion for rehearing shall be entertained.

It is so ordered.

GRIMES, C.J., and OVERTON, SHAW, KOGAN, HARDING and ANSTEAD, JJ.,
concur.

Original Proceeding - Florida Rules of Workers' Compensation
Procedure

John F. Harkness, Jr., Executive Director, The Florida Bar,
Tallahassee, Florida; Honorable John J. Lazzara, Judge of
Compensation Claims, Tallahassee, Florida; and Honorable Michael
J. DeMarko, Judge of Compensation Claims, Chairperson of Workers'
Compensation Rules Committee, Pensacola, Florida,

for Petitioner

Sharon Press, Director, Dispute Resolution Center, Tallahassee,
Florida, on behalf of a subcommittee of the Mediation and
Arbitration Rules Committee; and Annemarie Craft, Tallahassee,
Florida, on behalf of Florida Department of Labor & Employment
Security,

Responding