

**WORKERS' COMPENSATION DIVISION[876]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 1, "Purpose and Function," Chapter 2, "General Provisions," Chapter 3, "Forms," Chapter 4, "Contested Cases," Chapter 5, "Declaratory Orders," Chapter 6, "Settlements and Commutations," Chapter 8, "Substantive and Interpretative Rules," and Chapter 12, "Formal Review and Waiver of Rules," Iowa Administrative Code.

These amendments relate to recent changes enacted in 2017 involving Iowa Code chapter 85, concerning the evaluation of permanent impairments under Iowa Code section 85.34, vocational training and education under Iowa Code section 85.70(2), suitable work under Iowa Code section 85.33, and commutations under Iowa Code section 85.45. These amendments also update agency addresses, agency telephone numbers, and statutory references. Cross references in these rules to provisions of Iowa Code chapter 85 should be understood to include the amendments enacted in 2017 Iowa Acts, House File 518.

Prior to filing the Notice of Intended Action, the Workers' Compensation Commissioner sought input and comments from stakeholders. Comments were received from the Iowa Association of Business and Industry. The comments were considered in drafting the amendments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 25, 2017, as **ARC 3414C**. Comments were received from the Iowa Association of Business and Industry on November 13, 2017. The rule making was on the agenda for the Administrative Rules Review Committee meeting on November 14, 2017. Comments were also received from the Iowa Association of Business and Industry at that time. The Workers' Compensation Commissioner considered the comments received and determined that no changes would be made from the amendments published under Notice.

After analysis and review, the fiscal impact remains the same as the estimates published in the Final Action Fiscal Note for 2017 Iowa Acts, House File 518. Changes pertaining to how injuries to shoulders and permanent partial disability injuries are addressed will result in an estimated reduction in benefit payments from the state's Workers' Compensation Fund to state workers of \$1.8 million annually beginning with fiscal year 2018. The Workforce Development Department may utilize an additional 2.0 full-time equivalent positions and \$144,000 annually in salary and benefit funding to address all of the changes related to the enactment of House File 518. The estimate includes the cost to administer the shoulder training program, but does not include the actual cost of the training. Little or no impact on the State is anticipated from the changes related to the offer of suitable work.

These amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

These amendments do not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 85 as amended by 2017 Iowa Acts, House File 518.

These amendments will become effective January 24, 2018.

The following amendments are adopted.

ITEM 1. Amend rule 876—1.2(86,17A) as follows:

**876—1.2(86,17A) Location.** Interested persons may contact the Iowa Workers' Compensation Commissioner, 1000 East Grand Avenue (mailing address), 150 Des Moines Street (physical location), Des Moines, Iowa 50319; telephone (~~(515)281-5387~~ (515)725-4120 or ~~1-800-Job-Iowa (1-800-562-4692)~~ 1-800-645-4583. The fax number is (515)281-6501. The Web site address is <http://www.iowaworkforce.org/wc>.

ITEM 2. Amend rule 876—2.4(85,86) as follows:

**876—2.4(85,86) Guides to evaluation of permanent impairment.** The Guides to the Evaluation of Permanent Impairment, Fifth Edition, published by the American Medical Association are adopted as a guide for determining the extent of loss or percentage of impairment for permanent partial disabilities and payment of weekly compensation for permanent partial scheduled injuries under Iowa Code section 85.34(2)“a” to “s.” 85.34(2) not involving a determination of reduction in an employee’s earning capacity. ~~The extent of loss or percentage of permanent impairment may be determined by use of the Fifth Edition of the guides and payment of weekly compensation for permanent partial scheduled injuries made accordingly.~~ Payment so made shall be recognized by the workers’ compensation commissioner as a prima facie showing of compliance by the employer or insurance carrier with the foregoing sections of the Iowa workers’ compensation Act. Nothing in this rule shall be construed to prevent the presentations of other medical opinions or other material evidence for the purpose of establishing that the degree of permanent disability to which the claimant would be entitled would be more or less than the entitlement indicated in the ~~Fifth Edition of the AMA guides~~ Guides to the Evaluation of Permanent Impairment, Fifth Edition, when the reduction in earning capacity for all other permanent partial and permanent total disabilities is determined.

This rule is intended to implement Iowa Code sections 85.34(2) and 86.8.

ITEM 3. Amend subrule 3.1(7) as follows:

**3.1(7) Form—original notice and petition.** The following forms are types of original notice and petition: original notice and petition—Form 100 (Form No. 14-0005); original notice, petition, answer and order concerning independent medical examination—Form 100A (Form No. 14-0007); original notice, petition, answer and order concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009); original notice, petition, and answer concerning application for alternate medical care—Form 100C (Form No. 14-0011); original notice, petition, and answer concerning application for vocational training and education—Form 100D (Form No. 14-0012); original notice and petition for full commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6)—Form 9 (Form No. 14-0013); checklist for full commutation (Form No. 14-0015); original notice and petition and order for partial commutation—Form 9A (Form No. 14-0017); and checklist for partial commutation (Form No. 14-0019). See rule 876—4.6(85,86,17A) for further descriptions.

ITEM 4. Amend subrule 3.1(21) as follows:

**3.1(21) Form—agreement for settlement.** (Form No. 14-0021) This form is used to file an agreement for settlement pursuant to Iowa Code ~~Supplement~~ section 85.35(2).

ITEM 5. Amend subrule 3.1(22) as follows:

**3.1(22) Form—compromise settlement.** (Form No. 14-0025) This form is used to file a compromise settlement pursuant to Iowa Code ~~Supplement~~ section 85.35(3).

ITEM 6. Amend subrule 3.1(23) as follows:

**3.1(23) Form—combination settlement.** (Form No. 14-0159) This form is used to file a combination settlement pursuant to Iowa Code ~~Supplement~~ section 85.35(4).

ITEM 7. Amend subrule 3.1(24) as follows:

**3.1(24) Form—contingent settlement.** (Form No. 14-0161) This form is used to file a contingent settlement pursuant to Iowa Code ~~Supplement~~ section 85.35(5).

ITEM 8. Amend rule 876—4.1(85,85A,85B,86,87,17A) as follows:

**876—4.1(85,85A,85B,86,87,17A) Contested cases.** Contested case proceedings before the workers’ compensation commissioner are:

**4.1(1)** Arbitration (Iowa Code section 86.14).

**4.1(2)** Review of award or settlement (review-reopening, Iowa Code section 86.14).

**4.1(3)** Benefits under Iowa Code section 85.27.

**4.1(4)** Death and burial benefits (Iowa Code sections 85.28, 85.29, 85.31).

- ~~4.1(5)~~ Determination of dependency (Iowa Code sections 85.42, 85.43, 85.44).
- ~~4.1(6)~~ Equitable apportionment (Iowa Code section 85.43).
- ~~4.1(7)~~ Second injury fund (Iowa Code section 85.63 et seq.).
- ~~4.1(8)~~ Vocational rehabilitation benefits (Iowa Code section ~~85.70~~ 85.70(1)).
- ~~4.1(9)~~ Vocational training and education (Iowa Code section 85.70(2)).
- ~~4.1(9)~~ ~~4.1(10)~~ Approval of fees under Iowa Code section 86.39.
- ~~4.1(10)~~ ~~4.1(11)~~ Commutation (Iowa Code section 85.45 et seq.).
- ~~4.1(11)~~ ~~4.1(12)~~ Employee's examination (Iowa Code section 85.39).
- ~~4.1(12)~~ ~~4.1(13)~~ Employer's examination or sanctions (Iowa Code section 85.39).
- ~~4.1(13)~~ ~~4.1(14)~~ Determination of compliance with Iowa Code chapters 85, 85A, 85B, 86, and 87.
- ~~4.1(14)~~ ~~4.1(15)~~ Applications for alternate medical care (Iowa Code section 85.27).
- ~~4.1(15)~~ ~~4.1(16)~~ Determination of liability, reimbursement for benefits paid and recovery of interest (Iowa Code section 85.21).
- ~~4.1(16)~~ ~~4.1(17)~~ Interest (Iowa Code section 85.30).
- ~~4.1(17)~~ ~~4.1(18)~~ Penalty (Iowa Code section 86.13).
- ~~4.1(18)~~ ~~4.1(19)~~ Application for approval of third-party settlement (Iowa Code section 85.22).
- ~~4.1(19)~~ ~~4.1(20)~~ Matters that would be a contested case if there were a dispute over the existence of material facts.
- ~~4.1(20)~~ ~~4.1(21)~~ Any other issue determinable upon evidential hearing which is under the jurisdiction of the workers' compensation commissioner.

This rule is intended to implement ~~the provisions of~~ Iowa Code sections 17A.2(2) and 86.8 and the statutory sections noted in each category of the rule.

ITEM 9. Amend rule 876—4.4(86) as follows:

**876—4.4(86) Request for hearing.** Unless otherwise ordered, a hearing shall not be held in proceedings under 4.1(8) to ~~4.1(12)~~ 4.1(13), unless requested in writing by the petitioner in the original notice or petition or by the respondent within ten days following the time allowed by these rules for appearance.

ITEM 10. Amend rule 876—4.5(86) as follows:

**876—4.5(86) Commencement by commissioner.** In addition to an aggrieved party, the commissioner may initiate proceedings under ~~4.1(9)~~ 4.1(10). The proceeding may be held before a deputy commissioner or the commissioner. The workers' compensation commissioner shall be the only person to commence a proceeding under ~~4.1(13)~~ 4.1(14), unless such authority is specifically delegated by the workers' compensation commissioner to a deputy commissioner concerning a specific matter.

ITEM 11. Amend rule 876—4.6(85,86,17A) as follows:

**876—4.6(85,86,17A) Original notice and petition.** A petition or application must be delivered or filed with the original notice unless original notice Form 100, Form 100A, ~~or~~ Form 100B, or Form 100D of the division of workers' compensation is used.

The original notice Form 100, Form 100A, Form 100B, Form 100C, Form 100D, or a determination of liability reimbursement for benefits paid and recovery of interest form shall provide for the data required in Iowa Code section 17A.12(2) and shall contain factors relevant to the contested case proceedings listed in 876—4.1(85,85A,85B,86,87,17A). Form 100 is to be used for all contested case proceedings except as indicated in this rule. Form 100A is to be used for the contested case proceedings provided for in subrules ~~4.1(11)~~ and 4.1(12) and 4.1(13). Form 100B is to be used for the contested case proceeding provided for in subrule 4.1(8). Form 100C is to be used for the contested case proceeding provided for in subrule ~~4.1(14)~~ 4.1(15) and rule 876—4.48(17A,85,86). Form 100D is to be used for the contested case proceeding provided for in rule 876—4.50(85). The application and consent order for payment of benefits under Iowa Code section 85.21 is to be used for contested case proceedings brought under Iowa Code section 85.21. When a commutation is sought, Form No. 9 or Form No. 9A must be filed in addition to any other document. The petition for declaratory order, approval of attorney

fees, determination of compliance and other proceedings not covered in the original notice forms must accompany the original notice.

At the same time and in the same manner as service of the original notice and petition, the claimant shall serve a patient's waiver using Form 14-0043 (authorization for release of information regarding claimants seeking workers' compensation benefits), or a substantially equivalent form, which shall not be revoked until conclusion of the contested case. The claimant shall provide the patient's waivers in other forms and update the patient's waivers as necessary to permit full disclosure of discoverable information whenever requested by a medical practitioner or institution.

~~For all original notices and petitions filed on or after January 1, 2003, a~~ A separate original notice and petition shall be filed for each claim that seeks benefits due to the occurrence of an injury, occupational disease or occupational hearing loss. The original notice and petition shall allege a specific date of occurrence consisting of a day, month and year. Alternate or multiple dates of occurrence may be alleged in the same original notice and petition if the claim or claims arose from the same occurrence or series of occurrences and uncertainty exists concerning the correct date of occurrence or the number of occurrences. An employee may join any number of employers or insurance carriers in the same original notice and petition if the claim is made against them jointly, severally or in the alternative. The remedy for misjoinder must be requested by motion within a reasonable time after the grounds become known, but in no event later than the claimant's case preparation completion date. All remedies will be applied without prejudice to any claim or defense. In addition to the remedies contained in Iowa Rule of Civil Procedure 1.236, the workers' compensation commissioner may order that parts of a claim be severed and proceeded with separately or that separate related claims be joined or consolidated for administrative convenience or for any good cause. If a correction is ordered but not made by a date specified in the order, the original notice and petition may be dismissed without further notice. If the correction is made within the specified time, the correction relates back to the date of the initial filing for purposes of the statute of limitations.

This rule is intended to implement ~~the provisions of~~ Iowa Code sections 85.27, 85.45, 85.48, and 17A.12.

ITEM 12. Amend paragraph **4.8(2)“a”** as follows:

*a.* For all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, gradual or cumulative injury, occupational disease or occupational hearing loss alleged, a filing fee shall be paid at the time of filing. ~~The filing fee for original notices and petitions filed on or after July 1, 1988, but before July 1, 2009, is \$65. The filing fee for petitions filed on or after July 1, 2009, is \$100.~~ No filing fee is due for the filing of other actions where the sole relief sought is one of the following or a combination of any of them: medical and other benefits under Iowa Code section 85.27; burial benefits, Iowa Code section 85.28; determination of dependency, Iowa Code sections 85.42, 85.43, and 85.44; equitable apportionment, Iowa Code section 85.43; second injury fund, Iowa Code sections 85.63 to 85.69; vocational rehabilitation benefits, Iowa Code section ~~85.70~~ 85.70(1); vocational training and education benefits, Iowa Code section 85.70(2); approval of legal, medical and other fees under Iowa Code section 86.39; commutation, Iowa Code sections 85.45 to 85.48; employee's examination, Iowa Code section 85.39; employee's examination or sanctions, Iowa Code section 85.39; application for alternate care, Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest, Iowa Code section 85.21; interest, Iowa Code section 85.30; penalty, Iowa Code section 86.13; application for approval of third-party settlement, Iowa Code section 85.22; and petitions for declaratory orders or petitions for interventions filed pursuant to 876—Chapter 5. An amendment to a petition that was filed on or after July 1, 1988, that alleges an additional or alternate date of occurrence does not require payment of an additional filing fee if a filing fee was paid when the petition was filed.

ITEM 13. Amend subrule 4.9(8) as follows:

**4.9(8) *Withdrawal of counsel.*** Counsel may withdraw if another counsel has appeared or if the client's written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by ~~delivering~~ filing written objections and a request for a hearing to the Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319, when filing by mail, or 150 Des Moines Street, Des Moines, Iowa 50319, when filing in person, within ten days following the date the notice was mailed or personally delivered to the client. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

ITEM 14. Adopt the following new rule 876—4.50(85):

**876—4.50(85) Vocational training, education, and supplies.**

**4.50(1) Purpose.** The purpose of this rule is to establish the procedures for issuing decisions on applications for vocational training, education, and supplies provided for in Iowa Code section 85.70(2).

**4.50(2) Definitions.** The following definitions apply to this rule:

*“Application for vocational training and education hearing” or “application”* means a contested case proceeding filed with the division of workers' compensation contesting the results of an evaluation and determination or contesting or requesting the termination of a vocational training and education program.

*“Evaluation and determination”* means an assessment conducted by the department of workforce development to determine if the employee would benefit from a vocational training and education program offered through an area community college to allow the employee to return to the workforce.

*“Request for vocational training and education” or “request”* means a written request for an evaluation and determination of whether an employee is entitled to vocational training, education, and supplies.

*“Vocational training and education”* shall include general educational development programs for employees who have not graduated from high school or obtained a general education diploma, and career and technical education programs that provide instruction in the areas of agriculture, family and consumer sciences, health occupations, business, industrial technology, and marketing, offered through an area community college that will allow the employee to return to the workforce.

**4.50(3) Application for vocational training and education.** An application shall:

- a. Only concern the issue of vocational training, education, and supplies;
- b. Be filed on the form provided by the division of workers' compensation;
- c. State the reasons for the application;
- d. Be served on the other party;
- e. Contain a proof of service on the other party; and
- f. Specify whether a telephone or in-person hearing is requested.

**4.50(4) Fee.** No filing fee is due. See paragraph 4.8(2) “a.”

**4.50(5) Request for vocational education and training.** Prior to filing an application, the employee shall complete a request on a form supplied by the department of workforce development and submit the completed form to the department of workforce development asking for an evaluation and determination. The employee, employer, or insurance carrier may contest the results of the evaluation and determination by filing an application with the division of workers' compensation.

**4.50(6) Proper application.** An application may not be filed under this rule until:

- a. An evaluation and determination has been made by the department of workforce development; and
- b. There has been a finding by the division of workers' compensation or the employer or the employer's insurance carrier or both and the employee agree that the employee has sustained an injury

to the shoulder resulting in a permanent partial disability for which compensation is payable under Iowa Code section 85.34(2)“n,” and the employee cannot return to gainful employment because of such disability.

**4.50(7) Notice of hearing.** The workers’ compensation commissioner shall notify the parties by electronic mail, ordinary mail, or facsimile of the time, place, and nature of the hearing. No notice will be made until a proper application is received by the workers’ compensation commissioner. The notice shall specify whether the hearing will be held by telephone or in person.

**4.50(8) Evidence.** Any written evidence to be used by the employer, the employer’s insurance carrier, or the employee must be exchanged prior to the hearing. All written evidence must be filed with the agency before the date of hearing. Written evidence shall be limited to 50 pages per party.

**4.50(9) Motion to change hearing type.** A timely motion to change the type of hearing (telephone or in-person) may be considered prior to the hearing. The workers’ compensation commissioner will make no rulings on motions.

**4.50(10) Briefs.** Hearing briefs, if any, must be filed with the agency before the date of the hearing and shall be limited to five pages.

**4.50(11) Hearing.** The hearing will be held either by telephone or in person in Des Moines, Iowa. If the party filing the application does not request an in-person hearing in the application, the other parties may request an in-person hearing. The hearing will be recorded electronically. Copies of the recording will be provided to the parties. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing. A transcript shall be provided by the appealing party pursuant to Iowa Code section 86.24(4) and a copy of the transcript shall be served on the opposing party at the time the transcript is filed with the workers’ compensation commissioner, unless the parties submit an agreed-upon transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers’ compensation commissioner for resolution. Any transcription charges incurred by the workers’ compensation commissioner in resolving the dispute shall be initially paid by the party that disputes the accuracy of the transcript, pursuant to Iowa Code section 86.19(1).

**4.50(12) Represented party.** A party may be represented as provided in Iowa Code section 631.14. The presiding deputy may permit a party who is a natural person to be assisted during a hearing by any person who does so without cost to that party if the assistance promotes full and fair disclosure of the facts or otherwise enhances the conduct of the hearing. The employer and the employer’s insurance carrier shall be treated as one party unless their interests appear to be in conflict, and a representative of either the employer or the employer’s insurance carrier shall be deemed to be a representative of both unless notice to the contrary is given.

**4.50(13) Decision.** A decision will be issued within 30 working days of receipt of a proper application.

This rule is intended to implement Iowa Code sections 17A.12, 85.70(2), and 86.17.

ITEM 15. Amend subrule 5.6(2) as follows:

**5.6(2) Filing.** All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Workers’ Compensation Commissioner, 1000 E. Grand, Des Moines, Iowa 50319-0209, when filed by mail, or 150 Des Moines Street, Des Moines, Iowa 50319, when filed in person.

ITEM 16. Amend rule 876—6.1(85,86) as follows:

**876—6.1(85,86) Settlements under Iowa Code Supplement section 85.35.** All proposed settlements shall be submitted to the workers’ compensation commissioner for approval. An agreement for settlement pursuant to Iowa Code Supplement section 85.35(2) shall be on Form 14-0021. A compromise settlement pursuant to Iowa Code Supplement section 85.35(3) shall be on Form 14-0025. A combination settlement pursuant to Iowa Code Supplement section 85.35(4) shall be on Form 14-0159. A contingent settlement pursuant to Iowa Code Supplement section 85.35(5) shall be on Form 14-0161.

**6.1(1)** Evidence that a settlement should be approved as required by Iowa Code Supplement section 85.35(7) shall accompany the settlement or be incorporated into the settlement forms. It is presumed that the showing required by Iowa Code Supplement section 85.35(7) has been made if the claimant is represented by an attorney licensed to practice law in this state.

**6.1(2)** The documents for a compromise settlement shall identify either the specific date or dates of injury or the specific injurious condition or conditions, or both. The documents for a compromise settlement, including any addendum to the documents, shall not contain any language that either expressly states or implies that the proposed compromise settlement is a final settlement of any and all injuries, known or unknown, that an employee may have sustained while employed by the employer. If a compromise settlement is submitted that does not comply with this subrule, the workers' compensation commissioner shall return the proposed compromise settlement to the party who that submitted it.

**6.1(3)** Approval of a compromise settlement pursuant to Iowa Code Supplement section 85.35(3) is a final bar to rights under the Iowa Workers' Compensation Law, and the approved compromise settlement is not subject to review under Iowa Code section 85.26(2).

**6.1(4)** Nothing in this rule shall prohibit the approval of settlements in other appropriate cases when allowed by Iowa Code Supplement section 85.35(7).

This rule is intended to implement Iowa Code Supplement section 85.35.

ITEM 17. Amend rule 876—6.2(85,86) as follows:

**876—6.2(85,86) Commutation.** The following requirements must be met before ~~an uncontested~~ a commutation will be considered or granted:

**6.2(1)** A first report of injury, an acknowledgment of compensability and an updated supplemental claim activity report must be filed.

**6.2(2)** The commutation forms provided for in ~~876—6.4(85,86)~~ must be filed.

**6.2(3)** All doctors' and practitioners' reports relevant to the disability of the claimant involved in the commutation must be attached to the commutation forms.

**6.2(4)** Claimant's condition as a result of the injury as shown by the medical reports cannot be one which will be expected to deteriorate. When a partial commutation is sought, this ~~paragraph~~ subrule shall diminish in importance.

**6.2(5)** Claimant's condition as a result of the injury shown by the doctors' and practitioners' reports cannot be one which will be expected to require future treatment unless the future treatment is adequately provided for. When a partial commutation is sought, this ~~paragraph~~ subrule shall diminish in importance.

**6.2(6)** A detailed statement of claimant's need or other reason for a lump sum of money must be attached to the application. The analysis shall include disclosure of any attorney fee amount to be paid from the full commutation. A commutation of less than ten weeks' benefits is presumed to be not in the best interest of the claimant.

**6.2(7)** When multiple dependents are involved, a signed stipulation or order of apportionment identifying the proportion of benefits to be received by each dependent shall be attached to the commutation form.

**6.2(8)** A signed stipulation as to the degree of permanent disability shall be attached to the commutation form.

~~**6.2(9)** Rescinded IAB 10/25/06, effective 11/29/06.~~

This rule is intended to implement Iowa Code sections 85.45 and 85.47.

ITEM 18. Amend rule 876—6.5(85) as follows:

**876—6.5(85) Statement of awareness.** When a petition for settlement under Iowa Code Supplement section 85.35(3) or commutation is submitted, it shall contain or be accompanied by a verified statement from the injured employee indicating awareness that, upon approval by the workers' compensation

commissioner of the settlement or commutation, a final bar to future claims or benefits under the Iowa Workers' Compensation Law for such injury shall exist except as specifically reserved in any agreement.

This rule is intended to implement Iowa Code ~~Supplement section~~ sections 85.35, and sections 85.45, and 85.47.

ITEM 19. Amend rule 876—6.7(85,86) as follows:

**876—6.7(85,86) Claimant statement.** When the claimant is not represented by counsel, a claimant's statement on Form 14-0163, which the claimant has personally completed, certified and signed, must be submitted with all settlement and commutation forms and documents.

This rule is intended to implement Iowa Code ~~Supplement section~~ sections 85.35 and section 86.8.

ITEM 20. Amend rule 876—6.8(85,86) as follows:

**876—6.8(85,86) Failure to timely file settlement.** If a party notifies the workers' compensation commissioner that a matter scheduled for a hearing has been settled and the matter is removed from the hearing schedule, the proposed settlement shall be filed with the workers' compensation commissioner within 60 days of the notification. A party may, within 60 days of the notification, request an extension of time to file the settlement documents. If the settlement documents are not timely filed, the matter will be reassigned for hearing in Des Moines at a date determined by the workers' compensation commissioner and the parties cannot request that the matter be rescheduled. Any matter rescheduled because settlement documents were not timely filed shall not again be removed from the hearing schedule because a party notifies the workers' compensation commissioner of a settlement.

This rule is intended to implement Iowa Code ~~Supplement section~~ sections 85.35, and sections 85.47, 85.48, 86.8, 86.13 and 86.27.

ITEM 21. Adopt the following new rule 876—8.11(85):

**876—8.11(85) Offer of suitable work.** The employer shall communicate an offer of temporary work to the employee in writing, including the details of lodging, meals, and transportation. With each offer of temporary work, the employer shall notify the employee in writing that:

1. If the employee refuses the offer of temporary work, the employee shall communicate the refusal and the reason for the refusal to the employer in writing;
2. During the period of refusal, the employee will not be compensated with temporary partial, temporary total, or healing period benefits unless the work refused is not suitable; and
3. Failure to communicate the reason for the refusal to the employer in writing precludes the employee from raising suitability of the work as the reason for the refusal until such time as the reason for the refusal is communicated in writing to the employer.

This rule is intended to implement Iowa Code section 85.33.

ITEM 22. Amend rule 876—12.3(17A) as follows:

**876—12.3(17A) Form of criticism.** ~~The Workers' Compensation Commissioner, 1000 E. Grand, Des Moines, Iowa 50319-0209, division of workers' compensation~~ is designated as the office where interested persons may submit written criticism regarding an administrative rule of the Workers' Compensation Division[876]. Written criticism should be mailed to the Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319; or delivered to 150 Des Moines Street, Des Moines, Iowa 50319. A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule. To constitute a criticism of a rule, the criticism must be in writing, indicate it is a criticism of a specific rule, be signed by the complainant, not be part of any other filing with the workers' compensation commissioner or department of workforce development, and have a valid legal basis for support. All criticisms received on any rule will be kept in a separate record for a period of five years by the workers' compensation commissioner and be a public record open for public inspection. All criticisms must substantially conform to the following form:



BEFORE THE WORKERS' COMPENSATION COMMISSIONER

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CRITICISM BY (NAME OF PERSON  
SUBMITTING CRITICISM).



CRITICISM OF (SPECIFY  
RULE THAT IS CRITICIZED).

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Reasons for criticism:

Name, address, telephone number and signature of person submitting criticism.

ITEM 23. Amend rule 876—12.4(17A) as follows:

**876—12.4(17A) Requests for waiver of rules.** Requests for waiver of a rule in the Workers' Compensation Division[876] of the Iowa Administrative Code shall be made to the Workers' Compensation Commissioner, 1000 E. Grand, Des Moines, Iowa 50319-0209, by mail; or 150 Des Moines Street, Des Moines, Iowa 50319, in person. All requests for waiver of a rule must be in writing and are a public record open for inspection. The person requesting the waiver must submit all facts relied upon in requesting the waiver. The person requesting waiver of the rule must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person requesting the waiver. A concise memorandum brief and argument, if any is filed, shall be attached to the request for waiver at the time the request is filed. The workers' compensation commissioner shall grant or deny the waiver within 60 days of the date the request is filed with the agency. The workers' compensation commissioner shall deny the request if the request is for waiver of a statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The workers' compensation commissioner may deny the request if the request does not comply with the provisions of this rule. All requests for waiver must substantially conform to the following form:

BEFORE THE WORKERS' COMPENSATION COMMISSIONER

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(NAME OF PERSON  
REQUESTING WAIVER).



REQUEST FOR WAIVER OF (SPECIFY  
RULE FOR WHICH WAIVER IS  
REQUESTED).

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Reasons for requesting waiver:

Name, address, telephone number and signature of person submitting waiver request.

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