CHAPTER 86

DIVISION OF WORKERS' COMPENSATION

86.1 Workers' compensation commissioner — term.
86.2 Appointment of deputies.
86.3 Duties of deputies.
86.4 Political activity and contributions.
86.5 Political promises.
86.6 Recommendations of commissioner.
86.7 Interest in affected business.
86.8 Duties.
86.9 Reports.
86.10 Records of employer — right to inspect.
86.11 Reports of injuries.
86.12 Failure to report.
86.13 Compensation payments.
86.13A Compliance monitoring and enforcement.
86.14 Contested cases.
86.15 and 86.16 Repealed by 76 Acts, ch 1084, §26.
86.17 Hearings — presiding officer — venue.
86.18 Hearings — evidence.
86.19 Reporting of proceedings.
86.20 Repealed by 82 Acts, ch 1161, §28.
86.21 through 86.23 Repealed by 77 Acts, ch 51, §21.
86.24 Appeals within the agency.
86.25 Repealed by 77 Acts, ch 51, §21.
86.26 Judicial review.
86.27 Settlement of controversy.
86.28 Repealed by 77 Acts, ch 51, §21.
86.29 The judicial review petition.
86.30 and 86.31 Repealed by 74 Acts, ch 1090, §211.
86.32 Costs of judicial review.
86.33 Repealed by 74 Acts, ch 1090, §211.
86.34 and 86.35 Repealed by 77 Acts, ch 51, §21.
86.36 Repealed by 2000 Acts, ch 1007, §6.
86.37 Repealed by 77 Acts, ch 51, §21.
86.38 Examination by physician — fee.
86.39 Fees — approval.
86.40 Costs.
86.41 Witness fees.
86.42 Judgment by district court on award.
86.43 Judgment — modification.
86.44 Confidentiality.
86.45 Confidential information.

86.1 Workers' compensation commissioner — term.

The governor shall appoint, subject to confirmation by the senate, a workers' compensation commissioner whose term of office shall be six years beginning and ending as provided in section 69.19. The workers' compensation commissioner shall maintain an office at the seat of government. The workers' compensation commissioner must be a lawyer admitted to practice in this state.

[S13, §2477-m22; C24, 27, 31, 35, 39, §**1423;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.1]

98 Acts, ch 1061, §11

Referred to in §84A.5

Confirmation, see §2.32

86.2 Appointment of deputies.

1. The commissioner may appoint:

a. Chief deputy workers' compensation commissioners for whose acts the commissioner is responsible, who are exempt from the merit system provisions of chapter 8A, subchapter IV, and who shall serve at the pleasure of the commissioner.

b. Deputy workers' compensation commissioners for whose acts the commissioner is responsible and who shall serve at the pleasure of the commissioner.

2. All chief deputies and deputies must be lawyers admitted to practice in this state.

3. The commissioner may appoint one or more chief deputy workers' compensation commissioners and one or more deputy workers' compensation commissioners. A chief deputy workers' compensation commissioner or a deputy workers' compensation commissioner shall perform such additional administrative responsibilities as are deemed reasonably necessary and assigned by the commissioner.

[C24, 27, 31, 35, 39, §**1424;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.2]

89 Acts, ch 60, §3; 90 Acts, ch 1261, §26; 98 Acts, ch 1061, §11; 2003 Acts, ch 145, §158; 2008 Acts, ch 1031, §26

86.3 Duties of deputies.

Notwithstanding the provisions of chapter 17A, in the absence or disability of the workers' compensation commissioner, or when written delegation of authority to perform specified functions is made by the commissioner, the deputies shall have any necessary specified powers to perform any necessary or specified duties of the workers' compensation commissioner pertaining to the commissioner's office. Notwithstanding the definitions and terms of chapter 17A, pertaining to the issuance of final decisions, when the above circumstances exist a deputy commissioner shall have the power to issue a final decision as if issued by the agency.

[C24, 27, 31, 35, 39, §**1425;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.3]

98 Acts, ch 1061, §11

86.4 Political activity and contributions.

It shall be unlawful for the commissioner, or a chief deputy workers' compensation commissioner while in office, to espouse the election or appointment of any candidate to any political office, and any person violating the provisions of this section shall be guilty of a simple misdemeanor.

[S13, §2477-m23, -m37; C24, 27, 31, 35, 39, §**1427;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.4]

90 Acts, ch 1261, §27; 98 Acts, ch 1061, §11

86.5 Political promises.

Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom the person may recommend to any office within the power of the commissioner to appoint, shall be guilty of a simple misdemeanor.

[S13, §2477-m38; C24, 27, 31, 35, 39, §**1428;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.5]

86.6 Recommendations of commissioner.

All recommendations to the governor of any person asking the appointment of another as commissioner shall be reduced to writing, signed by the person presenting the same, which shall be filed by the governor in the governor's office and open at all reasonable times for public inspection, and all recommendations made by any person to the commissioner for the appointment of another within the power of the commissioner to appoint, shall be reduced to writing, signed by the person presenting the same, and filed by the commissioner and open for public inspection at all reasonable times. If any person recommending the appointment of another within the contemplation of this section refuses to reduce the same to writing, it shall be the duty of the person to whom the recommendation is made, to make a memorandum thereof, stating the name of the person recommended and the name of the person who made the same, which shall be filed in the office of the governor or the commissioner as the case may be.

[S13, §2477-m39; C24, 27, 31, 35, 39, §**1429;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.6]

86.7 Interest in affected business.

It shall be unlawful for the commissioner to be financially interested in any business enterprise coming under or affected by this chapter during the commissioner's term of office, and if the commissioner violates this statute, it shall be sufficient grounds for removal from office, and in such case the governor shall at once declare the office vacant and appoint another to fill the vacancy.

[S13, §2477-m39; C24, 27, 31, 35, 39, §**1430;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.7]

86.8 Duties.

1. The commissioner shall:

a. Adopt and enforce rules necessary to implement this chapter and chapters 85, 85A, 85B, and 87.

b. Prepare and distribute the necessary blanks relating to computation, adjustment, and settlement of compensation.

c. Prepare and publish statistical reports and analyses regarding the cost, occurrence, and sources of employment injuries.

d. Administer oaths and examine books and records of parties subject to the workers' compensation laws.

e. Provide a seal for the authentication of orders and records and for other purposes as required.

2. Subject to the approval of the director of the department of workforce development, the commissioner may enter into contracts with any state agency, with or without reimbursement, for the purpose of obtaining the services, facilities, and personnel of the agency and with the consent of any state agency or political subdivision of the state, accept and use the services, facilities, and personnel of the agency or political subdivision, and employ experts and consultants or organizations in order to expeditiously, efficiently, and economically effectuate the purposes of this chapter. The agreements under this subsection are subject to approval by the executive council if approval is required by law.

[S13, §2477-m24; C24, 27, 31, 35, 39, §**1431;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.8]

86 Acts, ch 1245, §911; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §172

86.9 Reports.

The director of the department of workforce development, in consultation with the commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of workers' compensation for the preceding year, the number of claims processed by the division and the disposition of the claims, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 85, 85A, 85B, and 87, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

The commissioner, after consultation with the director of the department of workforce development, may compile an annual report setting forth the final decisions, rulings, and orders of the division for the preceding year and setting forth other matters or information which the commissioner considers desirable for publication. These annual reports may be distributed by the state on request to public officials as set forth in chapter 7A. Members of the public may obtain the annual report upon payment of its cost as set by the commissioner.

[S13, §2477-m24; C24, 27, 31, 35, 39, §**1432;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.9; 81 Acts, ch 6, §13]

84 Acts, ch 1067, §16; 86 Acts, ch 1245, §912; 96 Acts, ch 1186, §23; 98 Acts, ch 1061, §5

86.10 Records of employer — right to inspect.

All books, records, and payrolls of the employers, showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the workers' compensation commissioner or any of the commissioner's representatives presenting a certificate of authority from said commissioner for the purpose of ascertaining the correctness of the wage expenditure, the number of persons employed, and such other information as may be necessary for the uses and purposes of the commissioner in the administration of the law.

Information so obtained shall be used for no other purpose than to advise the commissioner or insurance association with reference to such matters.

Upon a refusal on the part of the employer to submit the employer's books, records, or payrolls for the inspection of the commissioner or the commissioner's authorized

representatives presenting written authority from the commissioner, the commissioner may enter an order requiring the employer to do so.

[S13, §2477-m36; C24, 27, 31, 35, 39, §**1433;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.10]

98 Acts, ch 1061, §11
Referred to in §86.12

86.11 Reports of injuries.

Every employer shall hereafter keep a record of all injuries, fatal or otherwise, alleged by an employee to have been sustained in the course of the employee's employment and resulting in incapacity for a longer period than one day. If the injury results only in temporary disability, causing incapacity for a longer period than three days, then within four days thereafter, not counting Sundays and legal holidays, the employer or insurance carrier having had notice or knowledge of the occurrence of such injury and resulting disability shall file a report with the workers' compensation commissioner in the form and manner required by the commissioner. If such injury to the employee results in permanent total disability, permanent partial disability, or death, then the employer or insurance carrier, upon notice or knowledge of the occurrence of the employment injury, shall file a report with the workers' compensation commissioner within four days after having notice or knowledge of the permanent injury to the employee or the employee's death. The report to the workers' compensation commissioner of injury shall be without prejudice to the employer or insurance carrier and shall not be admitted in evidence or used in any trial or hearing before any court, the workers' compensation commissioner, or a deputy workers' compensation commissioner except as to the notice under section 85.23.

[S13, §2477-m36; C24, 27, 31, 35, 39, §**1434;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.11]

98 Acts, ch 1061, §6, 11; 2000 Acts, ch 1007, §4
Referred to in §86.12

86.12 Failure to report.

The workers' compensation commissioner may require any employer to supply the information required by section 86.10 or to file a report required by section 86.11 or 86.13 or by agency rule, by written demand sent to the employer's last known address. Upon failure to supply such information or file such report within thirty days, the employer may be ordered to appear and show cause why the employer should not be subject to assessment of one thousand dollars for each occurrence. Upon such hearing, the workers' compensation commissioner shall enter a finding of fact and may enter an order requiring such assessment to be paid into the second injury fund created by sections 85.63 to 85.69. In the event the assessment is not voluntarily paid within thirty days, the workers' compensation commissioner may file a certified copy of such finding and order with the clerk of the court for the district in which the employer maintains a place of business. If the employer maintains no place of business in this state, service shall be made as provided in chapter 85 for nonresident employers. In such case the finding and order may be filed in any court of competent jurisdiction within this state.

The workers' compensation commissioner may thereafter petition the court for entry of judgment upon such order, serving notice of such petition on the employer and any other person in default. If the court finds the order valid, the court shall enter judgment against the person or persons in default for the amount due under the order. No fees shall be required for the filing of the order or for the petition for judgment, or for the entry of judgment or for any enforcement procedure thereupon. No supersedeas shall be granted by any court to a judgment entered under this section.

When a report is required under section 86.11 or 86.13 or by agency rule, and the employer's insurance carrier possesses the information necessary to file the report, the insurance carrier

shall be responsible for filing the report in the same manner and to the same extent as an employer under this section.

[S13, §2477-m36; C24, 27, 31, 35, 39, §**1435;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.12]

98 Acts, ch 1061, §11; 2003 Acts, 1st Ex, ch 1, §122, 124, 133

[2003 Acts, 1st Ex, ch 1, §122, 124, 133, amendments to this section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §14, 19

2004 reaffirmation and reenactment of this section as published in Code Supplement 2003 takes effect September 7, 2004, and is retroactively applicable to injuries occurring on or after July 1, 2003; 2004 Acts, 1st Ex, ch 1001, §19

86.13 Compensation payments.

1. If an employer or insurance carrier pays weekly compensation benefits to an employee, the employer or insurance carrier shall file with the workers' compensation commissioner in the form and manner required by the workers' compensation commissioner a notice of the commencement of the payments. The payments establish conclusively that the employer and insurance carrier have notice of the injury for which benefits are claimed but the payments do not constitute an admission of liability under this chapter or chapter 85, 85A, or 85B.

2. If an employer or insurance carrier fails to file the notice required by this section, the failure stops the running of the time periods in section 85.26 as of the date of the first payment. If commenced, the payments shall be terminated only when the employee has returned to work, or upon thirty days' notice stating the reason for the termination and advising the employee of the right to file a claim with the workers' compensation commissioner.

3. This section does not prevent the parties from reaching an agreement for settlement regarding compensation. However, the agreement is valid only if signed by all parties and approved by the workers' compensation commissioner.

4. *a.* If a denial, a delay in payment, or a termination of benefits occurs without reasonable or probable cause or excuse known to the employer or insurance carrier at the time of the denial, delay in payment, or termination of benefits, the workers' compensation commissioner shall award benefits in addition to those benefits payable under this chapter, or chapter 85, 85A, or 85B, up to fifty percent of the amount of benefits that were denied, delayed, or terminated without reasonable or probable cause or excuse.

b. The workers' compensation commissioner shall award benefits under this subsection if the commissioner finds both of the following facts:

(1) The employee has demonstrated a denial, delay in payment, or termination of benefits.

(2) The employer has failed to prove a reasonable or probable cause or excuse for the denial, delay in payment, or termination of benefits.

c. In order to be considered a reasonable or probable cause or excuse under paragraph "*b*", an excuse shall satisfy all of the following criteria:

(1) The excuse was preceded by a reasonable investigation and evaluation by the employer or insurance carrier into whether benefits were owed to the employee.

(2) The results of the reasonable investigation and evaluation were the actual basis upon which the employer or insurance carrier contemporaneously relied to deny, delay payment of, or terminate benefits.

(3) The employer or insurance carrier contemporaneously conveyed the basis for the denial, delay in payment, or termination of benefits to the employee at the time of the denial, delay, or termination of benefits.

[S13, §2477-m25; C24, 27, 31, 35, 39, §**1436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.13; 82 Acts, ch 1161, §23]

98 Acts, ch 1061, §7, 11; 2009 Acts, ch 179, §110

Referred to in §85.26, 85.34, 85.72, 86.12, 86.14

86.13A Compliance monitoring and enforcement.

The workers' compensation commissioner shall monitor the rate of compliance of each employer and each insurer with the requirement to commence benefit payments within the time specified in section 85.30. The commissioner shall determine the percentage of reported injuries where the statutory standard was met and the average number of days

that commencement of voluntary benefits was delayed for each employer and each insurer individually, and for all employers and all insurers as separate groups.

If during any fiscal year commencing after June 30, 2006, the general business practices of an employer or insurer result in the delay of the commencement of voluntary weekly compensation payments after the date specified in section 85.30 more frequently and for a longer number of days than the average number of days for the entire group of employers or insurers, the commissioner may impose an assessment on the employer or insurer payable to the second injury fund created in section 85.66. The amount of the assessment shall be ten dollars, multiplied by the average number of days that weekly compensation payments were delayed after the date specified in section 85.30, and multiplied by the number of injuries the employer or insurer reported during the fiscal year. Notwithstanding the foregoing, an assessment shall not be imposed if the employer or insurer commenced voluntary weekly compensation benefits within the time specified in section 85.30 for more than seventy-five percent of the injuries reported by the employer or insurer.

The commissioner may waive or reduce an assessment under this section if an employer or insurer demonstrates to the commissioner that atypical events during the fiscal year, including but not limited to a small number of cases, made the statistical data for that employer or insurer unrepresentative of the actual payout practices of the employer or insurer for that year.

2003 Acts, 1st Ex, ch 1, §123, 124, 133

[2003 enactment of section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §15, 16, 19

2004 reaffirmation and reenactment and amendment of this section take effect September 7, 2004, and apply retroactively to injuries occurring on or after July 1, 2003; 2004 Acts, 1st Ex, ch 1001, §19

86.14 Contested cases.

1. In an original proceeding, all matters relevant to a dispute are subject to inquiry.

2. In a proceeding to reopen an award for payments or agreement for settlement as provided by section 86.13, inquiry shall be into whether or not the condition of the employee warrants an end to, diminishment of, or increase of compensation so awarded or agreed upon.

[S13, §2477-m26, -m28; C24, 27, 31, 35, 39, §**1437, 1438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.14]

86.15 and 86.16 Repealed by 76 Acts, ch 1084, § 26.

86.17 Hearings — presiding officer — venue.

1. Notwithstanding the provisions of section 17A.11, the workers' compensation commissioner or a deputy workers' compensation commissioner shall preside over any contested case proceeding brought under this chapter, chapter 85, 85A, or 85B in the manner provided by chapter 17A. The deputy commissioner or the commissioner may make such inquiries in contested case proceedings as shall be deemed necessary, so long as such inquiries do not violate any of the provisions of section 17A.17.

2. Hearings in contested case proceedings under chapters 85, 85A and this chapter shall be held in the judicial district where the injury occurred. By written stipulation of the parties or by the order of a deputy workers' compensation commissioner or the commissioner, a hearing may be held elsewhere. If the injury occurred outside this state, or if the proceeding is not one for benefits resulting from an injury, hearings shall be held in Polk county or as otherwise stipulated by the parties or by order of a deputy workers' compensation commissioner or the workers' compensation commissioner.

[S13, §2477-m29; C24, 27, 31, 35, 39, §**1437, 1440, 1460;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §86.15, 86.17; C77, §86.17, 86.37; C79, 81, §86.17]

98 Acts, ch 1061, §11; 98 Acts, ch 1202, §29, 46; 2000 Acts, ch 1058, §12

Referred to in §86.26

86.18 Hearings — evidence.

1. Evidence, process and procedure in contested case proceedings or appeal proceedings

within the agency under this chapter, chapters 85 and 85A shall be as summary as practicable consistent with the requirements of chapter 17A.

2. The deposition of any witness may be taken and used as evidence in any pending proceeding or appeal within the agency.

[C24, 27, 31, 35, 39, §**1441, 1444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §86.18, 86.21; C79, 81, §86.18]

86.19 Reporting of proceedings.

1. The workers' compensation commissioner, or a deputy commissioner, may appoint or may direct a party to furnish at the party's initial expense a certified shorthand reporter to be present and report, or to furnish mechanical means to record, and if necessary, transcribe proceedings of any contested case under this chapter, chapters 85 and 85A and fix the reasonable amount of compensation for such service. The charges shall be taxed as costs and the party initially paying the expense of the presence or transcription shall be reimbursed. The reporter shall faithfully and accurately report the proceedings.

2. Notwithstanding the requirements of section 17A.12, subsection 7, a certified shorthand reporter, appointed by the presiding officer in a contested case proceeding or by the workers' compensation commissioner in an appeal proceeding, may maintain and thus have the responsibility for the recording or stenographic notes for the period required by section 17A.12, subsection 7.

[C24, 27, 31, 35, 39, §**1442;** C46, 50, 54, 58, 62, 66, 71, 73, §86.19; C75, 77, §86.19, 86.28; C79, 81, §86.19]

98 Acts, ch 1061, §11

Taxation of costs, §86.40

86.20 Repealed by 82 Acts, ch 1161, § 28.

86.21 through 86.23 Repealed by 77 Acts, ch 51, § 21.

86.24 Appeals within the agency.

1. Any party aggrieved by a decision, order, ruling, finding or other act of a deputy commissioner in a contested case proceeding arising under this chapter or chapter 85 or 85A may appeal to the workers' compensation commissioner in the time and manner provided by rule. The hearing on an appeal shall be in Polk county unless the workers' compensation commissioner shall direct the hearing be held elsewhere.

2. In addition to the provisions of section 17A.15, the workers' compensation commissioner may affirm, modify, or reverse the decision of a deputy commissioner or the commissioner may remand the decision to the deputy commissioner for further proceedings.

3. In addition to the provisions of section 17A.15, the workers' compensation commissioner, on appeal, may limit the presentation of evidence as provided by rule.

4. A transcript of a contested case proceeding shall be provided to the workers' compensation commissioner by an appealing party at the party's cost.

5. The decision of the workers' compensation commissioner is final agency action.

[S13, §2477-m29, -m32; C24, 27, 31, 35, 39, §**1447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.24; 82 Acts, ch 1161, §24]

86 Acts, ch 1238, §46; 86 Acts, ch 1245, §913; 88 Acts, ch 1158, §10; 98 Acts, ch 1061, §11; 2005 Acts, ch 168, §13, 23

86.25 Repealed by 77 Acts, ch 51, § 21.

86.26 Judicial review.

Judicial review of decisions or orders of the workers' compensation commissioner may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hearing under section 86.17 was held, the workers' compensation commissioner shall transmit to the reviewing court the original or a certified copy of the

entire record of the contested case which is the subject of the petition within thirty days after receiving written notice from the party filing the petition that a petition for judicial review has been filed, and an application for stay of agency action during the pendency of judicial review shall not be filed in the division of workers' compensation of the department of workforce development but shall be filed with the district court. Such a review proceeding shall be accorded priority over other matters pending before the district court.

[S13, §2477-m33; C24, 27, 31, 35, 39, §**1449, 1451;** C46, 50, 54, 58, 62, 66, 71, 73, §86.26, 86.28; C75, 77, 79, 81, §86.26]

86 Acts, ch 1238, §47; 88 Acts, ch 1158, §11; 95 Acts, ch 140, §3; 98 Acts, ch 1061, §11; 2001 Acts, ch 87, §7

Referred to in §85.70

86.27 Settlement of controversy.

Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, no party to a contested case under any provision of the "Workers' Compensation Act" may settle a controversy without the approval of the workers' compensation commissioner.

[C75, 77, 79, 81, §86.27]

98 Acts, ch 1061, §11; 2003 Acts, ch 44, §114

86.28 Repealed by 77 Acts, ch 51, § 21.

86.29 The judicial review petition.

Notwithstanding chapter 17A, the Iowa administrative procedure Act, in a petition for judicial review of a decision of the workers' compensation commissioner in a contested case under this chapter or chapter 85, 85A, 85B, or 87, the opposing party shall be named the respondent, and the agency shall not be named as a respondent.

[C75, 77, 79, 81, §86.29]

83 Acts, ch 105, §8; 86 Acts, ch 1238, §48; 88 Acts, ch 1158, §12; 98 Acts, ch 1061, §11

86.30 and 86.31 Repealed by 74 Acts, ch 1090, § 211.

86.32 Costs of judicial review.

In proceedings for judicial review of compensation cases the clerk shall charge no fee for any service rendered except the filing fee and transcript fees when the transcript of a judgment is required. The taxation of costs on judicial review shall be in the discretion of the court.

[C24, 27, 31, 35, 39, §**1455;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.32]

86 Acts, ch 1238, §49; 88 Acts, ch 1158, §13

86.33 Repealed by 74 Acts, ch 1090, § 211.

86.34 and 86.35 Repealed by 77 Acts, ch 51, § 21.

86.36 Repealed by 2000 Acts, ch 1007, § 6. See § 85.3.

86.37 Repealed by 77 Acts, ch 51, § 21.

86.38 Examination by physician — fee.

The workers' compensation commissioner may appoint a duly qualified, impartial physician to examine the injured employee and make report. The fee for this service shall be five dollars, to be paid by the workers' compensation commissioner, together with traveling expenses, but the commissioner may allow additional reasonable amounts in extraordinary cases. Any physician so examining any injured employee shall not be prohibited from

testifying before the workers' compensation commissioner, or any other person, commission, or court, as to the results of the examination or the condition of the injured employee.

[S13, §2477-m30; C24, 27, 31, 35, 39, §**1461;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.38]

98 Acts, ch 1061, §11

Referred to in §85.27

86.39 Fees — approval.

All fees or claims for legal, medical, hospital, and burial services rendered under this chapter and chapters 85, 85A, 85B, and 87 are subject to the approval of the workers' compensation commissioner. For services rendered in the district court and appellate courts, the attorney's fee is subject to the approval of a judge of the district court.

[S13, §2477-m20, -m35; C24, 27, 31, 35, 39, §**1462;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.39]

86 Acts, ch 1238, §50; 88 Acts, ch 1158, §14; 98 Acts, ch 1061, §11; 2000 Acts, ch 1007, §5

Referred to in §85.27

86.40 Costs.

All costs incurred in the hearing before the commissioner shall be taxed in the discretion of the commissioner.

[S13, §2477-m31; C24, 27, 31, 35, 39, §**1463;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.40]

86.41 Witness fees.

Witness fees and mileage on hearings before the workers' compensation commissioner shall be the same as in the district court.

[S13, §2477-m24; C24, 27, 31, 35, 39, §**1464;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.41]

98 Acts, ch 1061, §11

Witness fees and mileage, §622.69 – 622.75

86.42 Judgment by district court on award.

Any party in interest may present a file-stamped copy of an order or decision of the commissioner, from which a timely petition for judicial review has not been filed or if judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, or an order or decision of a deputy commissioner from which a timely appeal has not been taken within the agency and which has become final by the passage of time as provided by rule and section 17A.15, or an agreement for settlement approved by the commissioner, and all papers in connection therewith, to the district court where judicial review of the agency action may be commenced. The court shall render a decree or judgment and cause the clerk to notify the parties. The decree or judgment, in the absence of a petition for judicial review or if judicial review has been commenced, in the absence of a stay of execution or enforcement of the decision or order of the workers' compensation commissioner, or in the absence of an act of any party which prevents a decision of a deputy workers' compensation commissioner from becoming final, has the same effect and in all proceedings in relation thereto is the same as though rendered in a suit duly heard and determined by the court.

[S13, §2477-m33; C24, 27, 31, 35, 39, §**1465;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.42; 82 Acts, ch 1161, §25]

86 Acts, ch 1238, §51; 88 Acts, ch 1158, §15; 98 Acts, ch 1061, §11; 2003 Acts, ch 140, §4

86.43 Judgment — modification.

Upon the presentation to the court of a file-stamped copy of a decision of the workers' compensation commissioner, ending, diminishing, or increasing the compensation under the

provisions of this chapter, the court shall revoke or modify the decree or judgment to conform to such decision.

[S13, §2477-m33; C24, 27, 31, 35, 39, §**1466;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.43]

98 Acts, ch 1061, §11; 2003 Acts, ch 140, §5

86.44 Confidentiality.

All verbal or written information relating to the subject matter of an agreement and transmitted between any party to a dispute and a mediator to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, during any stage of a mediation or a dispute resolution process conducted by a mediator as provided in this section, whether reflected in notes, memoranda, or other work products in the case files, is a confidential communication except as otherwise expressly provided in this chapter. Mediators involved in a mediation or a dispute resolution process shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

For purposes of this section, "*mediator*" means a chief deputy workers' compensation commissioner or deputy workers' compensation commissioner acting in the capacity to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, or an employee of the division of workers' compensation involved during any stage of a process to resolve a dispute.

94 Acts, ch 1064, §2; 98 Acts, ch 1061, §8, 11

Referred to in §22.7

86.45 Confidential information.

1. "*Confidential information*", for the purposes of this section, means all information that is filed with the workers' compensation commissioner as a result of an employee's injury or death that would allow the identification of the employee or the employee's dependents. Confidential information includes first reports of injury and subsequent reports of claim activity. Confidential information does not include pleadings, motions, decisions, opinions, or applications for settlement that are filed with the workers' compensation commissioner.

2. The workers' compensation commissioner shall not disclose confidential information except as follows:

a. Pursuant to the terms of a written waiver of confidentiality executed by the employee or the dependents of the employee whose information is filed with the workers' compensation commissioner.

b. To another governmental agency, or to an advisory, rating, or research organization, for the purpose of compiling statistical data, evaluating the state's workers' compensation system, or conducting scientific, medical, or public policy research, where such disclosure will not allow the identification of the employee or the employee's dependents.

c. To the employee or to the agent or attorney of the employee whose information is filed with the workers' compensation commissioner.

d. To the person or to the agent of the person who submitted the information to the workers' compensation commissioner.

e. To an agent, representative, attorney, investigator, consultant, or adjuster of an employer, or insurance carrier or third-party administrator of workers' compensation benefits, who is involved in administering a claim for such benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

f. To all parties to a contested case proceeding before the workers' compensation commissioner in which the employee or a dependent of the employee, whose information is filed with the workers' compensation commissioner, is a party.

g. In compliance with a subpoena.

h. To an agent, representative, attorney, investigator, consultant, or adjuster of the employee, employer, or insurance carrier or third-party administrator of insurance benefits,

who is involved in administering a claim for insurance benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

i. To another governmental agency that is charged with the duty of enforcing liens or rights of subrogation or indemnity.

3. This section does not create a cause of action for a violation of its provisions against the workers' compensation commissioner or against the state or any governmental subdivision of the state.

2005 Acts, ch 168, §14, 23

Referred to in §22.7