

CHAPTER 10
INFORMAL DISPUTE RESOLUTION PROCEDURES

[Prior to 1/29/97 see Industrial Services Division[343]]
[Prior to 7/29/98 see Industrial Services Division[873]Ch 10]

876—10.1(17A,85,86) Informal dispute resolution procedures. The workers' compensation commissioner or the workers' compensation commissioner's designee (hereinafter collectively referred to as the workers' compensation commissioner) shall be available to resolve disputes relating to the Iowa workers' compensation law (Iowa Code chapters 85, 85A, 85B, 86, and 87) prior to the initiation of a contested case proceeding. Persons are encouraged to utilize the informal procedure provided herein so that a settlement may be reached between the parties without the necessity of a contested case proceeding. Informal procedures may be initiated as requested by any party either before or after a first report of injury has been filed. After a first report of injury is filed with the workers' compensation commissioner, a letter is provided to the injured employee. That letter includes an explanation of the function of the office of the workers' compensation commissioner, an explanation of informal dispute resolution procedures and information contained on the first report of injury. Additionally, even where a first report of injury is not on file, any party who elects to engage in informal dispute resolution may contact the workers' compensation commissioner by telephone or mail for information regarding the claim. Documentation regarding the claim may be submitted to or requested by the workers' compensation commissioner. The workers' compensation commissioner may respond to the parties either by telephone or, when appropriate, in writing regarding the information sought by the parties.

The informal procedures described in these rules are designed to be flexible enough to resolve any issue that any party believes is amenable to informal dispute resolution or that with the consent of the workers' compensation commissioner should be made the subject of informal dispute resolution procedures.

10.1(1) Nondisputed matters. If the parties agree that the claimant is correctly compensated and all benefits due and owing have been or will be paid, the parties need not file any other pleading or document with the workers' compensation commissioner except that claims activity reports must be filed in accordance with rule 876—3.1(17A).

10.1(2) Disputed matters. In the event the parties dispute whether the claimant is entitled to compensation or whether the claimant has received all benefits to which the claimant was entitled, then the parties to the dispute may elect to engage in the informal dispute resolution procedures described herein.

10.1(3) Notification of election, statute of limitations. Within the time a claimant may file an original proceeding with the workers' compensation commissioner, either party to a disputed claim may notify the workers' compensation commissioner of the desire to engage in an informal proceeding to resolve the dispute. If the dispute cannot be resolved informally, claimant will have the right to file an original notice and petition to commence a contested case proceeding as provided by 876—Chapter 4. An election to engage in informal dispute resolution procedures will not toll the statute of limitations for filing an original notice and petition.

10.1(4) Good faith effort to resolve disputes. Before the parties will be allowed to elect any alternative dispute resolution procedures including those identified in rules 876—4.40(73GA,ch1261) and 876—4.46(17A,85,86), they must make a good faith effort to resolve their dispute. The parties may file a professional statement signed by all parties and their representatives or an affidavit by an unrepresented party filed with the workers' compensation commissioner attesting to the good faith attempts to settle the dispute prior to utilizing the procedures described in these rules. The professional statement will be deemed sufficient to meet the requirements of this rule. Notwithstanding the foregoing, a claimant who files a contested case proceeding in order to toll the statute of limitations included in Iowa Code chapters 85, 85A, 85B, and 86 may elect alternative dispute resolution procedures including the informal procedures described in this chapter even though claimant or claimant's representative did not engage in settlement negotiations prior to the time the contested case proceeding was filed.

10.1(5) Informal dispute resolution procedures include the dispute resolution procedures described in rule 876—4.40(73GA,ch1261). The workers' compensation commissioner has the power to impose sanctions in informal dispute resolution procedures.

10.1(6) Rescinded IAB 6/22/94, effective 7/1/94.

10.1(7) An employee of the division of workers' compensation who has been involved in informal dispute resolution pursuant to subrules 10.1(5) and 10.1(6) shall not be a witness in any contested case proceeding under 876—Chapter 4.

10.1(8) Nothing in this rule is intended to prevent settlement prior to using the dispute resolution procedures.

This rule is intended to implement Iowa Code section 86.8, and 1990 Iowa Acts, chapter 1261, section 3.

876—10.2(17A,85,86) Advisory opinion. Rescinded IAB 1/29/97, effective 3/5/97.

876—10.3(17A,85,86) Health service dispute resolution.

10.3(1) The purpose of this rule and rule 876—4.46(17A,85,86) is to establish the procedures for resolving a dispute under Iowa Code section 85.27 between a provider and a responsible party over the treatment rendered by a provider to an injured worker. Utilization of these procedures by a responsible party is not an admission of liability for any other proceeding. This rule is effective October 7, 1992.

10.3(2) Definitions. The following definitions apply to this rule and rule 876—4.46(17A,85,86).

"Dispute" means a disagreement between a provider and responsible party over the necessity of service or reasonableness of charges or both; a disagreement between a provider and a responsible party over the necessity for or the reasonableness of charges for crutches, artificial members and appliances; and includes only those situations where liability or extent of liability is not an issue.

"Workers' compensation commissioner" means the workers' compensation commissioner or the workers' compensation commissioner's designee.

"Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Provider" means any person furnishing surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, hospital services and supplies, crutches, artificial members and appliances.

"Responsible party" means the person who is liable for payment of medical services provided pursuant to the Iowa workers' compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer workers' compensation insurance.

10.3(3) Informal resolution of disputes.

a. The charges not in controversy shall be paid to the provider prior to utilization of the procedures outlined in this rule.

b. A responsible party who refuses to pay the amount in controversy of a dispute shall give the provider written notice of the dispute within 60 days of receiving a bill with proper supporting documentation. The written notice shall specify:

- (1) The name of the patient-employee;
- (2) The name of the employer on the date of injury;
- (3) The date of the treatment in dispute;
- (4) The amount charged for the treatment, the amount of the charge the responsible party agrees to pay, and the amount in dispute;
- (5) The reason for belief that the bill is excessive or unnecessary and documentation relied upon to formulate the belief;
- (6) The address to use in directing correspondence to the responsible party regarding the dispute;
- (7) The provider's right to utilize the procedures specified in this rule and rule 876—4.46(17A,85,86);
- (8) The provisions of 10.3(3) "*c,*" 10.3(3) "*d,*" and 876—subrule 4.46(2);

(9) The provider or the responsible party is prohibited by Iowa Code section 85.27 from seeking payment from the injured worker when there is a dispute regarding reasonableness of a fee.

c. If the provider agrees to accept the amount of the charge the responsible party has paid, the provider shall notify the responsible party.

d. If the provider does not agree to accept the amount of the charge the responsible party agrees to pay, the provider shall notify the responsible party in writing. The provider and the responsible party shall submit the dispute to a mutually agreed upon person for review. The person reviewing the dispute under this rule will not be the workers' compensation commissioner. If the provider and the responsible party cannot agree upon the person to make the review, they shall, within 90 days of time the provider notified the responsible party of the disagreement, each recommend to the workers' compensation commissioner one person to do the review. The workers' compensation commissioner may choose the person or persons recommended to make the review. A person other than the persons recommended may be chosen at the discretion of the workers' compensation commissioner. The selected person or persons shall review information submitted by the provider and the responsible party and make a determination.

e. The person making the review shall make a determination of the amount that is reasonable and necessary. The determination shall be made as soon as practicable and shall be dated. It shall be in writing and specify the facts relied upon. The person making the review may choose any amount to set the reasonableness of a charge. If the person chosen to make the review does not make a determination within a reasonable time, that person may be discharged without being paid.

f. Costs. The costs of the person making the review shall be paid as mutually agreed by the provider and the responsible party. In the event of no agreement the costs shall be paid by whomever chose an amount further from the determination of the person reviewing the matter. If the amount is equally close to both parties, the costs shall be shared equally. However, if the workers' compensation commissioner selects the person or persons to do the review, the costs shall be shared equally.

g. Nothing in this rule is intended to prevent providers and responsible parties from developing other procedures to informally resolve their disputes.

10.3(4) See rule 876—4.46(17A,85,86) for contested case procedures.

10.3(5) WCES shall not be used for health service dispute matters.

This rule is intended to implement Iowa Code sections 17A.10, 17A.12, 85.27 and 86.8.

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