

876—4.8(86) Filing of notice.

4.8(1) A contested case is commenced by filing the original notice and petition with the workers' compensation commissioner. No action shall be taken by the workers' compensation commissioner on any contested case against an adverse party unless the adverse party has answered or unless it can be shown by proper proof that the adverse party has been properly served. The original notice and petition if required by 876—4.6(85,86,17A) shall be accompanied by proof that the petitioner has deposited copies of such documents with the U.S. post office for delivery by certified mail, return receipt requested, upon the respondent or has submitted such copies to a proper person for delivery of personal service as in civil actions.

4.8(2) Filing fee.

a. For all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, occupational disease or occupational hearing loss alleged, a filing fee shall be paid at the time of filing. The filing fee for petitions is \$125. 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 under Iowa Code section 85.28; determination of dependency under Iowa Code sections 85.42, 85.43, and 85.44; equitable apportionment under Iowa Code section 85.43; second injury fund under Iowa Code sections 85.63 to 85.69; vocational rehabilitation benefits under Iowa Code section 85.70(1); vocational training and education benefits under Iowa Code section 85.70(2); approval of legal, medical and other fees under Iowa Code section 86.39; commutation under Iowa Code sections 85.45 to 85.48; employee's examination under Iowa Code section 85.39; employee's examination or sanctions under Iowa Code section 85.39; application for alternate care under Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest under Iowa Code section 85.21; interest under Iowa Code section 85.30; penalty under Iowa Code section 86.13; application for approval of third-party settlement under 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 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.

b. A filing fee shall be required for each original notice and petition filed, as required in paragraph 4.8(2) "a." If a party overpays a filing fee, the party may receive a refund. The party who made the overpayment must request a refund before June 1 of the fiscal year in which the overpayment occurred.

c. If no filing fee is paid at the time of filing of the original notice and petition, the workers' compensation commissioner shall return the original notice and petition to the party filing it. Filing an original notice and petition without paying the fee shall not toll the statute of limitations. Tendering an amount less than required will be considered failure to pay a filing fee.

d. The filing fee may be taxed as a cost to the losing party in the case. If the filing fee would impose an undue hardship or be unjust in the circumstances for the losing party, the filing fee may be taxed as costs to the winning party in the case. See rule 876—4.33(86).

e. The filing fee shall be paid at the same time the petition is filed. The filing fee shall be paid electronically with a credit card, via automated clearing house (ACH), or by other electronic means as allowed by WCES, unless an order granting permission for nonelectronic payment has been issued. If an order granting permission for nonelectronic payment has been issued, the party filing the petition shall issue a check payable to the "Iowa Division of Workers' Compensation." If the payment of the filing fee is made by an account with insufficient funds or the payment is stopped, or the payment is otherwise not honored, it will be treated as a failure to pay the correct filing fee. See paragraph 4.8(2) "c." Nonelectronic payment will not be accepted without an order granting permission for nonelectronic payment. The statute of limitations is not tolled if a party has requested nonelectronic payment and is awaiting an order.

f. The workers' compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers' compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall be in the form required by the workers' compensation commissioner and shall include an affidavit signed by the petitioner. When payment of the

filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers' compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See paragraph 4.8(2) "c." The form for the application deferral of prepayment of fees (Form No. 14-0075) shall not be filed using WCES. The document shall be filed in paper form. If the request for deferral of fees is granted, a claim will be established in WCES. Parties to the claim shall use WCES for future filings, unless a party has been granted a waiver of the mandatory use of WCES.

g. Parties shall use the payment gateway in WCES to pay filing fees, unless an order has been issued allowing deferral of the payment of the filing fee or payment outside of WCES. In addition to the filing fee, the parties shall pay the convenience fee charged by the financial institution that is processing payment for WCES. This cost may be recoverable under rule 876—4.33(86).

This rule is intended to implement Iowa Code section 17A.12.

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