CHAPTER 17

Awards Procedure

**SECTION 42‑17‑10.** Agreement as to compensation.

 If more than seven days after the date of an injury or at any time in case of death, the employer and the injured employee or his dependents reach an agreement in regard to compensation under this title, a memorandum of the agreement in the form prescribed by the commission, accompanied by a full and complete medical report shall be filed with the commission within fifteen days after agreement has been reached by the parties for approval of the commission; otherwise, such agreement shall be voidable by the employee or his dependents. All such agreements shall be subject to adjustment and correction as to the compensable rate if subsequent to filing with the commission it is determined that such rate does not reflect the correct average weekly wage of the claimant. If approved by the commission, the memorandum shall for all purposes be enforceable by a court's decree as specified in this title.

HISTORY: 1962 Code Section 72‑351; 1952 Code Section 72‑351; 1942 Code Section 7035‑59; 1936 (39) 1231; 1980 Act No. 318, Section 5.

**SECTION 42‑17‑20.** Hearing before commission on compensation payable.

 If the employer and the injured employee or his dependents fail to reach an agreement in regard to compensation under this title within fourteen days after the employer has knowledge of the injury or after a death or if they have reached such an agreement which has been signed and filed with the commission and compensation has been paid or is due in accordance therewith and the parties thereto then disagree as to the continuance of any weekly payment under such agreement, either party may make application to the commission for a hearing in regard to the matters at issue and for a ruling thereon. Immediately after such application has been received the commission shall set a date for a hearing, which shall be held as soon as practicable, and shall notify the parties at issue of the time and place of such hearing. The hearing shall be held in the district in which the injury occurred, but no greater than seventy‑five miles from the county seat of the county in which the injury occurred, unless otherwise agreed to by the parties and authorized by the commission. For purposes of this section, the "county seat" is the county courthouse. These districts are defined as those districts designated by the commission and in effect as of January 1, 2018.

HISTORY: 1962 Code Section 72‑352; 1952 Code Section 72‑352; 1942 Code Section 7035‑60; 1936 (39) 1231; 1955 (49) 459; 2018 Act No. 233 (H.5153), Section 1, eff May 18, 2018.

Effect of Amendment

2018 Act No. 233, Section 1, in the third sentence, substituted "district in which the injury occurred, but no greater than seventy‑five miles from the county seat of the" for "city or", and added the fourth and fifth sentences, relating to the definition of "county seat" and the designation of districts, respectively.

**SECTION 42‑17‑30.** Commission may appoint doctor to examine injured employee; compensation.

 The commission or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of any employee and to testify in respect thereto. The physician or surgeon must be allowed traveling expenses and a reasonable fee in accordance with a fee schedule set by the commission. The commission may allow additional reasonable amounts in extraordinary cases. The commission or any member thereof has the discretion to order either party to pay the fees and expenses of the physician or surgeon, or the commission or any member thereof may order the parties to share responsibility for payment of the fees and expenses.

HISTORY: 1962 Code Section 72‑353; 1952 Code Section 72‑353; 1942 Code Section 7035‑66; 1936 (39) 1231; 1990 Act No. 407, Section 1, eff April 11, 1990.

**SECTION 42‑17‑40.** Conduct of hearing; award.

 (A) The commission or any of its members shall hear the parties at issue and their representatives and witnesses and shall determine the dispute in a summary manner. The award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the questions at issue, must be filed with the record of the proceedings and a copy of the award must immediately be sent to the parties in dispute. The parties may be heard by a deputy, in which event he shall swear or cause the witnesses to be sworn and shall transmit all testimony to the commission for its determination and award.

 (B) In the event any commissioner or any member of his family residing in the commissioner's household or any employee of the Workers' Compensation Commission receives an injury in the course of employment, the case must be heard and determined by the circuit court judge in the county in which the injury occurred. The clerk of court shall docket these cases in the file book for the court of common pleas and these cases must be heard in that court. These cases may be called up for trial out of their order by either party. An appeal from an order of the circuit court judge, pursuant to this subsection, shall be taken in the manner provided by the South Carolina Appellate Court Rules. If the order is not appealed, payment must be made as provided in Section 42‑17‑60. However, this subsection does not apply with respect to claims involving medical benefits only; for claims solely involving medical benefits, subsection (A) applies.

HISTORY: 1962 Code Section 72‑354; 1952 Code Section 72‑354; 1942 Code Section 7035‑61; 1936 (39) 1231; 1989 Act No. 70, Section 1, eff May 10, 1989; 1999 Act No. 55, Section 45, eff June 1, 1999.

**SECTION 42‑17‑50.** Review and rehearing by commission.

 If an application for review is made to the commission within fourteen days from the date when notice of the award shall have been given, the commission shall review the award and, if good grounds be shown therefor, reconsider the evidence, receive further evidence, rehear the parties or their representatives and, if proper, amend the award.

 Each application for commission review must be accompanied by a fee equal to that charged in circuit court for filing a summons and complaint in order to defray the costs of the review. If the commission determines at the conclusion of the review that the appeal was without merit, it may charge, in its sole discretion, the appellant an additional fee not to exceed two hundred fifty dollars.

HISTORY: 1962 Code Section 72‑355; 1952 Code Section 72‑355; 1942 Code Section 7035‑62; 1936 (39) 1231; 1981 Act No. 178 Part II Section 38; 1989 Act No. 197, Section 2.

**SECTION 42‑17‑60.** Conclusiveness of award; appeals; payment of compensation during appeal; accrual of interest.

 The award of the commission, as provided in Section 42‑17‑40, if not reviewed in due time, or an award of the commission upon the review, as provided in Section 42‑17‑50, is conclusive and binding as to all questions of fact. However, either party to the dispute, within thirty days from the date of the award or within thirty days after receipt of notice to be sent by registered mail of the award, but not after, whichever is the longest, may appeal from the decision of the commission to the court of appeals. Notice of appeal must state the grounds of the appeal or the alleged errors of law. In case of an appeal from the decision of the commission on questions of law, the appeal does not operate as a supersedeas and, after that time, the employer is required to make weekly payments of compensation and to provide medical treatment ordered by the commission involved in the appeal or certification until the questions at issue have been fully determined in accordance with the provisions of this title. Interest accrues on an unpaid portion of the award at the legal rate of interest as established in Section 34‑31‑20(B) during the pendency of an appeal.

HISTORY: 1962 Code Section 72‑356; 1952 Code Section 72‑356; 1942 Code Section 7035‑63; 1936 (39) 1231; 1988 Act No. 677, Section 3, eff June 27, 1988; 1990 Act No. 439, Section 1, eff April 24, 1990; 2007 Act No. 111, Pt I, Section 30, eff July 1, 2007, applicable to injuries that occur on or after that date.

**SECTION 42‑17‑70.** Judgment on agreement or award.

 Any party in interest may file in the court of common pleas of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the commission, an order or decision of the commission, an award of the commission unappealed from or an award of the commission affirmed upon appeal, whereupon such court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment had been rendered in a suit duly heard and determined by such court. But if the judgment debtor shall file a certificate duly issued by the commission, showing compliance with Section 42‑5‑20, with the clerk of the court in the county in which such judgment is docketed, such clerk shall make upon the judgment roll an entry showing the filing of such certificate which shall operate as a discharge of the lien of such judgment and no execution shall be issued thereon. But if at any time there is default in the payment of any installment due under the award set forth in such judgment the court may, upon application for cause and after ten days' notice to the judgment debtor, order the lien of such judgment restored and execution or other proper process may be immediately issued thereon for past‑due installments and for future installments as they may become due.

HISTORY: 1962 Code Section 72‑357; 1952 Code Section 72‑357; 1942 Code Section 7035‑64; 1936 (39) 1231.

**SECTION 42‑17‑80.** Costs.

 If the commission or any court before whom any proceedings are brought under this title shall determine that such proceedings have been brought, prosecuted or defended without reasonable grounds, it may assess the whole cost of the proceedings upon the party who has brought or defended them.

HISTORY: 1962 Code Section 72‑358; 1952 Code Section 72‑358; 1942 Code Section 7035‑65; 1936 (39) 1231.

**SECTION 42‑17‑90.** Review of award on change of condition.

 (A) On its own motion or on the application of a party in interest on the ground of a change in condition, the commission may review an award and on that review may make an award ending, diminishing, or increasing the compensation previously awarded, on proof by a preponderance of the evidence that there has been a change of condition caused by the original injury, after the last payment of compensation. An award is subject to the maximum or minimum provided in this title, and the commission immediately shall send to the parties a copy of the order changing the award. The review does not affect the award as regards any monies paid and the review must not be made after twelve months from the date of the last payment of compensation pursuant to an award provided by this title.

 (B) A motion or application for change in condition involving a repetitive trauma injury must be made within one year from the date of the last compensation payment for the repetitive trauma injury. Any filing not made within this one‑year period shall be considered untimely and shall not be reviewed.

 (C) A motion or application for change in condition involving an occupational disease must be made within one year from the date of the last compensation payment for the occupational disease. Any filing not made within this one‑year period shall be considered untimely and shall not be reviewed.

HISTORY: 1962 Code Section 72‑359; 1952 Code Section 72‑359; 1942 Code Section 7035‑49; 1936 (39) 1231; 2007 Act No. 111, Pt I, Section 31, eff July 1, 2007, applicable to injuries that occur on or after that date.