

DIVISION 2 WORKER'S COMPENSATION

CHAPTER 10 WORKER'S COMPENSATION COMMISSION

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NOTE: Rule-making authority cited for Worker's Compensation Commission, 22 GCA §9141. Worker's Compensation Law is found in Chapter 9, Title 22, Guam Code Annotated.

§10100. Reports: Forms Authorized. The following forms adopted for use with the Federal Longshoremen's and Harbor Workers' Compensation Act shall likewise be acceptable by the Commissioner for the purposes of the Guam Worker's Compensation Law in lieu of the regular Guam forms.

When used as set forth below they shall be referred to by same number as is printed thereon but will be preceded with the initials "GWC" instead of "U.S.":

(a) U.S. 201 for use as employee's notice to the Commissioner as required by §37012(a)(1).

(b) U.S. 201-A for use as the employee's notice to the employer as required by 22 GCA §9113(a).

(c) U.S. 202 for use as the employer's first report to the Commissioner as required by 22 GCA §9131(a).

(d) U.S. 202-A for use as the employer's first report to the Commissioner in lieu of U.S. 202 in cases of an injury causing no loss of time as required by 22 GAR 19131(a).

(e) U.S. 203 for use as the employee's claim for compensation to be filed with the Commissioner as required by 22 GCA §9120(a).

(f) U.S. 206 for use by the employer in filing with the Commissioner notice that payment of compensation has begun without awaiting award as required by 22 GCA §9115(c).

(g) U.S. 206-8 to be used by the employer in filing with the Commissioner notice that payment of compensation has begun without awaiting award where the first payment is also the last as required by 22 GCA §9115(c), and when used shall take the place of both U.S. 206 and U.S. 208.

(h) U.S. 207 for use by the employer in filing with Commissioner, notice that the employer controverts an employee's right to compensation as required by §§ GCA §9115(d).

(i) U.S. 208 for use by the employer in filing with the Commissioner notice that final payment has been made, as required by 22 GCA §9115(g), or notice that payments have been suspended for any cause whatsoever as required by 22 GCA §9115(c).

(j) U.S. 215-A for use by the Commissioner giving notice to the employer and any other interested party that an employee has filed claim for compensation as required by 22 GCA §9120(b).

(k) U.S. 261 for use by the employer in reporting to the Commissioner the death of an employee for which compensation may be payable as required by 22 GCA §9113(a).

(l) U.S. 262 for use by the widow and/or children of a deceased employee in a death case for filing claim with the Commissioner as required by 22 GCA §9120(a), and when so used shall be in lieu of U.S. 203.

(m) U.S. 263 for use by dependents other than the widow and/or children of a deceased employee in a death case for filing with the Commissioner claim for compensation as required by 22 §9120(a), and when so used shall be in lieu of U.S. 203.

§10101. Same: Forms Prescribed and Authorized. The following forms shall be required and used for the purposes set forth herein in a like manner as if they were specifically required by law. The GWC forms referred to

herein are substantially the same as the U.S. forms of like numbers, which may be used:

(a) The employer when furnishing any medical services as required by this law shall require the attending physician to make report to the employer in duplicate on Form GWC-204 or on Form GWC-205 in the case of a permanent eye disability, or on such other form as the Commissioner may approve; immediately on receipt of such physician's report, the employer shall then transmit the original thereof to the Commissioner.

(b) In any case where the employer objects to an employee's right to compensation under this law, the Commissioner shall request the employer, on Form GWC-209, that he reply to such objection.

(c) The employer shall be required to report to the Commissioner on Form GWC-210, or such other form as the Commissioner may approve, any case where disability again results from previously reported injury and compensation payments have been resumed.

(d) The employer shall be required to make supplementary reports to the Commissioner giving notice of return to work when the disability of an employee lasts for seven (7) days or less with no permanent disability on Form GWC-211, or such other form as the Commissioner may from time to time prescribe. When used, this form will be supplementary Form GWC-202. This form is not required when Form GWC-202 or 204 shows return to work.

(e) The Commissioner immediately upon receipt of Form GWC-208 giving notice of final payment of compensation shall give notice to the employee of the termination of compensation payments on Form GWC-212.

(f) The employee in case of disability, or his dependents in case of death, shall give notice to the Commissioner of election to sue where they choose to bring suit against a third party under Section 6, on Form GWC-213.

(g) The employer shall file with the Commissioner an answer to an employee's claim for compensation and shall serve a copy of such answer on the employee

on Form GWC-215, or such other form as the Commissioner may approve, all within ten (10) days after being notified by the Commissioner that a claim for compensation has been filed.

(h) The Commissioner may request any additional reports from any interested party regarding any claim in a form substantially in compliance with Form GWC-216.

(i) The employee in case of injury, or his dependents in case of death, may make application with the Commissioner for a lump sum award in lieu of installment payments in case of permanent disability or death on Form GWC-221, or such other form as the Commissioner may approve.

(j) Where a supplementary medical report is required or requested by the Commissioner it shall be submitted by the physician, in duplicate, to the employer on Form GWC-227 or such other form as the Commissioner may approve. The employer on receipt of supplementary medical report shall immediately file the original thereof with the Commissioner.

(k) In any case where injury results in death the employer shall obtain from the physician last in attendance proof of such death on Form GWC-264, and shall immediately file such proof of death with the Commissioner; in lieu of Form GWC-264 the Commissioner may accept any standard death certificate or other proof of death.

(l) In any case where death results from the injury and claim is made for burial and funeral expenses, the employer shall be required to secure proof of such expenses on Form GWC-265, or such other form as the Commissioner may approve, and immediately file such proof with the Commissioner.

(m) When in the judgment of the Commissioner, justice requires and no interested party will be prejudiced thereby, the Commissioner may approve the giving of any required notice or report in letter form, provided that such letter notice or letter report substantially complies with the provisions of 22 GCA Chapter 9, and the provisions of these Regulations.

§10102. Notices and Reports May be Filed With the Commissioner. In any case where the Guam Worker's Compensation Law requires any notice to be given to, or

report to be filed with the Commission, the giving of notice to, or the filing of the report with the Commissioner shall be deemed to satisfy the terms of this law.

§10103. Discharge by Carrier of Obligation and Duties of Employer. Every obligation and duty in respect of payment of compensation, the providing of medical and other treatment and care, the payment or furnishing of any other benefit required by 22 GCA Chapter 9, and in respect of the carrying out of the administrative procedure required or imposed by said law or the regulations thereunder upon an employer shall be discharged and carried out by the insurance carrier except that the prescribed report of injury or death shall be sent by the employer to the Commissioner and to the insurance carrier as required by 22 GCA Chapter 9. The carrier shall be jointly responsible with the employer for the submission of all reports, notices, forms and other administrative papers required by the Commissioner or the Commission in the administration of said law to be submitted by the employer, but any form or paper so submitted where required therein shall contain in addition to the name and address of the carrier, the full name and address of the employer on whose behalf it is submitted. Notice to or knowledge of an employer of the occurrence of the injury or death shall be notice to or knowledge of such carrier. Jurisdiction of the employer by the Commissioner, the Commission or any court under said law shall be jurisdiction of such carrier. Any requirement by the Commissioner, the Commission or any court under any compensation order, finding or decision shall be binding upon such carrier in the manner and to the same extent as upon the employer. (22 GCA §9137).

§10104. Policies: Reports of Issuance. Each carrier shall transmit to the Commissioner as promptly as possible a report of each policy issued or renewed under 22 GCA Chapter 9. The report may consist of a copy of the policy or the declarations page thereof with a signed copy of the endorsement required by 17 GAR §10105, or it may consist of a card 3 x 5 inches, in the following form:

Employer: _____

Address: _____

(Policy Number) (Dates of beginning & expiration)

17 GAR - LABOR RELATIONS
DIV. 2 - WORKERS' COMPENSATION

Report is made of issue of approved form of policy and endorsement under 22 GCA Chapter 9, to above employer.

Date Insurance Company

By: _____

Such card report may be printed, typed or written, but shall be signed by an agent or other person authorized to sign policies.

§10105. Same: Endorsement Requirement. The following form of endorsement applicable to the standard worker's compensation and employer's liability policy, shall be used with the form of policy approved by the Commission for use by an authorized carrier:

Worker's Compensation endorsement under 22 GCA Chapter 9 (Public Law No. 80, First Guam Legislature, Worker's Compensation Law of Guam)
For attachment to Policy No. _____

The obligations of Paragraph One (a) of the policy include 22 GCA Chapter 9, otherwise known as Public Law 80, First Guam Legislature (Worker's Compensation Law of Guam), and all laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company shall carry out the provisions of 22 GCA §9137, and shall comply with 22 GCA §9138. Insolvency or bankruptcy of the employer or discharge therein, or both, shall not relieve the carrier from payment of compensation for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of the 22 GCA Chapter 9, and all lawful rules, regulations, orders and decisions of the Worker's Compensation Commission and Commissioner of Guam unless and until set aside, modified or reversed by a court having jurisdiction of the parties and the subject matter.

If this employer is a contractor the subject of whose contract includes operations covered by this policy and he shall subcontract all or any part of such contract to one (1)

or more subcontractors, the remuneration of all the direct employees of all such subcontractors, shall be included in the return of remuneration under the provisions of this policy upon which premium is remuneration of employees of this employer and shall in all instances be governed by the same terms, conditions, requirements and obligations of the policy as the remuneration of the direct employees of this employer. The requirements of this Paragraph shall not apply as respects any such subcontractor who has secured compensation for his direct employees as required by 22 GCA Chapter 9, but this employer shall not claim the benefit of this exemption unless and until he shall satisfy the company by certificate or otherwise that any such subcontractor has legally secured the payment of compensation to his own direct employees and then only respecting any subcontractor who has furnished such proof.

This policy and endorsement shall not be cancelled prior to the date specified in this policy or endorsement for its expiration until at least thirty (30) days have elapsed after a notice of cancellation has been sent to the Commissioner and the employer in accordance with the provisions of Subsection (c) of 22 GCA Chapter 9.

All terms, conditions, requirements and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

References to the law of any state in Conditions B and D of this policy are hereby declared to include for the purpose of this endorsement only, the provisions of 22 GCA Chapter 9.

§10106. Same: Authorization of Carriers. An application for authority to write insurance under 22 GCA Chapter 9 shall be made in writing, signed by an officer of the applicant shown to be duly authorized to make such application, and transmitted to the Worker's Compensation Commission, government of Guam. Each application shall show the place or places at which the applicant intends to do business and shall include or be accompanied by evidence that applicant has authority in its charter or other form of organization to write worker's

compensation insurance, together with reasonable information of the applicant's history and experience in the writing of such insurance. All statements of fact in each application and in the supporting evidence shall be verified by the oath of the officer signing the application.

Each application shall be accompanied by satisfactory evidence of the financial responsibility of the applicant. Such evidence shall include a verified statement of the applicant's financial condition, including capital stock and surplus, and may include such other documents and reports as will show fully the applicant's competence, integrity and financial condition. The Commission reserves the right to call for such additional information or evidence as it may deem necessary in any particular case:

(a) With each application for authority to write insurance there shall be submitted for the approval of the Commission copies of the forms of policies which the applicant proposes to issue in writing insurance under 22 GCA Chapter 9, Code, to which shall be attached the Guam Worker's Compensation endorsement to be used therewith as provided for in Regulation 5.2 (17 GAR §10106).

(b) No corporation, company, association, person or fund shall write insurance under 22 GCA Chapter 9 without first having received from the Commission a certificate of authority to write such insurance. The Commission may suspend or revoke any such certificate prior to its expiration, for good cause shown, after reasonable notice and opportunity to be heard, but no suspension or revocation shall effect the liability of any carrier already incurred.

(c) All certificates of authority to write insurance under 22 GCA Chapter 9 issued prior to the promulgation of this Regulation shall expire on June 30, 1955. All such certificates issued hereafter shall be issued for periods not in excess of eighteen (18) months and shall state the expiration date, which shall fall on the 30th day of June.

(d) Any carrier holding an unexpired certificate of authority and desiring reauthorization for a period of one (1) year from the expiration of such certificate shall apply to the Commission by letter over the

signature of its authorized officer for such a certificate of authority. No evidence need be furnished with such application, but the Commission, after receipt of the application may require the carrier to submit such evidence of its experience, performance and financial condition as the Commission may deem necessary. Such applications should be filed not later than the 1st day of June of each year.

§10107. Procedure Applicable When the Government of Guam is the Employer. (a) In cases involving employees of the government of Guam, such records as are required by the Worker's Compensation Law to be kept by an employer shall be kept by the Commissioner. Heads of departments or governmental agencies shall make, or cause to be made, and transmit to the Commissioner the employer's first report of accident or illness and shall thereafter furnish to the Commissioner from time to time such information or further reports as the Commissioner requests.

(b) When an employee of the government of Guam suffers an injury as defined in 22 GCA §9103(m), his department head or other supervisor shall send him to Guam Memorial Hospital for such examination and treatment as are made necessary by such injury, and shall furnish to the hospital such information or certification as the hospital requires. The attending physician's report required by 22 GCA §9108 and 17 GAR §10101(a) [Regulation GWC-2.1] shall be transmitted by the hospital to the Commissioner or to the department or agency head referring the injured employee for treatment, within twenty (20) days after the first treatment. Such additional medical reports as may be requested by the Commissioner shall be promptly rendered and transmitted to the Commissioner or to the department or agency head referring the injured employee for treatment. Any medical reports concerning examination or treatment under the Worker's Compensation Law, received by department or agency heads, shall be promptly forwarded to the Commissioner.

(c) In any case involving an employee of the government of Guam, when the Commissioner determines that such employee has suffered an injury as defined in 22 GCA §9103(m), for which he is entitled to compensation to be paid by the government of Guam as provided in 22

GCA Chapter 9 and determines that compensation is due and the amount thereof, whether or not a claim for compensation has been filed, the Commissioner shall issue, in the name and on behalf of the Commission, an order in appropriate form directing the Treasurer of Guam to pay such amounts as are actually due to the employee entitled out of the government of Guam, Worker's Compensation Special Fund, established under the authority of 22 GCA §9144.

§10108. Assessment of Civil Penalties. (a) In any case under 22 GCA Chapter 9, in which it appears that there has been a failure to perform a statutory obligation, for which failure the said Chapter 9 subjects an employer and/or carrier to the imposition of a civil penalty, the Commissioner shall issue to the offending employer and/or carrier an order to show cause why such civil penalty should not be assessed by the Commission. Such order shall be served upon the employer and/or carrier concerned either personally or by registered mail and shall state:

(1) the names of all interested parties to the case and the date of the injury involved;

(2) the particular violation for which a penalty is proposed to be assessed;

(3) the time and place at which the Commission will convene for the purpose of hearing and determining the issues, which shall be not less than ten (10) days after service of the order to show cause;

(4) that the proposed penalty will be assessed unless the employer and/or carrier, at or before the time specified, show cause why such penalty should not be assessed.

(b) If the Commission determines that a civil penalty should be assessed, it shall fix the amount thereof and direct the Commissioner to issue an appropriate order on behalf of the Commission assessing the penalty. Such order shall be filed as a part of the record in the case, and a copy thereof served upon the offending employer and/or carrier either personally or by registered mail.

§10109. Conferences and Hearings, Records Thereof.

(a) In any case pending under 22 GCA Chapter 9, the Commissioner may set a conference for the purpose of defining the issues, simplifying the methods of proof, and peacefully disposing of any or all issues in dispute. At least ten (10) days notice of any such conference shall be given, unless the interested parties agree on a shorter period:

(1) At the conclusion of such a conference, the Commissioner shall prepare and file as part of the record of the case a memorandum showing the time and place and persons present, the purposes of the conference, the matters discussed and the results accomplished. Copies shall be furnished all interested parties.

(2) When a conference results in agreement on any or all of the issues or questions in the case, the Commissioner shall prepare stipulations, for the signature of the parties, setting out all matters agreed upon. When signed by the parties, such stipulations shall be filed in and become part of the record of the case.

(b) Hearings before the Commissioner shall be open to the public and shall be stenographically reported. All testimony, discussion and argument at a hearing shall be reported unless the Commissioner otherwise directs. When the Commissioner directs the omission of any material, he shall state for the record the reasons for the omission. Only the Commissioner shall instruct the reporter concerning material to be reported, the preparation of the record, and other matters germane to the hearing. The transcript of the hearing shall contain, at the end, the certificate of the reporter showing the date and place of the reporting and stating that the transcript contains a true and complete report of the proceedings. The Commissioner shall file the transcript as a part of the record of the case.

§10110. Lump-Sum Settlement. When liability for death benefits, as provided for in 22 GCA §9110, is to be discharged by payment of a lump-sum and the persons entitled are aliens, not residents (or about to become non-residents) of the United States, the territory of Guam or Canada, the amount to be paid shall be fifty percent (50%) of the computed value of all future installments, computed in accordance with 22 GCA §9115(j). The

lump-sum payment in all other cases in lieu of future installments, shall be the present value of future compensation payments, computed in accordance with 22 GCA §9115(j).

§10111. Methods of Payment of Compensation to Claimants Residing in a Foreign Country. (a) The insurance carrier, in making installment payments or settlement with a claimant residing in a foreign country, shall deliver to him and receive a receipt for the amount of compensation paid by check or draft in United States currency.

(b) A claimant entitled to compensation under the Guam Worker's Compensation Law, who is not a citizen of the United States of America, may authorize a duly appointed or qualified representative of his nation on Guam who is acceptable to the Commission to accept payment of compensation in Guam.

(c) Any other method of adjusting a claim with a foreign claimant within the nation of his residence shall be reported to the Commission in the actual amount of the payment in the currency of that nation and its equivalent value in United States currency actually paid. Said report shall be notarized affidavit of the agent making such delivery.

(d) A claimant residing in a foreign country shall have the option of selecting the method by which payments, to which he is entitled under the Guam Worker's Compensation Law, shall be made and, in lieu of the exercise of the option, the insurance carrier shall make installment or other settlement payments in accord with 17 GAR §10111 above.