

INSURANCE MEMORANDUM
CIRCULAR NO. 1-93

RULES OF PROCEDURE
GOVERNING ADMINISTRATIVE CASES
BEFORE THE INSURANCE COMMISSION

Pursuant to Executive Order No. 26 dated October 7, 1992, and in conjunction with Book VII of the Administrative Code of 1987 (Executive Order No. 292), the Insurance Commission hereby promulgates the following rules of procedure governing actions or proceedings before it.

RULE I

GENERAL PROVISIONS

Section 1. Applicability - These rules shall apply to all administrative cases brought before the Insurance Commission in the exercise of its powers and functions under the Insurance Code.

Section 2. Construction - These rules shall be liberally construed to promote public interest and to assist the parties in obtaining just, speedy and inexpensive determination of every action brought before the Insurance Commission.

Section 3. Nature of Proceedings - Proceedings before the Insurance Commission shall be summary in nature not necessarily adhering to or following the technical rules of evidence obtaining in the courts of law. The Rules of Court may apply in said proceedings in suppletory character whenever practicable.

Section 4. Verification of Pleadings - Complaints filed under these rules must be verified.

RULE II

PARTIES

Section 1. Complainant and Respondent - In all administrative cases filed with the Insurance Commission, the party initiating the action shall be called the Complainant, and the party against whom action is made shall be called the Respondent.

RULE III

COMMENCEMENT OF ACTION

Section 1. **Caption and Title** - In all complaints and pleadings filed with the Insurance Commission, the full name of all parties, as far as they are known, shall be stated in the caption.

Section 2. **Docket Numbers and Calendar of Cases** - All cases shall be numbered and docketed consecutively and entered into an appropriate docket book. Corresponding code numbers and/or abbreviations may be used for reference.

Section 3. **Summons** - Upon docketing of the complaint, the Insurance Commission shall issue summons requiring respondent/s to file its Answer/Counter-Affidavit within fifteen (15) days from receipt thereof. Copy of the complaint shall be sent to the respondent together with the summons.

Section 4. **Service of Summons, Writs and Processes** - All summons, writs and processes shall be served either by registered mail or personally to the complainant and the respondent/s and any interested party prior to the proceedings.

Section 5. **Default** - Should the respondent fail to answer the complaint within the reglementary period as provided for in the summons, he shall be declared in default and the Insurance Commission shall proceed with the hearing ex-parte, and shall decide the case on the evidence presented. However, respondent who filed his answer but failed to appear in person or by counsel on the preliminary hearing may be considered as in default and proceedings shall proceed ex-parte.

RULE IV

PRE-TRIAL AND AMICABLE SETTLEMENT

Section 1. **Pre-trial Conference** - In any action, the Commission shall direct the parties and their counsel before the actual hearing to appear before him for a pre-trial conference to consider:

- (a) the possibility of an amicable settlement;
- (b) the simplification of the issues;
- (c) the necessity or desirability of amendment to the pleadings;
- (d) the possibility of obtaining admission or stipulation of facts;
- (e) the exchange and acceptance of service of exhibits to be offered in evidence;
- (f) the limitation of the number of witnesses;
- (g) the admissibility and relevance of evidence proposed to be submitted by the parties;
- (h) such other matters as may aid in the just, speedy and inexpensive disposition of the cause.

All the parties and their attorneys shall attend the pre-trial conference. The presence of a party is indispensable unless his counsel is authorized to enter into agreement on any or all the above matters. The parties shall inform each other of the nature and character of evidence they propose to offer, indicating the purpose of each item of evidence.

Section 2. Records of Pre-trial Conference - After the pre-trial conference, the Commission shall issue an order which recites the action taken thereat, the amendments allowed on the pleadings, and/or the agreements made by the parties as to any of the matters considered. Such order shall limit the issues for the formal hearing to those not disposed of by admissions and agreements of the parties and when entered, shall serve as the guide in the subsequent course of action or hearing unless modified before the formal hearing to prevent manifest injustice.

Section 3. Amicable Settlement - Unless it shall be prejudicial to public interest or to third parties, the Insurance Commission shall endeavor to effect an amicable settlement of the case at any stage of the proceedings, provided it shall not be contrary to any law, rule or regulation nor against public policy. The settlement shall be reduced in writing duly signed by the parties and their counsel, which shall be the basis of an order or decision of the Commission.

RULE V

PROCEEDINGS BEFORE THE DESIGNATED HEARING OFFICER

Section 1. Hearing Officer - The Hearing Officer shall conduct hearings and shall be empowered to administer oaths and affirmations, to issue subpoenas, take evidence and to compel attendance of parties and witnesses and the production of any books, papers, correspondence, memoranda, or other records relevant or material to the case under inquiry.

Section 2. Affidavits and Depositions - Unless otherwise provided by special laws and without prejudice to Section 12, Chapter 3, Book VII of the Administrative Code of 1987, the mandatory use of affidavits in lieu of direct testimonies shall be required.

In any hearing, the Hearing Officer, upon appropriate order, may cause the deposition of witnesses residing within or without the Philippines to be taken in the manner prescribed under Rule 24 of the Rules of Court. Where witnesses reside in a place distant from Manila and it would be inconvenient and expensive for them to appear personally before the Hearing Officer, a Municipal/Regional Trial Court Judge or any Clerk of Court may be requested to take depositions of such witnesses in any case pending before the Commission. It shall be the duty of the official so requested to set promptly a date or dates for the taking of such depositions, giving timely notice to parties, and on said date to proceed to take the depositions, reducing

them in writing. After the depositions have been taken, the requested official shall certify the correctness of the depositions thus taken and forward the same as soon as possible to the Insurance Commission. It shall be the duty of the respective parties to furnish stenographers for the taking and transcribing of the testimonies taken. In case there are no stenographers available, the testimony shall be taken by such person as the Municipal/Regional Trial Court Judge or any Clerk of Court may designate. The Hearing Officer may also request a notary public to take the deposition in the manner herein provided.

Section 3. Postponement - Any motion for postponement or continuance of hearing may be granted or denied by the Hearing Officer. Such motion, upon meritorious reason, must be filed with the Commission and copy thereof furnished the other party at least five (5) days before the date of hearing, otherwise, it shall not be considered; provided, however, that no more than three (3) postponements shall be granted to any party.

RULE VI

DISPOSITION OF CASE

Section 1. Disposition of Case - Unless a different period is fixed by special law, all contested cases or incidents shall be decided within thirty (30) days from the date of submission for resolution.

A case or incident is deemed submitted for resolution upon expiration of the period for filing memorandum, position paper or last pleading required of the parties.

The Hearing Officer shall submit a draft of his resolution to the Insurance Commissioner within twenty (20) days from date of submission of the case for resolution. The Insurance Commissioner shall have ten (10) days from submission of the draft of the resolution to approve the same and decide the case.

Unless otherwise provided by special laws, the parties may be required to submit in addition to the memorandum, position paper, or last pleading required of them, a draft of the decision they seek, stating clearly and distinctly the facts and the law upon which it is based. Following the termination of the hearing or trial, the Hearing Officer charged with resolving the case may, after considering and appreciating the applicable laws, rules and regulations and the evidence submitted, adopt in whole or in part either of the parties' draft decisions, or reject both. This requirement shall likewise be applied to motions or applications for orders other than the final judgment.

RULE VII

MOTION FOR RECONSIDERATION

Section 1. Motion for Reconsideration - Only one motion for reconsideration shall be allowed which shall be decided within fifteen (15) days from date of submission for resolution. The motion for reconsideration may be based on any of the following specific grounds :

- a) Newly discovered evidence which could not have been discovered and produced at the trial and which if admitted, would probably alter the results. (Sec. 1, (6) Rule 37, Rev. Rules of Court)
- b) The decision is not supported by the evidence on record. (Sec. 39, (b) P.D. 807)
- c) Errors of law or irregularities have been committed prejudicial to the interest of the respondent. (Sec. 39, (b) P.D. 807)
- d) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired of his rights. (Sec. 1, (a) Rule 37, Rev. Rules of Court)

If the motion is denied, the movant may appeal during the remaining period for appeal reckoned from notice of the resolution of denial. No other pleading shall be allowed other than one motion for reconsideration and opposition thereto.

Section 2. Opposition to Motion for Reconsideration - Within fifteen (15) days from receipt of a copy of the Motion for Reconsideration, the adverse party may file his opposition thereto and serve a copy thereof upon the movant.

Section 3. When Deemed Submitted - After the opposition is filed, or at the expiration of the period for filing the same without any such opposition having been filed, the motion for reconsideration shall be deemed submitted for resolution unless the Hearing Officer shall consider it necessary to hear the parties, in which case the Commission shall issue the corresponding order or notice to that effect.

RULE VIII

ORDERS AND RESOLUTIONS

Section 1. Finality of the Order or Resolution - Unless otherwise provided by special laws, any order or resolution in the absence of appeal therefrom, shall become final and executory after fifteen (15) days from the date of receipt thereof.

RULE IX

APPEAL FROM ORDER OR RESOLUTION


Section 1. How Appeal Taken - Any party to the contested case affected by a final order, ruling or resolution of the Insurance Commission may, within fifteen (15) days from receipt of such order, ruling or resolution, file a notice of appeal and memorandum of appeal with the Secretary of Finance, copies of which shall be served on the Insurance Commission and on the adverse party.

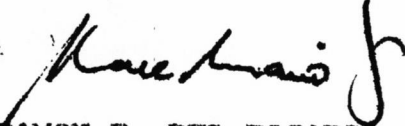
RULE X

EFFECTIVITY

Section 1. Effectivity - These rules shall take effect upon approval by the Secretary of Finance.

Manila, Philippines, December 3, 1992.


ADELITA A. VERGEL DE DIOS
Insurance Commissioner

Approved: 

RAMON R. DEL ROSARIO
Secretary of Finance