



INSURANCE MEMORANDUM
CIRCULAR NO. 2021 - 01

**REVISED RULES OF PROCEDURE GOVERNING ADMINISTRATIVE CASES
BEFORE THE INSURANCE COMMISSION**

Pursuant to Sections 437 and 438 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607; Sections 6 and 53 of Republic Act No. 9829, otherwise known as the "Pre-Need Code of the Philippines"; and Sections 4 and 11 of Executive Order No. 192, s. 2015, the Insurance Commission hereby promulgates the following rules of procedure governing actions and proceedings before it against insurance companies, pre-need companies, health maintenance organizations, intermediaries, and other regulated entities duly issued with a Certificate of Authority to act as such:

RULE I
GENERAL PROVISIONS

SECTION 1. Title – These Rules shall be known as the "Revised Rules of Procedure Governing Administrative Cases before the Insurance Commission".

SECTION 2. Applicability – These Rules shall apply to all administrative cases brought before the Insurance Commission in the exercise of its administrative and/or regulatory powers and functions under the Insurance Code, as amended, the Pre-Need Code, EO No. 192, s. 2015, and any other law vesting the Insurance Commission with administrative and/or regulatory authority over the following entities:

- (a) Those with license issued by this Commission;
- (b) Those with previous license issued by this Commission with respect to regulated acts committed during the effectivity of such license;
- (c) Those against which a Cease and Desist Order (CDO) has been issued by this Commission; and,
- (d) Those under conservatorship, receivership, and/or liquidation, in accordance with the relevant provisions of the Insurance Code, as amended, the Pre-Need Code, and EO No. 192, s. 2015.

These Rules shall be without prejudice to the Commission's authority to conduct *motu proprio* investigations in relation to violation of pertinent laws, circulars, and such other rules or regulations by regulated entities.

SECTION 3. Construction – These Rules shall be liberally construed to promote public interest and to assist the parties in obtaining just, prompt, expeditious, and inexpensive resolution, settlement, and/or disposition of every action brought before the Insurance Commission in the exercise of its administrative and/or regulatory powers.

SECTION 4. Nature of Proceedings – Administrative proceedings before the Insurance Commission shall be non-litigious in nature, and the technical rules of evidence and procedure obtaining in the courts of law shall not strictly apply thereto.

SECTION 5. Suppletory Application of the Rules of Court – In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court and prevailing jurisprudence may, in the interest of justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

SECTION 6. Parties – In all administrative cases filed with the Insurance Commission, the party initiating the action shall be called the “Complainant” and the party against whom the action is made shall be called the “Respondent”.

RULE II VENUE AND AUTHORITY

SECTION 1. Venue – All actions brought under these Rules shall be commenced at the principal office of the Insurance Commission in Manila or in any of its regional district offices or branches.

All actions brought under these Rules shall be heard by the Regulation, Enforcement and Prosecution Division (REPD), or such other regional district offices or branches of the Insurance Commission where such actions may be filed.

SECTION 2. Hearing Officer – The proceedings shall be heard by the head of the REPD or by any hearing officer within the same division with a lawyer designation or, in their absence, the available next-in-rank personnel: *Provided*, That such next-in-rank personnel shall only be allowed to act as a hearing officer for purposes of conducting the final mediation conference or resetting the scheduled proceedings. The Insurance Commissioner or the Deputy Commissioner for Legal Services may likewise authorize other officer/s outside REPD to act as hearing officer in proceedings filed pursuant to these Rules.

For actions commenced in the Commission’s regional district offices or branches, the heads of such offices or branches shall hear the proceedings or, in case of their absence, by the next-in-rank personnel: *Provided*, That if such next-in-rank personnel does not have a lawyer designation, they shall only be allowed to act

as a hearing officer for purposes of conducting the final mediation conference or resetting the scheduled proceedings.

The Hearing Officer shall conduct the proceedings and shall be empowered to issue subpoenas, take evidence, and compel the attendance of parties and witnesses and the production of any books, papers, correspondences, memoranda, or other records relevant or material to the present case.

RULE III PLEADINGS

SECTION 1. Pleadings – The only pleadings allowed to be filed are the complaints and the answers thereto, which must be verified. All affidavits attached thereto shall be in the form of a judicial affidavit.

SECTION 2. Prohibited Pleadings/Motions – The following pleadings are prohibited:

- (a) Motion for Bill of Particulars;
- (b) Second Motion for Reconsideration;
- (c) Reply;
- (d) Petition for relief from judgment;
- (e) Motion for extension of time to file pleadings or any other written submissions, except for meritorious reasons;
- (f) Dilatory motions for postponement;
- (g) Third-party complaint;
- (h) Intervention;
- (i) Motion to hear affirmative defenses;
- (j) Modes of discovery; and
- (k) Any pleading or motion similar in effect to any of the foregoing.

RULE IV COMMENCEMENT OF ACTIONS

SECTION 1. Complaint – An action shall commence upon the filing of a complaint and payment of the filing fee. The complaint shall be limited to matters

pertaining to the violation of pertinent laws, rules and regulations on the conduct of business and operations of insurance, pre-need, and HMO companies, excluding any discussion on claims. The complaint shall include the following:

- (a) Full name of the parties to the case as well as facts showing the capacity of the parties to sue or be sued;
- (b) Concise statement of ultimate facts constituting the complainant's cause/s of action;
- (c) The relief/s sought, which may include a general prayer for such other relief/s as may be deemed just or equitable;
- (d) Certification of Non-Forum Shopping to the following effect:
 - (i) That the complainant has not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of their knowledge, no such other action or claim is pending therein;
 - (ii) That if there is such other pending action or claim, a complete statement of the present status thereof; and
 - (iii) That if the complainant should thereafter learn that the same or similar action or claim has been filed or is pending, the complainant shall undertake to notify the Commission within five (5) calendar days therefrom.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.

If the acts of a party or their counsel clearly constitute willful and deliberate forum shopping, the same shall be a ground for summary dismissal with prejudice and shall constitute direct contempt; and

- (e) Verification.

SECTION 2. Evaluation of the Complaint – Upon filing of the complaint, the Division Manager or any hearing officer shall evaluate the complaint. If found sufficient in form and substance, an order of payment for the filing fee shall be issued.

SECTION 3. Filing Fee – Upon the filing of a complaint, the complainant shall pay a filing fee in the amount of Three Thousand Pesos (Php. 3,000.00).

SECTION 4. Docketing of Cases – After payment of the filing fee, the complaint shall be docketed and assigned a case number.

SECTION 5. Summons – Within three (3) working days from receipt of a complaint, the Commission shall issue a summons requiring the respondent/s to file a verified answer within fifteen (15) days from receipt thereof. A copy of the complaint and its annexes, if any, shall be attached to the said summons.

SECTION 6. Service of Summons, Orders, and Other Processes – Summons, orders, and other processes shall be served personally upon the parties by a duly authorized public officer, by registered mail, by private courier, or electronically, as may be warranted, prior to the proceeding.

SECTION 7. Answer – Within fifteen (15) days from service of summons, the respondent shall file their answer to the complaint and serve a copy thereof on the complainant. Affirmative and negative defenses not pleaded therein shall be deemed waived, except in the following instances:

- (a) When the Commission has no jurisdiction over the subject matter;
- (b) When there is another action pending between the same parties for the same cause; or
- (c) When the action is barred by the statute of limitations.

SECTION 8. Effect of Failure to File Answer – Should the respondent fail to file an answer to the complaint within the period stated above, the Commission, *motu proprio* or upon motion, shall render judgment as may be warranted by the allegations in the complaint, as well as the affidavits and other evidence on record, unless the Commission, in its discretion, requires the complainant to submit additional evidence.

RULE V DISMISSAL OF THE COMPLAINT

SECTION 1. Grounds for Dismissal – The Commission may *motu proprio* dismiss the complaint if it appears from the complaint and/or the documents attached thereto that it has no jurisdiction over the subject matter, or there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by the statute of limitations.

RULE VI MOTION TO DISMISS

SECTION 1. Grounds – Within the time for but before filing an answer to the complaint, a motion to dismiss may be made on any of the following grounds:

- (a) That the Commission has no jurisdiction over the person of the respondent;

- (b) That the Commission has no jurisdiction over the subject matter of the complaint;
- (c) That the complainant has no legal capacity to sue;
- (d) That there is splitting of cause of action by the complainant;
- (e) That there is another action pending between the same parties for the same cause;
- (f) That the cause of action is barred by a prior judgment or by the statute of limitations;
- (g) That the complaint asserting the claim states no cause of action; and
- (h) That a condition precedent for filing the complaint has not been complied with.

SECTION 2. Time to Plead – If the motion is denied, the respondent shall file an answer within fifteen (15) days from receipt of the notice of the denial.

SECTION 3. Effect of Dismissal – Subject to the right to appeal, an order granting a motion to dismiss based on paragraph (f) of Section 1 hereof shall bar the refile of the same action or claim.

SECTION 4. Pleading Grounds as Affirmative Defenses – If no motion to dismiss has been filed, any of the grounds for dismissal provided for in Section 1 hereof may be pleaded as an affirmative defense in the answer.

RULE VII PRELIMINARY CONFERENCE

SECTION 1. Preliminary Conference – After the filing of answer, the Hearing Officer shall immediately set the case for preliminary conference and direct the parties to submit their respective preliminary conference briefs and judicial affidavits to support their allegations.

SECTION 2. Preliminary Conference Brief – The parties shall file with the Commission and furnish each other of their respective preliminary conference briefs and judicial affidavits to support their allegations in such manner as to ensure receipt by the Commission and the other party at least five (5) before the date set for the preliminary conference.

The parties shall set forth in their preliminary conference briefs the following:

- (a) Brief statement of the nature of the case, which shall include a concise summary of the party's theory of the case;
- (b) Allegations admitted by either or both parties;
- (c) Proposed stipulation of facts;
- (d) Documents or exhibits to be presented stating the purpose thereof;
- (e) Amendments to the pleadings;
- (f) Statement of the issues to be tried or resolved, which shall separately summarize the factual and legal issues;
- (g) Names, addresses, and contact details of affiants, as well as their judicial affidavits supporting the parties' respective positions on each of the issues;
- (h) Statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, including the specific terms thereof; and
- (i) Such other matters as may aid in the just and speedy disposition of the case.

SECTION 3. Affidavits – All affidavits to be submitted shall be in the format prescribed under Sections 3 and 4 of A.M. No. 12-8-8-SC or the Judicial Affidavit Rule. The Commission shall not admit as evidence judicial affidavits that do not conform to the prescribed form under the Judicial Affidavit Rule.

SECTION 4. Motions – The following motions shall be allowed during the preliminary conference:

- (a) Motion for extension to file the preliminary conference brief; and
- (b) Motion for postponement of proceedings.

Each party may be allowed to file each of the foregoing motions up to a maximum of three (3) times and for a period not exceeding fifteen (15) days in any instance. No additional extension of time will be granted by the Commission except in extraordinary and meritorious circumstances.

Further, the movant shall pay a postponement fee of One Thousand Pesos (Php. 1,000.00) upon filing of the said motions. Non-payment of the postponement fee shall give no effect to such motion and the same shall not form part of the records of the case.

SECTION 5. Effect of Failure to Submit Preliminary Conference Brief – The failure of the complainant to submit a preliminary conference brief within the specified period shall be a ground for the dismissal of the complaint. Failure on the part of the respondent to file a preliminary conference brief shall not preclude the Commission from rendering judgment based on the evidence presented.

SECTION 6. Preliminary Conference – The Commission shall direct the parties and their counsels to appear before it for a preliminary 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 admissibility and relevance of evidence proposed to be submitted by the parties; and
- (g) Such other matters as may aid in the just, speedy, and inexpensive disposition of the case.

All the parties and their respective counsels shall attend the preliminary conference. The presence of a party is indispensable unless their 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.

The absence of the complainant without justifiable cause or ground during the preliminary conference shall cause the dismissal of the case. Meanwhile, should the respondent fail to appear, the Commission, *motu proprio* or upon motion, shall render judgment as may be warranted by the allegations in the complaint, as well as the affidavits and other evidence on record, unless the Commission, in its discretion, requires the complainant to submit additional evidence.

In case of any agreement between the parties, the same shall be reduced into writing and duly signed by the parties and their counsel. Such agreement shall be the basis of an order or decision of the Commission. In no instance shall the Commission rule on any claims for damages and/or attorney's fees raised in actions filed in accordance with these Rules.

SECTION 7. Record of Preliminary Conference – After the preliminary conference, the Commission shall issue an order reciting in detail the matters taken up during the preliminary conference, the actions taken on such matters,

the amendments allowed in the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. The Commission shall rule on all objections to or comments on the admissibility of any evidence proposed to be offered, including affidavits or any part thereof.

SECTION 8. Submission of Position Papers – The Commission, in its order mentioned in the preceding section, shall direct the parties to simultaneously file their respective position papers, setting forth the law and the facts relied upon by them and attaching thereto judicial affidavits, as may be necessary, as well as other evidence on the factual issues as defined in the Order, within a period of thirty (30) days from receipt of the Order.

The parties are required to attach to their position papers their respective draft decisions stating therein the facts, issues, and bases which the Insurance Commission, in its discretion, may consider in promulgating its decision. A reply, if necessary, may be filed within a non-extendible period of twenty (20) days from receipt of the other party's position paper.

Only previously marked document/s and judicial affidavits shall be allowed to be attached to the position paper or reply.

RULE VIII CLARIFICATORY HEARING

SECTION 1. Clarificatory Hearings Following Submission of Position Papers – Upon submission of the parties' position papers, the Commission may set the case for clarificatory hearing/s on any matter which it deems necessary before rendering judgment.

The order setting the case for clarificatory hearing shall be issued not later than thirty (30) days from receipt of the last position paper or the expiration of the period for filing the same. The clarificatory hearing shall be scheduled within fifteen (15) days from the issuance of such order and shall be completed not later than fifteen (15) days thereafter.

The parties shall be represented and accompanied by their respective counsels during the clarificatory hearings. The Hearing Officer may ask questions for the purpose of clarifying points of law or facts involved in the case.

RULE IX DECISIONS OR ORDERS

SECTION 1. Submission of the Case for Decision – Upon the submission by the parties of their position papers and replies, if any, the Commission shall issue an order providing that the case is submitted for decision unless the Hearing Officer calls for a hearing or clarificatory conference in accordance with Section 1 of Rule VIII.

In the case of clarificatory hearings following submission of position papers, the case shall be deemed submitted for decision upon termination of the said clarificatory hearings.

SECTION 2. Finality of the Decision or Order – Any decision or order determining the merits of a case shall be in writing and signed by the Commissioner, and a copy thereof shall be served upon the parties personally, by registered mail, or by private courier. The Decision or Order of the Commission shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy thereof by the parties unless a Motion for Reconsideration or an appeal from such Decision or Order is filed within the period herein prescribed.

RULE X MOTION FOR RECONSIDERATION

SECTION 1. Motion for Reconsideration – Within fifteen (15) days from receipt of the Decision or Order of this Commission, the aggrieved party may be allowed to file a motion for reconsideration of such order, ruling, or decision. If the motion is denied, the aggrieved party may appeal in accordance with Rule XI hereof. No second motion for reconsideration shall be allowed or entertained.

SECTION 2. Grounds – A Motion for Reconsideration shall be based on any of the following grounds:

- (a) Newly discovered evidence which could not have been discovered and produced during the proceedings and which, if admitted, would probably alter the results;
- (b) The Decision is not supported by the evidence on record;
- (c) Errors of law or irregularities have been committed prejudicial to the interest of the movant; and
- (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 their rights.

SECTION 3. Opposition to Motion for Reconsideration – Within fifteen (15) days from receipt of a copy of a Motion for Reconsideration, the adverse party may file an opposition thereto and serve a copy thereof upon the party who filed the Motion for Reconsideration.

SECTION 4. When Deemed Submitted – After the opposition is filed, or upon the expiration of the period for filing the same without any opposition having been filed, the Motion for Reconsideration shall be deemed submitted for resolution by the Commission unless the latter shall consider it necessary to hear the oral arguments of the parties, in which case, it shall issue a corresponding order or notice to that effect.

The Commission shall issue an order setting forth that the Motion for Reconsideration is deemed submitted for resolution and directing the parties to submit their respective draft resolutions within fifteen (15) days from receipt of such order.

SECTION 5. Denial of Motion for Reconsideration – If the Motion for Reconsideration is denied and appeal has not been availed of by the aggrieved party in accordance with Rule XI of these Rules, the Decision of this Commission shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy of said denial.

RULE XI APPEAL FROM ORDER OR DECISION

SECTION 1. How Appeal Is Taken – Any party aggrieved by a denial of a Motion for Reconsideration on a Decision finally resolving the case heard by the Commission pursuant to its powers under the Insurance Code, as amended, and EO No. 192, s. 2015 may appeal from such denial by filing with the Commissioner within fifteen (15) days from receipt of a copy of such denial a notice of appeal to the Secretary of Finance, along with a memorandum of appeal, copies of which shall be served on the adverse party.

The Memorandum of Appeal shall contain a concise statement of the facts and issues involved and the grounds relied upon for the review, and shall be accompanied by a duplicate original or a certified true copy of the ruling, award, order, decision, or judgment appealed from, together with certified true copies of such material portions of the record as are referred to therein and other supporting papers. The Memorandum of Appeal shall state the specific material dates showing that it was filed within the period of appeal fixed herein.

For cases heard by the Commission pursuant to its powers under the Pre-Need Code, the aggrieved party may appeal the denial of a Motion for Reconsideration to the Court of Appeals by petition for review in accordance with the pertinent provisions of the Rules of Court.

SECTION 2. Effect of Appeal – The appeal shall suspend the order, ruling, or decision appealed from.

RULE XII CONTEMPT

SECTION 1. Direct Contempt – Pursuant to Section 437(g) of the Insurance Code, as amended, Section 4(l) of EO No. 192, s. 2015, and Section 6(f) of the Pre-Need Code, the Commissioner or Hearing Officer under Section 2, Rule II of

these Rules may summarily adjudge in direct contempt any person who has committed or is committing any act of misbehavior in their presence and while the proceedings are ongoing, including disrespect towards them, offensive personalities towards others, or refusal to be sworn or to answer as a witness or to subscribe an affidavit or deposition when lawfully required to do so in accordance with the Rules of Court. If the offense is committed against the Commissioner, the same shall be punished by a fine not exceeding Ten Thousand Pesos (Php. 10,000.00) or imprisonment not exceeding ten (10) days or both. If the offense is committed against any hearing officer acting under the authority of the Insurance Commissioner, the same shall be punished by a fine not exceeding Five Thousand Pesos (Php. 5,000.00) or imprisonment not exceeding one (1) day or both.

SECTION 2. Remedy – The person adjudged in direct contempt by the Commission may not appeal therefrom but may avail themselves of the remedies of certiorari or prohibition in accordance with the Rules of Court. The execution of the contempt order shall be suspended pending resolution of such petition, provided such person files a bond fixed by the Commission and conditioned that they will abide by and perform the said order should the petition be decided against them.

SECTION 3. Indirect Contempt – The Commissioner or Hearing Officer may also cite any person for indirect contempt upon grounds and in the manner prescribed under Section 3, Rule 71 of the Rules of Court.

RULE XIII APPEARANCE OF ATTORNEYS; STENOGRAPHERS

SECTION 1. Appearance of Lawyers in the Commission – Every lawyer appearing before any proceedings conducted by the Commission pursuant to these Rules shall manifest orally or in writing their appearance for a party, indicating their name and exact address, their Professional Tax Receipt for the current year, MCLE compliance, and IBP Receipt Number. Any pleading filed and signed by them shall likewise contain such information, otherwise they shall not be allowed to represent a party in any proceedings before this Commission pursuant to these Rules.

SECTION 2. Stenographic Notes – It shall be the duty of the stenographic reporter who has attended the hearing conducted by the Commission to submit to the Hearing Officer within a reasonable period of time the transcript of stenographic notes duly initialed on each page and signed on the last page thereof.

RULE XIV JUDGMENTS, FINAL ORDERS, AND ENTRY THEREOF

SECTION 1. Final and Executory Judgment, Order, or Decision – If no appeal or motion for reconsideration is filed within the time provided in these Rules, the

judgment, final order, or decision rendered by the Commission becomes final and executory.

SECTION 2. Entry of Judgment, Orders, or Decision – After the judgment, order or decision becomes final and executory, the same shall be entered in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry.

RULE XV REPEALING AND SEPARABILITY CLAUSE

SECTION 1. Repealing Clause – Insurance Memorandum Circular No. 1-93 is hereby repealed in its entirety.

All other existing rules, circulars, procedures, and practices that are inconsistent with these Rules are hereby repealed, amended, or modified accordingly.

SECTION 2. Separability Clause – If any part or provision of these Rules is held invalid or unconstitutional, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and shall remain in force and effect.

RULE XVI TRANSITORY PROVISION AND EFFECTIVITY

SECTION 1. Transitory Provision – Parties to existing cases pending resolution before this Commission at the time of the effectivity of these Rules may opt to apply these Rules. These Rules shall apply, however, in all actions filed after the effectivity of these Rules.

Circular Letter No. 2020-74 or the "Guidelines on the Use of Videoconferencing for the Conduct of Hearings and Other Proceedings before the CAD and REPD" and any subsequent amendments thereto shall remain applicable.

SECTION 2. Effectivity – These Rules shall take effect fifteen (15) days from the date of publication in a newspaper of general circulation in the Philippines.

Manila, Philippines, September 24, 2021.


DENNIS B. FUNA
Insurance Commissioner



Date of Publication: 31 December 2021 (The Philippine Star)