

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5700
www.wcc.sc.gov

Workers' Compensation Commission

ADVISORY NOTICE

Amendment to S.C. Code Ann. Regs. 67-1602

May 31, 2024

The Governor signed into law Joint Resolution S*1266 approving Regulation Document Number 5266. Document 5266 amends regulation R67-1602 relating to the periodic payments of temporary compensation and expenses to claimants.

The amendments to regulation R67-1602 requires periodic payments of temporary disability and reimbursement for expenses to be paid by electronic payment systems, such as electronic funds transfer, direct deposit, debit card or similar payment system, with conditions. The employer or employer's representative must provide the claimant notice of the method of electronic payment available and how to access it on or before the date compensation becomes due. The claimant may at any time elect in writing or electronically to receive such payments by check and the employer or employer's representative shall honor such request.

An employer or employer's representative may petition the Commission for an order allowing the payer to make such payments using a check. The petition shall be filed in the form of a motion, along with a \$50.00 filing fee. The Commission shall only grant such petitions for a period not to exceed two years from the effective date of the regulation and only upon a showing of hardship by the payer. The petitions shall be decided by written order of the Commission, with right to review and appeal as in other cases.

The amended regulation is effective as of May 13, 2024.

The amended regulation may be found at the following link on the SC Statehouse website and is attached to this Advisory:

[5266.docx \(live.com\)](#)

Gary M Cannon
Executive Director

Agency Name: Workers' Compensation Commission
 Statutory Authority: 42-3-30
 Document Number: 5266
 Proposed in State Register Volume and Issue: 47/11
 House Committee: Regulations and Administrative Procedures Committee
 Senate Committee: Judiciary Committee
 120 Day Review Expiration Date for Automatic Approval: 05/31/2024
 Final in State Register Volume and Issue: 48/6
 Status: Final
 Subject: Payment of Compensation

History: 5266

By	Date	Action Description	Jt. Res. No.	Expiration Date
-	11/24/2023	Proposed Reg Published in SR		
-	02/01/2024	Received President of the Senate & Speaker		02/04/2025
H	02/06/2024	Referred to Committee		
S	02/06/2024	Referred to Committee		
S	04/17/2024	Resolution Introduced to Approve	1266	
-	05/13/2024	Revised 120 Day Review Expiration Date for Automatic Approval		05/31/2024
S	05/13/2024	Approved by: Ratification No. 137		
-	06/28/2024	Effective Date unless otherwise provided for in the Regulation		

Document No. 5266
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
CHAPTER 67
Statutory Authority: 1976 Code Section 42-3-30

67-1602. Payment of Compensation.

Synopsis:

The South Carolina Workers' Compensation Commission proposes to amend the regulation that addresses methods of payment by which compensation can be paid.

Section-by-Section Discussion:

67-1602. Payment of Compensation.

1. Revises subsection A to allow the Commission to approve recipients who may accept payments on behalf of claimants.
2. Revises subsection B to clarify the purpose of subsection B.
3. Revises subsection C to make electronic means the default method of payment for temporary disability payments and reimbursements for expenses under Reg. 67-1601.
4. Adds paragraph C(1) to require payers to provide claimants with notice of the method of electronic payment.
5. Adds paragraph C(2) to allow for payers to send payments via a check in the event that a claimant does not respond to the aforementioned notice.
6. Adds paragraph C(3) to allow claimants to opt into payments via checks and require payers to honor these requests.
7. Adds subsection D to allow payers to petition the Commission for the right to make payments via checks within two (2) years of the effective date of the regulation. Payers must show that they would undergo hardship without this right.
8. Deletes the old subsection E.
9. Adds a new subsection E to set forth requirements for payers who use an electronic payment method.
10. Adds paragraph E(1) to ensure claimants can immediately obtain their electronic payments.
11. Adds paragraph E(2) to ensure that the chosen electronic payment method is easily accessible to claimants.
12. Adds paragraph E(3) to give claimant the option to opt into payments via checks given 30 days notice to payer.
13. Adds subsection G to define when payment via check is considered complete and to require payers via check to keep records of the checks they send.
14. Revises subsection I (formerly subsection G) to clarify claimants' recourse for late payments and errant suspension or termination of benefits. This revision specifies that recourse can be taken by filing a WCC Form 50 Employee's Request for Hearing.

The Notice of Drafting was published in the *State Register* on October 27, 2023.

Instructions:

Print the regulation as shown below. All other items remain unchanged.

Text:

67-1602. Payment of Compensation.

A. Unless otherwise ordered by the Commission, the employer's representative shall pay all compensation directly to (1) the claimant or (2) the guardian, if the claimant is a minor or incapacitated person, or (3) another person approved by a court or the Commission to accept payment on behalf of the claimant.

B. To pay an award or settlement the employer's representative shall make a check payable to the claimant and the claimant's attorney, as allowed pursuant to an approved Form 61, Attorney Fee Petition, or by order of the Commission.

C. Periodic payments of temporary disability and reimbursements for expenses under Reg. 67-1601 shall be made by electronic payment systems, subject to the following conditions:

(1) The employer, employer's representative, or other payer must provide the claimant written or electronic notice of the method of electronic payment available and how to access it on or before the date compensation becomes due;

(2) If the claimant does not respond within seven (7) days of the date such notice is given the employer, employer's representative, or other payer may provisionally issue payment in the form of a check. The check must be accompanied by written instructions for the claimant to commence payment electronically. If the claimant subsequently requests electronic payment, the employer, employer's representative, or other payer must commence payment electronically; and

(3) A claimant may at any time elect in writing or electronically to receive such payments by check and the employer, employer's representative, or other payer shall honor such request.

D. An employer, employer's representative, or other payer may petition the Commission for an order allowing the payer to make periodic payments of temporary disability and reimbursements of expenses under Reg. 67-1601 using a check. The Commission shall only grant such petitions for a time period not to exceed two years from the effective date of this regulation, and only upon a showing of hardship by the payer. Such petitions shall be decided by written order of the Commission, with right to review and appeal as in other cases. Any employer, employer's representative, or payer granted the privilege of making payment by check pursuant to this subsection shall provide the claimant with written notice that payment will be made by check on or before the date compensation becomes due. The employer, employer's representative, or payer shall notify the claimant as soon as electronic payment is available.

E. An employer, employer's representative, or other payer using an electronic payment system, including, but not limited to, an electronic funds transfer, a direct deposit, debit card, or similar payment system, must meet the following conditions:

(1) the claimant can immediately obtain the full amount of the periodic payment;

(2) the method of payment is easily and readily accessible to the claimant; and

(3) the claimant retains the right to opt for payment by check consistent with paragraph (C) by giving 30 days written or electronic notice to the payer.

F. When payment is made to a debit card account:

(1) the payer shall not charge the claimant any fee related to the issuance of the debit card;

(2) the claimant must be provided a reasonable method to obtain payment in full without incurring any usage fee; and

(3) any other fees associated with the use of the debit card shall be disclosed to the claimant in writing by the payer.

G. When making payment using a check in accordance with paragraphs (C)(2) or (D), above, payment is deemed complete on the date the employer, employer's representative, or other payer delivers the check into the possession of the U.S. Postal Service or common carrier with postage or other charges paid. The employer, employer's representative, or other payer shall keep record of the date each check is delivered into the possession of the U.S. Postal Service or common carrier and shall provide such records to the claimant or the Commission immediately upon request. If there are any tracking numbers or similar information associated with the shipment of the check by U.S. Mail or common carrier, such information shall be provided to claimant or the Commission immediately upon request.

H. Payment made other than as directed in this section shall not acquit, protect, or discharge the employer, employer's representative, or other payer for the payment due.

I. The claimant may request a hearing to assess a penalty and/or interest as authorized by statute for late payment or suspension or termination of benefits by filing with the Commission's Judicial Department a WCC Form 50 Employee's Request for Hearing.

Fiscal Impact Statement:

There are no anticipated costs incurred by the State or any of its political subdivisions.

Statement of Rationale:

Due to the quick, traceable, and accessible nature of electronic payment systems, Regulation 67-1602 is being revised to make payment by electronic means the default method of payment for temporary disability and reimbursements.