

876—10.1(17A,85,86) Informal dispute resolution procedures. The workers' compensation commissioner or the workers' compensation commissioner's designee (hereinafter collectively referred to as the workers' compensation commissioner) shall be available to resolve disputes relating to the Iowa workers' compensation law (Iowa Code chapters 85, 85A, 85B, 86, and 87) prior to the initiation of a contested case proceeding. Persons are encouraged to utilize the informal procedure provided herein so that a settlement may be reached between the parties without the necessity of a contested case proceeding. Informal procedures may be initiated as requested by any party either before or after a first report of injury has been filed. After a first report of injury is filed with the workers' compensation commissioner, a letter is provided to the injured employee. That letter includes an explanation of the function of the office of the workers' compensation commissioner, an explanation of informal dispute resolution procedures and information contained on the first report of injury. Additionally, even where a first report of injury is not on file, any party who elects to engage in informal dispute resolution may contact the workers' compensation commissioner by telephone or mail for information regarding the claim. Documentation regarding the claim may be submitted to or requested by the workers' compensation commissioner. The workers' compensation commissioner may respond to the parties either by telephone or, when appropriate, in writing regarding the information sought by the parties.

The informal procedures described in these rules are designed to be flexible enough to resolve any issue that any party believes is amenable to informal dispute resolution or that with the consent of the workers' compensation commissioner should be made the subject of informal dispute resolution procedures.

10.1(1) Nondisputed matters. If the parties agree that the claimant is correctly compensated and all benefits due and owing have been or will be paid, the parties need not file any other pleading or document with the workers' compensation commissioner except that claims activity reports must be filed in accordance with rule 876—3.1(17A).

10.1(2) Disputed matters. In the event the parties dispute whether the claimant is entitled to compensation or whether the claimant has received all benefits to which the claimant was entitled, then the parties to the dispute may elect to engage in the informal dispute resolution procedures described herein.

10.1(3) Notification of election, statute of limitations. Within the time a claimant may file an original proceeding with the workers' compensation commissioner, either party to a disputed claim may notify the workers' compensation commissioner of the desire to engage in an informal proceeding to resolve the dispute. If the dispute cannot be resolved informally, claimant will have the right to file an original notice and petition to commence a contested case proceeding as provided by 876—Chapter 4. An election to engage in informal dispute resolution procedures will not toll the statute of limitations for filing an original notice and petition.

10.1(4) Good faith effort to resolve disputes. Before the parties will be allowed to elect any alternative dispute resolution procedures including those identified in rules 876—4.40(73GA,ch1261) and 876—4.46(17A,85,86), they must make a good faith effort to resolve their dispute. The parties may file a professional statement signed by all parties and their representatives or an affidavit by an unrepresented party filed with the workers' compensation commissioner attesting to the good faith attempts to settle the dispute prior to utilizing the procedures described in these rules. The professional statement will be deemed sufficient to meet the requirements of this rule. Notwithstanding the foregoing, a claimant who files a contested case proceeding in order to toll the statute of limitations included in Iowa Code chapters 85, 85A, 85B, and 86 may elect alternative dispute resolution procedures including the informal procedures described in this chapter even though claimant or claimant's representative did not engage in settlement negotiations prior to the time the contested case proceeding was filed.

10.1(5) Informal dispute resolution procedures include the dispute resolution procedures described in rule 876—4.40(73GA,ch1261). The workers' compensation commissioner has the power to impose sanctions in informal dispute resolution procedures.

10.1(6) Rescinded IAB 6/22/94, effective 7/1/94.

10.1(7) An employee of the division of workers' compensation who has been involved in informal dispute resolution pursuant to subrules 10.1(5) and 10.1(6) shall not be a witness in any contested case proceeding under 876—Chapter 4.

10.1(8) Nothing in this rule is intended to prevent settlement prior to using the dispute resolution procedures.

This rule is intended to implement Iowa Code section 86.8, and 1990 Iowa Acts, chapter 1261, section 3.