

State of South Carolina

1333 Main St, Suite 500
P.O. Box 1715
Columbia, S.C. 29202-1715



Tel: (803) 737-5700
Fax: (803) 737-1258
www.wcc.sc.gov

Workers' Compensation Commission

**Advisory Notice
July 1, 2022**

Clarification of Commission Records Requests Procedures

The South Carolina Workers' Compensation Commission collects and stores personally identifiable information and other protected information as it pertains to all claims files. The Commission's records are subject to a strict confidentiality statute. The Workers' Compensation Act provides that "the records of the Commission, in so far as they refer to accidents, injuries and settlements, shall not be open to the public, but only to parties satisfying the Commission of their interests in such records and of the right to inspect them." S.C. Code § 42-19-40 (1976). The South Carolina Supreme Court has held that the term "parties" specifically refers to employees and employers. *Blue Cross and Blue Shield v. S.C. Indus. Commission*, 274 S.C. 204, 262 S.E.2d 35 (1980).

The Commission frequently receives requests to disclose the contents of its files from claimants, defendants, and third parties. The Commission is obligated to maintain an optimum balance between an individuals' right to request disclosure of their personal information and the individuals' right to privacy regarding the disclosure of such information to third parties. To fully comply with its legal obligations, the Commission utilizes certain procedures for the disclosure of the contents of its files. The disclosure requirements differ depending on the status of the person making the request. The table below clarifies the costs and procedures required for each requester.

| Requester | Procedure | Authorization(s) Required | Documents Produced | Cost |
|---|--|----------------------------------|---------------------------|---|
| Claimant/ Attorney/Defendant requesting records for a claim in which they are a party | Send a written request to the Commission for copy of the Commission file | None. | Claims File | \$20.00 for the search, redaction, and retrieval of the first 20 pages and \$0.50 per page thereafter. |

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| | | | | Pre-Payment of \$20.00. Invoice sent for balance. |
| Other Defendant or third-party unaffiliated with the workers' compensation claim for which records are sought. | Written authorization from the claimant, employer, or employer's representative. | Authorization of Release of Claims Information <u>Or</u> Court Order <u>Unless</u> Federal Subpoena issued pursuant to a case pending in the United States District Court. | Claims File | \$20.00 for the search, redaction, and retrieval of the first 20 pages and \$0.50 per page thereafter. Payment in full required prior to record release. |
| Prospective Employer | Written authorization from the claimant. | Pre-employment Verification Request <u>and</u> Authorization of Release of Claims Information | List of claims | \$25.00 |

Generally, the Commission will not release the contents of a claims file pursuant to a FOIA request as these records would be exempt from disclosure. *See* S.C. Code Ann. § 30-4-40(a)(2). However, the Commission will release public records not subject to exception pursuant to a FOIA request. The charges are \$20.00 for the search, redaction, and retrieval of the first 20 pages and \$0.50 per page thereafter.

For additional information about this matter please contact:

South Carolina Workers' Compensation Commission
 Legal Department
 P.O. Box 1715
 1333 Main Street, Suite 500
 Columbia, SC 29202-1715

J. Keith Roberts, Esq.
 General Counsel
 keroberts@wcc.sc.gov

Kristen S. McRee, Esq.
 Staff Attorney
 kmcree@wcc.sc.gov