



KENTUCKY LABOR CABINET
Department of Workers' Claims

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Commissioner

TO: Kentucky Workers' Compensation Stakeholders
FROM: Robert L. Swisher, Commissioner
DATE: April 10, 2020
RE: Electronic Signatures and Notarization

Administrative Order 2020-001

On March 6, 2020, Governor Beshear issued Executive Order 2020-215 and declared a state of emergency in response to the Coronavirus (COVID-19) emergency in the Commonwealth

On March 12, 2020, in order to further protect the health and safety of Department of Workers' Claims ("DWC") staff, Administrative Law Judges, court reporters, attorneys, and parties, the DWC cancelled all in-person benefit review conferences and hearings through April 20, 2020 and subsequently extended the cancellation of all such in-person proceedings through May 17, 2020.

On March 25, 2020, Governor Beshear issued Executive Order 2020-257 and ordered the closure of non-life sustaining businesses by 8:00 p.m. on March 26, 2020, except as needed to conduct minimum basic operations (as defined in the order). While professional services firms, including law firms, were deemed life-sustaining businesses, they were ordered to implement telecommuting and remote work to the fullest extent possible and to allow in-person interaction only to the extent necessary to support minimum basic operations or where telecommuting was not possible.

As a result, and out of concern for exposure to COVID-19 through in-person interaction, many law firms and practitioners are working remotely and without in-person contact with clients. The DWC has been asked for guidance with respect to alternate methods for providing handwritten signatures on

documents and forms during the current state of emergency. The DWC has also been asked to consider suspending the requirement of notarization of a claimant's signature on Form 109, Attorney Fee Election.

As written, 803 KAR 25:010 Section 1 (14) defines "signature" to mean actual personal handwritten signatures, and includes electronic signatures, which shall be treated as a personal signature for the purposes of CR 11. Further, Section 3, subsection (3) of the regulation provides that an electronically filed document using LMS "shall bear the electronic signature of the filing party" and describes the method of executing an electronic signature. Subsection (4) of this same section describes alternate methods for filing a document that requires the signature of more than one party. This subsection specifically provides the manner by which a party filing such a document may submit a document bearing multiple electronic signatures secured through the consent of the non-filing parties.

803 KAR 25:010 Section 5 (1) requires that an application for resolution of a claim and "all other pleadings" shall be signed or electronically signed when using LMS.

In order to clarify the interpretation and application of the existing regulation regarding electronic signatures and to provide additional flexibility during the state of emergency, it is hereby ORDERED as follows:

1. Digital signatures are "electronic signatures" for the purposes of 803 KAR 25:010.
2. Any document or form may be signed electronically by any party or that party's attorney.
3. The notarization requirement for a claimant's signature on a Form 109, Attorney Fee Election, is suspended. To the extent a filing party wishes to still obtain a notarized signature, the filing party should use the provisions for remote acknowledgment in SB 150 (2020) Section 1 (11).
4. This Order shall be in effect for the duration of the State of Emergency declared in Executive Order 2020-215 or until this Order is rescinded by further order or operation of law.



Robert L. Swisher
Commissioner