

D.C. Department of Employment Services Office of the Director 64 New York Avenue, N.E., Suite 3000 Washington, D.C. 20002	PROGRAM: Administrative <hr/> DATE: February 5, 2005
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DIRECTIVE: **Administrative Policy Issuance No. 05-01**

TO: **DOES Employees**

FROM: **Gregory P. Irish**
Director

SUBJECT: **Realignment of the Office of Hearings and Adjudication, Delegation of Authority, and Assignment of Responsibilities**

1. *Purpose:*

To realign the Office of Hearings and Adjudication within the Department of Employment Services, and within the Office of Hearings and Adjudication to establish the Compensation Order Review Board and the Administrative Hearings Division, delegate authority, and assign responsibilities and functions.

2. *Background:*

Pursuant to the D.C. Workers' Compensation Act of 1979, as amended, D.C. Official Code §32-1501 *et seq.*, (hereinafter, the private sector Act), and the D.C. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Official Code §1-623.1 *et seq.*, (hereinafter, the public sector Act), the Director of the Department of Employment Services (hereinafter, Director) has been vested with the authority and responsibility for determining questions of liability for the payment of benefits under said Acts. This authority and responsibility has been delegated by the Director to three entities within the Department of Employment Services (hereinafter, the Department): the Office of Workers' Compensation (OWC) to informally mediate disputes over liability for private sector benefits; the Office of Hearings and Adjudication (OHA) to conduct formal administrative hearings under the private and public sector Acts and to determine the rights and liabilities of the parties as a result; and the Office of the Director to provide, where requested by a party, administrative review of a decision issuing from either OWC or OHA.

In implementation of the amendments to the private sector Act contained within the District of Columbia Fiscal Year 2005 Budget Support Act of 2004, Title J, the D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, Section 1102 (effective October 1, 2004), the Director hereby realigns that portion of the dispute resolution process of the Department involving formal administrative hearings and administrative review to require, within the OHA, two Divisions - the Administrative Hearings Division for the conduct of formal administrative hearings to determine liability for the payment of benefits under the private and public sector Acts; and the Compensation Order Review Board for administrative review of all requests for agency appellate review filed under either Act.

3. Delegation of Authority and Assignment of Responsibilities:

(a) The Office of Hearings and Adjudication is hereby realigned within the Department, under the Office of the Assistant Director/Labor Standards Bureau, to consist of the Administrative Hearings Division/Office of Hearings and Adjudication (hereinafter, Administrative Hearings Division) and the Compensation Order Review Board/OHA (hereinafter, Compensation Review Board). Each Division is hereby delegated the authority and assigned the responsibility to act for the Director, respectively, in (a) the conduct of formal administrative hearings and as a result thereof, the issuance of compensation orders under the public and private sector Acts; and (b) the administrative review of compensation orders issued by the Administrative Hearings Division and OWC. The Director shall appoint a Chief Judge of the OHA who shall serve as the Chairperson and Chief Administrative Appeals Judge of the Compensation Review Board.

(b) Consistent with current practice, procedure and statutory authority, the Administrative Hearings Division is delegated authority and assigned responsibility for the conduct of administrative hearings on claims brought under the public and private sector Acts to determine liability for the payment of benefits, and the issuance of compensation orders with respect thereto in determination of the claims brought before it by the parties.

(c) The administrative review authority formerly vested in the Office of the Director under the public and private sector Acts is hereby delegated and assigned to the Compensation Review Board, which shall review and determine appeals from decisions of the Administrative Hearings Division and/or the OWC consistent with statutory authority.

4. Composition and organizational alignment of the Administrative Hearings Division:

The Administrative Hearings Division shall be headed by a Chief Administrative Law Judge, who shall report to the Assistant Director/Labor Standards Bureau, and shall be composed of a minimum of ten Administrative Law Judges, and such paralegals, clerical staff, staff assistants and secretaries as deemed necessary. For organizational purposes, the Administrative Hearings Division is placed within the OHA, Office of the Assistant Director/Labor Standards Bureau, and it is hereby established in that Office.

5. Composition and organizational alignment of the Compensation Order Review Board:

(a) The Compensation Review Board shall be composed of five Board Members, consisting of the Chairperson/Chief Administrative Appeals Judge, four Associate Administrative Law/Appeals Judges who shall be appointed by the Chairperson, and such support staff as deemed necessary. In the event of necessity, the Director may additionally designate an Administrative Law Judge within the Administrative Hearings Division to serve as an Alternate Board Member, for a term not to exceed one year from the date of appointment.

(b) For organizational purposes, the Compensation Review Board is placed within the OHA, Office of the Assistant Director/Labor Standards Bureau, and it is hereby established in that Office. The Chairperson/Chief Administrative Appeals Judge of the Compensation Review Board shall report to the Director through the Assistant Director/Labor Standards Bureau.

(c) The Chairperson/Chief Administrative Appeals Judge and the Associate Administrative Law/Appeals Judges shall be administrative law judges in good standing with the OHA, having received an overall rating of satisfactory or above in his or her most recent performance review prior to appointment. To the extent possible, Members of the Compensation Review Board shall be comprised of administrative law judges of the OHA who apply and who meet the statutory qualifications. No Administrative Law Judge assigned to the Administrative Hearings Division shall be required to accept an appointment as a Member of the Compensation Review Board.

(d) With the concurrence of the Director, the Chairperson may assign an Administrative Law/Appeals Judge serving on the Compensation Review Board to simultaneously serve for a fixed period of time as an Administrative Law Judge with the Administrative Hearings Division, provided that the individual so assigned shall not participate as an Administrative Law/Appeals Judge in the review of any appeal from a compensation order issued by said individual in his or her capacity as an Administrative Law Judge while with the Administrative Hearings Division.

(e) Subject to and consistent with the provisions of D.C. Official Code §32-1521a, subsections (b), (c) and (d), the Compensation Review Board shall sit, review appeals, and render decisions, and perform all other delegated and related functions, in panels of three Members as shall be assigned by the Chairperson, unless the Chairperson specifically directs that an appeal or review will be decided by the full membership of the Board.

6. Rules of Practice and Procedure:

The Director shall prescribe such rules of practice and procedure as deemed necessary and appropriate for the conduct of proceedings before the Compensation Review Board, as well as before the Administrative Hearings Division. The regulations which apply to the dispute resolution processes of the Department as set forth in Title 7 D.C.M.R. Chapters 100 and 200 on the date of issuance of this Directive shall remain in effect unless or until amended, or unless superseded by D.C. Code §32-1521a, in which event the provisions thereof shall control.

7. Effective Date: This realignment, delegation of authority and assignment of responsibility is effective immediately.