



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 9, 2023

Beth Harkins Aldridge, Commissioner
Mark Henry, Commissioner
Mississippi Workers' Compensation Commission
Post Office Box 5300
Jackson, Mississippi 39296-5300

Re: Mississippi Workers' Compensation Commission Authority

Dear Commissioner Aldridge and Commissioner Henry:

The Office of the Attorney General has received your request for an official opinion.

Background

In your request, you recite both Mississippi Code Annotated Section 71-3-85, which sets forth, among other things, the duties of the chairman of the Workers' Compensation Commission ("Commission") and Section 71-3-93, which sets forth the duties of the Commission relating to personnel matters. You ask this office for clarification of the two statutes and how they "interact with one another when concerning personnel matters."

Questions Presented

1. What is the scope of the authority, responsibilities, and duties of the chairman of the Mississippi Workers' Compensation Commission?
2. In personnel matters that require hiring, firing, promoting, or demoting an employee, should the Mississippi Workers' Compensation Commission act as a body as outlined in Mississippi Code Annotated Section 71-3-93?

Brief Response

1. While this office is only authorized to opine on prospective questions of law pertaining to the authority, duties, and responsibilities of the requestor, in this instance, to thoroughly answer your questions, the rules of statutory interpretation require this office to address Section 71-3-85, which recites the administrative duties of the chairman in context of the

Commission's responsibilities as a body. As relevant to your inquiry here, the chairman of the Commission acts as its administrative head.

2. Reading Sections 71-3-93 and 71-3-85 *in pari materia*, the Commission must act as a body in establishing and enforcing rules for the appointment, promotion, and demotion of personnel. The statutes do not speak to the authority to fire personnel.

Applicable Law and Discussion

Section 7-5-25 authorizes the Attorney General to issue official opinions to various public officials and bodies "upon any question of law relating to their respective offices." However, even though your first question regards the authority, responsibilities, and duties of the chairman, because you ask about the duties of the Commission as a whole, and the chairman is one of the three commissioners, the chairman's duties are intertwined with the Commission's. This office would not be able to thoroughly clarify the statutes and answer your question about the interplay between them without addressing Section 71-3-85, which recites the chairman's administrative duties and establishes the Commission's rulemaking authority.

Section 71-3-85(1) provides, in part:

The chairman shall be the administrative head of the commission and shall have the final authority in all matters relating to assignment of cases for hearing and trial and the administrative work of the commission and its employees, except in the promulgation of rules and regulations wherein the commission shall act as a body, and in the trial and determination of cases as otherwise provided.

According to the rules of statutory construction, "[t]he starting point for interpreting a statute is the language of the statute itself." *Jones Cnty. Sch. Dist. v. Covington Cnty. Sch. Dist.*, 352 So. 3d 1123, 1130 (Miss. 2022) (internal quotation marks and citation omitted). While Section 71-3-85(1) states that the chairman is the "administrative head of the commission," having final authority in all matters relating to the administrative work of the Commission and its employees, nowhere in the Workers Compensation Law is the word "administrative" defined. As this office opined in MS AG Op., *Watson* at *2 (Sept. 26, 2022), "administrative" is defined by Black's Law Dictionary as "relating to, or involving the work of managing a company or organization; executive." *Administrative*, Black's Law Dictionary (11th ed., 2019). "Administrative" as defined by Merriam-Webster means "relating to the management of a company, school, or other organization." <https://www.merriam-webster.com/administrative> (last visited May 1, 2023). Therefore, according to the plain and ordinary meaning of the word administrative, the chairman of the Commission has final authority over the management of the work of the Commission and its employees, "except in the promulgation of rules and regulations wherein *the commission shall act as a body*. . . ." Miss. Code Ann. § 71-3-85(1) (emphasis added).

You also ask about Section 71-3-93, which further explains the Commission's rulemaking authority as it relates to personnel matters:

The commission shall appoint such officers and employees as are necessary adequately to administer the Workers' Compensation Law, including not more than eight (8) administrative judges to be appointed by the commission with the consent of the Governor and an executive director who shall serve at the will of the commission and shall have such administrative duties as are assigned by the commission, a secretary, a statistician, a rehabilitation unit, and any other employees deemed essential to the administration of the law including court reporters. . . .

. . . .

All salaries not specifically fixed by law shall be set by the commission. . . [and] [t]he commission shall establish and enforce fair and reasonable rules for the appointment, promotion and demotion of personnel.

While Section 71-3-85 establishes the rulemaking authority of the Commission, Section 71-3-93 expounds on that authority. Section 71-3-93 states that the Commission shall appoint officers and employees and set salaries not already specified by statute, and it also grants the Commission the power to both establish and enforce rules for appointing personnel, promoting personnel, and demoting personnel. This authority does not lie with a single Commission member but with the Commission as a whole. The statutes do not speak to the authority to fire personnel.

Please note that although the statutes bestow rulemaking and enforcement authority on the Commission as a whole, the Commission is still subject to the authority of the State Personnel Board ("SPB"). *See MS AG Op., Minor at *2 (Apr. 7, 2000)* (opining that "the State Personnel Board statutes supersede the conflicting provisions of Section 71-3-93," and the Commission "may not establish and enforce its own rules and procedures that would conflict with State Personnel Board regulations. . . ."). As to the Commission's authority to fire personnel, we recommend you contact the SPB for guidance.

Accordingly, it is the opinion of this office that Section 71-3-85(1) and Section 71-3-93, when read *in pari materia*, require the Mississippi Workers' Compensation Commission to act as a body "*in the promulgation of rules and regulations*," which includes the establishment and enforcement of "rules for the appointment, promotion and demotion of personnel." (Emphasis added). The chairman "shall have the final authority in all matters relating to . . . the administrative work of the commission and its employees" but does not have sole rulemaking authority in personnel matters involving appointing, promoting, or demoting employees. Miss. Code Ann. § 71-3-85(1).

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If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

Abigail C. Overby
Special Assistant Attorney General

OFFICIAL OPINION