Rule 1 General Provisions

1-1 The following definitions shall apply unless otherwise indicated in these rules:

1-2 Meetings

(A) The Board shall meet four times per year or more often if a majority of the board determines it is necessary. Meetings shall be noticed as required by law.

(B) All meetings of the board shall be open to the public and conducted on the record except as permitted by the Colorado Open Meetings Act.

(C) Travel reimbursement to Board members shall be paid in accordance with the rules promulgated by the Colorado State Controller's Office and guidance issued by the CDLE.

1-3 The Board is not an insurer or employer for purposes of the Colorado Workers' Compensation Act or Workers' Compensation Rules of Procedure.

Rule 2 Claims

2-1 Notice to the Board

(A) The CUE Board shall be notified by the Division monthly of any claim deemed or appearing to be uninsured.

(B) Any Application for Hearing filed in a claim which is considered uninsured by the Division or which has been accepted by the Board for payment of benefits shall be served upon the Board or its designated representative at the time of filing. Should OAC or the Director issue any Order without proper notice to the board, said Order shall not be binding upon the Board and may be voided for purposes of applying to the CUE fund at the discretion of the Board upon notice to all parties.

(C) The Board may notify all parties of its intent to join the claim by filing a Response to the Application for Hearing or upon motion and order to join the claim. If the deadline for filing a response to the application for hearing has expired, an extension shall be granted by a prehearing administrative law judge upon good cause shown.

2-2 Initial Application

(A) Application for payment of benefits from the fund may only be made after issuance of a final order finding the claim to be compensable and the employer to be uninsured. Any such application shall be made within 90 days of the order

becoming final. The Board shall notify the claimant of the 90 day deadline for application.

(B) Where the Board participated in the hearing, the application for benefits may not be rejected unless the fund is closed pursuant to 3-2(B).

(C) Where the Board received notice and did not participate in the hearing, it is bound by the final order with regard to compensability of the claim. Applications for benefits may only be denied if:

(1) The Board or its agents determine an insured entity such as a statutory employer is responsible for payment of benefits.

(2) The application for benefits appears to be fraudulent.

(3) The fund has been temporarily closed pursuant to the Board's authority under Rule 3-2

(D) Upon rejection of an initial application for entry into the fund the Applicant may file an application for hearing to contest the determination of the Board. Any such application for hearing shall be filed within 90 days of the date the Board issues notice the application for benefits was rejected. Notice shall include a statement of the right to apply for hearing within 90 days. Failure to file an application for hearing within the time provided shall be deemed a waiver of the right to appeal.

2-3 Benefits

(A) At the time of initial acceptance into the fund a Claimant shall be entitled to receive payment for all benefits which accrued prior to the date of acceptance, subject to the benefit levels set by the board in the annual report required by Rule 3-1 which were applicable at the time the benefits accrued.

(B) At the time of initial acceptance into the fund all reasonable and necessary medical provider bills which remain unpaid will be paid pursuant to the fee schedule. The injured worker will be reimbursed for any such payments made out of pocket. Any medical bills more than three years old at the time of application must be reviewed by the Board and will be paid only upon a majority vote.

(C) Following acceptance into the fund, benefits shall be paid in the same manner as workers' compensation benefits paid pursuant to the Workers' Compensation Act, except that:

(1) The Board may modify, terminate or suspend payments from the CUE Fund pursuant to 8-67-107(1)(b).

(2) For any period where payments are so modified, terminated or suspended, the Claimant shall have no claim to accrued payments from the fund other than medical benefits.

(a) Nothing in this section shall be construed as reducing the liability of the non-insured employer to pay the full amount of benefits as required by the Workers' Compensation Act.

(b) Any bills for medical services which accrue during a period of reduced benefits shall have first priority upon any subsequent increase or resumption of benefits.

(D) Any claimant entitled to receive any benefits under the Workers' Compensation Act must file a notice of entitlement to benefits to the fund for benefits between February 1 and April 1 of each year.

(1) The Board shall send each claimant that received benefits the prior year a notice form to complete.

(2) Failure to properly file the required notice will result in the suspension of payment of indemnity benefits.

(E) Any medical bills authorized and approved and not paid due to a limitation of funds shall be retained by the Board and paid first in the following fiscal year.

2-4 Adjusting Procedures

(A) At any point after acceptance into the fund the Board may take any action permitted by the Workers' Compensation Act on behalf of the employer.

(1) The employer may object to any action by following the same procedure set forth by statute for claimant to object. Where statute does not provide a procedure for objecting, the employer may request a prehearing conference.

(2) Nothing in this section shall be construed so as to prohibit or prevent the uninsured employer from filing an application for hearing on any contested issues.

(B) The Board will be the only entity permitted to file admissions of liability with the Division of Workers' Compensation

(C) Any admissions filed by the Board shall represent the benefits to which the injured worker is legally entitled under the Workers' Compensation Act, without regard to restrictions on payments from the fund imposed by the Board due to funding.

(D) Twice a year the Board shall provide the injured worker and Division, on a form designated by the Division, a statement of benefits actually paid by the Board and owed by the employer.

Rule 3 Funding and Review

3-1 Annual Review

(A) On an annual basis the Board shall review funding received the previous year, anticipated funding for the upcoming year as well as actual expenditures for the prior year and anticipated expenditures for the upcoming fiscal year.

(B) On or before June 1 of each year the Board shall release an annual report identifying the benefit level that will be paid for the upcoming fiscal year subject to the Board's authority to lower benefits based on funding levels as set forth in §8-67-107(1)(b).

3-2 Interim reviews

(A) The Board may at any time review funding levels and issue a modified report.

(B) If funding levels are insufficient to continue paying benefits at the benefit level announced in the annual report the Board may, at its discretion, lower benefit levels for the remainder of the year and/or close the fund to new applicants.

(1) Any claimant denied access to the fund upon initial application because of lack of funding may reapply the following fiscal year, provided said claimant is still entitled to receive benefits. Any claimant so admitted will be entitled to have only their outstanding medical bills paid dating back to the date of injury subject to the limitations in Rule 2-3(B).

Rule 4 Medical Providers

4-1 Upon notice of designation a new authorized treating physician, Claimant shall schedule an appointment with the new provider within 30 days or request that the board or its agent schedule the appointment. The board may schedule a demand appointment at any time after designation.

4-2 The Board or its agent shall forward all medical reports available, and identifying information for the claimant being referred, to the newly designated physician within 7 days of designation

4-3 The Board or its agent shall include a request to the provider that the claimant be contacted within 7 days to schedule an initial appointment.