START\_STATUTE23-930.  Unfair claim processing practices; bad faith; civil penalties

A.  The commission has exclusive jurisdiction as prescribed in this section over complaints involving alleged unfair claim processing practices or bad faith by an employer, self‑insured employer, insurance carrier or claims processing representative relating to any aspect of this chapter.  The commission shall investigate allegations of unfair claim processing or bad faith either on receiving a complaint or on its own motion.

B.  If the commission finds that unfair claim processing or bad faith has occurred in the handling of a particular claim, it shall award the claimant, in addition to any benefits it finds are due and owing, a benefit penalty of twenty‑five percent of the benefit amount ordered to be paid or $500, whichever is more.

C.  If the commission finds that an employer, self‑insured employer, insurance carrier or claim processing representative has a history or pattern of repeated unfair claim processing practices or bad faith, it may impose a civil penalty of up to $1,000 for each violation found.  The civil penalty shall be deposited, pursuant to sections 35‑146 and 35‑147, in the state general fund.

D.  Any party aggrieved by an order of the commission under this section may request a hearing pursuant to section 23‑947.  The hearing and decision shall be conducted pursuant to section 23‑941.

E.  The commission shall adopt by rule a definition of unfair claim processing practices and bad faith.  In adopting a rule under this subsection, the commission shall consider, among other factors, recognized and approved claim processing practices within the insurance industry, the commission's own experience in processing workers' compensation claims and the workers' compensation and insurance laws of this state.

F.  This section does not limit or interfere with the authority of the department of insurance and financial institutions as provided by law to regulate any insurance carriers, including the jurisdiction of the department of insurance and financial institutions over unfair claim settlement practices as provided in section 20‑461. END\_STATUTE