

physician, provided he was attended by a physician of his own selection, within sixty days after the beginning of his disability, for which compensation is claimed, and failure to do so, unless excused by the Commission, either on the ground that the insurance carrier or the employer has not been prejudiced thereby, or for some other sufficient reason, shall be a bar to any claim under this Article; provided, however, that failure of an employee to file a claim for compensation within one year after the beginning of his disability shall constitute a complete bar to any claim under this Article, unless it shall be established that failure to file such claim was induced or occasioned by fraud, or by facts and circumstances amounting to an estoppel, in which case the claim shall be filed within one year from the time of the discovery of the fraud, or within one year from the time when the facts and circumstances amounting to an estoppel cease to operate, and not afterwards.

When death results from injury the parties entitled to compensation under this Article, or someone in their behalf, shall make application for same to the Commission, within one year from the date of death, which application must be accompanied with proof of death and proof of relationship under this Article, certificates of attending physician, if attended by a physician and such other proof as may be required by the rules of the Commission.

Where delay beyond thirty days in filing claim was not raised as bar to proceeding in first instance, and where award was made and paid for nearly a year, and delay in filing claim is first raised on application for continuation of compensation, such delay cannot be considered. *Dickson, etc., Co. v. Beasley*, 146 Md. 571.

This section is mandatory in a death case, and commission may not excuse its non-compliance, notwithstanding sec. 63. Estopped not made out. Notice not equivalent to application. Limitations must be specially pleaded. *Vang Constr. Co. v. Marcoccia*, 154 Md. 403.

This section referred to in construing sec. 58—see notes thereto. *State v. Francis*, 151 Md. 150.

This section referred to in construing sec. 56—see notes thereto. *Owners' Realty Co. v. Bailey*, 153 Md. 278.

The Commission may, in its sound discretion, not at its pleasure, excuse delay in filing application as provided by this section, the discretion to be exercised according to the rules of reason and principles of law. *Broniszewski v. B. & O. R. R. Co.*, 156 Md. 447.

This section referred to in construing sec. 36. *Baking Co. v. Reissig*, 164 Md. 21.

Cited but not construed in *Shipbuilding Co. v. Praviewski*, 156 Md. 415; *Tobacco Co. v. Goslin*, 163 Md. 78.

An. Code, 1924, sec. 40. 1912, sec. 40. 1914, ch. 800, sec. 39. 1931, ch. 364.

40. The Commission shall make or cause to be made such investigation of any claim as it deems necessary, and upon application of either party, shall order a hearing and within thirty days after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award, determining such claim for compensation, and file the same in the office of the Commission, together with a statement of its conclusions of fact and rulings of law. The Commission may, if it deems proper, on the written application of any party in interest, or on its own