



Code of Colorado Regulations
Secretary of State
State of Colorado

COLORADO DEPARTMENT OF PERSONNEL & ADMINISTRATION

Office of Administrative Courts

PROCEDURAL RULES FOR WORKERS' COMPENSATION HEARINGS

1 CCR 104-3

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Preamble

The Office of Administrative Courts Procedural Rules for Workers' Compensation were initially adopted in their entirety by the Department of Personnel & Administration on October 26, 2005.

This version reflects a repeal of the former rules and reissuance by the Director to amend the Office of Administrative Courts Procedural Rules for Workers' Compensation Hearings.

OAC Rule 1. Definitions.

As used in these Procedural Rules for Workers' Compensation Hearings:

- A. "ALJ" is an administrative law judge with the Office of Administrative Courts or a prehearing administrative law judge with the Division of Workers' Compensation.
- B. "Address" as used in these rules shall include both the is the U.S. postal service mailing address or and the e-mail email address for a party.
- C. "Application" refers to an Application for Hearing, an Application for Expedited Hearing, or an Application for Hearing - Disfigurement Only filed with the Office of Administrative Courts.
- D. "C.R.S." is the Colorado Revised Statutes.
- E. "Days" are All days shall be considered calendar days unless specifically noted in the rule otherwise.
- F. "DOWC" is the Division of Workers' Compensation in the Department of Labor and Employment.
- G. "Mailing" as used in these rules shall include first class mail, or email.
- H. "OAC" means the Office of Administrative Courts, created in the Colorado Department of Personnel and Administration by sSection 24-30-1001(1), C.R.S.
- I. "OAC office" refers to the OAC's locations in Colorado Springs, Denver, and Grand Junction.
- J. "OACRP" means these Office of Administrative Courts' Rules of Procedure.
- K. "OAC Website" refers to the website associated with the OAC which at the time of publication is oac.colorado.gov.
- L. "Response to Application" refers to a Response to an Application for Hearing, a Response to Application for Expedited Hearing, or a Response to Application for Hearing - Disfigurement Only filed with the Office of Administrative Courts.

~~M. "Venue" means the physical location of a hearing, which includes Denver, Colorado Springs, Pueblo, Grand Junction, and Glenwood Springs. The OAC may, as resources and facilities require, add, or remove available venues for hearing.~~

~~A. _____~~

~~B. "Judge" is defined as a judge in the Office of Administrative Courts and a pre-hearing judge in the Division of Workers' Compensation.~~

~~"OACRP" means Office of Administrative Courts' Rules of Procedure.~~

~~All days shall be considered calendar days unless specifically noted in the rule otherwise.~~

~~C. _____ "Mailing" as used in these rules shall include first class mail, or e-mail.~~

~~D. _____ "Address" as used in these rules shall include both the mailing and e-mail address for a party.~~

OAC Rule 2. Applicability.

A. These rules The OACRP apply to procedural orders and hearings pursuant to the Workers' Compensation Act of Colorado, Articles 40 to 47 of Title 8, C.R.S., from the date an Application for Hearing is filed through until the time to file a Petition to Review (PTR) has run, or, if a Petition to Review PTR is filed, until the file is transmitted to the Industrial Claim Appeals Office, or until the time to issue a corrected order has run has concluded.

~~B. _____~~ The Colorado Rules of Civil Procedure apply to Workers' Compensation hearings unless they are inconsistent with these rules, and the provisions of the Workers' Compensation Act, or the Workers' Compensation Rules of Procedure, 7 CCR 1101-3.

~~C. _____~~ The OACRP does not apply to matters solely within the discretion of the DOWC director including but not limited to the following: claim closure for lack of prosecution, medical fee schedule disputes, or any modification to the claim information.

~~B. _____~~

OAC Rule 3. Ex-Parte Communications.

With the exception of scheduling or other purely administrative matters, and with the exception of settlement conference or mediation processes, a party or counsel for a party shall not initiate any communication with an ALJ judge pertaining to a matter before the OAC unless prior consent of all other parties or their counsel has been obtained. Copies of all pleadings or correspondence filed with the OAC or directed to a judge an ALJ by any party shall be served pursuant to ~~Rule 6~~, OACRP 6.

OAC Rule 4. Filing of Documents.

~~A. _____~~ Original The originals of all pleadings, forms, -and other papers documents related to filed in a proceeding before the OAC shall be filed with the OAC office closest to the claimant's residence. If a motion to change venue has been granted, original pleadings, forms, and other documents related to a proceeding shall be filed in the OAC office where the hearing is to occur.

~~B. _____~~ If the hearing venue is Denver, the Application, pleadings, forms, and other documents shall be filed at the OAC's Denver office. If the hearing venue is Colorado Springs or Pueblo, the Application, pleadings, forms, and other documents shall be filed at the OAC's Colorado Springs office. If the hearing venue is Grand Junction, or Glenwood Springs, the Application, pleadings, forms, and other documents shall be filed at the OAC's Grand Junction office.

~~C. _____~~ Filing shall be by U.S. Mail, hand delivery, or by email. Facsimile filings are not accepted. The current email address for each OAC office can be found on the OAC website or by contacting the OAC.

~~A.D. _____~~ -Additional Duplicate copies shall not be filed and will be discarded and not made part of the OAC file.

~~B.E.~~ The date of filing shall be the date ~~erved on the OAC as~~ indicated on the certificate of service on the filing. ~~, or, if~~ no certificate of service is included, the date of filing shall be the date received by the OAC.

~~C.F.~~ All pleadings, forms, and other documents filed with the OAC shall contain the Workers' Compensation claim number ~~and suffix, if applicable~~.

~~G.~~ The OAC may reject any Application, pleading, form, or other document that does not comply with the OACRP.

~~D.~~ All documents shall be filed at the OAC's office where the hearing is set to occur or by e-filing, unless venue has been changed by an order of a judge or designee clerk for good cause shown.

~~E.~~ Facsimile filing is highly discouraged, however, in the event that a party or judge deem it necessary, no filings over 10 pages will be accepted. Facsimile filings must be accompanied by a cover sheet that states the title of the document, case number, number of pages, identity and telephone numbers of the transmitter, and the identity and facsimile numbers of all other parties or persons to whom the facsimile copy was sent.

OAC Rule 5. E-Filing. (RESERVED)

~~All filings made with the OAC by e-filing are considered to be filed in the proper venue, if such venue is marked on the appropriate forms.~~

OAC Rule 6. Service of Documents.

~~A.~~ All pleadings, forms, or other documents filed with the OAC shall be served on each of the parties. When an attorney represents a party, service shall be made on the attorney.

~~A.B.~~ Service of pleadings, forms, or other ~~papers~~ documents ~~on a party~~ may be made by hand delivery, by mail to the address given in the pleadings, ~~by facsimile transmission to a facsimile number given in the pleadings~~, by e-mail to an e-mail address given in the pleadings, or to the party's last known address as provided to the OAC. ~~When an attorney represents a party, service shall be made on the attorney.~~

~~B.C.~~ Attorneys shall inform the OAC and all other parties of their current telephone number, mailing addresses, ~~telephone numbers, facsimile numbers~~, and e-mail addresses. Any, ~~and of any~~ changes to said information during the course of the proceedings shall be reported to the OAC and all parties within ~~5 business~~ 7 days.

~~C.D.~~ Parties ~~without an attorney not represented by attorneys~~ shall inform the OAC and all other parties of their current telephone number, mailing address, address, ~~telephone numbers, facsimile numbers~~ and e-mail addresses. Any, ~~and of any~~ changes to said information during the course of the proceedings shall be reported to the OAC and all parties within ~~40 business~~ 14 days.

~~D.E.~~ ~~The parties shall confer with one another regarding the status of pleadings filed with the OAC prior to contacting the OAC. The parties shall also confer with one another regarding requests for copies of pleadings filed with the OAC.~~ The OAC may charge ~~s~~ a copying-fee for copies of all pleadings provided to the parties.

OAC Rule 7. Hearing Request.

~~A.~~ Any party may request a hearing on issues ripe for adjudication by filing an Application for Hearing, Application for Expedited Hearing, or an Application for Hearing - Disfigurement Only.

~~B.~~ Copies of the Application shall be served on the opposing party or parties, as provided in OACRP 6.

~~C.~~ The hearing shall be set in the venue closest to the claimant's residence, unless a different venue is approved by an ALJ for good cause shown, or as otherwise ordered by an ALJ.

~~D.~~ The OAC will schedule hearings to occur in-person, by videoconference, or by telephone, based

on available facilities and resources. Once a hearing has been set, the format of the hearing may be changed by agreement of the parties and approved by an ALJ, by motion of one or more of the parties for good cause shown, or as otherwise ordered by an ALJ. Absent good cause, any request to change the format of the hearing shall be filed no later than 20 days before the hearing is scheduled to commence.

- E. Upon motion and good cause shown, an ALJ may grant the parties a half or full-day (“non-trailing”) setting for a hearing to be held in Colorado Springs, Denver, or Grand Junction. Any dates for a non-trailing setting must be obtained by contacting the clerk in the OAC office where the hearing is scheduled to be held.

OAC Rule 8. Application for Hearing.

- A. The Application for Hearing shall be on a form provided by the OAC, or on a substantially similar form.

- B. ~~A clerk of the~~ The OAC may reject any Application for Hearing that is not complete, or does not comply with the OACRP. The rejection shall be without prejudice.

- C. A Response to Application for Hearing or an ~~Notice of Entry of Appearance~~ shall be filed with the OAC no later than 15 days ~~after~~ from the date of the filing of the Application for Hearing was filed. If an ~~Notice of Entry of Appearance~~ is filed, the Response to Application for Hearing shall be filed no more than 30 days ~~from~~ after the date the Application for Hearing was filed, unless agreed upon by the parties, or ordered by an ALJ.

- D. A party who is not represented by an attorney may request that the OAC set the matter for hearing. In that instance, Paragraph ~~E~~ below of this Rule shall not apply.

~~A. _____~~

- ~~B. The hearing shall be set in the hearing venue closest to the claimant’s residence, unless a different venue is agreed upon by the parties and approved by a judge, or as otherwise ordered by a judge.~~

- ~~C. If the hearing is to be set in Denver or Greeley, the Application for Hearing shall be filed at the OAC’s Denver office. If the hearing is to be set in Colorado Springs or Pueblo, the Application for Hearing shall be filed at the OAC’s Colorado Springs office. If the hearing is to be set in Grand Junction, Glenwood Springs, or Durango, the Application for Hearing shall be filed at the OAC’s Grand Junction office.~~

- ~~D. Copies of the Application for Hearing must be mailed or delivered to the opposing party or parties, as provided by Rule 6, OACRP.~~

- ~~E.A. A clerk of the OAC may reject any Application for Hearing that is not complete. The rejection shall be without prejudice.~~

- ~~F. Telephonic settings shall be on a Tuesday, Wednesday, or Thursday, between the hours of 8:00a.m. and 12:00 p.m., or 1:00 p.m. and 3:00 p.m. Hearings shall be set at least 15 days and no more than 30 days from the date of the filing of the Application for Hearing.~~

- ~~G.A. A Response to Application for Hearing or a Notice of Entry of Appearance shall be filed no later than 15 days from the date of the filing of the Application for Hearing. If a Notice of Entry of Appearance is filed, the Response to Application for Hearing shall be filed no more than 30 days from the date the Application for Hearing was filed.~~

- ~~H.A. A party who is not represented by an attorney may request that the OAC set the matter for hearing. In that instance, Paragraph I below shall not apply.~~

- E. The applicant shall obtain available hearing dates listed on ~~from~~ the OAC website that are within 80 to 120 days from the date the Application for Hearing was filed. If and, if a Response to Application for Hearing or an ~~Notice of Entry of Appearance~~ was filed, the applicant shall contact the opposing party and agree on ~~the a~~ date and time for ~~the~~ hearing. The applicant shall file shall

~~send the OAC~~ a written confirmation of the date and time selected at least 15 days and no more than 30 days after the Application for Hearing was filed. If the parties ~~cannot~~ are unable to agree on a date and time, the applicant shall notify the OAC in writing that there is no agreement, and the OAC will ~~shall~~ set the ~~matter for~~ hearing at a date and time of its choosing.

~~I.~~

~~F.~~ The parties may set the hearing to commence less than 80 days after the date of the Application for Hearing by motion and order of an ALJ.

~~J.~~ Upon motion and good cause shown, a judge may grant the parties a non-trailing setting for a hearing to be held in Colorado Springs, Denver, or Grand Junction.

~~K.G.~~ If the OAC does not receive written confirmation of the hearing from a party within 30 days after the ~~date of the filing of the~~ Application for Hearing was filed, the Application shall be stricken without prejudice. Any party may, as permitted by law, file a new Application for Hearing regarding issues that are ripe for adjudication.

OAC Rule 9. Application for Expedited Hearing (“Expedited Application”).

~~A.~~ The Any Expedited Application for Expedited Hearing shall be on a form provided by the OAC, or on a substantially similar form.

~~B.~~ An Expedited Application may be filed:

~~B.1.~~ By A claimant may file an Application for Expedited Hearing, if the respondent filed a Notice of Contest and less than 45 days have passed since the Notice of Contest was filed. The issues in an expedited hearing shall be limited to compensability, medical benefits, applicable and affirmative defenses, and to those issues raised by the respondent, and other issues as agreed upon by the parties, or as ordered by an ALJ.

~~C.2.~~ By A claimant, may file an Application for Expedited Hearing if there is an urgent need for prior authorization of health care services recommended in writing by an authorized treating provider, and prior authorization has been denied. A copy of a medical record documenting the urgent need for prior authorization of health care services shall be attached to the Expedited Application for Expedited Hearing. The issues will be limited to liability for those health care services, applicable affirmative defenses, and other issues as agreed upon by the parties, or as ordered by an ALJ.

~~3.~~ By A respondent, may file an Application for Expedited Hearing if it has filed a Petition to Suspend, Modify, or Terminate Compensation, and the claimant has filed an objection. The issues at the hearing shall be limited to a determination of the Petition to Suspend, Modify, or Terminate Compensation, applicable affirmative defenses, and other issues as agreed upon by the parties, or as ordered by an ALJ.

~~4.~~ By any party, on the issue of whether the employer or insurer provided a list of designated providers in compliance with section 8-43-404(5), C.R.S., and less than 45 days have passed since the claimant provided notice of the injury to the employer. The issues will be limited to whether the respondent provided a compliant list of designated providers, applicable affirmative defenses, and other issues as agreed upon by the parties, or as ordered by an ALJ.

~~5.~~ By any party, on the issue of whether the employer or insurer provided a list in compliance with section 8-43-404 (5), C.R.S., if the insurer or self-insured employer admitted liability for the claim and the Expedited Application is filed within 45 days after the initial admission of liability for the claim. The issues will be limited to whether the respondent provided a compliant list of designated providers, applicable affirmative defenses, and other issues as agreed upon by the parties, or as ordered by an ALJ.

~~6.~~ By any party, on the issue of whether the employer or insurer may reduce compensation pursuant to section 8-42-112, C.R.S, if the insurer or employer has admitted liability for a claim, and less than 45 days have passed since the admission reducing compensation

was filed. The issues will be limited to whether the respondent may reduce compensation pursuant to section 8-42-112, C.R.S., applicable affirmative defenses, and other issues as agreed upon by the parties, or as ordered by an ALJ.

D.7. Where otherwise authorized by the Colorado Workers' Compensation Act, or the Colorado Workers' Compensation Rules of Procedure, 7 CCR 1101-3.

~~E. Copies of the Application for Expedited Hearing must be mailed or delivered to the opposing party or parties, as provided by Rule 6, OACRP.~~

F.C. If the applicant qualifies for an expedited hearing, the OAC shall set the matter for hearing to occur consistent with the provisions of the Workers' Compensation Act. The OAC shall determine the location, date, and time of the expedited hearing, and shall send notice of the hearing to the parties, as provided by Rule 11, OACRP 11.

~~G.D. The opposing party may file a Response to the Application for Expedited Application Hearing within 10 days of service the mailing or delivery of the Expedited Application for Expedited Hearing, as provided by OACRP 6, unless agreed upon by the parties or approved by an ALJ.~~

H.E. ~~A clerk of t~~The OAC may reject any Application for Expedited Application Hearing that is not complete, or does not meet the criteria for an expedited hearing as determined by an ALJ. The rejection shall be without prejudice.

I.F. ~~When the Expedited Application is rejected for not meeting the criteria If the applicant does not qualify for an expedited hearing, the Application for Expedited Hearing shall be rejected. T~~he applicant may then file an Application for Hearing pursuant to Rule 8, OACRP 8.

OAC Rule 10. Disfigurement Hearing and Award.

A claimant may request a determination of additional compensation for disfigurement to areas of the claimant's body normally exposed to public view by filing an Application for Hearing – Disfigurement Only ("Disfigurement Application") ~~with the OAC office closest to the claimant's residence, unless a different venue is agreed upon by the parties and approved by a judge, or as otherwise ordered by a judge.~~ Unless the parties agree otherwise, the date of the Disfigurement Application for Hearing must be at least six 6 months from the date of injury except when the claimant has had surgery, in which case the Disfigurement Application for Hearing must be at least six 6 months from the date of surgery. If a final admission of liability has been filed pursuant to ~~S~~section 8-43-203(2)(b)(II)(a), C.R.S., a claimant may request a hearing on disfigurement regardless of the date of injury or surgery.

A. Disfigurement Application for Hearing – Disfigurement Only.

1. ~~The A Disfigurement Application for Hearing – Disfigurement Only~~ shall be on a form provided by the OAC, or on a substantially similar form.

~~2. Copies of the Application for Hearing – Disfigurement Only must be mailed or delivered to the opposing party or parties, as provided by Rule 6, OACRP.~~

~~3.2.~~ An opposing party may file a Response to the Disfigurement Application for Hearing – Disfigurement Only within 10 days of service the mailing or delivery of the Disfigurement Application for Hearing – Disfigurement Only.

~~4.3.~~ The OAC will set the matter for hearing at a location, date, and time of its choosing, and shall send notice of the hearing to the parties, as provided by Rule 11, OACRP 11.

~~5.4.~~ ~~A clerk of t~~The OAC may reject any Disfigurement Application for Hearing – Disfigurement Only that is not complete. The rejection of a Disfigurement n Application for Hearing – Disfigurement Only shall be without prejudice.

B. Disfigurement Award – Photographs.

Requests for a Disfigurement Award by photograph shall be filed with the Division of Workers' Compensation DOWC. The cClaimant shall not simultaneously file a Request for a Disfigurement Award by photograph and an Disfigurement Application for Hearing – Disfigurement Only. Should the claimant be

dissatisfied with an award based on photographs, the claimant is permitted to file an Application for Hearing—Disfigurement Only with the OAC.

C. Disfigurement Orders.

Unless otherwise provided in the disfigurement award order, the employer or insurer is entitled to a credit for any amount previously paid for disfigurement. If the amount of the credit exceeds the disfigurement award, the employer or insurer may offset the amount of the credit against any future temporary or permanent disability benefits.

OAC Rule 11. Notice of Hearing.

The OAC shall send a Notice of Hearing to the addresses on the Application, or if filed, consistent with Rule 6, OACRP. If the addresses on the a Notice of Entry of Appearance or a Response to the a Application, consistent with OACRP 6 is filed, the OAC shall send a Notice of Hearing to the addresses on the notice or response. If no Notice of Entry of Appearance or no response is filed, the OAC shall send a Notice of Hearing to the respondent's addresses given on the application.

OAC Rule 12. Issues for Hearing.

- A. Issues for hearing shall be listed in the Application for Hearing, the Response to the Application for Hearing, or may be added before the hearing date is confirmed by written notice to the OAC and the opposing party. After the hearing date is confirmed, issues may only be added by written agreement of the parties or order of an ALJ, judge or designee clerk for good cause shown.
- B. At the commencement of hearing, the parties shall confirm the issues to be determined, including affirmative defenses.

OAC Rule 13. Witnesses.

Only endorsed witnesses may testify in a party's case-in-chief. Endorsed witnesses are witnesses listed on either the Application or the Response to the Application, witnesses added by written notice before the hearing date is confirmed, witnesses added by written agreement of the parties, or witnesses added by order of a judge, an ALJ or designee clerk for good cause shown.

OAC Rule 14. Extension of Time to Commence Hearing.

- A. The parties may obtain one 60-day extension of time to commence a hearing by agreement pursuant to section 8-43-209(1), C.R.S. An agreement to set the hearing outside of 120 days is a request for extension of time under section 8-43-209(1), C.R.S. The initial setting date shall be no later than 180 days from the date of the Application.
- B. On written motion, an ALJ may grant extensions of time to commence a hearing pursuant to section 8-43-209(2), C.R.S. An ALJ may, on the ALJ's own motion, extend the time to commence a hearing if time is not available on the docket.
- C. When an extension of time is granted, the parties must file a hearing confirmation within 10 days after the date of service of the order granting an extension of time, unless otherwise ordered by an ALJ.

~~— Except for an extension of time that must be granted pursuant to Section 8-43-209(1), C.R.S., a judge or designee clerk may grant an extension of time to commence a hearing upon agreement of the parties, or upon motion and good cause shown. A judge may, on the judge's own motion, extend the time to commence a hearing if time is not available on the docket.~~

OAC Rule 15. Hearing Vacated.

After a Response to an Application is filed, the Application may not be withdrawn, and the hearing may not be vacated except:

- A. Upon the agreement of all parties and by filing a hearing cancellation form, or upon the order of a judge. If the parties agree to the withdrawal of the Application, the applicant must promptly notify the OAC of the agreement to vacate the hearing in writing. Notification shall be made by letter,

~~facsimile or e-filing.~~ Hearings may be ~~cancelled-canceled~~ by telephone, but must be followed up with written confirmation and served on all parties pursuant to ~~Rule 6, OACRP 6; or-~~

~~B. Upon motion and for good cause shown and ordered by an ALJ; or~~

~~C. As otherwise ordered by an ALJ.~~

OAC Rule 16. Motions.

~~A. Motions and responses or objections to motions must shall be filed with in the same office of the OAC office closest to the claimant's residence. If a motion to change venue has been granted, any motions and responses to motions shall be filed in the OAC office where the hearing is to occur. where the Application for Hearing was filed or by e-filing with the OAC. Motions and responses or objections to motions filed with the OAC may be faxed, e-mailed, hand-delivered or mailed to the opposing parties, as provided in Rule 6, OACRP Motions and responses or objections to motions filed with the OAC shall be served upon opposing on all parties, as provided in OACRP 6, on the same day as filed with the OAC. Motions shall be filed exclusively with either the OAC or the DOWC.~~

~~B. Motions shall Every motion must include a certification by the party or counsel filing the motion that he or she has they have conferred, or made a good faith effort to confer, with opposing counsel and unrepresented parties, and attempted to resolve the issue without court action. All motions shall and must also include a statement indicating regarding whether the motion is opposed, unopposed, contested, uncontested, or stipulated. If no conference has occurred, an explanation must be included in the motion. Any motion filed without a demonstrated good faith effort to confer may be summarily denied.~~

~~C. The motion shall conspicuously state in the caption if the motion is unopposed or stipulated.~~

~~D. A If a motion is stipulated or unopposed motion, or if the opposing parties have no objection, the motion may be granted or denied before the expiration of the response period forthwith by the OAC's designee clerk, or may be granted or denied by a judge.~~

~~E. Any response to a motion shall be filed within 10 days from the date the motion was filed with the OAC. If no response is filed within 10 days, the motion may be deemed confessed.~~

~~D. _____~~

~~E. The responding party shall file a response or objection to a motion within 10 days from the date the motion was filed at the OAC. See Rule 4.B., OACRP. A response or objection filed by facsimile or e-filing must be simultaneously served on the opposing parties. If filed by mail or hand-delivery, the certificate of service must indicate that service was executed on the date of filing and indicate the method of service.~~

~~F. The OAC may refer any matter within the jurisdiction of a pre-hearing ALJ judge to a pre-hearing judge to the DOWC. If the parties agree to resolve a pending motion by proceeding to a pre-hearing conference before a pre-hearing judge the DOWC, the parties shall promptly notify the OAC of the pending pre-hearing conference.~~

~~G. An ALJ may, within the ALJ's discretion, require oral arguments on any motion.~~

~~H. If an issue that is the subject of a motion has been resolved or becomes moot before an order is issued, the moving party shall notify the OAC in writing that the motion is moot, or withdrawn.~~

~~F. _____~~

~~I. The parties shall submit a proposed order with each motion and response. The p Proposed orders shall set forth the relief requested in reasonable detail, and not merely by reference to another document. Proposed orders for approval of stipulations shall specifically state the terms of the stipulation in the order. Proposed orders shall include a certificate of service containing the e-mail addresses for all parties, or if the parties do not have e-mail addresses, the certificate of service shall contain the mailing addresses facsimile numbers for of all parties. The resulting order shall be sent either by e-mail or facsimile to all parties consistent with Rule 6, OACRP 6. If e-mail or~~

~~facsimile~~ information is not available for all parties, the order shall be sent to the moving or prevailing party who is responsible for distribution of true and correct copies of the order to all remaining parties promptly, and in any event no later than ~~five~~2 calendar business days after the date the order is received.

~~G.J.~~ Proposed orders shall be in editable form and shall follow the formatting requirements set forth in the OAC Policies, and be in 12-point type, Arial, or Helvetica font.

OAC Rule 17. Summary Judgment.

- A. Any party may file a motion for summary judgment seeking resolution of any endorsed issue for hearing by filing a written motion at least 30 days before the hearing is scheduled to commence. Any motion seeking resolution of an issue endorsed for hearing shall be captioned as such a motion for summary judgment. Any motion seeking resolution of one or more issues endorsed for hearing shall be considered a motion for summary judgment and shall conform to the requirements of this Rule.
- B. All motions for summary judgment must be supported by an affidavit or affidavits, transcripts of testimony, or by medical reports, or employer records or other admissible evidence, showing that there is no disputed issue of material fact and that the party is entitled to judgment as a matter of law. Summary judgment may be granted if the pleadings, transcripts of testimony, discovery responses, medical reports, employer records, affidavits, or other admissible evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. The motion must refer to this Rule 17, OACRP, and to the section of the Workers' Compensation Act upon which the party seeks relief. The motion for summary judgment must be accompanied by a proposed order that includes findings of fact, conclusions of law, and an order. The proposed order shall be in editable format and shall follow the formatting requirements set forth in the applicable OAC Policy, and be in 12-point type, Arial, or Helvetica font.
- C. An objection to a motion for summary judgment may shall be filed within 15 20 days of the date of filing of the motion for summary judgment. If there is a disputed issue of material fact, the objection-response must specifically identify the disputed issue of material fact.

OAC Rule 18. Subpoenas.

A subpoena to compel the attendance of witnesses or parties and the production of books, papers, or records at a scheduled deposition or hearing may be issued on behalf of the OAC by an ~~an ALJ judge~~ or by a licensed attorney for a party. The party requesting the subpoena shall be responsible for service of the subpoena, consistent with Rule 45 of the Colorado Rules of Civil Procedure.

OAC Rule 19. Hearings Open to the Public.

Hearings are open to the public. However, when necessary and reasonable, an ~~an ALJ judge~~ may clear all persons from the hearing ~~room~~ except counsel and parties.

OAC Rule 20. Case Information Sheet (CIS).

- A. Unless otherwise ordered by an ~~an ALJ judge~~, and except for disfigurement only hearings under ~~Rule 10, OACRP 10,~~ the parties jointly, or each party individually, shall file and serve pursuant to ~~Rule 6, OACRP 6,~~ a Case Information Sheet (CIS) on a form provided by the OAC, or on a substantially similar form. ~~Case Any CIS Information Sheets~~ shall be filed and served no more than ~~twenty~~20 days and no less than ~~five~~5 days prior to the date set for the commencement of the hearing, or such other date established by an ~~an ALJ judge~~.
- B. The purpose of the CIS is to permit the ~~judge~~ALJ to determine the priority of the cases set, and to manage the docket more efficiently. The CIS is not discovery.
- C. The CIS shall advise the ~~judge~~ALJ as to whether the parties have conferred and made a good faith effort to resolve the issues set for hearing, the status of any discovery, the stipulations to be offered, the issues remaining for hearing, the names of the lay and expert witnesses to testify at the hearing, whether each witness shall testify in person or by telephone or by other electronic.

means, whether the witness will travel more than 100 miles for the hearing, the area of expertise of any expert witness, and whether an extension of time to commence the hearing has previously been granted.

D. Should a party fail to file a CIS, the ~~judge-ALJ~~ may: (1) strike the application for hearing without prejudice and vacate the hearing; (2) issue an order to show cause why the issues or defenses should not be dismissed with prejudice; (3) continue the hearing to a future date; (4) continue the hearing and require the parties to attend a pre-hearing conference prior to proceeding to a hearing on the merits; or (5) proceed to hearing on the merits.

E. If an interpreter has been requested pursuant to OACRP 21, the requesting party shall indicate on the CIS that an interpreter is required. The initial request for an interpreter shall be made consistent with OACRP 21, and not on the CIS form.

~~D.~~

OAC Rule 21. Interpreters.

A. A party who is limited English proficient, or any party who calls a witness who is limited English proficient, may request that the OAC provide interpretation services for the hearing, at no cost to the requestor. The party requesting interpretation services shall notify the OAC at least 72 hours before the hearing if the hearing is anticipated to exceed 2 hours in length.

B. A party who requires an auxiliary aid or service for a communication disability, or any party who calls a witness who requires an auxiliary aid or service for a communication disability, may request that the OAC provide interpretation services for the hearing, at no cost to the requestor.

C. A request for interpretation services shall be made at the time of the filing of the ~~a~~Application or Response to Application for hearing. ~~In order to ensure~~ To ensure that proper arrangements for an interpreter are made, any request for interpretation services shall be confirmed in the ~~Case-Information Sheet (CIS)~~ filed by the parties. The OAC may require the parties to attend a status conference prior to the hearing to determine the hearing status and need for interpretation services.

~~C.~~

D. If a case is ~~cancelled~~canceled, settled, continued, or otherwise rescheduled by the parties, the parties shall notify the OAC within 72-3 hours-business days of the scheduled hearing that the interpretation services are no longer needed.

E. A party who is limited English proficient may provide their own interpretation service so long as the interpreter from the interpretation service meets the qualifications of O-A-C-R-P: ~~Rule-21.G~~1 below.

F. A party who requires an auxiliary aid or service for a communication disability may provide their own interpretation service so long as the interpreter from the interpretation service meets the qualifications of O-A-C-R-P: ~~Rule-21.G~~1 below.

G. The OAC will provide professional interpreting services through a ~~third-party~~third-party vendor. Any interpreter provided by the vendor, or any interpreter that the parties provide must have one of the following:

1. A certification as a qualified legal interpreter in the target language, or,
2. A demonstrated ability to interpret from the target language to English and from English to the target language, ~~and~~and a demonstrated knowledge of legal terms and concepts.

H. Immediately prior to the commencement of the hearing, any interpreter must review the “Code of Conduct for Interpreters in Administrative Hearings” and agree in writing to abide by its provisions.

OAC Rule 22. Hearing Exhibits

A. Each party shall submit an electronic version of their hearing exhibits to the OAC and the

opposing parties at least 3 business days before the hearing. The exhibit packet shall be tendered to the court in a single combined PDF document, unless requested otherwise by the OAC or an ALJ.

B. Exhibit packets shall comply with the following:

1. Exhibit packets shall include a cover sheet listing the exhibits and identifying the party offering the exhibits.
2. Claimants' exhibits shall be identified using numbers, starting with 1.
3. Respondents' exhibits shall be identified using letters, starting with A.
4. The exhibit packet shall include a separate divider page between each exhibit containing the exhibit letter or number.
5. All pages of the exhibit packet shall be numbered consecutively, including divider pages. Page numbers shall be affixed conspicuously to each page, but not in a manner that obscures the content of any exhibit.

C. If exhibits are not submitted as required by this Rule, the ALJ may: (1) order the party to submit a conforming exhibit packet; (2) continue the hearing to a future date; (3) require the parties to attend a prehearing conference; or (4) proceed to hearing on the merits. No exhibits that are otherwise admissible will be excluded solely for failure to comply with the requirements of this Rule.

D. If one or more parties will appear at the hearing in person, each party shall submit paper copies of their exhibits, in addition to the required electronic version. A party attending the hearing in person may tender their paper copies at the start of the hearing.

E. If the hearing will be conducted entirely by videoconference, telephone, or other electronic means, if requested by the OAC or an ALJ, each party shall submit a paper copy of their exhibits, in addition to the required electronic version.

H. _____

OAC Rule 232. Testimony by Telephone, Videoconference or Other Electronic Means.

A. If one or more parties will appear at the hearing in person, a ~~An~~ endorsed witness may testify by telephone, videoconference or other electronic means if the party calling the witness has filed with the OAC a Notice advising of the format in which the testimony will be presented at least 14 so advised in the Case Information Sheet or has given all parties written notice at least five-working days prior to the hearing. The party calling a witness by telephone, videoconference or other electronic means must do so at its expense, and must make advance arrangements for presenting the testimony. a speakerphone in the hearing room, or other arrangements as necessary for testimony by videoconference or other electronic means. ~~Advance arrangements for a speakerphone need not be made if the hearing is set to occur in Denver, Colorado Springs, Pueblo, or Grand Junction~~ Notwithstanding any provision of this Rule to the contrary, an ALJ may order any witness, party, or attorney to appear in-person, by telephone, by videoconference, or other electronic means.

B. An opposing party, at its expense, may compel the attendance of a witness who would otherwise testify by telephone, ~~videoconference~~ videoconference, or other electronic means by serving a subpoena upon the witness.

~~B-C.~~ Unless otherwise permitted by an ALJ, where a hearing is conducted by videoconference, all parties, attorneys, and witnesses shall appear on video.

OAC Rule 2324. Non-Appearing Party.

If a party fails to appear at a hearing after the OAC has sent notice of the hearing to that party, prior to entering any orders against the non-appearing party as a result of that hearing, the ~~judge~~ ALJ will consider:

- A. The addresses to which the notice of hearing was sent are the most recent addresses provided by the non-appearing party to either the OAC or the Division of Workers' Compensation; or
- B. If no address for the non-appearing party is on file with the OAC or the Division of Workers' Compensation, the ~~judge~~ ALJ finds on the basis of other evidence that:
 1. Notice of the hearing was sent to an address at which it is likely to be received by the non-appearing party or the non-appearing party's authorized representative; or
 2. The non-appearing party in fact received notice of the hearing.
- C. A copy of a record or other written statement from the OAC or the Division of Workers' Compensation containing the most recent address provided by the non-appearing party to either of those agencies shall be sufficient to create a rebuttable presumption that the non-appearing party received notice of the hearing.

OAC Rule ~~254~~. Closing Statement.

- D. At the conclusion of a hearing, a party may make a closing statement or, at the discretion of the ~~judge~~ ALJ, submit a written closing statement. A written closing statement shall be submitted by mail or e-mail, in Microsoft Word format, to the OAC. The deadline for submission of written closing statements shall be at the discretion of the ~~judge~~ ALJ.
- E. Written closing statements shall be limited to the issues endorsed before the ~~judge~~ ALJ on the record at the hearing. Written closing statements shall not include any attached documents that were not admitted into evidence by the ~~judge~~ ALJ at hearing unless otherwise stipulated by the parties or permitted by the ~~judge~~ ALJ for good cause shown.
- F. Any written closing statement shall not exceed ~~twenty~~ 20 pages, double-spaced and ~~in in a type-face no smaller than 12-points type, Arial or Helvetica font~~. An ~~ALJ judge~~ may allow a written closing statement to exceed ~~twenty~~ 20 pages for good cause shown. Any written closing statement that exceeds the limits set forth in this Rule may be rejected by the ~~judge~~ ALJ.

OAC Rule ~~256~~. Order.

- A. The ~~judge~~ ALJ shall issue a written order within the time frames set forth by ~~S~~ section 8-43-215(1), C.R.S. A copy of the order shall be mailed to each attorney who appeared at the hearing and to unrepresented parties. The OAC is authorized to serve any final order of an ~~n judge~~ ALJ issued under the Workers' Compensation Act of Colorado on counsel or unrepresented parties by e-mail, as permitted by ~~S~~ section 8-43-215(1), C.R.S.. The parties are required to provide the OAC with an updated e-mail address for the service of the order.
- B. If the ~~judge~~ ALJ issues a summary order pursuant to ~~S~~ section 8-43-215(1), C.R.S., and a request for a full order is filed by any party, all parties shall have ~~five working~~ 7 days from the date the request for a full order was filed to submit their proposed findings of fact, conclusions of law, and order. The proposed orders shall be submitted by e-mail, in Microsoft Word format, ~~in 12-point type, Arial or Helvetica font~~, to the applicable OAC e-mail address.

OAC Rule ~~276~~. Petition to Review.

- A. ~~Pursuant to section 8-43-301, C.R.S., if~~ an order is subject to appeal, a party may file a Petition to Review or a Petition to Review and Transcript Request with the OAC's office in Denver. A Petition to Review filed by ~~email to OAC-DVR@state.co.us or OAC-PTR@state.co.us shall e-filing~~ shall be deemed filed with the OAC's office in Denver. ~~A Petition to Review or Petition to Review and Transcript Request sent to the email address of a regional office is not deemed filed in Denver.~~
- B. Forms for a Petition to Review and a Petition to Review and Transcript Request are available ~~from the OAC on its the OAC~~ website.
- C. ~~A request for an extension of time to file a Petition to Review or a Petition to Review and Transcript Request may only be granted if the request is filed within the time limit for filing a Petition to Review.~~

~~D.C.~~ When a Petition to Review and Transcript Request is filed, the following procedures shall apply:

1. Any party who orders a transcript in connection with filing a Petition to Review in a Workers' Compensation case is responsible for making arrangements to have the hearing transcribed from the recording, and for filing the ~~written~~-transcript with the OAC.
2. A party filing a Petition to Review in a Workers' Compensation case who wishes to order a transcript must include a statement that a transcript is requested in the caption of the Petition to Review.
3. The transcript shall be prepared by a court reporter or transcriptionist who does not have an interest in the case and whom the party requesting the transcript selects. Along with the request for a transcript, the Petition to Review shall identify, by name and mailing address, the person to whom the recording should be sent.
4. The OAC shall mail to all parties a notification of the date the recording was sent to the designated court reporter or transcriptionist. The ~~twenty-five-25~~ working-day time limit for filing the transcript with OAC shall begin from the date contained in that notice, pursuant to ~~s~~Section 8-43-213(2), C.R.S.
5. If a transcript is not filed with the OAC within the ~~twenty-five-25~~ working-day time limit, and no motion has been filed by a party and an order entered to extend the filing deadline, the OAC shall issue an Order Striking Transcript Request and Notice and Briefing Schedule. The issuance of a briefing schedule shall constitute notice to the parties that the order for the transcript has been withdrawn. The briefing schedule shall control the processing of the Petition to Review unless, within ~~seven-7~~ days of the issuance of the briefing schedule, a party makes a request, showing good cause, that the party be allowed to file a late transcript with the OAC. If such a request is made, the ~~judge-ALJ~~ shall rule on the request and, at the same time, issue appropriate orders regarding the briefing schedule.
6. The procedure set forth in this rule also applies to the order of a transcript by a party opposing a Petition to Review.

~~E.D.~~ Briefs in support or in opposition to Petitions to Review may not exceed ~~twenty-20~~ pages, double-spaced and in ~~a type face no smaller than 12-point~~ type, ~~Arial or Helvetica font~~, exclusive of pages containing the table of contents, tables of citations, and any addenda containing statutes, rules, decisions, regulations and similar material. An ~~ALJ~~ ~~judge~~ may allow a brief to exceed ~~twenty-20~~ pages for good cause shown.

~~F.E.~~ The ~~judge-ALJ~~ may dismiss a Petition to Review or a Petition to Review and Transcript Request without prior notice to the parties if it appears that the petition is not timely filed. A party may file a motion requesting reconsideration of such an order within ~~twenty-20~~ days of the date of mailing of the order. A denial of a motion for reconsideration is subject to a Petition to Review.

OAC Rule ~~287~~. Requests for Transcripts of Hearings Not in Connection with a Petition to Review.

- A. A party or other interested person may request a copy of the audio recording or a written transcript of a hearing or part of a hearing, ~~at the requesting party's expense~~. A party or other interested person is limited to the claimant, the respondent, the employer, the adjusting agent, or an attorney or designated representative of any of the parties. A ~~non-party~~ witness may request an audio copy or a written transcript only of their ~~ir-witness~~ testimony.
- B. Any request for an audio recording shall be made pursuant to ~~the applicable~~ OAC Policy ~~15~~.

OAC Rule ~~289~~. Retention of Audio Recordings of Hearings.

~~A.~~ The OAC shall retain audio recordings of hearings for at least three years following the date the recording was made. Audio recordings may be erased or destroyed at the conclusion of this three-year period.

~~B. This rule does not apply to audio recordings of Workers' Compensation prehearing conferences.~~

~~disfigurement hearings or pro se settlement hearings. These audio recordings may be destroyed or erased after 100 days.~~

Editor's Notes

History

Entire rule eff. 01/01/2006.

Entire rule eff. 03/30/2015.

OAC Rule 21 emer. rule eff. 05/24/2019.

OAC Rule 21 eff. 09/14/2019.