



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" is the U.S. postal service mailing address or the email address.
- 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 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 section 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.

OAC Rule 2. Applicability.

- A. 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 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 concluded.
- B. The Colorado Rules of Civil Procedure apply to Workers' Compensation hearings unless they are inconsistent with these rules, 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.

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 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 an ALJ by any party shall be served pursuant to OACRP 6.

OAC Rule 4. Filing of Documents.

- A. Original pleadings, forms, and other documents related to a proceeding before the OAC shall be filed with the OAC office closest to the claimant's address of record. If a motion to change venue has been granted, original pleadings, forms, and other documents related to a proceeding shall be filed in accordance with OACRP 4.B.
- 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.
- D. Duplicate copies will be discarded and not made part of the OAC file.
- E. The date of filing shall be the date indicated on the certificate of service on the filing. If no certificate of service is included, the date of filing shall be the date received by the OAC.
- F. All pleadings, forms, and other documents filed with the OAC shall contain the Workers' Compensation claim number.
- G. The OAC may reject any Application, pleading, form, or other document that does not comply with the OACRP.

OAC Rule 5. E-Filing. (RESERVED)

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.
- B. Service of pleadings, forms, or other documents may be made by hand delivery, by mail to the address given in the pleadings, by email to an email address given in the pleadings, or to the

party's last known address as provided to the OAC.

- C. Attorneys shall inform the OAC and all other parties of their current telephone number, mailing address, and email address. Any changes to said information during the course of the proceedings shall be reported to the OAC and all parties within 7 days.
- D. Parties without an attorney shall inform the OAC and all other parties of their current telephone number, mailing address, and email address. Any changes to said information during the course of the proceedings shall be reported to the OAC and all parties within 14 days.
- E. The OAC may charge a 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. 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 Entry of Appearance shall be filed with the OAC no later than 15 days after the date the Application for Hearing was filed. If an Entry of Appearance is filed, the Response to Application for Hearing shall be filed no more than 30 days 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 of this Rule shall not apply.
- E. The applicant shall obtain available hearing dates listed on the OAC website that are within 80 to 120 days after the date the Application for Hearing was filed. If a Response to Application for Hearing or an Entry of Appearance was filed, the applicant shall contact the opposing party and agree on a date and time for hearing. The applicant shall file 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 agree on a date and time, the applicant shall notify the OAC in writing that there is no agreement, and the OAC will set the hearing at a date and time of its choosing.
- 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.

- G. If the OAC does not receive written confirmation of the hearing from a party within 30 days after 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. Any Expedited Application shall be on a form provided by the OAC, or on a substantially similar form.
- B. An Expedited Application may be filed:
1. By claimant, 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 affirmative defenses, and other issues as agreed upon by the parties, or as ordered by an ALJ.
 2. By claimant, 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. 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 respondent, 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.
 7. Where otherwise authorized by the Colorado Workers’ Compensation Act, or the Colorado Workers’ Compensation Rules of Procedure, 7 CCR 1101-3.
- 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 OACRP 11.
- D. The opposing party may file a Response to the Expedited Application within 10 days of service of the Expedited Application, as provided by OACRP 6, unless agreed upon by the parties or approved by an ALJ.

- E. The OAC may reject any Expedited Application 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.
- F. When the Expedited Application is rejected for not meeting the criteria for an expedited hearing, the applicant may then file an Application for Hearing pursuant to 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"). Unless the parties agree otherwise, the date of the Disfigurement Application must be at least 6 months from the date of injury except when the claimant has had surgery, in which case the Disfigurement Application must be at least 6 months from the date of surgery. If a final admission of liability has been filed pursuant to 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.
 - 1. A Disfigurement Application shall be on a form provided by the OAC, or on a substantially similar form.
 - 2. An opposing party may file a Response to the Disfigurement Application within 10 days of service of the Disfigurement Application.
 - 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 OACRP 11.
 - 4. The OAC may reject any Disfigurement Application that is not complete. The rejection of a Disfigurement Application shall be without prejudice.

- B. Disfigurement Award – Photographs.

Requests for a Disfigurement Award by photograph shall be filed with the DOWC. The claimant shall not simultaneously file a Request for a Disfigurement Award by photograph and a Disfigurement Application. Should the claimant be dissatisfied with an award based on photographs, the claimant is permitted to file a Disfigurement Application 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, the addresses on the Entry of Appearance or Response to Application, consistent with OACRP 6.

OAC Rule 12. Issues for Hearing.

- A. Issues for hearing shall be listed in the Application, the Response to Application, 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 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 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 an ALJ 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.

OAC Rule 15. Hearing Vacated.

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

- A. Upon agreement of all parties and by filing a hearing cancellation form. 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. Hearings may be canceled by telephone, but must be followed up with written confirmation and served on all parties pursuant to 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 to motions shall be filed with 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. Motions and responses to motions shall be served 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 include a certification by the party or counsel filing the motion that 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 include a statement indicating whether the motion is opposed, unopposed, 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 stipulated or unopposed motion may be granted or denied before the expiration of the response period.
- 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.
- F. The OAC may refer any matter within the jurisdiction of a prehearing ALJ to the DOWC. If the parties agree to resolve a pending motion by proceeding to a prehearing conference before the DOWC, the parties shall promptly notify the OAC of the pending prehearing 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.

- I. The parties shall submit a proposed order with each motion and response. 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 email addresses for all parties, or if the parties do not have email addresses, the certificate of service shall contain the mailing addresses of all parties. The resulting order shall be sent by email to all parties consistent with OACRP 6. If email 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 2 business days after the date the order is received.
- 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 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. 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 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. Any response to a motion for summary judgment shall be filed within 15 days of the date of filing of the motion for summary judgment. If there is a disputed issue of material fact, the 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 ALJ 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 ALJ may clear all persons from the hearing except counsel and parties.

OAC Rule 20. Case Information Sheet (CIS).

- A. Unless otherwise ordered by an ALJ, and except for disfigurement only hearings under OACRP 10, the parties jointly, or each party individually, shall file and serve pursuant to OACRP 6, a Case Information Sheet (CIS) on a form provided by the OAC, or on a substantially similar form. Any CIS shall be filed and served no more than 20 days and no less than 5 days prior to the date set for the commencement of the hearing, or such other date established by an ALJ.
- B. The purpose of the CIS is to permit the 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 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 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.

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 Application or Response to Application. To ensure that proper arrangements for an interpreter are made, any request for interpretation services shall be confirmed in the 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.
- D. If a case is canceled, settled, continued, or otherwise rescheduled by the parties, the parties shall notify the OAC within 3 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 OACRP 21.G, 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 OACRP 21.G, below.
- G. The OAC will provide professional interpreting services through a 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 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.

OAC Rule 23. Testimony by Telephone, Videoconference or Other Electronic Means.

- A. If one or more parties will appear at the hearing in person, 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 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. 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, or other electronic means by serving a subpoena upon the witness.
- 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 24. 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 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 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 25. Closing Statement.

- A. At the conclusion of a hearing, a party may make a closing statement or, at the discretion of the ALJ, submit a written closing statement. A written closing statement shall be submitted by mail or email, in Microsoft Word format, to the OAC. The deadline for submission of written closing statements shall be at the discretion of the ALJ.
- B. Written closing statements shall be limited to the issues endorsed before the ALJ on the record at the hearing. Written closing statements shall not include any attached documents that were not admitted into evidence by the ALJ at hearing unless otherwise stipulated by the parties or permitted by the ALJ for good cause shown.
- C. Any written closing statement shall not exceed 20 pages, double-spaced and in 12-point type, Arial or Helvetica font. An ALJ may allow a written closing statement to exceed 20 pages for good cause shown. Any written closing statement that exceeds the limits set forth in this Rule may be rejected by the ALJ.

OAC Rule 26. Order.

- A. The ALJ shall issue a written order within the time frames set forth by 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 ALJ issued under the Workers' Compensation Act of Colorado on counsel or unrepresented parties by email, as permitted by section 8-43-215(1), C.R.S. The parties are required to provide the OAC with an updated email address for the service of the order.
- B. If the ALJ issues a summary order pursuant to section 8-43-215(1), C.R.S., and a request for a full order is filed by any party, all parties shall have 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 email, in Microsoft Word format, in 12-point type, Arial or Helvetica font, to the applicable OAC email address.

OAC Rule 27. 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 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 on the OAC website.
- 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 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 25 working-day time limit for filing the transcript with OAC shall begin from the date contained in that notice, pursuant to section 8-43-213(2), C.R.S.

5. If a transcript is not filed with the OAC within the 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 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 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.
- D. Briefs in support or in opposition to Petitions to Review may not exceed 20 pages, double-spaced in 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 may allow a brief to exceed 20 pages for good cause shown.
- E. The 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 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 28. 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 testimony.
- B. Any request for an audio recording shall be made pursuant to the applicable OAC Policy.

OAC Rule 29. Retention of Audio Recordings of Hearings.

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.

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.

Entire rule eff. 09/01/2023.