



BUREAU OF WORKERS' COMPENSATION

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Major Points of Rule Changes Mediation/Hearing Procedures to take effect 11/30/16

- **Response to hearing requests:** The party opposing the request for expedited hearing (REH) must submit all documents (including any affidavits) no later than ten business days before the expedited hearing. The previous rule was five days after the REH was filed. The new rule also requires the opposing party to explain, in writing, why the relief should not be granted and to list witnesses it anticipates to call. Failure to do so will result in exclusion of witnesses and/or evidence. This is in response to employers' attorneys request for more time.
- **Document filings:** There has been a lot of confusion regarding filing of documents and the unnecessary filing of the same documents repeatedly. The new rules state that a document filed during the ADR proceedings does NOT have to be refiled with the REH.
- **Time for submission of wage statement:** The previous rule was three days after the first ADR, which confused the parties. The new rule is seven days after request from mediating specialist or fifteen days after the Dispute Certification Notice is issued, whichever is sooner.
- **Decisions on the record:** The judge may decide a matter without an evidentiary hearing in an Expedited or Compensation Hearing upon request from at least one of the parties. Previously, the judge could decide to hear a case on the record at his or her discretion. The new rule allows the parties more control on rulings on the record.
- **Withdrawal of counsel:** An attorney is allowed to withdraw from a case upon motion and without a hearing at judge's discretion, provided the requirements of the rule are met. The previous rule required a hearing, which consumed time of all involved.

- **Evidence:** Medical records to be submitted at a hearing and presented as evidence must be filed with the Court no later than ten days before the hearing. The new rule clarifies which evidence will be considered and avoids last-minute surprises that may delay a hearing. Failure to comply will result in exclusion of records, unless good cause is shown.
- **Issues to be addressed:** The new rule clarifies that a request to hear issues not certified on a Dispute Certification Notice must comply with T.C.A. 50-6-239(b).
- **Summary judgment:** After an Expedited Hearing denying a claim on grounds of compensability and appeal affirming the denial, an employer may file a motion for summary judgment and must follow Rule 56 procedures. This clarifies procedure for this process consistent with the Appeals Board decision in *Syph v. Choice Food Group, Inc.* Also, note the requirement in the Court's Practices and Procedures rules to provide self-represented litigants with a copy of Rule 56.
- **Service of interrogatories:** Discovery by interrogatory may begin with filing of the Petition for Benefit Determination. Previously this could not be done until after the initial hearing.

Minor changes:

- ✓ An "Initial Hearing" is now called a "Scheduling Hearing."
- ✓ "Causation letters" signed by physicians are admissible in Expedited Hearings, but not Compensation Hearings where a C-32 remains acceptable. This has been the practice, which this change simply clarifies.
- ✓ Electronic signatures of physicians on medical records are now explicitly authorized as proper authentication to admit medical records. This reflects the present practice and recognizes that medical records are all electronic.
- ✓ The Clerk of Court will now issue subpoenas. Formerly a judge did this, which required extra steps and delays in issuing subpoenas. This will streamline the process.
- ✓ All references to the "division" of workers' compensation are revised to "bureau."