

1 Rule 04 NCAC 10A .0605 is amended as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

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4 **04 NCAC 10A .0605 DISCOVERY**

5 In addition to depositions ~~and production of books and records~~ provided for in G.S. 97-80, parties may obtain
6 discovery by the use of interrogatories and requests for production of documents as follows:

7 (1) Any party may serve upon any other parties written interrogatories, up to 30 in number, including
8 subparts thereof, to be answered by the party served or, if the party served is a public or private
9 corporation or a partnership or association or governmental agency, by any officer or agent, who
10 shall furnish such information as is available from the party interrogated.

11 ~~(a)~~(2) Interrogatories may, without leave of the ~~Industrial~~ Commission, be served upon any party after
12 the filing of a Form ~~48~~, 18 Notice of Accident to Employer and Claim of Employee,
13 Representative, or Dependent, Form ~~48B~~, 18B Claim by Employee, Representative, or Dependent
14 for Benefits for Lung Disease, or Form ~~33~~, 33 Request that Claim be Assigned for Hearing, or
15 after the acceptance of liability for a [claim] claim by the employer.

16 ~~(b)~~(3) Each interrogatory shall be answered separately and ~~fully~~ in writing under oath, unless it is
17 objected to, in which event the reasons for objection shall be stated in lieu of an answer. The
18 answers ~~are to~~ shall be signed by the person making them and the objections shall be signed by the
19 party making them. The party on whom the interrogatories have been served shall serve a copy of
20 the ~~answers,~~ answers and objections, if any, within 30 days after service of the interrogatories.
21 The parties may stipulate to an extension of time to respond to the interrogatories. A motion to
22 extend the time to respond shall represent state that an attempt to reach agreement with the
23 opposing party to informally extend the time for response has been unsuccessful and the opposing
24 ~~parties'~~ party's position or that there has been a reasonable an attempt to contact the opposing
25 party to ascertain its position.

26 ~~(c)~~(4) If there is an objection to or other failure to answer an interrogatory, the party submitting the
27 interrogatories may move the ~~Industrial~~ Commission for an order compelling answer. If the
28 ~~Industrial~~ Commission orders answer to an interrogatory within a time certain and no answer is
29 made or the objection is still lodged, the ~~Industrial~~ Commission may issue an order with
30 appropriate sanctions, sanctions, ~~including but not limited to the sanctions specified in Rule 37 of~~
31 ~~the North Carolina Rules of Civil Procedure.~~

32 ~~(d)~~(5) Interrogatories and requests for production of documents shall ~~may~~ relate to matters ~~which that~~ are
33 not privileged privileged, ~~which that~~ are relevant to an issue ~~presently in~~ dispute dispute, or ~~which~~
34 that the requesting party reasonably believes may later be disputed. ~~Signature~~ The signature of a
35 party or attorney serving interrogatories or requests for production of documents constitutes a
36 certificate by such person that he or she has personally read each of the interrogatories and
37 requests for production of documents, that no such interrogatory or request for production of

1 documents will oppress a party or cause any unnecessary expense or delay, that the information
2 requested is not known or equally available to the requesting party party, and that the interrogatory
3 or requested document relates to an issue presently in dispute or which that the requesting party
4 reasonably believes may later be in dispute. A party may serve an interrogatory, however, to
5 obtain verification of facts relating relevant to an issue presently in dispute. Answers to
6 interrogatories may be used to the extent permitted by the rules of evidence. [Chapter 8C] Chapter
7 08C of the North Carolina General Statutes.

8 ~~(6)~~ [Up to the time] Until a matter is calendared for a hearing, parties may serve requests for
9 production of documents without leave of the Commission.

10 ~~(3)(7)~~ Additional methods of discovery as provided by the North Carolina Rules of Civil Procedure may
11 be used only upon motion and approval by the Industrial Commission or by agreement of the
12 parties. The Commission shall approve the motion if it is shown to be in the interests of justice or
13 to promote judicial economy.

14 ~~(4)~~ Notices of depositions, discovery requests and responses pertinent to a pending motion, responses
15 to discovery following a motion or order to compel, and responses shall be filed with the
16 Commission, as well as served on the opposing party. Otherwise, discovery requests and
17 responses, including interrogatories and requests for production of documents shall not be filed
18 with the Commission.

19 ~~(8)~~ Discovery requests and responses, including interrogatories and requests for production of
20 documents, shall not be filed with the Commission, except for the following:

- 21 ~~(a)~~ notices of depositions;
- 22 ~~(b)~~ discovery requests and responses deemed by filing party to be pertinent to a pending
23 motion;
- 24 ~~(c)~~ responses to discovery following a motion or order to compel; and
- 25 ~~(d)~~ post-hearing discovery requests and responses.

26 The ~~[above listed]~~ above-listed documents shall be filed with the Commission, as well as served
27 on the opposing party.

28 ~~(5)(9)~~ Sanctions may shall be imposed under this Rule for failure to comply with a Commission order
29 compelling discovery. A motion by a party or its attorney to compel discovery under this Rule and
30 4 NCAC 10A .607 Rule .0607 of this Subchapter shall represent that informal means of resolving
31 the discovery dispute have been attempted in good faith and state briefly the opposing parties'
32 position or that there has been a reasonable attempt to contact the opposing party and ascertain its
33 position.

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35 *History Note:* Authority G.S. 97-80(a); 97-80(f);
36 Eff. January 1, 1990;
37 Amended Eff. April 1, 2014; January 1, 2011; June 1, 2000.

1 Rule 04 NCAC 10A .0609A is amended as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

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4 **04 NCAC 10A .0609A MEDICAL MOTIONS AND EMERGENCY MEDICAL MOTIONS**

5 ~~(a) Expedited Medical Motions:~~

6 ~~(1) Medical motions pursuant to N.C. Gen. Stat. §97-25 brought before the Office of the Executive~~
7 ~~Secretary for an administrative ruling shall comply with applicable provisions of Rule 609 and~~
8 ~~shall be submitted electronically to medicalmotions@ic.nc.gov, unless electronic submission is~~
9 ~~unavailable to the party.~~

10 ~~(2) A party may file with the Deputy Commissioner Section a request for an administrative ruling on~~
11 ~~a medical motion. A party, also, may appeal an Order from the Executive Secretary's Office on an~~
12 ~~Expedited Medical Motion by giving notice of appeal to the Dockets Department within 15 days~~
13 ~~of receipt of the Order or receipt of the ruling on a Motion to Reconsider the Order filed pursuant~~
14 ~~to Rule 703(1). The Motion shall contain a designation as an administrative "Expedited Medical~~
15 ~~Motion", documentation in support of the request, including the most recent medical record/s and~~
16 ~~a representation that informal means of resolving the issue have been attempted in good faith, and~~
17 ~~the opposing party's position, if known.~~

18 ~~(A) A Pre Trial Conference will be held immediately to clarify the issues. Parties are~~
19 ~~encouraged to consent to a review of the contested issues by electronic mail submission~~
20 ~~of only relevant medical records and opinion letters.~~

21 ~~(B) If depositions are deemed necessary by the Deputy Commissioner, only a brief period for~~
22 ~~taking the same will be allowed. Preparation of the transcript will be expedited and will~~
23 ~~initially be at the expense of defendants. Requests for independent medical examinations~~
24 ~~may be denied unless there is a demonstrated need for the evaluation.~~

25 ~~(C) Written arguments and briefs shall be limited in length, and are to be filed within five~~
26 ~~days after the record is closed.~~

27 ~~(3) A party may appeal an Order by a Deputy Commissioner on an Expedited Medical Motion by~~
28 ~~giving notice of appeal to the Full Commission within 15 days of receipt of the Order or receipt of~~
29 ~~the ruling on a Motion to Reconsider the Order filed pursuant to Rule 703(1).~~

30 ~~(A) A letter expressing an intent to appeal a Deputy Commissioner's Order on an Expedited~~
31 ~~Medical Motion shall be considered notice of appeal to the Full Commission, provided~~
32 ~~that it clearly specifies the Order from which appeal is taken.~~

33 ~~(B) After receipt of notice of appeal, the appeal will be acknowledged by the Dockets~~
34 ~~Department within three (3) days by sending an appropriate Order under the name of the~~
35 ~~Chair of the Panel to which the appeal is assigned. The parties may be permitted to file~~
36 ~~briefs on an abbreviated schedule in the discretion of the panel chair. The panel chair will~~
37 ~~also determine if oral arguments are to be by telephone, in person, or waived. All~~

1 ~~correspondence, briefs, or motions related to the appeal shall be addressed to the panel~~
2 ~~chair with a copy to the law clerk of the panel chair.~~

3 ~~(b) Emergency Medical Motions:~~

4 ~~(1) Motions requesting emergency medical relief administratively shall contain the following:~~

5 ~~(A) A boldface, or otherwise emphasized, designation as "Emergency Medical Motion."~~

6 ~~(B) An explanation of the need for a shortened time period for review, including any hardship~~
7 ~~that warrants immediate attention/action by the Commission.~~

8 ~~(C) A statement of the time sensitive nature of the request, with specificity.~~

9 ~~(D) Detailed dates and times related to the issue raised and to the date a ruling is requested.~~

10 ~~(E) Documentation in support of the request, including the most recent medical records.~~

11 ~~(F) A representation that informal means of resolving the issue have been attempted in good~~
12 ~~faith, and the opposing party's position, if known.~~

13 ~~(2) A party may file an Emergency Medical Motion with the Executive Secretary's Office, the Chief~~
14 ~~Deputy Commissioner, or the Office of the Chair. A proposed Order shall be provided with the~~
15 ~~motion. The non moving party(ies) will be advised regarding any time allowed for response and~~
16 ~~may be advised whether informal telephonic oral argument is necessary.~~

17 ~~(3) Emergency Medical Motions and responses thereto shall be submitted electronically, unless~~
18 ~~electronic submission is unavailable to the party.~~

19 ~~(A) Emergency Medical Motions and responses thereto filed with the Executive Secretary's~~
20 ~~Office shall be submitted to medicalmotions@ic.nc.gov.~~

21 ~~(B) Emergency Medical Motions filed with the Chief Deputy Commissioner shall be~~
22 ~~submitted electronically directly to the Chief Deputy Commissioner and his/her legal~~
23 ~~assistant.~~

24 ~~(C) Emergency Medical Motions filed with the Chair of the Commission shall be submitted~~
25 ~~electronically to the Chair, his/her legal assistant, and his/her law clerk.~~

26 (a) Medical motions brought pursuant to G.S. 97-25, and responses thereto, shall be brought before the Office of the
27 Chief Deputy Commissioner and shall be submitted electronically to medicalmotions@ic.nc.gov. Motions and
28 responses shall be submitted simultaneously to the Commission and the opposing party ~~or~~ and opposing party's
29 counsel, if ~~any~~ represented.

30 (b) Once notification has been received by the parties that a medical motion has been assigned to a Deputy
31 Commissioner, subsequent filings and communication shall be submitted directly to the Deputy Commissioner
32 assigned.

33 (c) Upon receipt of a medical motion, carriers, third-party administrators, and employers ~~who are not represented~~
34 shall immediately ~~assign counsel and~~ send notification of the ~~counsel's~~ name, email address, telephone number
35 and fax number ~~of the attorney appearing on their behalf~~ to medicalmotions@ic.nc.gov. An attorney who is retained
36 by a party in any proceeding before the Commission shall also file a ~~Notice~~ notice of ~~Representation~~

1 representation with the Docket Director at dockets@ic.nc.gov [with] and send a copy of the notice [sent] to all other
2 counsel and all other unrepresented parties involved in the proceeding.

3 (d) Motions submitted pursuant to G.S. 97-25 and requesting medical relief other than emergency relief shall
4 contain the following:

- 5 (1) a designation as a "Medical Motion" brought pursuant to G.S. 97-25;
- 6 (2) the claimant's [name] name. [and, if] If the claimant is unrepresented, claimant's email address,
7 telephone number, and fax number. If the claimant is represented, the name, email address,
8 telephone number and fax number of claimant's counsel;
- 9 (3) the employer's name and employer code;
- 10 (4) the carrier or third party administrator's name, carrier code, email address, telephone number and
11 fax number;
- 12 (5) the adjuster's name, email address, telephone number and fax number if counsel for the
13 [employer/carrier] employer and carrier has not been retained;
- 14 (6) the counsel for [employer/carrier's] employer and carrier's name, email address, telephone
15 number and fax number;
- 16 (7) a statement of the treatment or relief requested;
- 17 (8) a statement of the medical diagnosis of claimant and the treatment recommendation and name of
18 the health care provider that is the basis for the motion;
- 19 (9) a statement as to whether the claim has been admitted on a Form 60, Form 63, Form 21 or is
20 subject to a prior Commission Opinion and Award or Order finding [compensability]
21 compensability, with supporting documentation attached;
- 22 (10) a statement of the time-sensitive nature of the request;
- 23 (11) an explanation of opinions known and in the possession of the employee of additional medical or
24 other relevant experts, independent medical examiners, and second opinion examiners;
- 25 (12) if the motion requests a second opinion examination pursuant to G.S. 97-25, the motion shall
26 specify whether the plaintiff has made a prior written request to the defendants for the
27 examination, as well as the date of the request and the date of the denial, if any;
- 28 (13) a representation that informal means of resolving the issue have been attempted in good faith, and
29 the opposing party's position, if known; and
- 30 (14) a proposed Order.

31 (e) Motions submitted pursuant to G.S. 97-25 and requesting emergency medical relief shall contain the following:

- 32 (1) a boldface or otherwise emphasized, designation as "Emergency Medical Motion";
- 33 (2) the claimant's [name] name. [and, if] If the claimant is unrepresented, claimant's email address,
34 telephone number, and fax number. If the claimant is represented, the name, email address,
35 telephone number and fax number of claimant's counsel;
- 36 (3) the employer's name and employer code;

- 1 (4) the carrier or third party administrator's name, carrier code, email address, telephone number and
2 fax number;
- 3 (5) the adjuster's name, email address, telephone number and fax number if counsel for the
4 employer/carrier has not been retained;
- 5 (6) the counsel for employer/carrier's name, email address, telephone number and fax number;
- 6 (7) an explanation of the medical diagnosis and treatment recommendation of the health care provider
7 that requires emergency attention;
- 8 (8) a statement of the need for a shortened time period for review, including relevant dates and the
9 potential for adverse consequences if the recommended treatment is not provided emergently;
- 10 (9) an explanation of opinions known and in the possession of the employee of additional medical or
11 other relevant experts, independent medical examiner, and second opinion examiners;
- 12 (10) a representation that informal means of resolving the issue have been attempted in good faith, and
13 the opposing party's position, if known; ~~and~~
- 14 (11) documentation known and in the possession of the employee in support of the request, including
15 relevant medical records; and
- 16 ~~(11)~~(12) a proposed Order.

17 (f) The parties shall receive notice of the date and time of an initial informal telephonic conference to be conducted
18 by a Deputy Commissioner to determine whether the motion warrants an expedited or emergency hearing and to
19 clarify the issues presented. During the initial informal telephonic conference each party shall be afforded an
20 opportunity to state its position and ~~submit~~ discuss documentary evidence which shall be submitted electronically
21 to the Deputy Commissioner prior to the initial informal telephone conference. ~~Prior to the initial informal~~
22 telephonic conference, the parties shall submit a brief medical chronology and procedural history of three pages or
23 less, the relevant Form 60, Form 63, Form 21 or Commission Opinion and Award, and relevant medical information
24 including medical records.]

25 (g) At or prior to the initial informal telephonic conference, the parties may consent to a review of the contested
26 issues by electronic mail submission of only relevant medical records and opinion letters.

27 (h) Depositions deemed necessary by the Deputy Commissioner shall be taken on the Deputy Commissioner's order
28 within 35 days of the date the motion is filed. Transcripts of depositions shall be submitted electronically to the
29 Commission within 40 days of the date of the filing of the motion. The Deputy Commissioner may reduce or enlarge
30 the timeframe contained in this Paragraph for good cause shown.

31 (i) At the initial informal telephonic conference, each party shall notify the Commission and the other party as to
32 whether a second informal telephonic conference is necessary. This second informal telephonic conference does not
33 extend the time for resolution of the ~~Motion~~ motion.

34 (j) Upon receipt of an emergency medical motion, the non-moving party(ies) shall be advised by the Commission of
35 any time allowed for response and whether informal telephonic oral argument is necessary.

36 (k) A party may appeal a Deputy Commissioner's Order on a motion brought pursuant to G.S. 97-25 by giving
37 notice of appeal to the Full Commission within 15 days of receipt of the Order or receipt of the ruling on a Motion to

1 Reconsider the Order filed pursuant to Rule .0703(b) of this Subchapter. A letter expressing an intent to appeal a
2 Deputy Commissioner's Order on a motion brought pursuant to G.S. 97-25 shall be considered notice of appeal to
3 the Full Commission, provided that the letter [~~specifies~~] **specifically identifies** the Order from which appeal is taken.
4 After receipt of notice of appeal, the appeal shall be acknowledged by the Docket Section within three days by
5 sending an Order under the name of the Chair of the Panel to which the appeal is assigned. [~~The parties may file~~
6 ~~briefs on an abbreviated schedule when necessary for a determination of the issues.~~] **The Order shall indicate**
7 **whether the parties may file briefs and the schedule for filing them.** At the time the motion is set for informal
8 hearing, **The** ~~the~~ ~~panel chair~~ **Chair of the Panel** shall also [~~determine~~] **indicate to the parties** if oral arguments are
9 to be by telephone, in person, or waived. All correspondence, briefs, or motions related to the appeal shall be
10 addressed to the [~~panel chair~~] **Chair of the Panel** with a copy to [~~the~~] **his or her** law [~~clerk of the panel chair.~~]
11 (l) The Commission [~~will~~] **shall** accept the filing of documents by non-electronic methods if electronic transmission
12 is unavailable to the party.

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14 *History Note: Authority G.S. 97-25; 97-78(f)(2); 97-78(g)(2); 97-80(a);*
15 *Eff. January 1, 2011;*
16 *Amended Eff. April 1, 2014.*

1 Rule 04 NCAC 10A .0701 is amended as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

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4 **SECTION .0700 - APPEALS**

5
6 **04 NCAC 10A .0701 REVIEW BY THE FULL COMMISSION**

7 ~~(a) A letter expressing an intent to appeal shall be considered notice of appeal to the Full Commission within the~~
8 ~~meaning of N.C. Gen. Stat. §97-85, provided that it clearly specifies the Order or Opinion and Award from which appeal~~
9 ~~is taken.~~

10 ~~(b) After receipt of notice of appeal, the Industrial Commission will supply to the appellant a Form 44 Application for~~
11 ~~Review upon which appellant must state the grounds for the appeal. The grounds must be stated with particularity,~~
12 ~~including the specific errors allegedly committed by the Commissioner or Deputy Commissioner and, when applicable,~~
13 ~~the pages in the transcript on which the alleged errors are recorded. Failure to state with particularity the grounds for~~
14 ~~appeal shall result in abandonment of such grounds, as provided in paragraph (3). Appellant's completed Form 44 and~~
15 ~~brief must be filed and served within 25 days of appellant's receipt of the transcript or receipt of notice that there will be~~
16 ~~no transcript, unless the Industrial Commission, in its discretion, waives the use of the Form 44. The time for filing a~~
17 ~~notice of appeal from the decision of a Deputy Commissioner under these rules shall be tolled until a timely motion to~~
18 ~~reconsider or to amend the decision has been ruled upon by the Deputy Commissioner.~~

19 ~~(c) Particular grounds for appeal not set forth in the application for review shall be deemed abandoned, and argument~~
20 ~~thereon shall not be heard before the Full Commission.~~

21 ~~(d) Appellant's Form 44 and brief in support of his grounds for appeal shall be filed in triplicate with the Industrial~~
22 ~~Commission, with a certificate indicating service on appellee by mail or in person, within 25 days after receipt of the~~
23 ~~transcript, or receipt of notice that there will be no transcript. Thereafter, appellee shall have 25 days from service of~~
24 ~~appellant's brief within which to file a reply brief in triplicate with the Industrial Commission, with written statement of~~
25 ~~service of copy by mail or in person on appellant. When an appellant fails to file a brief, appellee shall file his brief~~
26 ~~within 25 days after appellant's time for filing brief has expired. A party who fails to file a brief will not be allowed oral~~
27 ~~argument before the Full Commission. If both parties appeal, they shall each file an appellant's and appellee's brief on~~
28 ~~the schedule set forth herein. If the matter has not been calendared for hearing, any party may file with the Docket~~
29 ~~Director a written stipulation to a single extension of time not to exceed 15 days. In no event shall the cumulative~~
30 ~~extensions of time exceed 30 days.~~

31 ~~(e) After notice of appeal has been given to the Full Commission, any motions related to the issues before the Full~~
32 ~~Commission shall be filed in triplicate with the Full Commission, with service on the other parties.~~

33 ~~(f) No new evidence will be presented to or heard by the Full Commission unless the Commission in its discretion so~~
34 ~~permits.~~

35 ~~(g) Cases should be cited by North Carolina Reports, and, preferably, to Southeastern Reports. Counsel shall not discuss~~
36 ~~matters outside the record, assert personal opinions or relate personal experiences, or attribute unworthy acts or motives~~
37 ~~to opposing counsel.~~

1 ~~(h) The Industrial Commission or any one of the parties with permission of the Industrial Commission may waive oral~~
2 ~~argument before the Full Commission. In the event of such waiver, the Full Commission will file a decision, based on~~
3 ~~the record, assignments of error and briefs.~~

4 ~~(i) A plaintiff appealing the amount of a disfigurement award shall personally appear before the Full Commission to~~
5 ~~permit the Full Commission to view the disfigurement.~~

6 ~~(j) Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit shall apply to the~~
7 ~~length of attachments. Briefs shall be prepared entirely using a 12 point font, shall be double spaced, and shall be~~
8 ~~prepared with non-justified right margins. Each page of the brief shall be numbered at the bottom right of the page. When~~
9 ~~quoting or paraphrasing testimony or other evidence in the transcript of the evidence, a parenthetic entry in the text, to~~
10 ~~include the exact page number location within the transcript of the evidence of the information being referenced shall be~~
11 ~~placed at the end of the sentence citing the information [Example: (T.p.38)]. When quoting or paraphrasing testimony or~~
12 ~~other evidence in the transcript of a deposition, a parenthetic entry in the text to include the name of the person deposed~~
13 ~~and exact page number location within the transcript of the deposition of the information being referenced shall be placed~~
14 ~~at the end of the sentence citing the information. [Example: (Smith p.15)].~~

15 ~~(a) Application for review shall be made to the Commission within 15 days from the date when notice of the Deputy~~
16 ~~Commissioner's Opinion and Award shall have been given. A letter expressing a request for review is considered an~~
17 ~~application for review to the Full Commission within the meaning of G.S. 97-85, provided that the letter specifies the~~
18 ~~Order or Opinion and Award from which appeal is taken.~~

19 ~~(b) After receipt of a request for review, the Commission shall acknowledge the request for review by letter. The~~
20 ~~Commission shall prepare the official transcript and exhibits and provide them along with a Form 44 *Application for*~~
21 ~~*Review* to the parties involved in the appeal at no charge within 30 days of the acknowledgement letter. The official~~
22 ~~transcript and exhibits and a Form 44 *Application for Review* shall be provided to the parties electronically, where~~
23 ~~possible. In such cases, the Commission shall send an e-mail to the parties containing a link to the secure [FTP] File~~
24 ~~Transfer Protocol (FTP) site where the official transcript and exhibits can be downloaded. The e-mail shall also provide~~
25 ~~instructions for the submission of the parties' acknowledgement of receipt of the Form 44 *Application for Review* and the~~
26 ~~official transcript and exhibits to the Commission. The Commission shall save a copy of the parties' [acknowledgement~~
27 ~~e-mails] acknowledgements in the file for the claim to serve as record of the parties' electronic receipt of the Form 44~~
28 ~~*Application for Review* and the official transcript and exhibits. In cases where it is not possible to provide a party with~~
29 ~~the official transcript and exhibits electronically, the Commission shall provide the official transcript and exhibits and a~~
30 ~~Form 44 *Application for Review* via certified U.S. Mail, with return receipt requested. The Commission shall save a copy~~
31 ~~of the return receipt to serve as record of the party's receipt of the official transcript and exhibits and Form 44~~
32 ~~*Application for Review*.~~

33 ~~(c) A motion to reconsider or to amend the decision of a Deputy Commissioner shall be filed with the Deputy~~
34 ~~Commissioner within 15 days of receipt of notice of the award with a copy to the Docket Director. The time for filing a~~
35 ~~request for review from the decision of a Deputy Commissioner under the rules in this Subchapter shall be tolled until a~~
36 ~~motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner. However, if either~~
37 ~~party files a letter expressing a request for review as set forth in Paragraph (a) of this Rule, jurisdiction shall be~~

1 [immediately] transferred to the Full Commission, and the Docket Director shall notify the Deputy Commissioner. Upon
2 transfer of jurisdiction to the Full Commission, any party who had a pending motion to reconsider or amend the decision
3 of the Deputy Commissioner may file a motion with the Chairman of the Commission requesting remand to the Deputy
4 Commissioner with whom the motion was pending. Within the Full Commission's discretion, the matter may be so
5 remanded. Upon the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, either party may
6 thereafter file a letter expressing a request for review of the Deputy Commissioner's decision as set forth in Paragraph (a)
7 of this Rule.

8 (d) The appellant shall submit a Form 44 *Application for Review* upon which appellant shall state the grounds for the
9 review. The grounds shall be stated with particularity, including the errors allegedly committed by the Commissioner or
10 Deputy Commissioner and, when applicable, the pages in the transcript on which the alleged errors are recorded.
11 Grounds for review not set forth in the Form 44 *Application for Review* are deemed abandoned, and argument thereon
12 shall not be heard before the Full Commission.

13 (e) The appellant shall file the Form 44 *Application for Review* and brief in support of the grounds for review with the
14 Commission with a certificate of service on the appellee within 25 days after receipt of the transcript or receipt of notice
15 that there will be no transcript. The appellee shall have 25 days from service of the **Form 44 *Application for Review* and**
16 appellant's brief to file a responsive brief with the Commission. **The Appellee's, appellee's** brief **[must] shall** include a
17 certificate of service on the appellant. When an appellant fails to file a brief, an appellee shall file its brief within 25 days
18 after the appellant's time for filing the Form 44 *Application for Review* and appellant's brief has expired. A party who
19 fails to file a brief shall not participate in oral argument before the Full Commission. If multiple parties request review,
20 each party shall file an appellant's brief and appellee's brief on the schedule set forth in this Paragraph. If the matter has
21 not been calendared for hearing, any party may file with the Docket Director a written stipulation to a single extension of
22 time not to exceed 15 days. In no event shall the cumulative extensions of time exceed 30 days.

23 (f) After a request for review has been **[given] submitted** to the Full Commission, any motions related to the issues for
24 review **[before the Full Commission]** shall be filed with the Full Commission, with service on the other parties. Motions
25 related to the issues for review including motions for new trial, to supplement the record, including, but not limited to,
26 documents from offers of proof, or to take additional evidence, filed during the pendency of a request for review to the
27 **[Full Commission] Full Commission,** shall be argued before the Full Commission at the time of the hearing of the request
28 for review, except motions related to the **[appellate record] official transcript and exhibits.** The Full Commission, for
29 good cause shown, may rule on such motions prior to oral argument.

30 (g) **[Cases] Case citations** shall be **[cited]** to the North Carolina Reports, the North Carolina Court of Appeals Reports, or
31 the North Carolina Reporter, and when possible, to the **[Southeastern] South Eastern** Reporter. If no reporter citation is
32 available at the time a brief is filed or if an unpublished decision is referenced in the brief, the party citing to the case
33 shall attach a copy of the case to its brief. Counsel shall not discuss matters outside the record, assert personal opinions
34 or relate personal experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.

35 (h) Upon the request of a party or on its own motion, the Commission may waive oral argument in the interests of justice
36 or to promote judicial economy. In the event of such waiver, the Full Commission shall file an award, based on the
37 record and briefs.

1 (i) Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit applies to the length
2 of attachments. Briefs shall be prepared using a 12 point type, shall be double spaced, and shall be prepared with non-
3 justified right margins. Each page of the brief shall be numbered at the bottom of the page. When a party quotes or
4 paraphrases testimony or other evidence from the appellate record in the party's brief, the party shall include, at the end
5 of the sentence in the brief that quotes or paraphrases the testimony or other evidence, a parenthetic entry that designates
6 the source of the quoted or paraphrased material and the page number [location] within the applicable source. The party
7 shall use "T" to refer to the transcript of hearing testimony, "Ex" for exhibit, and "p" for page number. For example, if a
8 party quotes or paraphrases material located in the hearing transcript on page 11, the party shall use the following format
9 ["(T p 11)"; "(T p 11)."] and if a party quotes or paraphrases material located in an exhibit on page 12, the party shall use
10 the following format ["(Ex p 12)"; "(Ex p 12)."] When a party quotes or paraphrases testimony in the transcript of a
11 deposition in the party's brief, the party shall include the last name of the deponent and the page on which such testimony
12 is located. For example, if a party quotes or paraphrases the testimony of John Smith, located on page 11 of such
13 deposition, the party shall use the following format ["(Smith p 11)"; "(Smith p 11)."]
14 (j) An employee appealing the amount of a disfigurement award shall personally appear before the Full Commission to
15 permit the Full Commission to view the disfigurement.

16
17 *History Note: Authority G.S. 97-80(a); 97-85;*
18 *Eff. January 1, 1990;*
19 *Amended Eff. April 1, 2014; January 1, 2011; August 1, 2006; June 1, 2000.*

1 Rule 04 NCAC 10C .0109 is amended as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

3
4 **04 NCAC 10C .0109 VOCATIONAL REHABILITATION SERVICES AND RETURN TO WORK**

5 (a) When performing the vocational assessment and formulating and drafting the individualized written
6 rehabilitation plan for the employee required by G.S. 97-32.2(c), the vocational rehabilitation professional shall
7 follow G.S. 97-32.2.

8 (b) Job placement activities may not be commenced until after a vocational assessment and an individualized
9 written rehabilitation plan for vocational rehabilitation services specifying the goals and the priority for return-to-
10 work options have been completed in the case in accordance with G.S. 97-32.2. Job placement activities shall be
11 directed only toward prospective employers offering the opportunity for suitable employment, as defined by Item (5)
12 of Rule .0103 of this Subchapter or by applicable statute.

13 (c) Return-to-work options shall be considered in the following order of priority:

14 (1) current job, current employer;

15 (2) new job, current employer;

16 (3) on-the-job training, current employer;

17 (4) new job, new employer;

18 (5) on-the-job training, new employer;

19 (6) formal education or vocational training to prepare the worker for a job with current or new
20 employer; and

21 (7) self-employment, only when its feasibility is documented with reference to the employee's
22 aptitudes and training, adequate capitalization, and market conditions.

23 (d) When an employee requests retraining or education as permitted in G.S. 97-32.2(a), the vocational rehabilitation
24 professional shall provide a written assessment of the employee's request that includes an evaluation of:

25 ~~(1) the retraining or education requested;~~

26 ~~(2) the availability, location, cost, and identity of providers of the requested retraining or education;~~

27 ~~(3) the likely duration until completion of the requested retraining or education and the likely class schedules,~~
28 ~~class attendance requirements, and out-of-class time required for homework and study;~~

29 ~~(4) the current or projected availability of employment upon completion; and~~

30 ~~(5) the anticipated pay range for employment upon completion.]~~

31 (1) the retraining or education requested;

32 (2) the availability, location, cost, and identity of providers of the requested retraining or education;

33 (3) the likely duration until completion of the requested retraining or education and the likely class
34 schedules, class attendance requirements, and out-of-class time required for homework and study;

35 (4) the current or projected availability of employment upon completion; and

36 (5) the anticipated pay range for employment upon completion.

1 ~~(a)(c)~~ The RP shall obtain from the medical provider work restrictions which fairly address the demands of any
2 proposed employment. If ordered by a physician, the RP should obtain a Functional Capacity Evaluation (FCE) or
3 Physical Capacity Evaluation (PCE). Any FCE or PCE obtained should measure the worker's capacities and
4 impairments. The rehabilitation professional shall obtain work restrictions from the health care provider that address
5 the demands of any proposed employment. If ordered by a physician, the rehabilitation professional shall schedule
6 an appointment with a third party provider to evaluate an injured worker's functional capacity, physical capacity, or
7 impairments to work.

8 ~~(b)(f)~~ The RP, rehabilitation professional shall refer the worker only to opportunities for suitable employment, as
9 defined ~~herein~~, by Item (5) of Rule .0103 of this Subchapter or by applicable statute.

10 ~~(c)(g)~~ If the RP, rehabilitation professional intends to utilize written or videotaped job descriptions in the return-to-
11 work process, the RP, rehabilitation professional shall provide a copy of the description to all parties for review
12 before the job description is provided to the doctor. The worker or the worker's attorney shall have seven business
13 days from the mailing of the ~~description, description~~ to notify the RP, rehabilitation professional, all parties, and the
14 physician of any objections or amendments to the job description thereto. The job description and the objections or
15 amendments, if any, shall be submitted to the physician simultaneously. This process ~~may~~ shall be expedited ~~on~~
16 ~~occasions~~ when job availability is critical. This waiting period does not apply if the worker or the worker's attorney
17 has [pre-approved] given prior approval to the job description.

18 ~~(d)(h)~~ In preparing written job descriptions, the RP, rehabilitation professional shall utilize standards including, but
19 not limited to, ~~recognized standards which may include but not be limited to~~ the Dictionary of Occupational Titles
20 ~~and/or~~ and the Handbook for Analyzing Jobs published by the U.S. United States Department of Labor, ~~which~~
21 ~~are recognized as national standard references for use in vocational rehabilitation.~~ These standards can be accessed
22 at no cost at <http://www.oalj.dol.gov/LIBDOT.HTM> and www.wopsr.net/etc/dot/RHAJ.pdf, respectively. The
23 Handbook for Analyzing Jobs may also be purchased from major online booksellers for approximately \$85.00.

24 ~~(e)~~ In identifying proposed employment for the injured worker, the RP should consider the worker's transportation
25 requirements.

26 ~~(f)(i)~~ The rehabilitation professional may conduct [follow-up] follow-up after job placement ~~may be carried out to~~
27 verify the appropriateness of the job placement.

28 ~~(g)(j)~~ The RP, rehabilitation professional shall not initiate or continue placement activities ~~which~~ that do not appear
29 reasonably likely to result in placement of the injured worker in suitable employment. The RP, rehabilitation
30 professional shall report to the parties when efforts to place the worker in suitable employment do not appear
31 reasonably likely to result in placement of the injured worker in suitable employment.

32
33 *History Note:* Authority G.S. 97-2(22); 97-25.4; 97-25.5; 97-32.2; [97-2(22);]
34 *Eff. January 1, 1996;*
35 *Amended Eff. April 1, 2014; June 1, 2000.*

1 Rule 04 NCAC 10E .0203 is adopted as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

3
4 **04 NCAC 10E .0203 FEES SET BY THE COMMISSION**

5 (a) In workers' compensation cases, the Commission sets the following fees:

6 (1) four hundred dollars (\$400.00) for the processing of a compromise settlement agreement to be
7 paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). Unless the
8 parties agree otherwise, the employer(s) or the employer's carrier(s) shall pay such fee in full
9 when submitting the agreement to the Commission, and shall then be entitled to a credit for the
10 employee's 50% share of such fee against settlement proceeds;

11 (2) three hundred dollars (\$300.00) for the processing of a Form 21 *Agreement for Compensation for*
12 *Disability*, Form 26 *Supplemental Agreement as to Payment of Compensation*, or Form 26A
13 *Employer's Admission of Employee's Right to Permanent Partial Disability* to be paid by the
14 employee and the employer **or the employer's carrier** in equal shares. The employer **or the**
15 **employer's carrier** shall pay such fee in full when submitting the agreement to the Commission.
16 Unless the parties agree otherwise or the award totals \$3,000 or less, the employer **and the**
17 **employer's carrier** shall be entitled to a credit for the employee's 50% share of such fee against the
18 award;

19 (3) two hundred dollars (\$200.00) for the processing of a I.C. Form MSC5, *Report of Mediator*, to be
20 paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). The
21 employer(s) or the employer's carrier(s) shall pay such fee in full upon receipt of an invoice from
22 the Commission and, unless the parties agree otherwise, shall be reimbursed for the employee's
23 share of such fees when the case is concluded from ~~[benefits]~~ **any compensation** that may be
24 determined to be due to the ~~[employee, and the]~~ **employee. The** employer(s) or the employer's
25 carrier(s) may withhold funds from any award for this ~~[purpose.]~~ **purpose; and**

26 (4) a fee equal to the filing fee required to file of a civil action in the Superior Court division of the
27 General Court of Justice for the processing of a Form 33I *Intervenor's Request that Claim be*
28 *Assigned for Hearing*, to be paid by the intervenor.

29 (b) In tort claims cases, the filing fee is an amount equal to the filing fee required to file a civil action in the
30 Superior Court division of the General Court of Justice.

31
32 *History Note:* Authority G.S. ~~[97-10.2;]~~ **7A-305**; 97-17; ~~[97-18.2;]~~ 97-26(i); 97-73; 97-80; 143-291.2; 143-300;
33 *Eff. April 1, 2014.*

1 Rule 04 NCAC 10L .0101 is adopted as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

3
4 **SUBCHAPTER 10L – INDUSTRIAL COMMISSION FORMS**
5 **SECTION .0100 – WORKERS’ COMPENSATION FORMS**
6

7 **04 NCAC 10L .0101 FORM 21 – AGREEMENT FOR COMPENSATION FOR DISABILITY**
8

9 (a) The parties to a workers’ compensation claim shall use the following Form 21, *Agreement for Compensation for*
10 *Disability*, for agreements regarding disability and payment of compensation therefor pursuant to G.S. 97-29 and 97-
11 30. Additional issues agreed upon by the parties such as payment of compensation for permanent partial disability
12 may also be included on the form. This form is necessary to comply with 04 NCAC 10A .0501, where applicable.
13 The Form 21, *Agreement for Compensation for Disability*, shall read as follows:
14

15 North Carolina Industrial Commission
16 Agreement for Compensation for Disability
17 (G.S. 97-82)
18

19 IC File # _____
20 Emp. Code # _____
21 Carrier Code # _____
22 Carrier File # _____
23 Employer FEIN _____
24

25 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act
26

27 _____
28 Employee’s Name
29 _____
30 Address
31 _____
32 City _____ State _____ Zip _____
33 _____
34 Home Telephone _____ Work Telephone _____
35 Social Security Number: _____ Sex: M F Date of Birth: _____
36 _____
37 _____

1 Employer's Name Telephone Number

2 _____

3 Employer's Address City State Zip

4 _____

5 Insurance Carrier

6 _____

7 Carrier's Address City State Zip

8 _____

9 Carrier's Telephone Number Carrier's Fax Number

10 _____

11 We, The Undersigned, Do Hereby Agree And Stipulate As Follows:

12 1. All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and
13 _____ is the carrier/administrator for the employer.

14 2. The employee sustained an injury by accident or the employee contracted an occupational disease arising
15 out of and in the course of employment on or by _____

16 3. The injury by accident or occupational disease resulted in the following injuries: _____

17 _____

18 4. The employee was/ was not paid for the entire day when the injury occurred.

19 5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances,
20 was \$ _____, subject to verification unless otherwise agreed upon in [line] Item 9 below.

21 6. Disability resulting from the injury or occupational disease began on _____

22 7. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate
23 of \$ _____ per week beginning _____, and continuing for _____ weeks.

24 8. The employee has / has not returned to work for _____
25 on _____, at an average weekly wage of \$ _____.

26 9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial
27 disability: _____

28 10. If applicable, the Second Injury Fund Assessment is \$ _____. Check is is not attached.

29 11. The date of this agreement is _____. Date of first payment: _____ Amount: _____

30 12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement
31 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of
32 the fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your
33 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer
34 agree otherwise.

35 Check one of the boxes below if the award is more than \$3,000.00:

36 The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.

37 The employee and employer have agreed that the employer will pay the entire fee.

1
2 If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several
3 factors. Your right to payment of future medical compensation will terminate two years after your employer or
4 carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think
5 you will need future medical compensation, you must apply to the Industrial Commission in writing within two
6 years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form ~~18M~~
7 18M, available at <http://www.ic.nc.gov/forms.html>.

8
9 IMPORTANT NOTICE TO EMPLOYER

10
11 The employee must be provided a copy when the agreement is signed by the employee. Failure to file Form 28B,
12 *Report Of Compensation And Medical Compensation Paid*, within 16 days after last payment pursuant to this
13 agreement may subject the employer or carrier/administrator to a penalty. Pursuant to ~~Rule 501~~ Rule 04 NCAC
14 10A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or
15 carrier/administrator must submit the agreement to the Industrial Commission, or show ~~good~~ cause for not
16 submitting the agreement.

17
18 NEED ASSISTANCE?

19
20 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
21 (800) 688-8349.

22
23 Form 21
24 4/2014

25
26 Self-Insured Employer or Carrier, Mail to:
27 NCIC - Claims Section
28 4335 Mail Service Center
29 Raleigh, NC 27699-4335
30 Telephone: (919) 807-2502
31 Helpline: (800) 688-8349
32 Website: <http://www.ic.nc.gov/>

33
34 (b) The copy of the form described in Paragraph (a) of this Rule can be accessed at
35 <http://www.ic.nc.gov/forms/form21.pdf>. The form may be reproduced only in the format available at
36 <http://www.ic.nc.gov/forms/form21.pdf> and may not be altered or amended in any way.

37

1 *History Note:* Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82;
2 *Eff. April 1, 2014.*

1 Rule 04 NCAC 10L .0102 is adopted as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

3
4 **04 NCAC 10L .0102 FORM 26 – SUPPLEMENTAL AGREEMENT AS TO PAYMENT OF**
5 **COMPENSATION**
6

7 (a) If the parties to a workers' compensation claim have previously entered into an approved agreement on a Form
8 21, *Agreement for Compensation for Disability*, or a Form 26A, *Employer's Admission of Employee's Right to*
9 *Permanent Partial Disability*, they shall use the following Form 26, *Supplemental Agreement as to Payment of*
10 *Compensation*, for agreements regarding subsequent, additional disability and payment of compensation therefor
11 pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of compensation
12 for permanent partial disability may also be included on the form. This form is necessary to comply with 04 NCAC
13 10A .0501, where applicable. The Form 26, *Supplemental Agreement as to Payment of Compensation*, shall read as
14 follows:

15
16 North Carolina Industrial Commission
17 Supplemental Agreement as to Payment
18 of Compensation (G.S. §97-82)

19
20 IC File # _____
21 Emp. Code # _____
22 Carrier Code # _____
23 Carrier File # _____
24 Employer FEIN _____

25
26 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

27
28 _____
29 Employee's Name
30 _____
31 Address
32 _____
33 City _____ State _____ Zip _____
34 _____
35 Home Telephone _____ Work Telephone _____
36 Social Security Number: _____ Sex: M F Date of Birth: _____

1 _____
 2 Employer's Name _____ Telephone Number _____
 3 _____
 4 Employer's Address _____ City State Zip _____
 5 _____
 6 Insurance Carrier _____
 7 _____
 8 Carrier's Address _____ City State Zip _____
 9 _____
 10 Carrier's Telephone Number _____ Carrier's Fax Number _____
 11 _____

12 We, The Undersigned, Do Hereby Agree and Stipulate As Follows:

- 13 1. Date of injury: _____
 14 2. The employee returned to work / was rated on _____ (date), at a weekly wage of \$ _____.
 15 3. The employee became totally disabled on _____.

16 4. Employee's average weekly wage was reduced / was increased on _____, from \$ _____
 17 per week to \$ _____ per week.

18 5. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate
 19 of \$ _____ per week
 20 Beginning _____, and continuing for _____ weeks. The type of disability compensation is
 21 _____

22 6. State any further matters agreed upon, including disfigurement or temporary partial disability:
 23 _____

24 7. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement
 25 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of
 26 the fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your
 27 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer
 28 agree otherwise.

29 Check one of the boxes below if the award is more than \$3,000.00:
 30 The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.

31 The employee and employer have agreed that the employer will pay the entire fee.

32 8. The date of this agreement is _____.
 33 _____

34 Name Of Employer _____ Signature _____ Title _____

36 Name Of Carrier/Administrator _____ Signature _____ Title _____

1 By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on
2 Pages 1 and 2 of this form.

3 _____
4 Signature of Employee _____ Address

5 _____
6 Signature of Employee's Attorney _____ Address

7
8 Check box if no attorney retained.

9
10 North Carolina Industrial Commission

11 The Foregoing Agreement Is Hereby Approved:
12 _____
13 Claims Examiner _____ Date

14 _____
15 Attorney's fee approved

16
17 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM
18 PAYMENTS

19 Once your compensation checks have been stopped, if you claim further compensation, you must notify the
20 Industrial Commission in writing within two years from the date of receipt of your last compensation check or your
21 rights to these benefits may be lost.

22
23 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE 5 JULY 1994 CLAIMING ADDITIONAL
24 MEDICAL BENEFITS

25 If your injury occurred before 5 July 1994, you are entitled to medical compensation as long as it is reasonably
26 necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

27
28 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER 5 JULY 1994 CLAIMING ADDITIONAL
29 MEDICAL BENEFITS

30 If your injury occurred on or after 5 July 1994, your right to future medical compensation will depend on several
31 factors. Your right to payment of future medical compensation will terminate two years after your employer or
32 carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think
33 you will need future medical compensation, you must apply to the Industrial Commission in writing within two
34 years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form [18M,
35 available at <http://www.ic.nc.gov/forms.html>.

36
37 IMPORTANT NOTICE TO EMPLOYER

1
2 This form is to be used only to supplement Form 21, **Agreement for Compensation for Disability** (G.S. 97-82), or an
3 award in cases in which subsequent conditions require a modification of a former agreement or award. The
4 employee must be provided a copy of the form when the agreement is signed by the employee. Failure to file Form
5 28B, **Report of Compensation and Medical Compensation Paid**, within 16 days after last payment pursuant to this
6 agreement may subject the employer or carrier/administrator to a penalty. Pursuant to [~~Rule 501,~~ **Rule 04 NCAC**
7 **10A .0501**, within 20 days after receipt of the agreement executed by the employee, the employer or
8 carrier/administrator must submit the agreement to the Industrial Commission, or show **good** cause for not
9 submitting the agreement.

10
11 NEED ASSISTANCE?

12
13 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
14 (800) 688-8349.

15
16 Form 26
17 4/2014

18
19 Self-Insured Employer or Carrier Mail to:
20 NCIC - Claims Administration
21 4335 Mail Service Center
22 Raleigh, North Carolina 27699-4335
23 Main Telephone: (919) 807-2500
24 Helpline: (800) 688-8349
25 Website: <http://www.ic.nc.gov/>

26
27 (b) The copy of the form described in Paragraph (a) of this Rule can be accessed at
28 <http://www.ic.nc.gov/forms/form26.pdf>. The form may be reproduced only in the format available at
29 <http://www.ic.nc.gov/forms/form26.pdf> and may not be altered or amended in any way.

30
31 *History Note:* Authority G.S. **97-73**; 97-80(a); **97-81(a)**; 97-82;
32 *Eff. April 1, 2014.*

1 Rule 04 NCAC 10L .0103 is adopted as published on the OAH website for the public comment period beginning
2 January 31 through February 26, 2014, with changes as follows:

3
4 **04 NCAC 10L .0103 FORM 26A – Employer’s Admission of Employee’s Right to Permanent Partial**
5 **Disability**

6
7 (a) The parties to a workers’ compensation claim shall use the following Form 26A, *Employer’s Admission of*
8 *Employee’s Right to Permanent Partial Disability*, for agreements regarding the employee’s entitlement to and the
9 employer’s payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues
10 agreed upon by the parties, including, but not limited to, election of payment of temporary partial disability pursuant
11 to G.S. 97-30 may also be included on the form. This form is necessary to comply with 04 NCAC 10A .0501, where
12 applicable. The Form 26A, *Employer’s Admission of Employee’s Right to Permanent Partial Disability*, shall read
13 as follows:

14
15 North Carolina Industrial Commission
16 Employer’s Admission of Employee’s Right to Permanent Partial Disability
17 (G.S. §97-31)

18
19 IC File # _____
20 Emp. Code # _____
21 Carrier Code # _____
22 Carrier File # _____
23 Employer FEIN _____

24
25 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

26
27 _____
28 Employee’s Name
29 _____
30 Address
31 _____
32 City _____ State _____ Zip _____
33 _____
34 Home Telephone _____ Work Telephone _____
35 Social Security Number: _____ Sex: M F Date of Birth: _____
36
37 _____

1 Employer's Name Telephone Number

2 _____

3 Employer's Address City State Zip

4 _____

5 Insurance Carrier

6 _____

7 Carrier's Address City State Zip

8 _____

9 Carrier's Telephone Number Carrier's Fax Number

10 _____

11 WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

12 1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and
13 _____ is the Carrier/Administrator for the Employer.

14 2. The employee sustained an injury by accident or the employee contracted an occupational disease arising
15 out of and in the course of employment on _____.

16 3. The injury by accident or occupational disease resulted in the following injuries:
17 _____.

18 4. The employee was was not paid for the 7 day waiting period.

19 If not, was salary continued? yes no. Was employee paid for the date of injury? yes no

20 5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances,
21 was \$ _____. This results in a weekly compensation rate of \$ _____.

22 6. The employee has has not returned full time to work for _____
23 on _____, at an average weekly wage of \$ _____.

24 7. Claimant was released with permanent restrictions without permanent restrictions.

25 8. Permanent partial disability compensation will be paid to the injured worker as follows:
26 _____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)
27 _____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)
28 _____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)

29 Total amount of permanent partial disability compensation is \$ _____. Date of first
30 payment: _____.

31 9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial
32 disability, waiting period or other:

33 _____.

34 10. An overpayment is claimed in the amount of \$ _____. Overpayment was calculated as
35 follows: _____.

36 If overpayment claimed, a Form 28B is attached. yes no

1 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM
2 PAYMENTS

3 Once your compensation checks have been stopped, if you claim further compensation, you must notify the
4 Industrial Commission in writing within two years from the date of receipt of your last compensation check or your
5 rights to these benefits may be lost.

6
7 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL
8 MEDICAL BENEFITS

9 If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably
10 necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

11
12 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL
13 MEDICAL BENEFITS

14 If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several
15 factors. Your right to payment of future medical compensation will terminate two years after your employer or
16 carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think
17 you will need future medical compensation, you must apply to the Industrial Commission in writing within two
18 years, or your right to these benefits may be lost. To apply you may also use Industrial Commission [18M.] 18M,
19 available at <http://www.ic.nc.gov/forms.html>.

20
21 IMPORTANT NOTICE TO EMPLOYER

22 The employee must be provided a copy when the agreement is signed by the employee. Failure to file Form 28B,
23 *Report Of Compensation And Medical Compensation Paid*, within 16 days after last payment pursuant to this
24 agreement may subject the employer or carrier/administrator to a penalty. Pursuant to [Rule 501,] Rule 04 NCAC
25 10A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or
26 carrier/administrator must submit the agreement to the Industrial Commission, or show [good]cause for not
27 submitting the agreement.

28
29 NEED ASSISTANCE?

30 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
31 (800) 688-8349.

32
33 Form 26A

34 1/2014

35
36 Self-Insured Employer or Carrier Mail to:

37 NCIC - Claims Administration

1 4335 Mail Service Center
2 Raleigh, North Carolina 27699-4335
3 Main Telephone: (919) 807-2500
4 Helpline: (800) 688-8349
5 Website: <http://www.ic.nc.gov/>

6
7 (b) A copy of the form described in Paragraph (a) of this Rule can be accessed at
8 <http://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced only in the format available at
9 <http://www.ic.nc.gov/forms/form26a.pdf> and may not be altered or amended in any way.

10
11 *History Note:* Authority G.S. 97-30; 97-31; **97-73**; 97-80(a); **97-81(a)**; 97-82;
12 *Eff. April 1, 2014.*