

1 Rule 04 NCAC 10A .0605 is amended as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 2014, with changes as follows:

3  
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 ~~approval of Form 21.~~ the acceptance of liability for a 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 ~~(2)~~(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 08C of the  
7 North Carolina General Statutes.

8 ~~(6) [Until a matter is calendared for a hearing, parties may serve requests for production of documents~~  
9 ~~without leave of the Commission.]~~ The parties may serve requests for production of documents  
10 without leave of the Commission until 35 days prior to the date of hearing.

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

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

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

22 ~~(a) notices of depositions;~~

23 ~~(b) discovery requests and responses deemed by filing party to be pertinent to a pending~~  
24 ~~motion;~~

25 ~~(c) responses to discovery following a motion or order to compel; and~~

26 ~~(d) post-hearing discovery requests and responses.~~

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

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

36  
37 *History Note: Authority G.S. 97-80(a); 97-80(f); S.L. 2014-77;*

1  
2

*Eff. January 1, 1990;*  
*Amended Eff. November 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 August 20 through September 15, 2014, with changes as follows:

3  
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](mailto: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 either the Office  
27 of the Chief Deputy Commissioner or the Executive Secretary and shall be submitted electronically to  
28 [medicalmotions@ic.nc.gov](mailto:medicalmotions@ic.nc.gov). Motions and responses shall be submitted [simultaneously] contemporaneously to the  
29 Commission and the opposing party [and] or opposing party's counsel, if 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.] Following receipt of a notice of hearing before a Deputy Commissioner on a medical motion or appeal,  
33 the parties shall submit all subsequent filings and communications electronically directly to the Deputy  
34 Commissioner assigned.

35 (c) [Upon receipt of a medical motion, carriers, third party administrators, and employers shall immediately send  
36 notification of the name, email address, telephone number and fax number of the attorney appearing on their behalf  
37 to [medicalmotions@ic.nc.gov](mailto:medicalmotions@ic.nc.gov).] [An] In addition to any notice of representation contained in a medical motion or

1 response, an attorney who is retained by a party ~~[in any proceeding]~~ to prosecute or defend a medical motion or  
2 appeal before the Commission shall ~~[also]~~ file a notice of representation with the Docket Director at  
3 [dockets@ic.nc.gov](mailto:dockets@ic.nc.gov) and send a copy of the notice to all other counsel and all ~~[other]~~ unrepresented parties involved  
4 in the proceeding.

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

7 (1) a designation as a "Medical Motion" brought pursuant to G.S. 97-25 ~~and~~ ~~[shall include]~~ a  
8 statement directly underneath the case caption clearly indicating the request is for either an  
9 administrative ruling by the Executive Secretary or an expedited full evidentiary hearing before a  
10 Deputy Commissioner;

11 (2) the ~~[claimant's]~~ employee's name. If the ~~[claimant]~~ employee is unrepresented, ~~[claimant's]~~ the  
12 employee's ~~[email address, telephone number, and fax number,]~~ telephone number and, to the  
13 extent available, the employee's email address and fax number. If the ~~[claimant]~~ employee is  
14 represented, the name, email address, telephone number and fax number of ~~[claimant's]~~  
15 employee's counsel;

16 (3) the employer's name and employer code; \_\_\_\_\_

17 (4) the carrier or third party administrator's name, carrier code, ~~[email address,]~~ telephone ~~[number~~  
18 ~~and]~~ number, fax ~~[number,]~~ number, and, to the extent available, email address;

19 (5) the adjuster's name, email address, telephone number and fax number if counsel for the employer  
20 and carrier has not been retained;

21 (6) ~~[the counsel for employer and carrier's]~~ if an attorney has been retained for the employer or  
22 carrier, the attorney's name, email address, telephone number and fax number;

23 (7) a statement of the treatment or relief requested;

24 (8) a statement of the medical diagnosis of the ~~[claimant]~~ employee ~~[and the treatment~~  
25 ~~recommendation]~~ and the name of ~~[the]~~ any health care provider ~~having made a diagnosis or~~  
26 ~~treatment recommendation~~ that is the basis for the motion;

27 (9) a statement as to whether the claim has been admitted on a Form 60, Form 63, Form 21 or is  
28 subject to a prior Commission Opinion and Award or Order finding compensability, with  
29 supporting documentation attached;

30 (10) a statement of the time-sensitive nature of the request, if any;

31 (11) an explanation of opinions known and in the possession of the ~~[employee]~~ movant ~~[of additional~~  
32 ~~medical or other]~~ by any relevant experts, independent medical examiners, and second opinion  
33 examiners;

34 (12) if the motion requests a second opinion examination pursuant to G.S. 97-25, the motion shall  
35 specify whether the ~~[plaintiff]~~ employee has made a prior written request to the defendants for the  
36 examination, as well as the date of the request and the date of the denial, if any;

1           (13) a representation that informal means of resolving the issue have been attempted in good faith, and  
2           the opposing party's position, if known; and

3           (14) a proposed Order.

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

5           (1) a boldface or otherwise emphasized, designation as "Emergency Medical Motion";

6           (2) the [claimant's] employee's name. If the [claimant] employee is unrepresented, [claimant's] the  
7           employee's [email address, telephone number, and fax number.] telephone number and, to the  
8           extent available, the employee's email address and fax number. If the [claimant] employee is  
9           represented, the name, email address, telephone number and fax number of [claimant's] the  
10           employee's counsel;

11           (3) the employer's name and employer code, if known;

12           (4) the carrier or third party administrator's name, carrier code, [email address,] telephone [number  
13           and] number, fax [number,] number, and, to the extent available, email address;

14           (5) the adjuster's name, email address, telephone number and fax number if counsel for the  
15           employer/carrier has not been retained;

16           (6) the counsel for employer/carrier's name, email address, telephone number and fax number;

17           (7) an explanation of the medical diagnosis and treatment recommendation of the health care provider  
18           that requires emergency attention;

19           (8) a statement of the need for a shortened time period for review, including relevant dates and the  
20           potential for adverse consequences if the recommended [treatment] relief is not provided  
21           emergently;

22           (9) an explanation of opinions known and in the possession of the [employee] movant [of additional  
23           medical or other] by any relevant experts, independent medical examiner, and second opinion  
24           examiners;

25           (10) a representation that informal means of resolving the issue have been attempted in good faith, and  
26           the opposing party's position, if known;

27           (11) [documentation] documents known and in the possession of the [employee in support of] movant  
28           relevant to the request, including relevant medical records; and

29           (12) a proposed Order.

30 ~~[(f) The parties shall receive notice of the date and time of an initial informal telephonic conference to be conducted~~  
31 ~~by a Deputy Commissioner to determine whether the motion warrants an expedited or emergency hearing and to~~  
32 ~~clarify the issues presented. During the initial informal telephonic conference each party shall be afforded an~~  
33 ~~opportunity to state its position and discuss documentary evidence which shall be submitted electronically to the~~  
34 ~~Deputy Commissioner prior to the initial informal telephone conference.~~

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

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

3 (g) A party may appeal an Order of the Executive Secretary on a motion brought pursuant to G.S. 97-25(f)(1) or  
4 receipt of a ruling on a motion to reconsider filed pursuant to Rule .0702(b) of this Subchapter by submitting notice  
5 of appeal electronically to medicalmotions@ic.nc.gov within 15 calendar days of receipt of the Order. A letter or  
6 motion expressing an intent to appeal a decision of the Executive Secretary shall be considered a request for an  
7 expedited hearing pursuant to G.S. 97-25 and G.S. 97-84. The letter or motion shall specifically identify the Order  
8 from which the appeal is taken and shall indicate that the appeal is from an administrative Order by the Executive  
9 Secretary entered pursuant to G.S. 97-25(f)(1). After receipt of a notice of appeal, the appeal shall be assigned to a  
10 Deputy Commissioner and an Order under the name of the Deputy Commissioner to which the appeal is assigned  
11 shall be issued within five days of receipt of the notice of appeal.

12 ~~(h) [Depositions deemed necessary by the Deputy Commissioner]~~ Depositions, if requested by the parties or  
13 ordered by the Deputy Commissioner, shall be taken on the Deputy Commissioner's order pursuant to G.S. 97-25.  
14 ~~[within 35 days of the date the motion is filed. Transcripts of depositions shall be submitted electronically to the~~  
15 ~~Commission within 40 days of the date of the filing of the motion.]~~ In full evidentiary hearings conducted by a  
16 Deputy Commissioner pursuant to G.S. 97-25(f)(1) and (f)(2), depositions shall be completed and all transcripts,  
17 briefs, and proposed Opinion and Awards submitted to the Deputy Commissioner within 60 days of the filing of the  
18 motion or appeal. The Deputy Commissioner may reduce or enlarge the timeframe contained in this Paragraph for  
19 good cause ~~[shown.]~~ shown or upon agreement of the parties.

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

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

25 ~~(k)(i) A party may appeal a Deputy Commissioner's Order on a motion brought the decision of a Deputy~~  
26 ~~Commissioner filed pursuant to G.S. 97-25(f)(2) by giving notice of appeal to the Full Commission within 15~~  
27 ~~calendar days of receipt of the decision. Order or receipt of the ruling on a Motion to Reconsider the Order filed~~  
28 ~~pursuant to Rule .0703(b) of this Subchapter. A letter expressing an intent to appeal a Deputy Commissioner's~~  
29 ~~Order on a motion brought decision filed pursuant to G.S. 97-25 shall be considered notice of appeal to the Full~~  
30 ~~Commission, provided that the letter specifically identifies the decision from which appeal is taken and indicates~~  
31 ~~that the appeal is taken from a decision by a Deputy Commissioner pursuant to G.S. 97-25(f)(2). After receipt of~~  
32 ~~notice of appeal, the appeal shall be acknowledged by the Docket Section within three days by sending an Order~~  
33 ~~under the name of the Chair of the Panel to which the appeal is assigned. The Order shall ~~indicate whether the~~~~  
34 ~~parties may file briefs and~~ set the schedule for filing ~~briefs~~. A Full Commission hearing on an appeal of a medical  
35 motion filed pursuant to G.S. 97-25 shall be held telephonically and shall not be recorded unless unusual  
36 circumstances arise and the Commission so orders. All correspondence, briefs, and motions related to the appeal  
37 shall be addressed to the Chair of the Panel with a copy to his or her law clerk.



1 (j) A party may appeal the administrative decision of the Chief Deputy Commissioner or the Chief Deputy  
2 Commissioner's designee filed pursuant to G.S. 97-25(f)(3) by submitting notice of appeal electronically to  
3 medicalmotions@ic.nc.gov within 15 calendar days of receipt of the Order. A letter or motion expressing an intent  
4 to appeal the Chief Deputy Commissioner or the Chief Deputy Commissioner's designee's Order filed pursuant to  
5 G.S. 97-25(f)(3) shall be considered a notice of appeal, provided that the letter specifically identifies the Order from  
6 which appeal is taken and indicates that the appeal is from an Order of a Deputy Commissioner entered pursuant to  
7 G.S. 97-25(f)(3). After receipt of notice of appeal, the appeal shall be acknowledged within five days by sending an  
8 Order under the name of the Deputy Commissioner to whom the appeal is assigned. The appeal of the administrative  
9 decision of the Chief Deputy Commissioner or the Chief Deputy Commissioner's designee shall be subject to  
10 G.S. 97-25(f)(2) and G.S 97-84.

11 ~~(k)~~ The Commission shall accept the filing of documents by non-electronic methods if electronic transmission is  
12 unavailable to the party.

13  
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. November 1, 2014.*

1 Rule 04 NCAC 10A .0701 is amended as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 2014, as follows:

3  
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 File Transfer~~  
24 ~~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. Parties represented by counsel shall sign a joint certification~~  
27 ~~acknowledging receipt of the Form 44 Application for Review and the official transcript and exhibits and submit the~~  
28 ~~certification within ten days of receipt of the Form 44 Application for Review and the official transcript and exhibits. The~~  
29 ~~certification shall stipulate the date the Form 44 Application for Review and the official transcript and exhibits were~~  
30 ~~received by the parties and shall note the date the appellant's brief is due. The Commission shall save a copy of the~~  
31 ~~parties' acknowledgements in the file for the claim to serve as record of the parties' electronic receipt of the Form 44~~  
32 ~~*Application for Review* and the official transcript and exhibits. In cases where it is not possible to provide a party with~~  
33 ~~the official transcript and exhibits electronically, the Commission shall provide the official transcript and exhibits and a~~  
34 ~~Form 44 *Application for Review* via certified U.S. Mail, with return receipt requested. The Commission shall save a copy~~  
35 ~~of the return receipt to serve as record of the party's receipt of the official transcript and exhibits and Form 44~~  
36 ~~*Application for Review.*~~

1 (c) A motion to reconsider or to amend the decision of a Deputy Commissioner shall be filed with the Deputy  
2 Commissioner within 15 days of receipt of notice of the award with a copy to the Docket Director. The time for filing a  
3 request for review from the decision of a Deputy Commissioner under the rules in this Subchapter shall be tolled until a  
4 motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner. However, if either  
5 party files a letter expressing a request for review as set forth in Paragraph (a) of this Rule, jurisdiction shall be  
6 transferred to the Full Commission, and the Docket Director shall notify the Deputy Commissioner. Upon transfer of  
7 jurisdiction to the Full Commission, any party who had a pending motion to reconsider or amend the decision of the  
8 Deputy Commissioner may file a motion with the Chairman of the Commission requesting remand to the Deputy  
9 Commissioner with whom the motion was pending. Within the Full Commission's discretion, the matter may be so  
10 remanded. Upon the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, either party may  
11 thereafter file a letter expressing a request for review of the Deputy Commissioner's decision as set forth in Paragraph (a)  
12 of this Rule.

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

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

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

34 (g) Case citations shall be to the North Carolina Reports, the North Carolina Court of Appeals Reports, or the North  
35 Carolina Reporter, and when possible, to the South Eastern Reporter. If no reporter citation is available at the time a  
36 brief is filed or if an unpublished decision is referenced in the brief, the party citing to the case shall attach a copy of the

1 case to its brief. Counsel shall not discuss matters outside the record, assert personal opinions or relate personal  
2 experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.

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

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

19 (j) An employee appealing the amount of a disfigurement award shall personally appear before the Full Commission to  
20 permit the Full Commission to view the disfigurement.

21  
22 *History Note: Authority G.S. 97-80(a); 97-85; S.L. 2014-77;*

23 *Eff. January 1, 1990;*

24 *Amended Eff. November 1, 2014; January 1, 2011; August 1, 2006; June 1, 2000.*

1 Rule 04 NCAC 10A .0702 is amended as published on the OAH website for the public comment period beginning  
2 August 20 to September 15, 2014, with changes as follows:

3  
4 **04 NCAC 10A .0702 REVIEW OF ADMINISTRATIVE DECISIONS**

5 ~~(a) Except as otherwise provided in G.S. 97-86, in every case appealed to the North Carolina Court of Appeals, the~~  
6 ~~Rules of Appellate Procedure shall apply. The running of the time for filing and serving a notice of appeal is tolled~~  
7 ~~as to all parties by a timely motion filed by any party to amend, to make additional findings, or to reconsider the~~  
8 ~~decision, and the full time for appeal commences to run and is to be computed from the entry of an Order upon any~~  
9 ~~of these motions, in accordance with Rule 3 of the Rules of Appellate Procedure.~~

10 ~~(b) If the parties cannot agree on the record on appeal, appellant shall furnish the Chair of the Industrial~~  
11 ~~Commission, or his designee, one copy of the proposed record on appeal, objections and/or proposed alternative~~  
12 ~~record on appeal along with a timely request to settle the record on appeal. The hearing to settle the record on~~  
13 ~~appeal shall be held at the offices of the Industrial Commission or by telephone conference. The record on appeal~~  
14 ~~shall be settled in accordance with the provisions of Rule 18(d) of the North Carolina Rules of Appellate Procedure.~~

15 ~~(c) The amount of the appeal bond shall be set by the Chair, or his designee, and may be waived in accordance with~~  
16 ~~G.S. 97-86~~

17 (a) Administrative decisions include orders, decisions, and awards made in a summary manner, without findings of  
18 fact, including decisions on the following:

19 (1) applications to approve agreements to pay compensation and medical bills;

20 (2) applications to approve the termination or suspension or the reinstatement of compensation;

21 ~~[(3) applications for change in treatment or providers of medical compensation;]~~

22 [(4)](3) applications to change the interval of payments; and

23 [(5)](4) applications for lump sum payments of compensation.

24 Administrative decisions shall be reviewed upon the filing of a Motion for Reconsideration with the Commission  
25 addressed to the Administrative Officer who made the decisions or may be reviewed by requesting a hearing within  
26 15 days of receipt of the decisions or receipt of the ruling on a Motion to Reconsider. These issues may also be  
27 raised and determined at a subsequent hearing.

28 (b) Motions for Reconsideration shall not stay the effect of the order, decision or award; provided that the  
29 Administrative Officer making the decision or a Commissioner may enter an order staying its effect pending the  
30 ruling on the Motion for Reconsideration or pending a decision by a Commissioner or Deputy Commissioner  
31 following a formal hearing. In determining whether or not to grant a stay, the Commissioner or Administrative  
32 Officer shall consider whether granting the stay will frustrate the purposes of the order, decision, or award. Motions  
33 to Stay shall not be filed with both the Administrative Officer and a Commissioner.

34 (c) Any request for a hearing to review an administrative decision shall be made to the Commission and filed with  
35 the Commission's Docket Director. The Commission shall designate a Commissioner or Deputy Commissioner to  
36 hear the review. The Commissioner or Deputy Commissioner hearing the matter shall consider all issues de novo,

1 and no issue shall be considered moot solely because the order has been fully executed during the pendency of the  
2 hearing.

3 (d) Orders filed by a single Commissioner, including orders dismissing reviews to the Full Commission or denying  
4 the right of immediate request for review to the Full Commission, are administrative orders and are not final  
5 determinations of the Commission. As such, an order filed by a single Commissioner is not appealable to the North  
6 Carolina Court of Appeals. A one-signature order filed by a single Commissioner may be reviewed by:

7 (1) filing a Motion for Reconsideration addressed to the Commissioner who filed the order; or

8 (2) requesting a review to a Full Commission panel by requesting a hearing within 15 days of receipt of the  
9 order or receipt of the ruling on a Motion for Reconsideration.

10 (e) This rule shall not apply to medical motions filed pursuant to G.S. 97-25; provided, however, that a party may  
11 request reconsideration of an administrative ruling on a medical motion, or may request a stay, or may request an  
12 evidentiary hearing de novo, all as set forth in G.S. 97-25.

13

14 History Note: *Authority G.S. 97-80(a); 97-85; S.L. 2014-77;*

15 *Eff. January 1, 1990;*

16 *Amended Eff. November 1, 2014; January 1, 2011; June 1, 2000.*

1 Rule 04 NCAC 10C .0109 is amended as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 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  
12 (5) of Rule .0103 of this Subchapter or by applicable statute.

13 (c) Return-to-work options [shall] should 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  
28 schedules, class attendance requirements, and out of class time required for homework and study]

29 the likely duration until completion of the requested retraining or education, the number of credits  
30 needed to complete the retraining or education, the course names and schedules for the retraining  
31 or education, and which courses are available on-line versus in person;

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

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

34 ~~(a)(e) The RP shall obtain from the medical provider work restrictions which fairly address the demands of any~~  
35 ~~proposed employment. If ordered by a physician, the RP should obtain a Functional Capacity Evaluation (FCE) or~~  
36 ~~Physical Capacity Evaluation (PCE). Any FCE or PCE obtained should measure the worker's capacities and~~  
37 ~~impairments. The rehabilitation professional shall obtain work restrictions from the health care provider that address~~



1 the demands of any proposed employment. If ordered by a physician, the rehabilitation professional shall schedule  
2 an appointment with a third party provider to evaluate an injured worker's functional capacity, physical capacity, or  
3 impairments to work.

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

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

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

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

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

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

29  
30 *History Note: Authority G.S. 97-2(22); 97-25.4; 97-25.5; 97-32.2; S.L. 2014-77, Section 6.(4);*

31 *Eff. January 1, 1996;*

32 *Amended Eff. November 1, 2014; June 1, 2000.*

1 Rule 04 NCAC 10E .0202 is adopted as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 2014, with changes as follows:

3  
4 **04 NCAC 10E .0202 HEARING COSTS OR FEES**

5 (a) **(Effective until July 1, 2015)** The following hearing costs or fees apply to all subject areas within the authority  
6 of the Commission:

- 7 (1) one hundred twenty dollars (\$120.00) for a hearing before a Deputy Commissioner to be charged  
8 after the hearing has been held;
- 9 (2) one hundred twenty dollars (\$120.00) if a case is continued after the case is calendared for a  
10 specific hearing date, to be paid by the requesting party or parties;
- 11 (3) one hundred twenty dollars (\$120.00) if a case is withdrawn, removed, or dismissed after the case  
12 is calendared for a specific hearing date;
- 13 (4) two hundred twenty dollars (\$220.00) for a hearing before the Full Commission to be charged  
14 after the hearing has been held; and
- 15 (5) one hundred twenty dollars (\$120.00) if one of the following occurs after an appeal or request for  
16 review is scheduled for a specific hearing date before the Full Commission:
  - 17 (A) the appeal or request for review is withdrawn; or
  - 18 (B) the appeal or request for review is dismissed for failure to prosecute or perfect the appeal  
19 or request for review.

20 In workers' compensation cases, these fees shall be paid by the employer unless the Commission orders otherwise,  
21 except as specified in subsection (2) above.

22 (a) **(Effective July 1, 2015)** The following hearing costs or fees apply to all subject areas within the authority of the  
23 Commission other than workers' compensation cases:

- 24 (1) one hundred twenty dollars (\$120.00) for a hearing before a Deputy Commissioner to be charged  
25 after the hearing has been held;
- 26 (2) one hundred twenty dollars (\$120.00) if a case is continued after the case is calendared for a  
27 specific hearing date, to be paid by the requesting party or parties;
- 28 (3) one hundred twenty dollars (\$120.00) if a case is withdrawn, removed, or dismissed after the case  
29 is calendared for a specific hearing date;
- 30 (4) two hundred twenty dollars (\$220.00) for a hearing before the Full Commission to be charged  
31 after the hearing has been held; and
- 32 (5) one hundred twenty dollars (\$120.00) if one of the following occurs after an appeal or request for  
33 review is scheduled for a specific hearing date before the Full Commission:
  - 34 (A) the appeal or request for review is withdrawn; or
  - 35 (B) the appeal or request for review is dismissed for failure to prosecute or perfect the appeal  
36 or request for review.

1 ~~[In workers' compensation cases, these fees shall be paid by the employer unless the Commission orders otherwise,~~  
2 ~~except as specified in subsection (2) above.]~~

3 (b) The Commission may waive fees set forth in Paragraph (a) of this Rule, or assess such fees against a party or  
4 parties pursuant to G.S. 97-88.1 if the Commission determines that the hearing has been brought, prosecuted, or  
5 defended without reasonable ground.

6

7 *History Note:* Authority G.S. 97-73; 97-80; 97-88.1; 143-291.1; 143-291.2; 143-300; S.L. 2014-77;  
8 *Eff. November 1, 2014.*

1 Rule 04 NCAC 10E .0203 is adopted as published on the OAH website for the public comment period beginning  
2 August 20 to September 15, 2014, with changes as follows:

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

5 (a) **(Effective until July 1, 2015)** 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~~ The employer(s) or the employer's carrier(s) shall pay such fee in full  
9 when submitting the agreement to the [~~Commission, and~~ Commission and, unless the parties  
10 agree otherwise, shall [~~then~~] be entitled to a credit for the employee's 50% share of such fee  
11 against settlement proceeds;

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

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

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

30 (a) **(Effective July 1, 2015)** In workers' compensation cases, the Commission sets the following fees:

31 (1) four hundred dollars (\$400.00) for the processing of a compromise settlement agreement to be  
32 paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). [~~Unless the~~  
33 ~~parties agree otherwise, the~~ The employer(s) or the employer's carrier(s) shall pay such fee in full  
34 when submitting the agreement to the [~~Commission, and~~ Commission and, unless the parties  
35 agree otherwise, shall [~~then~~] be entitled to a credit for the employee's 50% share of such fee  
36 against settlement proceeds;



1 Rule 04 NCAC 10L .0101 is adopted as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 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) **Effective until July 1, 2015** The parties to a workers’ compensation claim shall use the following Form 21,  
10 *Agreement for Compensation for Disability*, for agreements regarding disability and payment of compensation  
11 therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of  
12 compensation for permanent partial disability may also be included on the form. This form is necessary to comply  
13 with 04 NCAC 10A .0501, where applicable. The Form 21, *Agreement for Compensation for Disability*, shall read  
14 as follows:  
15

16 North Carolina Industrial Commission  
17 Agreement for Compensation for Disability  
18 (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: \_\_\_\_\_  
37

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. All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and  
 14 \_\_\_\_\_ is the carrier/administrator for the employer.  
 15 2. The employee sustained an injury by accident or the employee contracted an occupational disease arising  
 16 out of and in the course of employment on or by \_\_\_\_\_  
 17 3. The injury by accident or occupational disease resulted in the following injuries: \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 4. The employee  was/  was not paid for the entire day when the injury occurred.  
 20 5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances,  
 21 was \$\_\_\_\_\_, subject to verification unless otherwise agreed upon in Item 9 below.  
 22 6. Disability resulting from the injury or occupational disease began on \_\_\_\_\_  
 23 7. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate  
 24 of \$\_\_\_\_\_ per week beginning \_\_\_\_\_, and continuing for \_\_\_\_\_ weeks.  
 25 8. The employee  has /  has not returned to work for \_\_\_\_\_  
 26 on \_\_\_\_\_, at an average weekly wage of \$\_\_\_\_\_.  
 27 9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial  
 28 disability: \_\_\_\_\_  
 29 10. If applicable, the Second Injury Fund Assessment is \$\_\_\_\_\_. Check  is  is not attached.  
 30 11. The date of this agreement is \_\_\_\_\_. Date of first payment: \_\_\_\_\_ Amount: \_\_\_\_\_  
 31 12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement  
 32 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of  
 33 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  
 34 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer  
 35 agree otherwise.  
 36 Check one of the boxes below if the award is more than \$3,000.00:  
 37  The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.

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

2 ~~THE INDUSTRIAL COMMISSION WILL NOT CHARGE A FEE FOR PROCESSING FORM 21~~  
3 ~~AGREEMENTS FILED ON OR AFTER JULY 1, 2015.~~

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 Name Of Employer Signature Title

7 \_\_\_\_\_  
8 Name Of Carrier / Administrator Signature Title

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

12 \_\_\_\_\_  
13 Signature of Employee Address

14 \_\_\_\_\_  
15 Signature of Employee's Attorney Address

16 \_\_\_\_\_  
17 North Carolina Industrial Commission  
18 The Foregoing Agreement Is Hereby Approved:

19 \_\_\_\_\_  
20 Claims Examiner Date

21 \_\_\_\_\_  
22 Attorney's Fee Approved

23 \_\_\_\_\_  
24  Check Box If No Attorney Retained.  
25  Check Box If Employee Is In Managed Care.

26 \_\_\_\_\_  
27 **IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM**  
28 **PAYMENTS**

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

33 \_\_\_\_\_  
34 **IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5,1994 CLAIMING ADDITIONAL**  
35 **MEDICAL BENEFITS**

36 \_\_\_\_\_



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

3  
4 **IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL**  
5 **MEDICAL BENEFITS**

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

12  
13 **IMPORTANT NOTICE TO EMPLOYER**

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

20  
21 **NEED ASSISTANCE?**

22  
23 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
24 (800) 688-8349.

25  
26 Form 21

27 11/2014

28  
29 Self-Insured Employer or Carrier, Mail to:

30 NCIC - Claims Section

31 4335 Mail Service Center

32 Raleigh, NC 27699-4335

33 Telephone: (919) 807-2502

34 Helpline: (800) 688-8349

35 **Website:** <http://www.ic.nc.gov/>

36

1 (a) **(Effective July 1, 2015)** The parties to a workers' compensation claim shall use the following Form 21,  
2 Agreement for Compensation for Disability, for agreements regarding disability and payment of compensation  
3 therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of  
4 compensation for permanent partial disability may also be included on the form. This form is necessary to comply  
5 with 04 NCAC 10A .0501, where applicable. The Form 21, Agreement for Compensation for Disability, shall read  
6 as follows:

7  
8 North Carolina Industrial Commission  
9 Agreement for Compensation for Disability  
10 (G.S. 97-82)

11  
12 IC File # \_\_\_\_\_  
13 Emp. Code # \_\_\_\_\_  
14 Carrier Code # \_\_\_\_\_  
15 Carrier File # \_\_\_\_\_  
16 Employer FEIN \_\_\_\_\_

17  
18 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

19  
20 \_\_\_\_\_  
21 Employee's Name

22 \_\_\_\_\_  
23 Address

24 \_\_\_\_\_  
25 City State Zip

26 \_\_\_\_\_  
27 Home Telephone Work Telephone

28 Social Security Number: Sex:  M  F Date of Birth:

29  
30 \_\_\_\_\_  
31 Employer's Name Telephone Number

32 \_\_\_\_\_  
33 Employer's Address City State Zip

34  
35 Insurance Carrier

36 \_\_\_\_\_  
37 Carrier's Address City State Zip

1 \_\_\_\_\_  
2 Carrier's Telephone Number Carrier's Fax Number

3  
4 We, The Undersigned, Do Hereby Agree And Stipulate As Follows:

5 1. All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and  
6 \_\_\_\_\_ is the carrier/administrator for the employer.

7 2. The employee sustained an injury by accident or the employee contracted an occupational disease arising  
8 out of and in the course of employment on or by \_\_\_\_\_

9 3. The injury by accident or occupational disease resulted in the following injuries: \_\_\_\_\_  
10 \_\_\_\_\_

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

12 5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances,  
13 was \$ \_\_\_\_\_, subject to verification unless otherwise agreed upon in Item 9 below.

14 6. Disability resulting from the injury or occupational disease began on \_\_\_\_\_

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

17 8. The employee  has /  has not returned to work for \_\_\_\_\_  
18 on \_\_\_\_\_, at an average weekly wage of \$ \_\_\_\_\_.

19 9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial  
20 disability: \_\_\_\_\_

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

22 11. The date of this agreement is \_\_\_\_\_. Date of first payment: \_\_\_\_\_ Amount: \_\_\_\_\_

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

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

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

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

31  
32 \_\_\_\_\_  
33 Name Of Employer Signature Title

34 \_\_\_\_\_  
35 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 the Pages 1 and Page 2 of this form.

3 \_\_\_\_\_  
4 Signature of Employee \_\_\_\_\_ Address

5 \_\_\_\_\_  
6 Signature of Employee's Attorney \_\_\_\_\_ Address

7  
8 North Carolina Industrial Commission

9 The Foregoing Agreement Is Hereby Approved:

10 \_\_\_\_\_  
11 Claims Examiner \_\_\_\_\_ Date

12 \_\_\_\_\_  
13 Attorney's Fee Approved

14  
15  Check Box If No Attorney Retained.

16  Check Box If Employee Is In Managed Care.

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

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

24  
25 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL  
26 MEDICAL BENEFITS

27  
28 If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably  
29 necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

30  
31 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL  
32 MEDICAL BENEFITS

33 If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several  
34 factors. Your right to payment of future medical compensation will terminate two years after your employer or  
35 carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think  
36 you will need future medical compensation, you must apply to the Industrial Commission in writing within two

1 years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M,  
2 available at <http://www.ic.nc.gov/forms.html>.

3  
4 IMPORTANT NOTICE TO EMPLOYER

5  
6 The employee must be provided a copy when the agreement is signed by the employee. Failure to file Form 28B,  
7 *Report Of Compensation And Medical Compensation Paid*, within 16 days after last payment pursuant to this  
8 agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 04 NCAC 10A .0501,  
9 within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must  
10 submit the agreement to the Industrial Commission, or show cause for not submitting the agreement.

11  
12 NEED ASSISTANCE?

13  
14 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
15 (800) 688-8349.

16  
17 Form 21

18 7/2015

19  
20 Self-Insured Employer or Carrier, Mail to:

21 NCIC - Claims Section

22 4335 Mail Service Center

23 Raleigh, NC 27699-4335

24 Telephone: (919) 807-2502

25 Helpline: (800) 688-8349

26 Website: <http://www.ic.nc.gov/>

27  
28 (b) The copy of the form described in Paragraph (a) of this Rule can be accessed at  
29 <http://www.ic.nc.gov/forms/form21.pdf>. The form may be reproduced only in the format available at  
30 <http://www.ic.nc.gov/forms/form21.pdf> and may not be altered or amended in any way.

31  
32 *History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

33 *Eff. November 1, 2014;*

34 *Amended Eff. July 1, 2015, pursuant to S.L. 2014-77, by deleting Item 12. of subsection (a).*

1 Rule 04 NCAC 10L .0102 is adopted as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 2014, with changes as follows:

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

6  
7 (a) **Effective until July 1, 2015** If the parties to a workers' compensation claim have previously entered into an  
8 approved agreement on a Form 21, *Agreement for Compensation for Disability*, or a Form 26A, *Employer's*  
9 *Admission of Employee's Right to Permanent Partial Disability*, they shall use the following Form 26, *Supplemental*  
10 *Agreement as to Payment of Compensation*, for agreements regarding subsequent, additional disability and payment  
11 of compensation therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as  
12 payment of compensation for permanent partial disability may also be included on the form. This form is necessary  
13 to comply with 04 NCAC 10A .0501, where applicable. The Form 26, *Supplemental Agreement as to Payment of*  
14 *Compensation*, shall read as 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 ~~THE INDUSTRIAL COMMISSION WILL NOT CHARGE A FEE FOR PROCESSING FORM 26~~

33 ~~AGREEMENTS FILED ON OR AFTER JULY 1, 2015.~~

34

35 8. The date of this agreement is \_\_\_\_\_.

36 \_\_\_\_\_

37 Name Of Employer

Signature

Title





1 years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M,  
2 available at <http://www.ic.nc.gov/forms.html>.

3  
4  
5 **IMPORTANT NOTICE TO EMPLOYER**

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

14  
15 **NEED ASSISTANCE?**

16  
17 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
18 (800) 688-8349.

19  
20 Form 26

21 11/2014

22  
23 Self-Insured Employer or Carrier Mail to:

24 NCIC - Claims Administration

25 4335 Mail Service Center

26 Raleigh, North Carolina 27699-4335

27 Main Telephone: (919) 807-2500

28 Helpline: (800) 688-8349

29 Website: <http://www.ic.nc.gov/>

30  
31 (a) (Effective July 1, 2015) If the parties to a workers' compensation claim have previously entered into an  
32 approved agreement on a Form 21, *Agreement for Compensation for Disability*, or a Form 26A, *Employer's*  
33 *Admission of Employee's Right to Permanent Partial Disability*, they shall use the following Form 26, *Supplemental*  
34 *Agreement as to Payment of Compensation*, for agreements regarding subsequent, additional disability and payment  
35 of compensation therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as  
36 payment of compensation for permanent partial disability may also be included on the form. This form is necessary

1 to comply with 04 NCAC 10A .0501, where applicable. The Form 26, Supplemental Agreement as to Payment of  
2 Compensation, shall read as follows:

3  
4 North Carolina Industrial Commission  
5 Supplemental Agreement as to Payment  
6 of Compensation (G.S. §97-82)

7  
8 IC File #  
9 Emp. Code #  
10 Carrier Code #  
11 Carrier File #  
12 Employer FEIN

13  
14 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

15  
16 \_\_\_\_\_  
17 Employee's Name

18 \_\_\_\_\_  
19 Address

20 \_\_\_\_\_  
21 City \_\_\_\_\_ State \_\_\_\_\_ Zip

22 \_\_\_\_\_  
23 Home Telephone \_\_\_\_\_ Work Telephone

24 Social Security Number: \_\_\_\_\_ Sex:  M  F Date of Birth: \_\_\_\_\_

25  
26 \_\_\_\_\_  
27 Employer's Name \_\_\_\_\_ Telephone Number

28 \_\_\_\_\_  
29 Employer's Address \_\_\_\_\_ City State Zip

30 \_\_\_\_\_  
31 Insurance Carrier

32 \_\_\_\_\_  
33 Carrier's Address \_\_\_\_\_ City State Zip

34 \_\_\_\_\_  
35 Carrier's Telephone Number \_\_\_\_\_ Carrier's Fax Number

36  
37 We, The Undersigned, Do Hereby Agree and Stipulate As Follows:

1 1. Date of injury: \_\_\_\_\_  
2 2. The employee  returned to work /  was rated on \_\_\_\_\_ (date), at a weekly wage of \$ \_\_\_\_\_.  
3 3. The employee became totally disabled on \_\_\_\_\_.  
4 4. Employee's average weekly wage  was reduced /  was increased on \_\_\_\_\_, from \$  
5 per week to \$ \_\_\_\_\_ per week.  
6 5. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate  
7 of \$ \_\_\_\_\_ per week  
8 Beginning \_\_\_\_\_, and continuing for \_\_\_\_\_ weeks. The type of disability compensation is  
9 \_\_\_\_\_

10 6. State any further matters agreed upon, including disfigurement or temporary partial disability:  
11 \_\_\_\_\_

12 ~~7.~~ **IMPORTANT NOTICE TO EMPLOYEE:** The Industrial Commission's fee for processing this agreement  
13 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of  
14 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  
15 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer  
16 agree otherwise.

17 Check one of the boxes below if the award is more than \$3,000.00:  
18  The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.  
19  The employee and employer have agreed that the employer will pay the entire fee.

20  
21 8.7. The date of this agreement is \_\_\_\_\_.  
22 \_\_\_\_\_

23 Name Of Employer \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_  
24 \_\_\_\_\_

25 Name Of Carrier/Administrator \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_  
26 \_\_\_\_\_

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

29 \_\_\_\_\_  
30 Signature of Employee \_\_\_\_\_ Address \_\_\_\_\_

31 \_\_\_\_\_  
32 Signature of Employee's Attorney \_\_\_\_\_ Address \_\_\_\_\_

33  
34  Check box if no attorney retained.

35  
36 North Carolina Industrial Commission  
37 The Foregoing Agreement Is Hereby Approved:

1 \_\_\_\_\_  
2 Claims Examiner Date  
3 \_\_\_\_\_

4 Attorney's fee approved  
5

6 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM  
7 PAYMENTS

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

11  
12 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE 5 JULY 1994 CLAIMING ADDITIONAL  
13 MEDICAL BENEFITS

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

16  
17 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER 5 JULY 1994 CLAIMING ADDITIONAL  
18 MEDICAL BENEFITS

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

25  
26  
27 IMPORTANT NOTICE TO EMPLOYER

28  
29 This form is to be used only to supplement Form 21, *Agreement for Compensation for Disability (G.S. 97-82)*, or an  
30 award in cases in which subsequent conditions require a modification of a former agreement or award. The  
31 employee must be provided a copy of the form when the agreement is signed by the employee. Failure to file Form  
32 28B, *Report of Compensation and Medical Compensation Paid*, within 16 days after last payment pursuant to this  
33 agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 04 NCAC 10A .0501,  
34 within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must  
35 submit the agreement to the Industrial Commission, or show cause for not submitting the agreement.

36  
37 NEED ASSISTANCE?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

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

Form 26  
7/2015

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

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

*History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77; Eff. November 1, 2014; Amended Eff. July 1, 2015, pursuant to S.L. 2014-77, by deleting Item 7. of subsection (a).*

1 Rule 04 NCAC 10L .0103 is adopted as published on the OAH website for the public comment period beginning  
2 August 20 through September 15, 2014, with changes as follows:

3  
4 **04 NCAC 10L .0103 FORM 26A – EMPLOYER’S ADMISSION OF EMPLOYEE’S RIGHT TO**  
5 **PERMANENT PARTIAL DISABILITY**  
6

7 (a) **Effective until July 1, 2015** The parties to a workers’ compensation claim shall use the following Form 26A,  
8 *Employer’s Admission of Employee’s Right to Permanent Partial Disability*, for agreements regarding the  
9 employee’s entitlement to and the employer’s payment of compensation for permanent partial disability pursuant to  
10 G.S. 97-31. Additional issues agreed upon by the parties, including, but not limited to, election of payment of  
11 temporary partial disability pursuant to G.S. 97-30 may also be included on the form. This form is necessary to  
12 comply with 04 NCAC 10A .0501, where applicable. The Form 26A, *Employer’s Admission of Employee’s Right to*  
13 *Permanent Partial Disability*, shall read 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: \_\_\_\_\_

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 11. If applicable, the Second Injury Fund Assessment is \$ \_\_\_\_\_. A check  is  is not  
2 included.

3 12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission’s fee for processing this agreement  
4 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of  
5 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  
6 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer  
7 agree otherwise.

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

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

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

11 ~~THE INDUSTRIAL COMMISSION WILL NOT CHARGE A FEE FOR PROCESSING FORM 26A~~  
12 ~~AGREEMENTS FILED ON OR AFTER JULY 1, 2015.~~

13  
14 The undersigned hereby certify that the material medical and vocational reports related to the injury have been  
15 provided to the employee or his attorney and have been filed with the Industrial Commission for consideration  
16 pursuant to G.S. 97-82(a) and Industrial Commission Rule 501(3).

17

18

19 \_\_\_\_\_  
Name Of Employer Signature Title Date

20

21 \_\_\_\_\_  
Name Of Carrier/Administrator Signature Direct Phone Number Title Date

22

23 By signing I enter into this agreement and certify that I have read the “Important Notices to Employee”  
24 printed on pages 2 and 3 of this form.

25

26

27 \_\_\_\_\_  
Signature of Employee Address Date

28

29 \_\_\_\_\_  
Signature of Employee’s Attorney Address \_\_\_\_\_ Date

30

31  Check box if no attorney retained.

32

33 North Carolina Industrial Commission

34 The Foregoing Agreement Is Hereby Approved:

35

36 \_\_\_\_\_  
Claims Examiner Date

37



1 Attorney's fee approved

2

3 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM  
4 PAYMENTS

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

8

9 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL  
10 MEDICAL BENEFITS

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

13

14 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL  
15 MEDICAL BENEFITS

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

22

23 IMPORTANT NOTICE TO EMPLOYER

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

29

30 NEED ASSISTANCE?

31 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
32 (800) 688-8349.

33

34 Form 26A

35 11/2014

36

37 Self-Insured Employer or Carrier Mail to:

1 NCIC - Claims Administration  
2 4335 Mail Service Center  
3 Raleigh, North Carolina 27699-4335  
4 Main Telephone: (919) 807-2500  
5 Helpline: (800) 688-8349  
6 Website: <http://www.ic.nc.gov/>  
7

8 **(a) (Effective July 1, 2015)** The parties to a workers' compensation claim shall use the following Form 26A,  
9 Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the  
10 employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to  
11 G.S. 97-31. Additional issues agreed upon by the parties, including, but not limited to, election of payment of  
12 temporary partial disability pursuant to G.S. 97-30 may also be included on the form. This form is necessary to  
13 comply with 04 NCAC 10A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to  
14 Permanent Partial Disability, shall read as follows:

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

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: \_\_\_\_\_  
37

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. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and  
 14 \_\_\_\_\_ is the Carrier/Administrator for the Employer.
- 15 2. The employee sustained an injury by accident or the employee contracted an occupational disease arising  
 16 out of and in the course of employment on \_\_\_\_\_.
- 17 3. The injury by accident or occupational disease resulted in the following injuries:  
 18 \_\_\_\_\_.
- 19 4. The employee  was  was not paid for the 7 day waiting period.

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

- 21 5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances,  
 22 was \$ \_\_\_\_\_. This results in a weekly compensation rate of \$ \_\_\_\_\_.
- 23 6. The employee  has  has not returned full time to work for \_\_\_\_\_  
 24 on \_\_\_\_\_, at an average weekly wage of \$ \_\_\_\_\_.
- 25 7. Claimant was released  with permanent restrictions  without permanent restrictions.

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

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

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

- 35 10. An overpayment is claimed in the amount of \$ \_\_\_\_\_. Overpayment was calculated as  
 36 follows: \_\_\_\_\_.

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

1 11. If applicable, the Second Injury Fund Assessment is \$ \_\_\_\_\_ . A check  is  is not  
2 included.

3 ~~12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement~~  
4 ~~is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of~~  
5 ~~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~~  
6 ~~award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer~~  
7 ~~agree otherwise.~~

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

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

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

11  
12 The undersigned hereby certify that the material medical and vocational reports related to the injury have been  
13 provided to the employee or his attorney and have been filed with the Industrial Commission for consideration  
14 pursuant to G.S. 97-82(a) and Industrial Commission Rule 501(3).

15  
16 \_\_\_\_\_  
17 Name Of Employer Signature Title Date

18 \_\_\_\_\_  
19 Name Of Carrier/Administrator Signature Direct Phone Number Title Date

20  
21 By signing I enter into this agreement and certify that I have read the "Important Notices to Employee"  
22 printed on pages 2 and Page 3 of this form.

23  
24 \_\_\_\_\_  
25 Signature of Employee Address Date

26 \_\_\_\_\_  
27 Signature of Employee's Attorney Address Date

28  
29  Check box if no attorney retained.

30  
31 North Carolina Industrial Commission

32 The Foregoing Agreement Is Hereby Approved:

33 \_\_\_\_\_  
34 Claims Examiner Date

35 \_\_\_\_\_  
36 Attorney's fee approved

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, available  
19 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 04 NCAC 10A .0501,  
25 within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must  
26 submit the agreement to the Industrial Commission, or show cause for not submitting the agreement.

27  
28 NEED ASSISTANCE?

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

31  
32 Form 26A

33 7/2015

34  
35 Self-Insured Employer or Carrier Mail to:

36 NCIC - Claims Administration

37 4335 Mail Service Center

1 Raleigh, North Carolina 27699-4335

2 Main Telephone: (919) 807-2500

3 Helpline: (800) 688-8349

4 Website: <http://www.ic.nc.gov/>

5

6 (b) A copy of the form described in Paragraph (a) of this Rule can be accessed at

7 <http://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced only in the format available at

8 <http://www.ic.nc.gov/forms/form26a.pdf> and may not be altered or amended in any way.

9

10 *History Note: Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

11 *Eff. November 1, 2014;*

12 *Amended Eff. July 1, 2015, pursuant to S.L. 2014-77, by deleting Item 12. of subsection (a).*