



Update and Tips from the Executive Secretary's Office

**22nd Annual North Carolina Workers'
Compensation Educational Conference
October 4, 2017**

**Meredith R. Henderson, Executive Secretary
Michael R. Kelly, Special Deputy Commissioner
North Carolina Industrial Commission**

EXECUTIVE SECRETARY'S OFFICE

- **Executive Secretary**
- **Special Deputy Commissioners**
 - Lucy Austin
 - Rita Dorry
 - Alexandra Hagerty
 - Mike Kelly
 - John Manzo
 - Jessi Sherman

EXECUTIVE SECRETARY'S OFFICE

- **ESO Staff Members**

- Kimberly Allmond – 3rd Party distributions, Attorney Withdrawals, Form 23 Applications
- Audrey Terry– Medical Motions
- Tiffany Davalos – Form 24 Applications
- Scott Horton – Compromise Settlement Agreements
- Mandy Liang – Compromise Settlement Agreements
- Shona Pearson – General Administrative Motions

EXECUTIVE SECRETARY'S OFFICE

- **FY 2016-17 ESO Statistics**

- 9,821 Orders on Compromise Settlement Agreements
- 3,145 Orders/Dispositions on Administrative Motions
- 2,310 Orders on Medical Motions
- 1,860 Orders/Dispositions on Form 24 Applications
- 696 Orders Distributing Third Party Settlements
- 218 Orders/Dispositions on Form 23 Applications
- 18 Certified Copies of Files

EXECUTIVE SECRETARY'S OFFICE

- **Information Specialists**

- Vickie Boone
- Maria Bynum
- Cindy Hardy
- Dayana Page

- **Medical Fees Section**

- Bernadine Singh
- Garrett Griffin

- **Nurses Section**

- Caron Cross
- Yolanda Newsome

EXECUTIVE SECRETARY'S OFFICE

- **Information Specialists – FY 2016-17**

- Over 20,000 calls answered and returned.
- Over 1,600 letters and emails answered.

- **Medical Fees Section – FY 2016-17**

- Assisted with 121 medical provider fee disputes, resulting in over \$200,000 in medical fees being paid to providers.
- Processed over 600 medical bills to assist providers and carriers.

- **Nurses Section – FY 2016-17**

- Assisted with medical case management in 192 cases.
- Processed over 14,500 Forms 25N.
- Conducted mandatory training for 193 rehabilitation professionals.

LEGISLATIVE CHANGES

- **N.C. Session Law 2017-124, Section 1**
 - **Pertinent to Medical and other Motions**
 - Added language to N.C. Gen. Stat. § 97-82(b)
 - “An award of the Commission arising out of G.S. 97-18(b) or G.S. 97-18(d) shall not create a presumption that medical treatment for an injury or condition not identified in the form prescribed by the Commission pursuant to G.S. 97-18(b) or G.S. 97-18(d) is causally related to the compensable injury. An employee may request a hearing pursuant to G.S. 97-84 to prove that an injury or condition is causally related to the compensable injury.”
 - Legislative clarification following [Wilkes v. City of Greenville, 799 S.E.2d 838, 2017 N.C. LEXIS 407 \(N.C. June 9, 2017\)](#)

LEGISLATIVE CHANGES

- **N.C. Session Law 2017-124, Section 2**
 - **Pertinent to attorney fee disputes**
 - N.C. Gen. Stat. § 97-90(f)
 - “If a dispute arises between an employee's current and past attorney or attorneys regarding the division of a fee as approved by the Commission pursuant to this section, the Commission shall hear any dispute after the Commission has approved the settlement agreement. The Commission shall give notice to each of the employee's current and past attorneys of record of the total amount of the approved fee prior to determining how the fee shall be divided between those attorneys. An attorney who is an interested party to an action under this subsection shall have the same rights of appeal as outlined in subsection (c) of this section.”
 - **NOTE:** Notification provision only applies to fee disputes.

LEGISLATIVE CHANGES

- **N.C. Session Law 2017-102, Section 15**
 - **Pertinent to Medical Motions**
 - N.C. Gen. Stat. § 97-25(f)
 - “Motions and responses shall be submitted contemporaneously via electronic ~~mail~~ means to the Commission and to the opposing party”
 - This change will allow the Commission to change its rules through rulemaking to require the submission of Medical Motions and related filings via EDFP, not email.

General Administrative Motions

- **General Administrative Motions – Best Practices**

- Prior to filing a Motion, the parties should attempt to resolve the dispute informally.
 - A party shall do so before filing a motion to compel discovery. See *Rule 04 NCAC 10A .0605(9)*.
- General Administrative Motions shall be filed via EDP. See *Rule 04 NCAC 10A .0108*.
 - *Certain medical-related motions and responses should be filed via EDP.*
 - *Motion for Protective Orders pursuant to N.C. Gen. Stat. § 97-25.6*
 - *Motion to Remove Rehabilitation Professionals pursuant to 04 NCAC 10C .0110*
 - *Form 18M, Application for Additional Medical Compensation*
- Be specific in your request and in the wording of the proposed Order, and attach all necessary documentation to the Motion. See *Rule 04 NCAC 10A .0609(e) and (j)*.

General Administrative Motions

- **Best Practices Continued...**

- If there is a need for an expedited ruling on a Motion, please email execsec@ic.nc.gov to request an expedited ruling and include the reason.
- If the claim settles or the dispute raised in the Motion is resolved, please withdraw the Motion or inform the Commission that the dispute is resolved.
- Be sure to draft the proposed Order as you want it to read. This can help clarify a request if a motion is complicated.

General Administrative Motions

- **Best Practices Continued...**

- Motions for Sanctions for failure to comply with a discovery Order should be addressed to the Executive Secretary rather than filed as a Motion to Show Cause or a Motion for Contempt.
- When moving to add a party to a claim, be sure to serve that party with the motion.
- In a multi-party claim, serve all parties/counsel with any motion filed.
 - List all parties/counsel in the Appearances section of the proposed Order.

Medical Motions

- **Things to Consider Before Filing a Medical Motion**
 - Has this claim been accepted pursuant to N.C. Gen. Stat §§ 97-18(b) or 97-18(d)?
 - This applies to both plaintiff and defendant medical motions.
 - Which forum is the most appropriate forum to file the Medical Motion?
 - Do I have documentation to support the contentions in the Medical Motion?
 - Have I served a copy of this Motion on the opposing party/counsel?

Medical Motions

Motion for Reconsideration

- Filed within 15 days of an Order via EDFP or emailed to medicalmotions@ic.nc.gov.
- Appropriate for newly discovered documents that existed prior to the date of the Order or to clarify issues that were not addressed in the Order.
- Forum: Expedited ruling on the issue by the same Special Deputy Commissioner.

Appeal of Medical Motion Order

- Filed within 15 days of the original Order or the Order on Reconsideration via email to medicalmotions@ic.nc.gov only.
- Appropriate for Motions denied in the administrative forum.
- Forum: Full evidentiary hearing *de novo* before a Deputy Commissioner.

Medical Motions

- **Motions To Stay**

- N.C. Gen. Stat. § 97-25(f)(1)
 - A Motion to Stay an administrative Medical Motion Order should be filed via email to medicalmotions@ic.nc.gov.
 - The Motion should be addressed to the Deputy Commissioner assigned to hear the appeal of the administrative Medical Motion Order.
 - Motions to Stay an administrative Medical Motion Order filed in cases where no appeal has been filed will be directed to the Special Deputy Commissioner who issued the Order.