

COMMON MISTAKES IN FILING AND DEFENDING MEDICAL MOTIONS

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In North Carolina workers' compensation cases, "medical treatment shall be provided by the employer." G.S. 97-25(a). Medical treatment means treatment reasonably required to effect a cure, provide relief, or lessen disability. G.S. 97-2(19); 97-25(c). Not surprisingly there are frequent disagreements between the parties about what medical treatment should be provided, and who should provide it. Disputes involving medical issues in compensable claims are resolved by the Industrial Commission through the medical motion procedure outlined in G.S. 97-25 and Rule 11 NCAC 23A .0609A.

Medical motions fall into three general categories: administrative medical motions, expedited full evidentiary hearings, and emergency medical motions. The Industrial Commission has helpfully provided a guide to the medical motion process that discusses where and how to file each of the motions. This guide is attached to this paper and is available online at: <http://www.ic.nc.gov/NewMedicalMotionProcedureGuidelines.pdf>. (Note, however, that the filing of motions, responses and appeals pursuant to 11 NCAC 23A .0609A is scheduled to change from e-mail to the Electronic Document Filing Portal (EDFP) effective December 1, 2018.) The purpose of this paper is not to repeat the information provided in the IC guide, but rather to identify a few common mistakes that practitioners make when filing or defending medical motions, as identified by the Industrial Commission.

- **READ THE RULES** – Read and carefully follow G.S. 97-25, Rule 11 NCAC 23A .0609A and the Industrial Commission's medical motion guide. The requirements for when, where and how to file a medical motion are detailed and vary by the type of motion filed. Most of the filing and

proof issues that arise in medical motions could be avoided by a careful review of the controlling law.

- **DOCUMENT WHY THE MEDICAL MOTION PROCEDURE APPLIES** -- The medical motion procedure applies to “claims subject to G.S. 97-18(b) and (d).” G.S. 97-25(f). Rule 11 NCAC 23A .0609A specifically requires that documentation supporting the appropriateness of a medical motion be attached to non-emergency medical motions. If the claim has been accepted by Form 60 or by Form 63, attach a copy. If the claim is compensable pursuant to a prior order of the Commission attach the order. If employer has been paying indemnity provide evidence of that. The Commission may decline to hear medical motions where the compensability of the underlying claim is contested.
- **PUT A HEADER ON THE CAPTION** – Remember that the person receiving your motion may receive about twenty more that same day. So, put a clear, CAPITALIZED header in the caption of Motion and in the e-mail header stating exactly what kind of motion you are filing – administrative expedited, expedited evidentiary hearing, or emergency.
- **IF YOU ARE SEEKING A STAY, SAY WHY** -- If a party believes the Commission’s decision on a medical motion should be stayed, explain why a stay should be allowed based on the factors set out in G.S. 97-25(f)(4).
- **EXPLAIN WHY THIS IS AN EMERGENCY** -- When asking for emergency relief under 97-25(f)(3), be sure to clearly and succinctly address the five factors set out in the statute that justify emergency relief. This information, along with the additional information required by Rule 11 NCAC 23A .0609A, is required to receive a hearing on an emergent basis.
- **JUSTIFY YOUR REQUEST TO CHANGE DOCTORS** – When seeking a change in authorized treating physicians under G.S. 97-25(c), or when objecting to an employer’s effort to change treating physicians, explain why the doctor you want to provide medical care will provide a better

outcome for the injured worker. Does the recommended doctor have better qualifications, suggest alternative therapies, or practice significantly closer to the worker's home?

- DO NOT FORGET ABOUT G.S. 97-27 – G.S. 97-27(a) gives employers the statutory authority to set up an IME even in denied claims. G.S. 97-27(b) entitles employees to a second opinion on a rating at the employer's expense.

§ 97-25. Medical treatment and supplies.

(a) Medical compensation shall be provided by the employer.

(b) Upon the written request of the employee to the employer, the employer may agree to authorize and pay for a second opinion examination with a duly qualified physician licensed to practice in North Carolina, or licensed in another state if agreed to by the parties or ordered by the Commission. If, within 14 calendar days of the receipt of the written request, the request is denied or the parties, in good faith, are unable to agree upon a health care provider to perform a second opinion examination, the employee may request that the Industrial Commission order a second opinion examination. The expense thereof shall be borne by the employer upon the same terms and conditions as provided in this section for medical compensation.

(c) Provided, however, if the employee so desires, an injured employee may select a health care provider of the employee's own choosing to attend, prescribe, and assume the care and charge of the employee's case subject to the approval of the Industrial Commission. In addition, in case of a controversy arising between the employer and the employee, the Industrial Commission may order necessary treatment. In order for the Commission to grant an employee's request to change treatment or health care provider, the employee must show by a preponderance of the evidence that the change is reasonably necessary to effect a cure, provide relief, or lessen the period of disability. When deciding whether to grant an employee's request to change treatment or health care provider, the Commission may disregard or give less weight to the opinion of a health care provider from whom the employee sought evaluation, diagnosis, or treatment before the employee first requested authorization in writing from the employer, insurer, or Commission.

(d) The refusal of the employee to accept any medical compensation when ordered by the Industrial Commission shall bar the employee from further compensation until such refusal ceases, and no compensation shall at any time be paid for the period of suspension unless in the opinion of the Industrial Commission the circumstances justified the refusal. Any order issued by the Commission suspending compensation pursuant to G.S. 97-18.1 shall specify what action the employee should take to end the suspension and reinstate the compensation.

(e) If in an emergency on account of the employer's failure to provide medical compensation, a physician other than provided by the employer is called to treat the injured employee, the reasonable cost of such service shall be paid by the employer if so ordered by the Industrial Commission.

(f) In claims subject to G.S. 97-18(b) and (d), a party may file a motion as set forth in this subsection regarding a request for medical compensation or a dispute involving medical issues. The nonmoving party shall have the right to contest the motion. Motions and responses shall be submitted contemporaneously via electronic means to the Commission and to the opposing party or the opposing party's attorney, as follows:

- (1) A party may file a motion with the Executive Secretary for an administrative ruling regarding a request for medical compensation or a dispute involving medical issues. The motion shall be decided administratively pursuant to rules governing motions practices in contested cases. The Commission shall decide the motion within 30 days of the filing of the motion unless an extension of time to respond to the motion has been granted for good cause shown. Either party may file a motion for reconsideration of the administrative order with the Executive Secretary. Either party may request an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the decision of the Executive Secretary approving or denying the original motion or the motion for reconsideration. Within five days of the filing of a request for an expedited formal hearing pursuant to

G.S. 97-84 and subdivision (2) of this subsection to appeal the decision of the Executive Secretary, the Commission shall assign a Deputy Commissioner to conduct the formal hearing. The decision shall not be stayed during the pendency of an appeal pursuant to G.S. 97-84 and subdivision (2) of this subsection except under those circumstances set out in subdivision (4) of this subsection. A motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the formal hearing pursuant to G.S. 97-84. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. A motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

- (2) In lieu of filing a motion with the Executive Secretary for an administrative ruling pursuant to subdivision (1) of this subsection, when appealing a ruling made pursuant to subdivision (1) of this subsection or when appealing an administrative ruling of the Chief Deputy or the Chief Deputy's designee on an emergency motion, a party may request a full evidentiary hearing pursuant to G.S. 97-84 on an expedited basis, limited to a request for medical compensation or a dispute involving medical issues, by filing a motion with the Office of the Chief Deputy Commissioner. The case will not be ordered into mediation based upon a party's request for hearing on the motion or appeal under this subdivision, except upon the consent of the parties. The Commission shall set the date of the expedited hearing, which shall be held within 30 days of the filing of the motion or appeal and shall notify the parties of the time and place of the hearing on the motion or appeal. Upon request, the Commission may order expedited discovery. The record shall be closed within 60 days of the filing of the motion, or in the case of an appeal pursuant to subdivisions (1) and (3) of this subsection, within 60 days of the filing of the appeal, unless the parties agree otherwise or the Commission so orders. Transcripts of depositions shall be expedited if necessary and paid pursuant to rules promulgated by the Commission related to depositions and shall be submitted electronically to the Commission. The Commission shall decide the issue in dispute and make findings of fact based upon the preponderance of the evidence in view of the entire record. The award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the questions at issue shall be filed with the record of the proceedings within 15 days of the close of the hearing record, and a copy of the award shall immediately be sent to the parties. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy Commissioner pursuant to G.S. 97-84 shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. A motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the

appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

- (3) An emergency medical motion filed by either party shall be filed with the Office of the Chief Deputy Commissioner. The Chief Deputy or Chief Deputy's designee shall rule on the motion within five days of receipt unless the Chief Deputy or Chief Deputy's designee determines that the motion is not an emergency, in which case the motion shall be referred to the Executive Secretary for an administrative ruling pursuant to subdivision (1) of this subsection. Motions requesting emergency medical relief shall contain all of the following:

- a. An explanation of the medical diagnosis and treatment recommendation of the health care provider that requires emergency attention.
- b. A specific statement detailing the time-sensitive nature of the request to include relevant dates and the potential for adverse consequences to the movant if the recommended relief is not provided emergently.
- c. An explanation of opinions known and in the possession of the movant of additional medical or other relevant experts, independent medical examiners, and second opinion examiners.
- d. Documentation known and in the possession of the movant in support of the request, including relevant medical records.
- e. A representation that informal means of resolving the issue have been attempted.

Either party may appeal the decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion by requesting an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the administrative decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion. Within five days of the filing of a request for an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection, the Commission shall assign a Deputy Commissioner to conduct the formal hearing. The decision of the Chief Deputy or the Chief Deputy's designee shall not be stayed during the pendency of an appeal of the administrative decision except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. If so, the decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

- (4) The Commission shall consider, among other factors, all of the following when determining whether to grant a motion to stay filed pursuant to this subsection:

- a. Whether there would be immediate and irreparable injury, harm, loss, or damage to either party.

- b. The nature and cost of the medical relief sought.
 - c. The risk for further injury or disability to the employee inherent in the treatment or its delay.
 - d. Whether it has been recommended by an authorized physician.
 - e. Whether alternative therapeutic modalities are available and reasonable.
- (5) If the Commission determines that any party has acted unreasonably by initiating or objecting to a motion filed pursuant to this section, the Commission may assess costs associated with any proceeding, including any reasonable attorneys' fees and deposition costs, against the offending party.

(g), (h) Repealed by Session Laws 2014-77, s. 4, effective July 22, 2014. (1929, c. 120, s. 25; 1931, c. 274, s. 4; 1933, c. 506; 1955, c. 1026, s. 2; 1973, c. 520, s. 1; 1991, c. 703, s. 3; 1997-308, s. 1; 1999-150, s. 1; 2005-448, s. 6.2; 2011-287, s. 6; 2013-294, s. 4; 2014-77, s. 4; 2017-102, s. 15.)

11 NCAC 23A .0609A MEDICAL MOTIONS AND EMERGENCY MEDICAL MOTIONS

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

(b) Following receipt of a notice of hearing before a Deputy Commissioner on a medical motion or appeal, the parties shall submit all subsequent filings and communications electronically directly to the Deputy Commissioner assigned.

(c) In addition to any notice of representation contained in a medical motion or response, an attorney who is retained by a party to prosecute or defend a medical motion or appeal before the Commission shall file a notice of representation in accordance with Rule .0108 of the Subchapter and send a copy of the notice to all other counsel and all unrepresented parties involved in the proceeding.

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

- (1) a designation as a "Medical Motion" brought pursuant to G.S. 97-25 and a statement directly underneath the case caption clearly indicating the request is for either an administrative ruling by the Executive Secretary or an expedited full evidentiary hearing before a Deputy Commissioner;
- (2) the employee's name. If the employee is unrepresented, the employee's telephone number and, if available, the employee's email address and fax number. If the employee is represented, the name, email address, telephone number, and fax number of employee's counsel;
- (3) the employer's name and employer code;
- (4) the carrier or third party administrator's name, carrier code, telephone number, fax number, and, to the extent available, email address;
- (5) the adjuster's name, email address, telephone number, and fax number if counsel for the employer and carrier has not been retained;
- (6) if an attorney has been retained for the employer or carrier, the attorney's name, email address, telephone number, and fax number;
- (7) a statement of the treatment or relief requested;
- (8) a statement of the medical diagnosis of the employee and the name of any health care provider having made a diagnosis or treatment recommendation that is the basis for the motion;
- (9) a statement as to whether the claim has been admitted on a Form 60, *Employer's Admission of Employee's Right to Compensation*, Form 63, *Notice to Employee of Payment of Compensation without Prejudice (G.S. 97-18(d)) or Payment of Medical Benefits Only without Prejudice (G.S. 97-2(19) & 97-25)*, Form 21, *Agreement for Compensation for Disability*, or is subject to a prior Commission Opinion and Award or Order finding compensability, with supporting documentation attached;
- (10) a statement of the time-sensitive nature of the request, if any;
- (11) an explanation of opinions known and in the possession of the movant by any relevant experts, independent medical examiners, and second opinion examiners;
- (12) if the motion requests a second opinion examination pursuant to G.S. 97-25, the motion shall specify whether the employee has made a prior written request to the defendants for the examination, as well as the date of the request and the date of the denial, if any;
- (13) a representation that informal means of resolving the issue have been attempted in good faith, and the opposing party's position, if known; and
- (14) a proposed Order in Microsoft Word format.

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

- (1) a boldface or otherwise emphasized designation as "Emergency Medical Motion";
- (2) the employee's name. If the employee is unrepresented, the employee's telephone number and, if available, the employee's email address and fax number. If the employee is represented, the name, email address, telephone number, and fax number of the employee's counsel;
- (3) the employer's name and employer code, if known;
- (4) the carrier or third party administrator's name, carrier code, telephone number, fax number, and, if available, email address;
- (5) the adjuster's name, email address, telephone number, and fax number if counsel for the employer/carrier has not been retained;
- (6) the counsel for employer/carrier's name, email address, telephone number, and fax number;

- (7) an explanation of the medical diagnosis and treatment recommendation of the health care provider that requires emergency attention;
- (8) a statement of the need for a shortened time period for review, including relevant dates and the potential for adverse consequences if the recommended relief is not provided emergently;
- (9) an explanation of opinions known and in the possession of the movant by any relevant experts, independent medical examiner, and second opinion examiners;
- (10) a representation that informal means of resolving the issue have been attempted in good faith, and the opposing party's position, if known;
- (11) documents known and in the possession of the movant relevant to the request, including relevant medical records; and
- (12) a proposed Order in Microsoft Word format.

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

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

(h) Depositions, if requested by the parties or ordered by the Deputy Commissioner, shall be taken in accordance with Rule .0612 of this Section and on the Deputy Commissioner's order pursuant to G.S. 97-25. In full evidentiary hearings conducted by a Deputy Commissioner pursuant to G.S. 97-25(f)(1) and (f)(2), depositions shall be completed and all transcripts, briefs, and proposed Opinion and Awards filed with the Deputy Commissioner in accordance with Rule .0108 of this Subchapter within 60 days of the filing of the motion or appeal. The Deputy Commissioner may reduce or enlarge the timeframe contained in this Paragraph for good cause shown or upon agreement of the parties.

(i) A party may appeal the decision of a Deputy Commissioner filed pursuant to G.S. 97-25(f)(2) by filing notice of appeal to the Full Commission within 15 calendar days of receipt of the decision in accordance with Rule .0108 of this Subchapter. A letter expressing an intent to appeal a Deputy Commissioner's decision filed pursuant to G.S. 97-25 shall be considered notice of appeal to the Full Commission, provided that the letter specifically identifies the decision from which appeal is taken and indicates that the appeal is taken from a decision by a Deputy Commissioner pursuant to G.S. 97-25(f)(2). After receipt of notice of appeal, the appeal shall be acknowledged by the Commission within three days by sending an Order under the name of the Chair of the Panel to which the appeal is assigned. The Order shall set the schedule for filing briefs. A Full Commission hearing on an appeal of a medical motion filed pursuant to G.S. 97-25 shall be held telephonically and shall not be recorded unless unusual circumstances arise and the Commission so orders. All correspondence, briefs, and motions related to the appeal shall be addressed to the Chair of the Panel with a copy to his or her law clerk.

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

(k) Claimants and employers without legal representation are not required to file documents via electronic transmission and may file documents with the Commission via EDP, electronic mail, facsimile, U.S. Mail, private courier service, or hand delivery.

History Note: Authority G.S. 97-25; 97-78(f)(2); 97-78(g)(2); 97-80(a); S.L. 2014-77; Eff. January 1, 2011;

*Amended Eff. February 1, 2016; November 1, 2014;
Recodified from 04 NCAC 10A .0609A Eff. June 1, 2018.*

NEW MEDICAL MOTION PROCEDURE GUIDELINES – July 2014

Effective July 22, 2014, motions regarding medical treatment issues covered by N.C. Gen. Stat. § 97-25 may be filed with the Executive Secretary's Office for an administrative ruling or, in lieu of an administrative ruling, a party may file a motion request for an expedited full evidentiary hearing before a Deputy Commissioner on a medical issue with the Chief Deputy Commissioner. Emergency medical motions shall be filed with the Chief Deputy Commissioner.

The Industrial Commission will begin rulemaking for the new medical motion procedures very soon. In the interim, the following guidelines are intended to help parties understand how and where to file related motions and appeals:

- **ADMINISTRATIVE MEDICAL MOTIONS**

Administrative medical motions shall be addressed to the **Executive Secretary** and filed electronically to medicalmotions@ic.nc.gov.

- Responses shall also be submitted to medicalmotions@ic.nc.gov within the timeframes allowed by Workers' Compensation Rule 609.
- Telephonic hearings will not be held on the administrative medical motions. An informal telephonic discussion may be held on an as-needed basis if deemed necessary by the Executive Secretary's Office.
- Administrative medical motions and responses shall include proposed Orders in Microsoft Word format.
- Administrative medical motions will be decided by Administrative Order of the Executive Secretary or an assigned Special Deputy Commissioner within 30 days of receipt of the motion.
- A party can file a motion for reconsideration within 15 days of the date of the Administrative Order.
- A party may appeal an order of the Executive Secretary or an assigned Special Deputy Commissioner or a ruling on a motion for reconsideration by filing a motion with the Chief Deputy Commissioner within 15 days.
- Any request to stay an Administrative Order pending appeal shall be filed with Deputy Commissioner assigned to hear the appeal. Requests to stay Administrative Orders will be ruled upon within five days of assignment to a Deputy Commissioner.

- **EXPEDITED FULL EVIDENTIARY HEARINGS ON MEDICAL MOTIONS**

In lieu of filing an administrative medical motion with the Executive Secretary, to appeal an Administrative Order on a medical motion, or to appeal an emergency medical ruling by the Chief Deputy Commissioner or his designee, a party may file a medical motion with the Office of the **Chief Deputy Commissioner** via medicalmotions@ic.nc.gov to request an expedited full evidentiary hearing. Medical motions or appeals filed with the Chief Deputy Commissioner will be assigned within 5 days of receipt to a Deputy Commissioner.

- Subsequent related filings shall be directed to the assigned Deputy Commissioner.
- The claim will bypass mandatory mediation.
- The motion or appeal shall be heard within 30 days of receipt by the Commission.

- The assigned Deputy Commissioner may order expedited discovery or depositions.
 - Any transcripts shall be expedited if necessary and paid pursuant to Commission rules related to depositions.
 - The record will close within 60 days of receipt of the motion or appeal.
 - The assigned Deputy Commissioner shall issue an Opinion and Award deciding the matter within 15 days of the close of the record.
 - A party may appeal the Opinion and Award to the Full Commission within 15 days of receipt by sending a letter expressing intent to appeal to the Docket Section.
 - The appeal will be acknowledged and assigned to a panel of Commissioners by Order within three days. The Order will address the schedule for submitting a statement setting forth the grounds for appeal and a brief.
 - Oral argument on the appeal will be heard by the Full Commission telephonically and will not be recorded unless so ordered based on unusual circumstances.
 - A motion to stay the Deputy Commissioner's Opinion and Award pending appeal shall be filed with the Chairman of the Commission and will be ruled upon within five days of receipt.
 - An Opinion and Award deciding the appeal shall be issued by the Full Commission within 60 days of receipt of the appeal.
- **EMERGENCY MEDICAL MOTIONS**
A party may file an administrative emergency medical motion with the Chief Deputy Commissioner via medicalmotions@ic.nc.gov.
 - Upon receipt, the Commission shall notify the parties as to the timeframe for response and whether a telephonic hearing will be held.
 - The Chief Deputy Commissioner or his designee shall rule on the motion within five days, unless the motion is determined not to be an emergency.
 - Non-emergency motions shall be referred to the Executive Secretary and handled pursuant to N.C. Gen. Stat. § 97-25(f)(1).
 - Emergency medical motions shall include the information required by N.C. Gen. Stat. §97-25(f)(3)(a)-(e).
 - Emergency medical orders may be appealed pursuant to N.C. Gen. Stat. § 97-84 and N.C. Gen. Stat. § 97-25(f)(2) for an expedited full evidentiary hearing before a Deputy Commissioner pursuant to the procedures mentioned above for expedited full evidentiary hearings on medical motions.
 - A motion to stay the Chief Deputy Commissioner's emergency medical decision shall be filed with the Deputy Commissioner assigned to hear the appeal. Requests to stay emergency medical orders will be ruled upon within five days of assignment to a Deputy Commissioner.

Please review the revised N.C. Gen. Stat. § 97-25(f)(4) and (f)(5) for details regarding the factors considered on Motions to Stay and the Commission's authority to assess costs, attorney fees, and deposition costs for unreasonable litigation of a medical issue.