

1 **4 NCAC 10A .0101 is proposed for amendment as follows:**

2 **SUBCHAPTER 10A – WORKERS’ COMPENSATION RULES**

3 **SECTION 0100 - ADMINISTRATION**

4 **4 NCAC 10A .0101 LOCATION OF OFFICES AND HOURS OF BUSINESS**

5 The offices of the North Carolina Industrial Commission (~~hereinafter "Industrial Commission"~~) are located in the  
6 Dobbs Building, 430 North Salisbury Street, in Raleigh, North Carolina, ~~27611~~. Carolina. ~~The same office hours~~  
7 ~~will be observed by the Industrial Commission as are, or may be, observed by other State offices in Raleigh.~~

8 Documents that are not being filed electronically may be filed between the hours of 8:00 a.m. and 5:00 p.m. only.

9 Documents permitted to be filed electronically may be filed until 11:59 p.m. on the ~~day due~~ required filing date.

10 *History Note:* Authority G.S. 97-80(a);

11 *Eff.* January 1, 1990;

12 *Amended Eff.* January 1, 2013; January 1, 2011; June 1, 2000.

1 **4 NCAC 10A .0102 is proposed for amendment as follows:**

2 **4 NCAC 10A .0102**                    ~~**TRANSACTION OF BUSINESS BY THE COMMISSION OFFICIAL**~~  
3 **FORMS**

4 ~~The Industrial Commission will remain in continuous session subject to the call of the Chair to meet as a body for~~  
5 ~~the purpose of transacting such business as may come before it.~~

6 ~~In reviewing an Opinion and Award of a Deputy Commissioner or of a sole Commissioner acting as the hearing~~  
7 ~~officer, the Full Commission may sit en banc or in panels of three.~~

8 (a) Copies of the Commission's rules, forms, and minutes may be obtained by contacting the Commission in  
9 person, by written request mailed to 4340 Mail Service Center, Raleigh, NC 27699-4340, or from the Commission's  
10 website.

11 (b) The use of any printed forms other than those provided by the Commission is prohibited except that insurance  
12 carriers, self-insureds, attorneys and other parties may reproduce forms for their own use, provided:

13            (1) no statement, question, or information blank contained on the Commission form is omitted from  
14            the substituted form, and

15            (2) the substituted form is identical in size and format with the Commission form.

16 *History Note:*                    *Authority* G.S. 97-80(a); 97-81(a);  
17    *Eff.* January 1, 1990;  
18    *Amended Eff.* January 1, 2013; June 1, 2000.

1 **4 NCAC 10A .0103 is proposed for amendment as follows:**

2 **4 NCAC 10A .0103**                    **OFFICIAL FORMS NOTICE OF ACCIDENT AND CLAIM OF INJURY**  
3 **OR OCCUPATIONAL DISEASE**

4 (a) ~~The Industrial Commission will supply, on request, forms identified by number and title as follows:~~

5 ~~Form 17—Workers’ Compensation Notice~~

6 ~~Form 18—Notice of Accident to Employer and Claim of Employee or His Personal~~  
7 ~~Representative or Dependents (N.C.G.S. 97-24)~~

8 ~~Form 18B—Claim by Employee or His Personal Representative or Dependents for Workers’~~  
9 ~~Compensation Benefits for Lung Damage, Including Asbestosis, Silicosis, and Byssinosis~~  
10 ~~(N.C.G.S. 97-53)~~

11 ~~Form 18M—Employee’s Claim for Additional Medical Compensation~~

12 ~~Form 19—Employer’s Report of Employee’s Injury to the Industrial Commission~~

13 ~~Form 21—Agreement for Compensation for Disability Pursuant to N.C.G.S. 97-82~~

14 ~~Form 22—Statement of Days Worked and Earnings of Injured Employee (Wage Chart)~~

15 ~~Form 24—Application to Terminate or Suspend Payment of Compensation Pursuant to N.C.G.S.~~  
16 ~~97-18.1~~

17 ~~Form 25C—Authorization for Rehabilitation Professional to Obtain Medical Records of Current~~  
18 ~~Treatment~~

19 ~~Form 25D—Dentist’s Itemized Statement of Charges for Treatment and Certification of Treatment~~  
20 ~~Disability~~

21 ~~Form 25M—Physician’s Itemized Statement of Charges for Treatment and Certification of~~  
22 ~~Treatment of Disability~~

23 ~~Form 25N—Notice to the Industrial Commission of Assignment of Rehabilitation Professional~~

24 ~~Form 25R—Evaluation for Permanent Impairment~~

25 ~~Form 25T—Itemized Statement of Charges for Travel~~

26 ~~Form 25P—Itemized Statement of Charges for Drugs~~

27 ~~Form UB-92—Hospital Bill~~

28 ~~Form 26—Supplemental Agreement as to Payment of Compensation Pursuant to N.C.G.S. 97-82~~

29 ~~Form 26D—Agreement for Compensation Under N.C.G.S. 97-37~~

30 ~~Form 28—Return to Work Report~~

31 ~~Form 28B—Report of Employer or Carrier/Administrator of Compensation and Medical~~  
32 ~~Compensation Paid and Notice of Right to Additional Medical Compensation~~

33 ~~Form 28T—Notice of Termination of Compensation by Reason of Trial Return to Work Pursuant~~  
34 ~~to N.C.G.S. 97-18.1(b) and N.C.G.S. 97-32.1~~

35 ~~Form 28U—Employee’s Request that Compensation be Reinstated After Unsuccessful Trial~~  
36 ~~Return to Work Pursuant to N.C.G.S. 97-32.1~~

- 1 Form 29—Supplementary Report for Fatal Accidents
- 2 Form 30—Agreement for Compensation for Death
- 3 Form 30D—Notice of Death Award (Approval of Agreement)
- 4 Form 31—Application for Lump Sum Award
- 5 Form 33—Request that Claim be Assigned for Hearing
- 6 Form 33R—Response to Request that Claim be Assigned for Hearing
- 7 Form 36—Subpoena for Witness and Subpoena to Produce Items or Documents
- 8 Form 42—Application for Appointment of Guardian Ad Litem
- 9 Form 44—Application for Review
- 10 Form 50—Itemized Statement of Charge for Nursing
- 11 Form 51—Consolidated Fiscal Annual Report of “Medical Only” and “Lost Time” Cases
- 12 Form 60—Employer’s Admission of Employee’s Right to Compensation Pursuant to N.C.G.S. 97–
- 13 18(b)
- 14 Form 61—Denial of Workers’ Compensation Claim Pursuant to N.C.G.S. 97-18(c) and (d)
- 15 Form 62—Notice of Reinstatement of Compensation Pursuant to N.C.G.S 97-32.1 and N.C.G.S.
- 16 97-18(b)
- 17 Form 63—Notice to Employee of Payment of Compensation Without Prejudice to Later Deny the
- 18 Claim Pursuant to N.C.G.S. 97-18(d)
- 19 Form 90—Report of Earnings
- 20 Form IZ-510—Medical Bill Analysis Used for Approval and Reduction of Medical Bills
- 21 Form MCS2—Petition for Order Referring Case to Mediated Settlement Conference
- 22 Form MCS4—Designation of Mediator
- 23 Form MCS5—Report of Mediator
- 24 Form MCS6—Mediator’s Declaration of Interest and Qualifications
- 25 Form MCS7—Report of Evaluator
- 26 Form MSC8—Mediated Settlement Agreement

27 The mailing address for each Industrial Commission form appears at the bottom right corner of the form.

28 (b) ~~The use of any printed forms other than those approved and adopted by the Industrial Commission is prohibited.~~  
 29 Insurance carriers, self insureds, attorneys and other parties may reproduce approved forms for their own use,  
 30 provided:

31 ~~\_\_\_\_\_ (1) \_\_\_\_\_ No statement, question, or information blank contained on the approved Industrial \_\_\_\_\_~~  
 32 ~~\_\_\_\_\_ Commission’s form is omitted from the substituted form.~~

33 (2) \_\_\_\_\_ Such substituted form is substantially identical in size and format with the approved Industrial  
 34 Commission’s form.

35 (c) ~~The following forms may be utilized in preparing routine orders for the signature of a Commissioner or Deputy~~  
 36 ~~Commissioner, and are appended at the end of these Rules:~~

- 1           ~~Form I—Order for Third Party Recovery Distribution per N.C.G.S. 97-10.2~~
- 2           ~~Form IIa—Order Approving Compromise Settlement Agreement (admitted liability, medical paid)~~
- 3           ~~and Third Party Distribution~~
- 4           ~~Form IIb—Order Approving Compromise Settlement Agreement (denied liability, unpaid~~
- 5           ~~medical) and Third Party Distribution~~
- 6           ~~Form IIIa—Order for Approving Compromise Settlement Agreements (admitted liability, medical~~
- 7           ~~paid)~~
- 8           ~~Form IIIb—Order for Approving Compromise Settlement Agreements (denied liability, unpaid~~
- 9           ~~medical)~~

10 ~~(d) Copies of rules, forms and Industrial Commission Minutes can be obtained by contacting the Administrator’s~~  
11 ~~Office of the Industrial Commission, 4319 Mail Service Center, Raleigh, NC 27699-4319.~~

12 To give notice of an accident or occupational disease and to make a workers’ compensation claim, an employee may  
13 complete a Form 18 *Notice of Accident to Employer and Claim of Employee, Representative, or Dependent* and file  
14 it electronically with Claims Administration, or by mail to North Carolina Industrial Commission, 4335 Mail  
15 Service Center, Raleigh, NC 28799-4335.

16 *History Note:*                    Authority G.S. 97-22; 97-24; 97-58; 97-80(a); 97-81;  
17   Eff. January 1, 1990

18

1 **4 NCAC 10A .0104 is proposed for amendment as follows:**

2 **4 NCAC 10A .0104** **EMPLOYER'S ~~REPORT OF INJURY~~ REQUIREMENT TO FILE A**  
3 **FORM 19**

4 An employer shall immediately report to its carrier or administrator any injury, or allegation by an employee of an  
5 injury, sustained in the course of employment for which the attention of a physician is needed or actually sought.  
6 Within five days of knowledge of the injury or allegation, the employer or carrier/administrator or its successor in  
7 interest shall file with the Industrial Commission and provide a copy to the employee of a Form 19, Employer's  
8 Report of Employee's Injury to the Industrial Commission, if injury causes the employee to be absent from work for  
9 more than one day and the employee's medical compensation is greater than an amount which is established  
10 periodically by the Industrial Commission in its Minutes. The employer may record the employee's or another  
11 person's description of the injury on said form without admitting the truth of the information.

12 (a) The form required to be provided by G.S. 97-92(a) is the Form 19 *Employer's Report of Employee's Injury or*  
13 *Occupational Disease to the Industrial Commission.*

14 In addition to providing the Form 19 to the employee, the employer or carrier/administrator shall also provide a  
15 blank Form 18 for use by the employee.

16 (b) The employer, carrier, or administrator shall provide the employee with a copy of the completed Form 19  
17 *Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission,* along with a blank  
18 *Form 18 Notice of Accident to Employer and Claim of Employee, Representative, or Dependent* for use by the  
19 employee in making a claim.

20 The front of the Form 19 shall prominently display the following statement: "To the Employee: This Form 19 is not  
21 your claim for workers' compensation benefits. To make a claim, you must complete and sign the enclosed Form 18  
22 and file it with Claims Administration, North Carolina Industrial Commission, 4335 Mail Service Center, Raleigh,  
23 NC 28799 4335 within two year of the date of your injury or last payment of medical compensation. For  
24 occupational diseases, the claim must be filed within two years of the date of disability and the date your doctor told  
25 you that you have a work related disease, whichever is later."

26 *History Note:* Authority G.S. 97-80(a); 97-92;  
27 *Eff.* March 15, 1995;  
28 *Amended Eff.* January 1, 2013; January 1, 2011; August 1, 2006; March 1, 2001; June 1,  
29 2000.

30  
31

1 **4 NCAC 10A .0105 is proposed for amendment as follows:**

2 **4 NCAC 10A .0105 ELECTRONIC PAYMENT OF COSTS**

3 Electronic payment is ~~authorized~~ required for fees and costs owed to the ~~North Carolina Industrial~~ Commission. ~~The~~  
4 ~~Industrial Commission shall implement guidelines to facilitate electronic payment.~~

5 *History Note:* Authority G.S. 97-80(a);  
6 Eff. January 1, 2011;  
7 Amended Eff. January 1, 2013.

8

1 **4 NCAC 10A .0106 is proposed for amendment as follows:**

2 **4 NCAC 10A .0106 FILING OF ANNUAL REPORT REQUIREMENT**

3 Every carrier, self-insured employer, group self-insured employer, and statutory self-insured employer within the  
4 meaning of G.S. 97-130 shall submit on a yearly basis a Form 51 Annual Consolidated Fiscal Report of “Medical  
5 Only” and “Lost Time” Cases.

6 History Note: Authority G.S. 97-80(a); 97-92; 97-93;

7 Eff. January 1, 2013.

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9



1 **4 NCAC 10A .0107 is proposed for amendment as follows:**

2 **4 NCAC 10A .0107 COMPUTATION OF TIME**

3 Except as otherwise provided by statute, or rule, in computing any period of time prescribed or allowed by the  
4 Commission Rules, by order of the Commission, or by any applicable statute, the day of the act, event, or default  
5 after which the designated period of time begins to run is not included. The last day of the period so computed is  
6 included, unless it is a Saturday, Sunday, or a holiday established by the State Personnel Commission, in which  
7 event the period runs until the end of the next day which is not a Saturday, Sunday or a holiday established by the  
8 State Personnel Commission. When the period of time prescribed or allowed is less than seven days, intermediate  
9 Saturdays, Sundays, and holidays shall be excluded in the computation. Whenever a party has the right to do some  
10 act or take some proceedings within a prescribed period after the service of any document, three days shall be added  
11 to the prescribed period.

12 History Note: Authority G.S. 97-80;

13 Eff. January 1, 2013.

14

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1 **4 NCAC 10A .0201 is proposed for amendment as follows:**

2 **SECTION .0200 - NOTICE OF ACT**

3 **4 NCAC 10A .0201 NOTICE OF EMPLOYMENT SUBJECT TO THE ACT POSTING**

4 **REQUIREMENT FOR EMPLOYERS**

5 ~~(a) Pursuant to the provisions of N.C.G.S. 97-93, all employers subject to the provisions of the Workers'~~  
6 ~~Compensation Act shall post in a conspicuous location in places of employment a Form 17, Workers' Compensation~~  
7 ~~Notice, to give notice to the employees that they are in an employment subject to the provisions of the Workers'~~  
8 ~~Compensation Act and that their employer has obtained workers' compensation coverage or has qualified as self-~~  
9 ~~insured for workers' compensation purposes.~~

10 ~~(b) Should the employer allow its workers' compensation coverage to lapse or that cease to qualify as a self-~~  
11 ~~insured, the employer shall remove within five working days any Form 17 and any other notice indicating otherwise.~~

12 ~~(a) The form required to be posted by G.S. 97-93(e) is the Form 17 *Workers' Compensation Notice to Injured*~~  
13 ~~*Workers and Employers*, that includes the following:~~

14 ~~(1) \_\_\_\_\_ name of insurer;~~

15 ~~(2) \_\_\_\_\_ policy number; and~~

16 ~~(3) \_\_\_\_\_ dates of coverage.~~

17 ~~(b) If there is a change in coverage, the Form 17 *Workers' Compensation Notice to Injured Workers and Employers*~~  
18 ~~shall be amended within 5 working days.~~

19 *History Note:* Authority G.S. 97-80(a); 97-93;

20 Eff. January 1, 1990;

21 Amended Eff. January 1, 2013; March 15, 1995

1 **4 NCAC 10A .0301 is proposed for amendment as follows:**

2 **SECTION .0300 – INSURANCE**

3 **4 NCAC 10A .0301 PROOF OF INSURANCE COVERAGE**

4 (a) Every employer subject to the provisions of the Workers’ Compensation Act shall file with the Industrial  
5 Commission proof that it has obtained workers’ compensation insurance, and shall post notice of proof of insurance  
6 to employees consistent with Rule .0201 of this Subchapter. ~~pursuant to the insurance provisions of the Act. This~~  
7 requirement may be satisfied by:

8 (1) ~~— A notice from the employer’s insurance carrier, through the North Carolina Rate Bureau,~~  
9 ~~certifying that coverage has been received.~~

10 (2) ~~— A notice from the North Carolina Department of Insurance, through the Rate Bureau, certifying~~  
11 ~~that the employer has qualified as a self-insured employer or as a member of a self insurance fund~~  
12 ~~pursuant to the Act.~~

13 (3) ~~— All employers have an affirmative obligation to report to the Rate Bureau any changes in coverage~~  
14 ~~within 30 days.~~

15 (4) ~~— All employers must notify the Department of Insurance when it becomes a member of a self-~~  
16 ~~insurance fund.~~

17 (b) Upon actual notice of a workers’ compensation claim or upon reporting a workers’ compensation claim to a  
18 carrier, third party administrator, servicing agent, professional employer organization as defined in N.C. Gen. Stat.  
19 58-89A-5(14), or the Commission, all employers shall provide the injured worker with the name of their insurance  
20 carrier and policy number or shall inform the injured worker of their self-insured status, membership in a self-  
21 insurance group or relationship with a professional employer organization that provides the insurance coverage.

22 (c) Every carrier, third party administrator, servicing agent, or other entity filing a Form 19 *Employer’s Report of*  
23 *Employee’s Injury or Occupational Disease to the Industrial Commission* shall identify by name and address any  
24 professional employer organization and the name of the client company employing the employee who is the subject  
25 of the Form 19 *Employer’s Report of Employee’s Injury or Occupational Disease to the Industrial Commission.*

26 (d) A professional employer organization shall, within 30 days of initiation or termination of the professional  
27 employer organization’s relationship with any client company, notify the Commission of either the initiation or  
28 termination of the relationship and the status of the client company’s workers’ compensation coverage.

29 (e) Upon notice from the Commission that an employer is non-insured, coverage has lapsed or been canceled, or  
30 coverage or self-insured status cannot be verified, an employer shall show proof of coverage to the Commission by:

31 (1) a certificate of insurance issued by the insurance agent who procured workers’ compensation  
32 insurance on behalf of the employer;

33 (2) submitting a copy of the letter of approval, license or amended license with subsidiary  
34 information, if applicable, from the North Carolina Department of Insurance notifying or  
35 indicating the employer has qualified as a self-insured employer for workers’ compensation  
36 purposes;

- 1           (3) submitting a copy of the Form 18WC Application for Membership indicating the employer is a  
2           member of a self-insurance group or fund;  
3           (4) submitting a copy of a declaration of coverage page from an insurance policy procured in another  
4           state that indicates North Carolina is a covered jurisdiction under the workers' compensation  
5           policy;  
6           (5) submitting the names of the general contractor, subcontractor, professional employer organization  
7           or other entity that has provided workers' compensation coverage for the employer; provided  
8           however, that coverage shall be verified by the Commission in order to be removed from the non-  
9           insured docket; or  
10          (6) submitting other documentation or information relevant to the workers' compensation claim upon  
11          request of the Commission.

12 (f) A principal contractor, intermediate contractor or subcontractor may satisfy the requirements of G.S. 97-19 by  
13 obtaining a certificate of insurance from the insurance agent who procured insurance on behalf of the contractor or  
14 subcontractor. If the principal contractor, intermediate contractor or subcontractor allows its insurance to lapse or  
15 ceases to qualify as a self-insured employer, the principal contractor, intermediate contractor or subcontractor shall,  
16 within 24 hours, notify any contractor to whom it has provided a certificate of insurance that the certificate is no  
17 longer valid.

18 *History Note:*            *Authority* G.S. 97-19; 97-80(a); 97-93;  
19                                *Eff.* January 1, 1990;  
20                                *Amended Eff.* January 1, 2013; June 1, 2000.

1 **4 NCAC 10A .0302 is proposed for amendment as follows:**

2 **4 NCAC 10A .0302                      REQUIRED CONTACT INFORMATION FROM CARRIERS**

3

4 All insurance carriers, third party administrators and self-insured employers shall designate a primary contact person for  
5 workers' compensation issues in North Carolina and shall maintain and provide annually to the Director of Claims  
6 Administration of the ~~Industrial Commission,~~ the primary contact person's current contact information, including direct  
7 telephone and facsimile numbers, mailing addresses, and email addresses. Contact information shall be updated within 30  
8 days of any change. ~~Failure to comply with this Rule may result in sanctions, including those specified in Rule 802. The~~  
9 ~~Industrial Commission shall implement guidelines to facilitate the collection of this information.~~

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11 *History Note:*            *Authority* G.S. 97-80(a); 97-94;

12    *Eff.* January 1, 2011;

13    *Amended Eff.* January 1, 2013.

14

1 4 NCAC 10A .0401 is proposed for amendment as follows:

2 SECTION .0400 - DISABILITY, COMPENSATION, FEES

3 4 NCAC 10A .0401 COMPUTING COMPENSATION Calculating the Seven-Day Waiting Period

4 (a) ~~If~~ When the injured employee is not paid wages for the entire day on which the injury occurred, the seven-day waiting  
5 period prescribed by the Act shall include the day of injury regardless of the hour of the injury.

6 (b) ~~If~~ When the injured employee is paid wages for the entire day on which ~~he is injured~~ the injury occurred and fails to  
7 return to work on his next regular workday because of the injury, the seven-day waiting period shall begin with the first  
8 calendar day following ~~his~~ the injury, even though this may or may not be a regularly scheduled workday.

9 (c) All days, or parts of days, when the injured employee is unable to earn a full day's wages, or is not paid a full day's  
10 wages due to injury, shall be counted in computing the waiting period even though the days may not be consecutive, or  
11 regularly scheduled workdays. ~~and even though these are not regularly scheduled workdays.~~

12 (d) ~~If~~ There is no seven-day waiting period when the permanent partial disability ~~period, when~~ period added to the temporary  
13 disability period, exceeds 21 ~~days, there is no waiting period.~~ days.

14 *History Note:* Authority G.S. 97-28; 97-80(a);

15 *Eff.* January 1, 1990;

16 *Amended Eff.* January 1, 2013.

17

1 **4 NCAC 10A .0402 is proposed for amendment as follows:**

2 **4 NCAC 10A .0402                    ~~COMPUTATION OF DAILY WAGE~~ SUBMISSION OF EARNINGS**

3 **STATEMENT REQUIRED**

4 (a) Upon request of the employee or the Commission, the employer shall submit a verified statement of the specific days  
5 worked and the earnings of the employee during the 52-week period immediately preceding the injury to the Commission and  
6 the employee's attorney of record or the employee, if not represented.

7 (b) In all cases involving a fractional part of a week, the ~~daily average weekly~~ wage shall be computed ~~on the basis of one-~~  
8 ~~seventh of the average weekly wage.~~ based upon the applicable fractional portion of the week worked.

9 *History Note:*                    *Authority* G.S. 97-2(5); 97-18(b); 97-80(a); 97-81;

10                                        *Eff.* January 1, 1990;

11                                        *Amended Eff.* January 1, 2013.

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13  
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1 **4 NCAC 10A .0403 is proposed for amendment as follows:**

2 **4 NCAC 10A .0403 MANNER OF PAYMENT OF COMPENSATION**

3 (a) All payments of compensation ~~must~~ shall be made directly to the employee, dependent, guardian or personal  
4 representative, ~~entitled thereto unless otherwise ordered by the Industrial Commission. At the employee's request, Payment~~  
5 of compensation shall be mailed by first class mail, postage pre-paid, to an address specified by the employee, unless another  
6 method is specified by and agreed upon by the parties. otherwise directed by the Industrial Commission.

7 (b) All payments of compensation ~~must~~ shall be made in ~~strict~~ accordance with the award issued by the ~~Industrial~~  
8 Commission.

9 *History Note:* Authority G.S. 97-18; 97-80(a);

10 *Eff.* January 1, 1990;

11 *Amended Eff.* January 1, 2013; June 1, 2000.

12

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1 **4 NCAC 10A .0404 is proposed for amendment as follows:**

2 **4 NCAC 10A .0404** **TERMINATION AND SUSPENSION OF COMPENSATION**

3 (a) Payments of compensation undertaken pursuant to an award of the ~~Industrial~~ Commission shall continue until the terms  
4 of the award have been fully satisfied. ~~In cases where~~ Where the award is to pay compensation during disability, there is a  
5 rebuttable presumption that disability continues until the employee returns to suitable employment. No application to  
6 terminate or suspend compensation shall be approved by the Commission without a formal hearing if the effect of ~~such~~ the  
7 approval is to set aside the provisions of an award of the ~~Industrial~~ Commission.

8 (b) When an employer, ~~or carrier/administrator~~ carrier, or administrator seeks to terminate or suspend temporary total  
9 disability compensation being paid pursuant to G.S. § 97-29 for a reason other than those specified in ~~G.S. § 97-18(d),~~  
10 ~~payment without prejudice, G.S. 97-18(d) (payment without prejudice), or G.S. § 97-18.1(b), trial return to work, G.S. 97-~~  
11 ~~18.1(b) (trial return to work), or G.S. 97-29(b) (expiration of 500-week limit on disability compensation (only for claims~~  
12 ~~arising on or after June 24, 2011)),~~ the employer, ~~or carrier/administrator~~ carrier, or administrator shall notify ~~the employee~~  
13 ~~and the employee's attorney of record,~~ record or the employee, if any not represented, on Form 24, "Application to Stop  
14 Payment of Compensation." Application to Terminate or Suspend Payment of Compensation. This form requests:

- 15 (1) date of injury of accident and date disability began;  
16 (2) nature and extent of injury;  
17 (3) number of weeks compensation paid and the date range including from and to;  
18 (4) total amount of indemnity compensation paid to date;  
19 (5) whether one of the following events has occurred:  
20 (A) an agreement was approved by the Commission and the date;  
21 (B) an employer admitted employee's right to compensation pursuant to G.S. 97-18(b)  
22 (C) an employer paid compensation to employee without contesting claim within the statutory  
23 period provided under G.S. 97-18(d); or  
24 (D) any other event related to the termination or suspension of compensation.  
25 (6) whether the application is made to terminate or suspend compensation and the grounds; and  
26 (7) whether the employee is in managed care.

27 (c) The employer, ~~or carrier/administrator~~ carrier, or administrator shall specify the ~~legal~~ grounds and the alleged facts  
28 supporting the application, and shall complete the blank space in the "Important Notice to Employee" portion of Form 24  
29 Application to Terminate or Suspend Payment of Compensation by inserting a date 17 days from the date the employer, ~~or~~  
30 ~~carrier/administrator~~ carrier, or administrator deposits the completed Form 24 in the mail to the employee and the employee's  
31 attorney of record, if any. ~~The original of the Form 24 and the attached documents shall be sent to the Industrial Commission~~  
32 ~~at the same time and by the same method by which a copy of the Form 24 and attached documents are sent to the employee~~  
33 ~~and the employee's attorney of record, if any.~~ serves the completed Form 24 Application to Terminate or Suspend Payment of  
34 Compensation on the employee's attorney of record or the employee, if not represented, by e-mail, facsimile or U.S. Mail.  
35 The Form 24 Application to Terminate or Suspend Payment of Compensation and attached documents shall be sent to the  
36 Commission via upload to the Electronic Document Fee Portal, and shall be contemporaneously served on plaintiff's counsel

1 by e-mail or facsimile, or on plaintiff, if unrepresented, by U.S. Mail. If the Form 24 Application to Terminate or Suspend  
2 Payment of Compensation is served by U.S. Mail, a copy shall also be uploaded to the Electronic Document Fee Portal.  
3 (d) The Form 24 Application to Terminate or Suspend Payment of Compensation shall specify the number of pages of  
4 documents attached which are to be considered by the Industrial Commission. Failure to specify the number of pages may  
5 shall result in the refusal of the Industrial Commission to accept the same for filing. If the employee or the employee's  
6 attorney of record, if any, record objects by the date inserted on the employer's Form 24, 24 Application to Terminate or  
7 Suspend Payment of Compensation, or within such additional reasonable time as the Industrial Commission may allow, the  
8 Industrial Commission shall set the case for an informal hearing, unless waived by the parties in favor of a formal hearing.  
9 The objection shall be accompanied by all currently available supporting documentation. A copy of any objection shall be  
10 sent, with any supporting documents, contemporaneously served on to the employer, and carrier/administrator, carrier, or  
11 administrator. The Form 24 Application to Terminate or Suspend Payment of Compensation or objection may be  
12 supplemented with any additional relevant documentation received after the initial filing. The term "carrier/administrator"  
13 "carrier" or "administrator" also includes any successor in interest in the pending claim.  
14 (e) (e) If an employee does not object within the allowed time, the Industrial Commission shall review the Form 24  
15 Application to Terminate or Suspend Payment of Compensation and any attached documentation, and an Administrative  
16 Decision and Order ~~may shall~~ be rendered without an informal hearing as to whether ~~compensation shall be terminated or~~  
17 ~~suspended, there is a sufficient basis under the Workers' Compensation Act to terminate or suspend compensation,~~ except as  
18 provided in ~~paragraph (f) below. Paragraph (g) of this Rule.~~ Either party may seek review of the Administrative Decision  
19 and Order as provided by 4 NCAC 10A .0703. Rule .0703 of this Subchapter  
20 (f) (f) If the employee timely objects to the Form 24, 24 Application to Terminate or Suspend Payment of Compensation, the  
21 Industrial Commission shall conduct an informal hearing within 25 days of the receipt by the Industrial Commission of the  
22 Form 24, ~~unless the time is extended for good cause shown. 24 Application to Terminate or Suspend Payment of~~  
23 Compensation. The informal hearing may be by telephone conference between the Industrial Commission and the parties or  
24 their attorneys of record, ~~record, if any. When good cause is shown, The informal hearing may be conducted with the parties~~  
25 ~~or their attorneys of record, if any, record personally present with the Industrial Commission, in Raleigh or such other~~  
26 ~~location as is selected by the Industrial Commission. The Industrial Commission shall make arrangements for the informal~~  
27 ~~hearing with a view towards conducting the hearing in the most expeditious manner, under the circumstances. Except for~~  
28 ~~good cause shown, the~~ The informal hearing shall be no more than 30 minutes, with each side given 10 minutes to present its  
29 case and five minutes for rebuttal. Notwithstanding the above, the employer, or carrier/administrator carrier, or administrator  
30 may waive the right to an informal hearing, and proceed to a formal hearing by filing a request for hearing on a Form 33. 33  
31 Request that Claim be Assigned for Hearing. A decision on the application shall be made within five days after the  
32 completion of the informal hearing.  
33 (g) (g) Either party may appeal the Administrative Decision and Order of the Industrial Commission as provided by 4 NCAC  
34 10A .0703. Rule .0703 of this Subchapter. A Deputy Commissioner shall conduct a hearing which shall be a hearing de  
35 novo. The hearing shall be ~~peremptorily~~ set without delay and shall not require a Form 33. 33 Request that Claim be  
36 Assigned for Hearing. The employer has the burden of producing evidence on the issue of the employer's application for

1 termination or suspension of compensation. If the Deputy Commissioner reverses an order previously granting a Form 24  
2 Application to Terminate or Suspend Payment of Compensation motion, the employer, ~~or carrier/administrator~~ carrier, or  
3 administrator shall promptly resume compensation or otherwise comply with the Deputy Commissioner's decision,  
4 notwithstanding any appeal or application for review to the Full Commission under G.S. § 97-85.

5 ~~(f)~~ (h) ~~In the event~~ If the Industrial Commission is unable to reach a decision after an informal hearing, the Industrial  
6 Commission shall issue an order to that effect that shall be in lieu of a Form 33 Request that Claim be Assigned for Hearing,  
7 and the case shall be placed on the formal hearing docket. If additional issues are to be addressed, the employer, ~~or~~  
8 ~~carrier/administrator~~ carrier, or administrator shall ~~be required~~ within 30 days of the date of the Administrative Decision and  
9 Order ~~to~~ file a Form 33 Request that Claim be Assigned for Hearing or ~~to~~ notify the Industrial Commission that a formal  
10 hearing is not currently necessary. The effect of placing the case on the docket shall be the same as if the Form 24  
11 Application to Terminate or Suspend Payment of Compensation were denied, and compensation shall continue until such  
12 time as the case is decided by a Commissioner or a Deputy Commissioner following a formal hearing.

13 ~~(g)~~ (i) The Commission shall mail Any any Administrative Decision and Order shall be mailed to the non-prevailing party by  
14 certified mail.

15 ~~(h)~~ (j) No order issued as a result of an informal Form 24 Application to Terminate or Suspend Payment of Compensation  
16 hearing shall terminate or suspend compensation retroactively to a date preceding the filing date of the Form 24. 24  
17 Application to Terminate or Suspend Payment of Compensation. Compensation may be terminated retroactively without a  
18 formal hearing where there is agreement by the parties, where allowed by statute, or where the employee is incarcerated.  
19 Otherwise, retroactive termination or suspension of compensation to a date preceding the filing of a Form 24 Application to  
20 Terminate or Suspend Payment of Compensation may be ordered as a result of a formal hearing. Additionally, nothing shall  
21 impair an employer's right to seek a credit pursuant to G.S. § 97-42.

22 (k) Any Administrative Decision and Order or other Commission decision allowing the suspension of compensation on the  
23 grounds of noncompliance with medical treatment pursuant to G.S. 97-25 or G.S. 97-27, noncompliance with vocational  
24 rehabilitation pursuant to G.S. 97-25 or 97-32.2, or unjustified refusal to return to work pursuant to G.S. 97-32 must specify  
25 what action the employee must take to end the suspension and reinstate the compensation.

26 *History Note:* Authority G.S. 97-18(c); G.S. 97-18(d); 97-32.2(g); 97-80(a);  
27 Eff. January 1, 1990;  
28 Amended Eff. January 1, 2013; June 1, 2000; March 15, 1995.

29

2 (a) Except as provided in ~~subparagraph (7)~~ Paragraph (g) of this Rule, when compensation for total disability being paid  
3 pursuant to G.S. § 97-29 is terminated because the employee has returned to work for the same or a different employer, ~~such~~  
4 ~~the~~ termination is subject to the ~~trial return to work~~ provisions of G.S. ~~§ 97-32.1~~. 97-32.1 (trial return to work). When  
5 compensation is terminated under these circumstances, the employer, ~~or carrier/administrator~~ carrier, or administrator shall,  
6 within 16 days of the termination of compensation, file a Form 28T Notice of Termination of Compensation by Reason of  
7 Trial Return to Work with the ~~Industrial~~ Commission and provide a copy of it to ~~the employee and~~ the employee's attorney of  
8 ~~record, if any, record or the employee, if unrepresented.~~

9 (b) If during the trial return to work period, the employee must stop working due to the injury for which compensation had  
10 been paid, the employee ~~should~~ shall complete and file with the ~~Industrial~~ Commission a Form ~~28U~~, 28U Employee's  
11 Request that Compensation be Reinstated after Unsuccessful Trial Return to Work, without regard to whether the employer,  
12 ~~or carrier/administrator~~ carrier or administrator has filed a Form 28T Notice of Termination of Compensation by Reason of  
13 Trial Return to Work as required by ~~Paragraph (1)~~ Paragraph (a) of this Rule ~~above~~, and provide a copy of the completed  
14 form to the employer and ~~carrier/administrator~~. carrier or administrator. A Form 28U Employee's Request that  
15 Compensation be Reinstated after Unsuccessful Trial Return to Work ~~shall~~ contains a section ~~which that~~ must shall be  
16 completed by the physician who imposed the restrictions or one of the employee's authorized treating physicians, certifying  
17 that the employee's injury for which compensation had been paid prevents the employee from continuing the trial return to  
18 work. If the employee returned to work with an employer other than the employer at the time of injury, the employee ~~must~~  
19 shall complete the "Employee's Release and Request For of Employment Information" section of a Form ~~28U~~. 28U  
20 Employee's Request that Compensation be Reinstated after Unsuccessful Trial Return to Work. An employee's failure to  
21 provide a Form 28U Employee's Request that Compensation be Reinstated after Unsuccessful Trial Return to Work does not  
22 preclude a subsequent finding by the Commission that the trial return to work was unsuccessful.

23 (c) Upon receipt of a ~~properly~~ completed Form ~~28U~~, 28U Employee's Request that Compensation be Reinstated after  
24 Unsuccessful Trial Return to Work, the employer, ~~or carrier/administrator~~ carrier, or administrator shall ~~promptly~~  
25 payment of compensation for total disability. If the employee fails to provide the required certification of an authorized  
26 treating physician as specified in ~~subsection 2 above~~, Paragraph (b) of this Rule, or if the employee fails to execute the  
27 "Employee's Release and Request" section of a Form ~~28U~~, 28U Employee's Request that Compensation be Reinstated after  
28 Unsuccessful Trial Return to Work, if required pursuant to ~~Paragraph (2) above~~, Paragraph (b) of this Rule, the employer, ~~or~~  
29 ~~carrier/administrator~~ carrier, or administrator ~~shall~~ is not be required to resume payment of compensation. Instead, ~~in such~~  
30 ~~circumstances~~, the employer, ~~or carrier/administrator~~ carrier, or administrator shall ~~promptly~~ return a Form 28U Employee's  
31 Request that Compensation be Reinstated after Unsuccessful Trial Return to Work to ~~the employee and~~ the employee's  
32 attorney of ~~record, if any,~~ or the employee, if unrepresented, along with a statement explaining the reason the Form 28U  
33 Employee's Request that Compensation be Reinstated after Unsuccessful Trial Return to Work is being returned and the  
34 reason compensation is not being reinstated.

35 (d) The reinstated compensation shall be due and payable and subject to the provisions of G.S. § 97-18(g) on the date and for  
36 the period commencing on the date the employer, ~~or carrier/administrator~~ carrier, or administrator receives a ~~properly~~

1 completed Form 28U Employee's Request that Compensation be Reinstated after Unsuccessful Trial Return to Work  
2 certifying an unsuccessful return to work. Such resumption of compensation ~~shall~~ does not preclude the employee's right to  
3 seek, nor the employer's, ~~or carrier's/administrator's~~ carrier's, or administrator's right to contest, the payment of  
4 compensation for the period prior or subsequent to ~~such the~~ the reinstatement. If it is thereafter determined by the Commission  
5 that any temporary total or temporary partial compensation, including the reinstated compensation, was not due and payable,  
6 a credit shall be given against any other compensation determined to be owed.

7 (e) When the employer, ~~or carrier/administrator~~ carrier, or administrator has received a ~~properly~~ completed Form 28U  
8 Employee's Request that Compensation be Reinstated after Unsuccessful Trial Return to Work and contests the employee's  
9 right to reinstatement of total disability compensation, ~~it the~~ the employer, carrier, or administrator may suspend or terminate  
10 compensation only as provided in G.S. § 97-18.1, ~~and/or pursuant to the provisions of G.S. §-97-83 and or G.S. §-97-84.~~

11 (f) Upon resumption of payment of compensation for total disability, the employer, ~~or carrier/administrator~~ carrier, or  
12 administrator shall complete and file a Form 62 Notice of Reinstatement or Modification of Compensation ~~and/or or~~ such  
13 other forms as may be required by the Workers' Compensation Act or by ~~Industrial~~ Industrial Commission rule. A copy of the Form 62  
14 Notice of Reinstatement or Modification of Compensation shall be sent to ~~the employee and~~ the employee and the employee's attorney of  
15 ~~record, if any, record or the employee, if unrepresented~~

16 (g) The trial return to work provisions do not apply to the following:

- 17 (1) ~~"Medical only" cases, defined as~~ cases in which the employee is not absent from work for more than one  
18 day ~~and or~~ in which medical expenses are less than two thousand dollars (\$2,000); the amount periodically  
19 ~~established by the Industrial Commission in its Minutes;~~
- 20 (2) ~~Cases~~ cases in which the employee has missed fewer than eight days from work;
- 21 (3) ~~Cases~~ cases wherein in which the employee has been released to return to work by an authorized treating  
22 physician as specified in ~~subsection 2 above~~ Paragraph (b) of this Rule without restriction or limitation  
23 except that if the physician, within 45 days of the employee's return to work date, determines that the  
24 employee is not able to perform the job duties assigned, then the employer, ~~or carrier/administrator~~ carrier,  
25 or administrator ~~must~~ shall resume benefits. If within the same time period, the physician determines that  
26 the employee may work only with restrictions, then the employee is entitled to a resumption of benefits  
27 commencing as of the date of the report, unless the employer is able to offer employment consistent with  
28 the restrictions, in which case a trial return to work period shall be deemed to have commenced at the time  
29 of the employee's initial return to work;
- 30 (4) ~~Cases~~ cases wherein in which the employee has accepted or agreed to accept compensation for permanent  
31 partial disability pursuant to G.S. §-97-31, unless the trial return to work follows reinstatement of  
32 compensation for total disability under G.S. §-97-29; and
- 33 (5) ~~Claims~~ claims pending on or filed after 1 January 1995, when the employer, ~~or carrier/administrator~~ carrier,  
34 or administrator contests a claim pursuant to G.S. §-97-18(d) within the time allowed thereunder.

35 (h) This Rule ~~became effective on 15 February 1995, and~~ applies to any employee who leaves work on or after February  
36 15, 1995 ~~that date~~ due to a compensable injury.

1 *History Note:* *Authority* G.S. 97-18(h); 97-29; 97-32.1; 97-80(a);  
2 *Eff.* February 15, 1995;  
3 *Amended Eff.* January 1, 2013; August 1, 2006; June 1, 2000.  
4

1 **4 NCAC 10A .0405 is proposed for amendment as follows:**

2 **4 NCAC 10A .0405 COMPUTATION OF COMPENSATION FOR AMPUTATIONS REINSTATEMENT OF**  
3 **COMPENSATION**

4 ~~(a) Amputation of any portion of the bone of a distal phalange of a finger or toe at or distal to the visible base of the nail will~~  
5 ~~be considered as equivalent to the loss of one fourth of such finger or toe.~~

6 ~~(b) Amputation of any portion of the bone of the distal phalange of a finger or toe proximal to the visible base of the nail will~~  
7 ~~be considered as equivalent to the loss of one half of such finger of toe.~~

8 ~~(c) Amputation through the forearm at a point so distal to the elbow as to permit satisfactory use of a prosthetic appliance~~  
9 ~~with retention of full natural elbow function shall be considered amputation of the hand. Otherwise, it shall be considered~~  
10 ~~amputation of the arm.~~

11 ~~(d) Amputation through the lower leg at a point so distal to the knee as to permit satisfactory use of a prosthetic appliance~~  
12 ~~with retention of full natural knee function shall be considered amputation of the foot. Otherwise, it shall be considered~~  
13 ~~amputation of the leg.~~

14 (a) In a claim in which the employer, carrier, or administrator has admitted liability, when an employee seeks reinstatement  
15 of compensation on a basis other than a request for review of an award pursuant to G.S. 97-47, the employee may notify the  
16 employer, carrier, or administrator, and the employer's, carrier's, or administrator's attorney of record, on a Form 23  
17 Application to Reinstate Payment of Disability Compensation, or by the filing of a Form 33 Request that Claim be Assigned  
18 for Hearing.

19 (b) When reinstatement is sought by the filing of a Form 23 Application to Reinstate Payment of Disability Compensation,  
20 the original Form 23 Application to Reinstate Payment of Disability Compensation and the attached documents shall be sent  
21 to the Commission at the same time and by the same method by which a copy of the Form 23 and attached documents are  
22 sent to the employer, carrier, or administrator and the employer's, carrier's, or administrator's attorney of record. The Form  
23 23 Application to Reinstate Payment of Disability Compensation shall specify the number of pages of documents attached  
24 which are to be considered by the Commission. Failure to specify the number of pages shall result in the refusal of the  
25 Commission to accept the same for filing. Upon receipt of the Form 23 Application to Reinstate Payment of Disability  
26 Compensation, the Commission shall notify the employer, carrier, or administrator that the Form 23 Application to Reinstate  
27 Payment of Disability Compensation has been received by providing a copy of a Form 23 Application to Reinstate Payment  
28 of Disability Compensation via facsimile or electronic mail. Within 10 days of the receipt of the Form 23 Application to  
29 Reinstate Payment of Disability Compensation from the Commission, the employer, carrier, or administrator shall complete  
30 Section B of the Form 23 Application to Reinstate Payment of Disability Compensation and send it to the Commission and to  
31 the employee, or the employee's attorney of record, at the same time and by the same method by which the form is sent to the  
32 Commission.

33 (c) If the employer, carrier, or administrator does not contest the reinstatement of compensation, the Commission shall  
34 review the Form 23 Application to Reinstate Payment of Disability Compensation and any attached documentation and,  
35 without a hearing, render an Administrative Decision and Order as to whether the compensation shall be reinstated. This  
36 Administrative Decision and Order shall be rendered within five days of the expiration of the time within which the  
37 employer, carrier, or administrator could have filed a response to the Form 23 Application to Reinstate Payment of Disability

1 Compensation.  
2 (d) If the employer, carrier, or administrator contests the reinstatement of compensation, the Commission shall schedule an  
3 informal hearing to take place within seven days of the receipt of the completed Form 23 Application to Reinstatement of  
4 Disability Compensation response from the employer, carrier, or administrator. The informal hearing shall be conducted by  
5 telephone conference between the Commission, the parties, and the parties' attorneys of record. The Commission shall make  
6 arrangements for the informal hearing with a view towards conducting the hearing in the most expeditious manner under the  
7 circumstances. The informal hearing shall be no more than 30 minutes, with each side being given 10 minutes to present its  
8 case and five minutes for rebuttal. An Administrative Decision and Order shall be rendered regarding the Form 23  
9 Application to Reinstatement of Disability Compensation within five business days after the completion of the informal  
10 hearing.  
11 (e) If the Commission is unable to render a decision after the informal hearing, the Commission shall issue an order to that  
12 effect, that shall be in lieu of a Form 33 Request that Claim be Assigned for Hearing, and the case shall be placed on the  
13 formal hearing docket. If additional issues are to be addressed, the employee, employer, carrier, or administrator shall within  
14 30 days of the date of the Administrative Decision and Order, file a Form 33 Request that Claim be Assigned for Hearing or  
15 notify the Commission that a formal hearing is not currently necessary. The Commission shall issue an order to that effect,  
16 which shall be in lieu of a Form 33 Request that Claim be Assigned for Hearing, and the case shall be placed on the formal  
17 hearing docket. If additional issues are to be addressed, the employee, employer, carrier, or administrator shall within 30  
18 days of the Date of the Administrative Decision and Order file a Form 33 Request that Claim be Assigned for Hearing or  
19 notify the Commission that a formal hearing is not currently necessary.  
20 (f) Either party may appeal the Administrative Decision and Order of the Commission as provided by Rule .0703 of this  
21 Subchapter. The Deputy Commissioner shall conduct a hearing de novo. The hearing shall be set without delay and shall not  
22 require the filing of a Form 33 Request that Claim be Assigned for Hearing. If the Deputy Commissioner reverses an order  
23 previously denying a Form 23 Application to Reinstatement of Disability Compensation, the employer, carrier, or  
24 administrator shall resume compensation or otherwise comply with the Deputy Commissioner's decision, notwithstanding  
25 any appeal or application for review to the Full Commission of the decision under G.S. 97-85.  
26 (g) Notwithstanding paragraph (f) of this Rule, the employee may waive the right to an informal hearing and proceed to a  
27 formal hearing before a Deputy Commissioner by filing a Form 33 Request that Claim be Assigned for Hearing. If the  
28 parties, or the parties' attorneys of record, agree that an informal hearing regarding the Form 23 Application to Reinstatement  
29 of Disability Compensation is not necessary, they may so notify the Commission, and an Administrative Decision  
30 and Order shall be rendered based on the Form 23 Application to Reinstatement of Disability Compensation, response,  
31 and documentation submitted.

32 *History Note:* Authority 97-18(k); 97-80(a);  
33 Eff. January 1, 1990;  
34 Amended Eff. January 1, 2013.



1 **4 NCAC 10A .0406 is proposed for amendment as follows:**

2 **4 NCAC 10A .0406 DISCOUNT ~~TABLE~~ RATE TO BE USED IN DETERMINING COMMUTED**  
3 **VALUES**

4 ~~The Industrial Commission in its discretion will designate the interest rate and methods of computation to be used in arriving~~  
5 ~~at the commuted value of unaccrued compensation payments.~~

6 To commute the present value of unaccrued compensation payments, the parties shall utilize the Internal Revenue Service's  
7 Applicable Federal Rate or discount rate that is

8 (1) used to determine the present value of an annuity, an interest for life or a term of years, or a remainder or  
9 reversionary interest,

10 (2) set monthly by the Internal Revenue Service for Section 7520 interest rates, and

11 (3) found in the Index of Applicable Federal Rate (AFR) Rulings. The Index of AFR Rulings is hereby  
12 incorporated by reference and includes subsequent amendments and editions. A copy may be obtained at  
13 no charge from the Internal Revenue Service's website,

14 <http://www.irs.gov/app/picklist/list/federalRates.html>, or upon request, at the offices of the Commission,  
15 located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, between the hours of  
16 8:00 a.m. and 5:00 p.m.

17 *History Note:* Authority G.S. 97-40; 97-44; 97-80(a);

18 Eff. January 1, 1990;

19 Amended Eff. January 1, 2013.

20

21

22

23

1 **4 NCAC 10A .0407 is proposed for amendment as follows:**

2 ~~4 NCAC 10A .0407~~ **FEES FOR MEDICAL COMPENSATION**

3 ~~(a) Subject to the provisions of G.S. 97-25.3, Preauthorization, the Industrial Commission shall adopt and publish a Fee~~  
4 ~~Schedule, pursuant to the provisions of G.S. 97-26(a), fixing maximum fees, except for hospital fees pursuant to G.S. 97-~~  
5 ~~26(b), which may be charged for medical, surgical, nursing, dental, and rehabilitative services, and medicines, sick travel, and~~  
6 ~~other treatment, including medical and surgical supplies, original artificial members as may reasonably be necessary at the~~  
7 ~~end of the healing period and the replacement of such artificial members when reasonably necessitated by ordinary use or~~  
8 ~~medical circumstances. The fees prescribed in the applicable published Fee Schedule shall govern and apply in all cases.~~  
9 ~~However, in special hardship cases where sufficient reason is demonstrated to the Industrial Commission, fees in excess of~~  
10 ~~those so published may be allowed. Persons who disagree with the allowance of such fees in any case may make application~~  
11 ~~for and obtain a full review of the matter before the Industrial Commission as in all other cases provided. Copies of this~~  
12 ~~published Fee Schedule may be obtained from the Industrial Commission's authorized vendor.~~

13 ~~(b) A provider of medical compensation shall submit its statement for services within 75 days of the rendition of the service,~~  
14 ~~or if treatment is longer, within 30 days after the end of the month during which multiple treatments were provided, or within~~  
15 ~~such other reasonable period of time as allowed by the Industrial Commission. However, in cases where liability is initially~~  
16 ~~denied but subsequently admitted or determined by the Industrial Commission, the time for submission of medical bills shall~~  
17 ~~run from the time the health care provider received notice of the admission or determination of liability. Within 30 days of~~  
18 ~~receipt of the statement, the employer, carrier, or managed care organization, or administrator on its behalf, shall pay or~~  
19 ~~submit the statement to the Industrial Commission for approval or send the provider written objections to the statement. If an~~  
20 ~~employer, carrier/administrator, or managed care organization disputes a portion of the provider's bill, it shall pay the~~  
21 ~~uncontested portion of the bill and shall resolve disputes regarding the balance of the charges through its contractual~~  
22 ~~arrangement or through the Industrial Commission. If any bill for medical compensation services is not paid within 60 days~~  
23 ~~after it has been approved by the Industrial Commission and returned to the responsible party, or, when the employee is~~  
24 ~~receiving treatment through a managed care organization, within 60 days after the bill has been properly submitted to an~~  
25 ~~insurer or managed care organization, there shall be added to such unpaid bill an amount equal to 10 percent, which shall be~~  
26 ~~paid at the same time as, but in addition to, such bill, unless late payment is excused by the Industrial Commission. When the~~  
27 ~~10 percent addition to the bill is uncontested, payment shall be made to the provider without notifying or seeking approval~~  
28 ~~from the Industrial Commission. When the percent addition to the bill is contested, any party may request a hearing by the~~  
29 ~~Industrial Commission pursuant to G.S. 97-83, and G.S. 97-84.~~

30 ~~(c) When the responsible party seeks an audit of hospital charges, and has paid the hospital charges in full, the payee~~  
31 ~~hospital, upon request, shall provide all reasonable access and copies of appropriate records, without charge or fee, to the~~  
32 ~~person(s) chosen by the payor to review and audit the records.~~

33 ~~(d) The responsible employer, or carrier/administrator shall pay the statements of medical compensation providers to whom~~  
34 ~~the employee has been referred by the authorized treating physician, unless said the physician has been requested to obtain~~  
35 ~~authorization for referrals or tests; provided that compliance with such request does not unreasonably delay the treatment or~~  
36 ~~service to be rendered to the employee.~~

1 ~~(e) It is the responsibility of the carrier, self insured employer, group insured as certified by the North Carolina Department~~  
2 ~~of Insurance, and statutory self insured (state agency or political subdivision) to submit on a yearly basis a Form 51,~~  
3 ~~Consolidated Fiscal Annual Report of "Medical Only" and "Lost Time" Cases.~~

4 ~~(f) Employees shall be entitled to reimbursement for sick travel when the travel is medically necessary and the mileage is 20~~  
5 ~~or more miles, round trip, at a rate to be established periodically by the Industrial Commission in its Minutes. Employees~~  
6 ~~shall be entitled to lodging and meal expenses, at a rate to be periodically, Industrial Commission in its Minutes, when it is~~  
7 ~~medically necessary that the employee stay overnight at a location away from the employee's usual place of residence. An~~  
8 ~~employee shall be entitled to reimbursement for the costs of parking or a vehicle for hire, when the costs are medically~~  
9 ~~necessary, at the actual costs of the expenses, unless the Industrial Commission determines the expenses were not reasonable.~~

10 ~~(g) (j) Any employer/carrier/administrator denying a claim in which medical care has previously been authorized shall be~~  
11 ~~responsible for all costs incurred prior to the date notice of denial is provided to each health care provider to whom~~  
12 ~~authorization has been previously given.~~

13 *History Note:* Authority G.S. 97-18(i); 97-25.6; 97-26; 97-80(a); 138-6;

14 *Eff.* January 1, 1990;

15 *Amended Eff.* January 1, 2013; June 1, 2000; March 15, 1995

16

1 4 NCAC 10A .008 is proposed for amendment as follows:

2 4 NCAC 10A .0408 ADDITIONAL MEDICAL COMPENSATION APPLICATION FOR OR  
3 STIPULATION TO ADDITIONAL MEDICAL COMPENSATION

4 (a) ~~The Industrial Commission may enter an order as contemplated by G.S. § 97-25.1 providing for additional medical~~  
5 ~~compensation on its own motion or pursuant to a stipulation of the parties or by approval of an agreement of the parties for~~  
6 ~~additional medical compensation reflected in a Form 21 or a Form 26.~~

7 (b) ~~(a) If the parties have not reached an agreement regarding additional medical compensation, an An~~ employee may file a  
8 ~~claim an application for additional medical compensation~~ with the Office of the Executive Secretary Industrial Commission  
9 for an order pursuant to the terms of G.S. § 97-25.1, for payment of additional medical compensation within two years of the  
10 date of the last payment of medical or indemnity compensation, whichever shall last occur. ~~The claim An application~~ may be  
11 made on a Form 18M *Employee's Application for Additional Medical Compensation*, ~~or by written request, or by filing a~~  
12 ~~Form 33 Request that Claim be Assigned for Hearing to~~ with the Industrial Commission. ~~The filing of this claim tolls the~~  
13 ~~time limit contained in this paragraph and in G.S. § 97-25.1. The original and one copy of the claim must be filed with the~~  
14 ~~Industrial Commission's Office of the Executive Secretary, one copy must be provided to the employer or~~  
15 ~~carrier/administrator, and one copy must be provided to the attorney of record, if any.~~

16 ~~(c) (b) Upon receipt of the claim, application, the Industrial Commission will shall~~ notify the employer, ~~or~~  
17 ~~carrier/administrator carrier, or administrator~~ that the claim has been received by providing a copy of a ~~the~~ Form 18M  
18 *Employee's Application for Additional Medical Compensation* or a ~~the~~ written ~~claim request~~. ~~The Within 30 days, the~~  
19 ~~employer, or carrier/administrator carrier, or administrator shall, within 30 days, shall~~ send to the Industrial Commission and  
20 ~~to the employee and the employee's attorney of record, if any, record or the employee, if unrepresented, a written statement~~  
21 ~~as to whether the employee's request is accepted or denied. If the request is denied, the employer, or carrier/administrator~~  
22 ~~carrier, or administrator shall state in writing the grounds for the denial and shall attach any supporting documentation to the~~  
23 ~~statement of denial.~~

24 ~~(d) In cases where the employee's right to additional medical compensation is contested, the Form 18M, Request for~~  
25 ~~Additional Medical Compensation, shall be treated as a Motion to the Executive Secretary for future medical compensation.~~  
26 ~~Defendants shall have 30 days to respond. An administrative ruling shall thereafter be made subject to the right of either~~  
27 ~~party to appeal such administrative decision by filing a Form 33, Request for Hearing, pursuant to the 15-day time limitations~~  
28 ~~contained in 4 NCAC 10A .703. An appeal of the Administrative Decision shall have the effect of staying the decision,~~  
29 ~~provided that the stay may be dissolved in the discretion of the Commission for good cause shown.~~

30 (c) The parties may, by agreement or stipulation as consistent with the Workers' Compensation Act, provide for additional  
31 medical compensation.

32 ~~(e) (d)~~ This Rule applies to injuries ~~by accident~~ occurring on or after July 5, 1994.

33 *History Note:* Authority G.S. 97-25.1; 97-80(a);

34 *Eff.* March 15, 1995;

35 *Amended Eff.* January 1, 2013; June 1, 2000.

36

1 **4 NCAC 10A .0409 is proposed for amendment as follows:**

2 **4 NCAC 10A .0409 CLAIMS FOR DEATH BENEFITS**

3 ~~(a) Report of Fatalities~~

4 ~~(1) Any person claiming entitlement to death benefits under the Act shall give written notice to the employer~~  
5 ~~of the occurrence of death allegedly arising out of and in the course of employment in accordance with G.S. § 97-22.~~

6 ~~(2)(a)~~ An employer shall notify the Commission of the occurrence of a death resulting from an injury or occupational  
7 disease allegedly arising out of and in the course of employment by ~~timely~~ filing a Form 19 Employer's Report of Employee's  
8 Injury or Occupational Disease to the Industrial Commission within five days of knowledge thereof. In addition, an  
9 employer, ~~or carrier/administrator~~ carrier, or administrator shall file with the ~~Industrial~~ Commission a Form ~~29,~~  
10 ~~"Supplementary Report for Fatal Accidents,"~~ 29 Supplemental Report for Fatal Accidents, within 45 days of knowledge of a  
11 death or allegation of death resulting from an injury or occupational disease arising out of and in the course of employment.

12 ~~(b) Identifying Beneficiaries~~

13 ~~(1)(b)~~ An employer, ~~or carrier/administrator~~ carrier, or administrator shall make a good faith effort to discover the names  
14 and addresses of decedent's beneficiaries under G.S. 97-38 and identify them on the Form ~~29,~~ 29 Supplemental Report for  
15 Fatal Accident.

16 ~~(2)(c)~~ In all cases involving minors or incompetents who are potential beneficiaries, a guardian *ad litem* shall be appointed  
17 pursuant to ~~4 NCAC 10A .0604.~~ Rule .0604 of this Subchapter.

18 ~~(3)(d)~~ If an issue exists as to whether a person is a beneficiary under G.S. §-97-38, the employer, ~~or carrier/administrator~~  
19 ~~carrier, administrator, and/or~~ or any person asserting a claim for benefits may file a Form 33 Request that Claim be Assigned  
20 for Hearing for a determination by a Deputy Commissioner.

21 ~~(e) Liability Accepted by Employer~~

22 ~~(1)(e)~~ If the employer, ~~or carrier/administrator~~ carrier, or administrator accepts liability for a claim involving an employee's  
23 death and there are no ~~apparent~~ issues necessitating a hearing for determination of beneficiaries ~~and/or~~ or their respective  
24 rights, the parties shall submit an agreement ~~Agreement for Compensation for Death~~ executed by all interested parties or their  
25 representatives ~~on Industrial~~ to the Commission, ~~Form 30.~~ All agreements ~~must~~ shall be submitted to the ~~Industrial~~  
26 Commission on a Form 30 Agreement for Compensation for Death as set forth in ~~4 NCAC 10A .501(4), (5), and (6).~~ Rule  
27 .0501 of this Subchapter.

28 ~~(2)(f)~~ ~~Said~~ The agreement shall be submitted along with all relevant supporting documents, including death certificate of the  
29 employee, any relevant marriage certificate and birth certificates for any dependents.

30 ~~(d) Liability Denied by Employer~~

31 ~~(1)(g)~~ If the employer, ~~or carrier/administrator~~ carrier, or administrator denies liability for a claim involving an employee's  
32 death, the employer, ~~or carrier/administrator~~ carrier, or administrator shall send a letter of denial to all potential beneficiaries,  
33 their attorneys of record, if any, all known health care providers that have submitted bills to the employer, ~~or~~  
34 ~~carrier/administrator~~ carrier, or administrator, and the ~~Industrial~~ Commission. The denial letter shall ~~specifically~~ state the  
35 reasons for the denial and shall further advise of a right to hearing.

36 ~~(2)(h)~~ Any potential beneficiary, ~~or the employer, or carrier/administrator~~ the carrier, or the administrator may request a

1 hearing as provided in Rule ~~602~~, .0602 of this Subchapter.

2 ~~(e) Payment of Death Benefits~~

3 ~~(1)-(i)~~ Upon approval ~~of~~ by the Industrial Commission of a Form ~~30~~, 30 Agreement for Compensation for Death, or the  
4 issuance of a final order of the Industrial Commission directing payment of death benefits pursuant to G.S. §-97-38, payment  
5 ~~may~~ shall be made by the employer, ~~or carrier/administrator~~ carrier, or administrator directly to the beneficiaries, with the  
6 following exceptions: (1) any applicable award of attorney fees shall be paid directly to the attorney; and (2) benefits due to  
7 a minor or incompetent.

8 ~~(A)-(j)~~ Subject to the discretion of the Industrial Commission, any ~~Any~~ benefits due to a minor pursuant to G.S. §-97-38 ~~may~~  
9 shall be paid directly to the parent as natural guardian of the minor for the use and benefit of the minor if the minor remains  
10 in the physical custody of the parent as natural guardian. If the minor is not in the physical custody of the parent as natural  
11 guardian, ~~the Industrial Commission may order that~~ payment shall be made through some other ~~proper~~ person appointed by a  
12 court of competent ~~jurisdiction.~~ jurisdiction or to such other person under such terms as the Commission finds is in the best  
13 interests of the parties. When a beneficiary reaches the age of 18, any remaining benefits shall be paid directly to the  
14 beneficiary.

15 ~~(B)-(k)~~ In order to protect the interests of ~~an incompetent beneficiary, a beneficiary who is incompetent,~~ the Industrial  
16 Commission ~~in its discretion may~~ shall order that benefits be paid to the beneficiary's ~~duely~~ appointed general guardian for the  
17 beneficiary's exclusive use and benefit, or to the Clerk of Court in the county in which ~~he~~ the beneficiary resides for the  
18 beneficiary's exclusive use and benefit as determined by the Clerk of Court.

19 ~~(C)-(l)~~ Upon a change in circumstances, any interested party may request that the Industrial Commission amend the terms of  
20 any award with respect to a minor or incompetent to direct payment to another party on behalf of the minor or incompetent.  
21 ~~When a beneficiary reaches the age of 18, any remaining benefits shall be paid directly to the beneficiary.~~

22 ~~(2)-(m)~~ In the case of ~~commuted benefits,~~ benefits commuted to present value, only those sums ~~which~~ that have not accrued  
23 at the time of the entry of the Order are subject to commutation.

24 ~~(f) Procedure for Award of Death Benefits Based on Stipulated Facts~~

25 ~~(1)-(n)~~ Where the parties seek a written opinion and award from the Commission regarding the payment of death benefits in  
26 uncontested cases in lieu of presenting testimony at a hearing before a Deputy Commissioner, the parties may make  
27 application to the Commission for a written opinion by filing a written request with the ~~Dockets~~ Docket Director.

28 ~~(2)-(o)~~ The parties shall file ~~the following information, along with,~~ filed electronically, by joint stipulation, affidavit or  
29 certified document, a proposed opinion and award or order along with the following information:

30 ~~(A)-(1)~~ a stipulation regarding all jurisdictional matters;

31 ~~(B)-(2)~~ the decedent's name, social security number, employer, insurance carrier or servicing agent, and the date of  
32 the injury giving rise to this claim;

33 ~~(C)-(3)~~ a Form 22 *Statement of Days Worked or Earnings of Injured Employee* or stipulation as to average weekly  
34 wage;

35 ~~(D)-(4)~~ any affidavits regarding dependents;

36 ~~(E)-(5)~~ the death certificate;

- 1           ~~(F)-(6)~~ ~~I.C.~~ a Form 29; 29 Supplemental Report for Fatal Accidents;
- 2           ~~(G)-(7)~~ Guardian *ad Litem litem* forms, if any beneficiary is a minor or incompetent;
- 3           ~~(H)-(8)~~ proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;
- 4           ~~(I)-(9)~~ medical records, if any;
- 5           ~~(J)-(10)~~ a statement of payment of medical expenses incurred, if any; and
- 6           ~~(K)-(11)~~ a funeral bill or stipulation as to payment of the funeral benefit.

7 ~~(3) — Upon receipt of said information and notice to potential beneficiaries, the Deputy Commissioner shall render a~~  
8 ~~written Opinion and Award.~~

9 ~~(g)-(p)~~ Any attorney seeking fees for ~~the~~ representation of in an uncontested claim shall file an affidavit or itemized  
10 statement in support of an award of attorney’s fees.

11 *History Note:*                    *Authority* G.S. 97-38; 97-39; 97-80(a);  
12                                        *Eff.* June 1, 2000;  
13                                        *Amended Eff.* January 1, 2013; January 1, 2011.

1 **4 NCAC 10A .0410 is proposed for amendment as follows:**

2 **4 NCAC 10A .0410 COMMUNICATION FOR MEDICAL INFORMATION**

3 (a) When an employer seeks to communicate pursuant to G.S. 97-25.6(c)(2) with an employee's authorized healthcare  
4 provider in writing, without the express authorization of the employee, to obtain relevant medical information not available in  
5 the employee's medical records under G.S. 97-25.6(c)(1), the employer may use the Commission's Medical Status  
6 Questionnaire.

7 (b) When an employee seeks a protective order under G.S. 97-25.6(d)(4) or G.S. 97-25.6(f), the employee shall provide the  
8 following to the Commission:

9 (1) the proposed written communication and any proposed additional information from which the  
10 employee seeks a protective order;

11 (2) description of any attempt to resolve the issue cooperatively;

12 (3) grounds for the protective order; and

13 (4) any alternative methods to discover the information.

14 (c) When responding to an employee's request under G.S. 97-25.6(d)(4) or G.S. 97-25.6(f), for a protective order, the  
15 employer shall provide the following to the Commission:

16 (1) the statutory provision on which the proposed communication is based;

17 (2) description of any attempts which have been made to resolve the issue cooperatively;

18 (3) description of any other attempts which have been made to obtain the relevant medical information; and

19 (4) justification for the communication.

20 (d) When an employer seeks the Commission's authorization for other forms of communication pursuant to G.S. 97-25.6(g),  
21 the employer shall follow the procedures for motions in Rule 0609 of this Subchapter.

22 History Note: Authority G.S. 97-25.6; 97-80(a);

23 Eff. January 1, 2013.

24

25



1 **4 NCAC 10A .0501 is proposed for amendment as follows:**

2 **SECTION .0500 - AGREEMENTS**

3 **4 NCAC 10A .0501 AGREEMENTS FOR PROMPT PAYMENT OF COMPENSATION**

4 (a) To facilitate the ~~prompt~~ payment of compensation within the time prescribed in G.S. 97-18, the ~~Industrial~~ Commission  
5 ~~will shall~~ accept memoranda of agreements on ~~Industrial~~ Commission forms.

6 (b) No agreement for permanent disability ~~will shall~~ be approved until the ~~material~~ relevant medical and vocational records  
7 known to exist in the case have been filed with the ~~Industrial~~ Commission. When requested by the ~~Industrial~~ Commission,  
8 the parties shall file any additional documentation necessary to determine whether the employee is receiving the disability  
9 compensation to which he or she is entitled and that an employee qualifying for disability compensation under G.S. 97-29 or  
10 G.S. 97-30, and G.S. 97-31 has the benefit of the more favorable remedy.

11 (c) All memoranda of agreements ~~must shall~~ be submitted to the ~~Industrial~~ Commission, ~~in triplicate on Industrial~~  
12 ~~Commission forms, as specified in paragraph 6 below.~~ Agreements ~~in proper form and~~ conforming to the provisions of the  
13 Workers' Compensation Act ~~will shall~~ be approved by the ~~Industrial~~ Commission and a copy returned to the employer, ~~or~~  
14 ~~carrier/administrator~~ carrier, or administrator, and a copy sent to the employee, unless amended by an award, in which event a  
15 ~~copy of the award will be returned~~ the Commission shall return the award with the agreement.

16 (d) The employer, ~~or carrier/administrator,~~ carrier, administrator, or the attorney of record, if any, shall provide ~~the employee~~  
17 ~~and the employee's attorney of record, if any,~~ record or the employee, if unrepresented, a copy of a Form ~~24,~~ 21 Agreement  
18 for Compensation for Disability, a Form ~~26,~~ 26 Supplemental Agreement as to Payment of Compensation, a Form ~~26D,~~ 26D  
19 Agreement for Payment of Unpaid Compensation in Unrelated Death Cases, and a Form ~~30,~~ 30 Agreement for Compensation  
20 for Death, when the employee signs ~~said the forms.~~ forms, and the employer or carrier/administrator will send a copy of a  
21 Form 28B to the employee and the employee's attorney of record, if any, within 16 days after the last payment of  
22 compensation for either temporary or permanent disability, pursuant to G.S. 97-18.

23 (e) All memoranda of agreements for cases which are calendared for hearing before a Commissioner or Deputy  
24 Commissioner shall be sent directly to that Commissioner or Deputy Commissioner. Before a case is calendared, or once a  
25 case has been ~~continued,~~ continued or removed, or after the filing of an Opinion and Award, all memoranda of agreements  
26 shall be directed to the Claims Section of the ~~Industrial~~ Commission.

27 (f) After the employer, ~~or carrier/administrator~~ carrier, or administrator has received a memorandum of agreement which has  
28 been signed by the employee and the employee's attorney of record, if any, ~~it the employer, carrier, or administrator shall~~  
29 ~~have~~ has 20 days within which to submit the memorandum of agreement to the ~~Industrial~~ Commission for review and  
30 approval or within which to show good cause for not submitting the memorandum of agreement signed only by the  
31 ~~employee.~~ employee; provided, however, that for good cause shown, the 20 day period may be extended.

32 *History Note:* Authority G.S. 97-18; 97-80(a); 97-82;  
33 Eff. January 1, 1990;  
34 Amended Eff. January 1, 2013; August 1, 2006.

1 **4 NCAC 10A .0502 is proposed for amendment as follows:**

2 **4 NCAC 10A .0502 COMPROMISE SETTLEMENT AGREEMENTS**

3 ~~(a) All compromise settlement agreements must be submitted to the Industrial Commission for approval. Only those~~  
4 ~~agreements deemed fair and just and in the best interest of all parties will be approved.~~

5 ~~(b)(a) No compromise agreement will be approved~~ The Commission shall not approve a compromise settlement  
6 agreement unless it contains the following language or its equivalent information:

7 (1) ~~Where liability is admitted, that the employer or carrier/administrator undertakes to pay all~~  
8 ~~medical expenses to the date of the agreement.~~

9 (2) ~~Where liability is denied, that the employer or carrier/administrator undertakes to pay all unpaid~~  
10 ~~medical expenses to the date of the agreement. However, this requirement may be waived in the~~  
11 ~~discretion of the Industrial Commission. When submitting an agreement for approval, the~~  
12 ~~employee or employee's attorney, if any, shall advise the Commission in writing of the amount of~~  
13 ~~the unpaid medical expenses.~~

14 ~~(3)(1) That the~~ The employee knowingly and intentionally waives the right to further benefits under the  
15 Workers' Compensation Act for the injury which is the subject of this agreement.

16 ~~(4)(2) That the~~ The employer, ~~or carrier/administrator will~~ carrier or administrator shall pay all costs  
17 incurred.

18 ~~(5)(3) That no~~ No rights other than those arising under the provisions of the Workers' Compensation  
19 Act are compromised or released by this agreement.

20 ~~(6)(4) That the~~ The employee has, or has not, returned to a job or position at the same or a greater  
21 average weekly wage as was being earned prior to the injury or occupational disease.

22 ~~(7)(5) Where the employee has not returned to a job or position at the same or a greater wage as was~~  
23 ~~being earned prior to the injury or occupational disease, that the employee has, or has not, returned~~  
24 ~~to some other job or position, and, if so, the description of the particular job or position, the name~~  
25 ~~of the employer, and the average weekly wage earned. This Paragraph Subparagraph of the Rule~~  
26 ~~shall does not apply where the employee is represented by counsel or, even if the employee is not~~  
27 ~~represented by counsel, where the employee or counsel certifies that partial wage loss due to an~~  
28 ~~injury or occupational disease is not being claimed.~~

29 ~~(8)(6) Where the employee has not returned to a job or position at the same or a greater average weekly~~  
30 ~~wage as was being earned prior to the injury or occupational disease, the agreement shall~~  
31 ~~summarize a summary of~~ the employee's age, educational level, past vocational training, past  
32 work experience, and any impairment, emotional, mental or physical, which predates the current  
33 injury or occupational disease. This Subparagraph of the Rule does not apply upon a showing of:  
34 The parties will be relieved of this duty only upon a showing that providing such information  
35 creates an

36 (A) unreasonable burden upon them the parties; ~~This subsection Subparagraph of~~  
37 ~~the Rule shall does not apply where~~

1 (B) the employee is represented by counsel; or;

2 (C) even if the employee is not represented by counsel, where the employee or  
3 counsel certifies that total wage loss due to an injury or occupational disease is  
4 not being claimed.

5 ~~(e)-(b)~~ No compromise settlement agreement will shall be considered by the Commission unless the following  
6 additional requirements are met:

7 (1) The ~~material~~ relevant medical, vocational, and rehabilitation reports known to exist, including but  
8 not limited to those pertinent to the employee's future earning capacity, ~~must are~~ be submitted  
9 with the agreement to the Industrial Commission by the employer, ~~the carrier/administrator,~~  
10 carrier, administrator, or the attorney for the employer.

11 (2) The parties and all attorneys of record ~~must~~ have signed the agreement.

12 (3) The settlement agreement must contain a list of all of the known medical expenses of the  
13 employee related to the injury to the date of the settlement agreement, including medical expenses  
14 that the employer or insurance carrier disputes, when the employer or carrier has not agreed to pay  
15 all medical expenses of the employee related to the injury up to the date of the settlement  
16 agreement. In a claim where liability is admitted or otherwise has been established, the employer,  
17 carrier, or administrator has undertaken to pay all medical expenses for the compensable injury to  
18 the date of the settlement agreement.

19 (4) If there are unpaid medical expenses which the employer or insurance carrier agree to pay under  
20 the settlement agreement, the agreement must contain a list of these unpaid medical expenses, if  
21 known, that will be paid by the employer or insurance carrier. In a claim where liability is denied  
22 or the compensability of a particular medical condition is denied, the employer, carrier, or  
23 administrator shall undertake to pay all the disputed unpaid medical expenses to the date of the  
24 settlement agreement unless the Commission approves the non-payment of the unpaid medical  
25 bills by employer, carrier, or administrator due to the issues in dispute.

26 (5) The settlement agreement contains a list of all known medical expenses of the employee related to  
27 the injury to the date of the settlement agreement, including medical expenses that the employer,  
28 carrier, or administrator disputes, when the employer or insurer has not agreed to pay all medical  
29 expenses of the employee related to the injury up to the date of the settlement agreement.

30 (6) The settlement agreement contains a list of the unpaid medical expenses, if known, that shall be  
31 paid by the employer, carrier, or administrator, if there are unpaid medical expenses which the  
32 employer or carrier has agreed to pay. The settlement agreement also contains a list of unpaid  
33 medical expenses, if known, that shall be paid by the employee, if there are unpaid medical  
34 expenses that the employee has agreed to pay.

35 (7) The settlement agreement provides that a party who has agreed to pay a disputed unpaid medical  
36 expense shall notify in writing the unpaid medical provider of the party's responsibility to pay the

1 unpaid medical expense. Other unpaid medical providers shall be notified in writing of the  
2 completion of the settlement by the party specified in the settlement agreement

3 (a) when the employee's attorney has notified the unpaid medical provider in  
4 writing under G.S. 97-90(e) not to pursue a private claim against the employee  
5 for the costs of medical treatment, or

6 (b) when the unpaid medical provider has notified in writing the employee's  
7 attorney of its claim for payment for the costs of medical treatment and has  
8 requested notice of a settlement.

9 (8) Any obligation of any party to pay an unpaid disputed medical expense pursuant to a settlement  
10 agreement does not require payment of any medical expense in excess of the maximum allowed  
11 under G.S. 97-26.

12 ~~(5)~~(9) The settlement agreement mustcontains a finding that the positions of the parties to the agreement  
13 are reasonable as to the payment of medical expenses.

14 ~~(d)~~(c) When a settlement has been reached, the written agreement must shall be submitted to the Industrial  
15 Commission within a reasonable time. upon execution. All compromise settlement agreements which are currently  
16 calendared for hearing before a Commissioner or Deputy Commissioner shall be sent directly to that Commissioner  
17 or Deputy Commissioner at the Industrial Commission. Before a case is calendared, or once a case has been  
18 continued, or removed, or after the filing of an Opinion and Award, all All compromise settlement agreements shall  
19 be directed to the Office of the Executive Secretary of the Industrial Commission. for review or distribution for  
20 review in accordance with Paragraphs (a) and (b) of Rule .0609 of this Subchapter.

21 ~~(e)~~(d) Once a compromise settlement agreement has been approved by the Industrial Commission, the employer, or  
22 carrier/administrator carrier, or administrator shall furnish an executed copy of said the agreement to the employee  
23 or his the employee's attorney of record, if any. record or the employee, if unrepresented.

24 ~~(f)~~(e) An attorney seeking fees in connection with a Compromise Settlement Agreement shall submit to the  
25 Commission a copy of the fee agreement with the client.

26 *History Note:* Authority G.S. 97-17; 97-80(a); 97-82;

27 *Eff.* January 1, 1990;

28 *Amended Eff.* January 1, 2013; August 1, 2006; June 1, 2000; March 15, 1995.

1 **4 NCAC 10A .0503 is proposed for amendment as follows:**

2 **4 NCAC 10A .0503**                    ~~**APPROVAL OF AGREEMENT CONSTITUTES AWARD NOTICE OF**~~  
3 ~~**LAST PAYMENT FILING REQUIREMENT**~~

4 ~~An agreement for the payment of compensation approved by the Industrial Commission shall thereupon become an~~  
5 ~~award of the Industrial Commission and shall be a part of the record in any further proceedings in the matter.~~

6 The forms required to be provided by G.S. 97-18(h) are (1) Form 28B *Report of Employer or Carrier/Administrator*  
7 *of Compensation and Medical Compensation Paid and Notice of Right to Additional Medical Compensation that*  
8 *requires a statement as to the last date of compensation, and (2) Form 28C *Report of Employer or**  
9 *Carrier/Administrator of Compensation and Medical Compensation Paid Pursuant to a Compromise Settlement*  
10 *Agreement that requires a statement as to the final payment of compensation.*

11 *History Note:*                    Authority G.S. 97-18(h); 97-80(a);

12    Eff. January 1, 1990;

13    Amended Eff. January 1, 2013.

14

1 4 NCAC 10A .0601 is proposed for amendment as follows:

2 SECTION .0600 - ~~CONTESTED CASES~~ CLAIMS ADMINISTRATION AND PROCEDURES

3 4 NCAC 10A .0601 EMPLOYER'S OBLIGATIONS UPON NOTICE; DENIAL OF LIABILITY;  
4 AND SANCTIONS

5 (a) ~~The employer or its insurance carrier shall promptly investigate each injury reported or known to the employer~~  
6 ~~and at the earliest practicable time shall admit or deny the employee's right to compensation or commence payment~~  
7 ~~of compensation as provided in G.S. 97-18(b), (c), or (d).~~

8 ~~(b)(a) When an~~ Upon the employee's employee files filing of a claim for compensation with the Commission, the  
9 Commission may order reasonable sanctions against the employer or its insurance carrier which does not, within 30  
10 days following notice from the Commission of the filing of the claim, or 90 days when a disease is alleged to be  
11 from exposure to chemicals, fumes, or other materials or substances in the workplace, ~~or within such reasonable~~  
12 ~~additional time as the Commission may allow,~~ do one of the following:

13 (1) ~~Notify~~ File a Form 60 Employer's Admission of Employee's Right to Compensation to notify the  
14 Commission and the employee in writing that ~~it~~ the employer is admitting the employee's right to  
15 compensation and, if applicable, satisfy the requirements for payment of compensation under G.S.  
16 97-18(b).

17 (2) ~~Notify~~ File a Form 61 Denial of Workers' Compensation Claim to notify the Commission and the  
18 employee that ~~it~~ the employer denies the employee's right to compensation consistent with G.S.  
19 97-18(c).

20 (3) File a Form 63 Notice to Employee of Payment of Compensation Without Prejudice ~~Initiate~~  
21 ~~payments without prejudice and without liability and satisfy the requirements of~~ consistent with  
22 G.S. 97-18(d).

23 ~~For purposes of this Rule, reasonable sanctions shall not prohibit the employer or its insurance carrier~~  
24 ~~from contesting the compensability of and its liability for the claim.~~

25 Requests for extensions of time to comply with G.S. 97-18(j) ~~this rule may~~ shall be addressed to the  
26 ~~Executive Secretary.~~ Claims Administration Section.

27 ~~(c)(b) If the employer or insurance carrier denies~~ When liability in any ~~case,~~ case is denied, the employer or  
28 ~~insurance carrier shall provide a detailed~~ statement of the basis of denial ~~must that shall~~ be set forth in a letter of  
29 denial or Form ~~61,~~ 61 Denial of Workers' Compensation Claim, and which shall be sent to the ~~plaintiff or his~~  
30 ~~employee's attorney of record, if any record or the employee, if unrepresented,~~ all known health care providers  
31 ~~which who~~ have submitted bills to the ~~employer/carrier,~~ employer or carrier, and the ~~Industrial~~ Commission.

32 *History Note:* Authority G.S. 97-18; 97-80(a); 97-81(a);

33 Eff. January 1, 1990;

34 Amended Eff. January 1, 2013; August 1, 2006; June 1, 2000.

35

36

1 **4 NCAC 10A .0602 is proposed for amendment as follows:**

2 **4 NCAC 10A .0602 REQUEST FOR HEARING**

3 (a) Contested claims shall be set on the hearing docket only upon the written request of one of the ~~parties, unless the~~  
4 ~~Industrial Commission orders on its own motion,~~ parties for a hearing or rehearing of the case in dispute. ~~The~~ Any  
5 request for hearing shall contain the following:

6 (1) ~~The~~ the basis of the disagreement between the parties, including a statement of the ~~specific~~ issues  
7 raised by the requesting ~~party,~~ party;

8 (2) ~~The~~ the date of ~~the injury,~~ injury;

9 (3) ~~The~~ the part of the body ~~injured,~~ injured;

10 (4) ~~The~~ the city and county where the injury ~~occurred,~~ occurred;

11 (5) ~~The~~ the names and addresses of all doctors and other expert witnesses whose testimony is needed  
12 by the requesting ~~party,~~ party;

13 (6) ~~The~~ the names of all lay witnesses to be called to testify for the requesting ~~party,~~ party;

14 (7) ~~An~~ an estimate of the time required for the hearing of the ~~case,~~ case; and

15 (8) ~~The~~ the telephone number(s), ~~and address(es)~~ email address(es), and mailing address(es) of the  
16 party(ies) requesting the ~~hearing,~~ hearing and their legal counsel.

17 (b) A Form ~~33, Request for Hearing,~~ 33 Request that Claim be Assigned for Hearing, completed in full, shall  
18 constitute compliance with this Rule. The request for a hearing shall be filed with the Docket Section of the  
19 Commission. A copy of the Request for Hearing shall be forwarded to the ~~self-insured employer or insurance~~  
20 ~~carrier if not represented, or to the defendant's attorney, if one has been retained,~~ attorneys for all opposing parties,  
21 or to the opposing parties themselves, if unrepresented.

22 *History Note:* Authority G.S. 97-80(a); 97-83;  
23 *Eff.* January 1, 1990;  
24 *Amended Eff.* January 1, 2013; June 1, 2000.

25  
26  
27

1 **4 NCAC 10A .0603 is proposed for amendment as follows:**

2 **4 NCAC 10A .0603**                    **RESPONDING TO A PARTY'S RESPONSE TO REQUEST FOR**  
3 **HEARING**

4 (a) No later than 45 days from receipt of ~~the Request~~ a request for Hearing hearing from an employee, the self-  
5 insured employer, insurance carrier, or counsel for the defendant(s) shall file with the ~~Industrial~~ Commission a  
6 response to the ~~Request~~ request for Hearing. hearing. If a defendant files a request for hearing, the employee is not  
7 required to respond.

8 (b) ~~This~~ The response shall contain the following:

9            (1) ~~The~~ the basis of the disagreement between the parties, including a statement of the ~~specific~~ issues  
10 raised by the plaintiff which are conceded and the ~~specific~~ issues raised by the plaintiff which are  
11 ~~denied.~~ denied;

12            (2) ~~The~~ the date of the injury, if it is contended to be different than that alleged by the ~~plaintiff.~~  
13 plaintiff;

14            (3) ~~The~~ the part of the body injured, if it is contended to be different than that alleged by the ~~plaintiff.~~  
15 plaintiff;

16            (4) ~~The~~ the city and county where the injury occurred, if they are ~~contended~~ contended to be different  
17 than that alleged by the ~~plaintiff.~~ plaintiff;

18            (5) ~~The~~ the names and addresses of all doctors and other expert witnesses whose testimony is needed  
19 by the ~~defendant(s).~~ defendant(s);

20            (6) ~~The~~ the names of all lay witnesses known by the defendant(s) whose testimony is to be ~~taken.~~  
21 taken;

22            (7) ~~An~~ an estimate of the time required for the hearing of the ~~ease.~~ case; and

23            (8) ~~The~~ the telephone number(s), ~~and address(es)~~ email address(es), and mailing address(es) of the  
24 party(ies) responding to the ~~Request for Hearing.~~ request for hearing and their legal counsel.

25 (c) ~~Utilization of a~~ A Form 33R, ~~Response to Request for Hearing,~~ 33R Response to Request that Claim be  
26 Assigned for Hearing, which is completed in full and filed with the Docket Section of the Commission, shall ~~be the~~  
27 ~~sole means of~~ constitute compliance with this Rule. A copy of the Form 33R Response to Request that Claim be  
28 Assigned for Hearing ~~Response to Request for Hearing~~ shall be forwarded to the attorneys for all opposing parties or  
29 ~~attorneys, if such have been retained.~~ the opposing parties themselves, if unrepresented. ~~In the event of a request for~~  
30 ~~hearing by a defendant, the employee shall not be required to respond.~~ Extensions of time within which to file a  
31 response shall be granted for good cause shown.

32 *History Note:*                    *Authority* G.S. 97-80(a); 97-83;

33    *Eff.* January 1, 1990;

34 *Amended Eff.* January 1, 2013; June 1, 2000.



1 **4 NCAC 10A .0604 is proposed for amendment as follows:**

2 **4 NCAC 10A .0604 APPOINTMENT OF GUARDIAN AD LITEM**

3 (a) ~~In all cases where it is proposed that minors Minors or incompetents shall sue by may bring an action only~~  
4 ~~through their guardian *ad litem*, litem, the Industrial Commission shall appoint such guardian *ad litem* upon Upon~~  
5 ~~the written application on a Form 42 Application for Appointment of Guardian Ad Litem, of a reputable person~~  
6 ~~closely connected with such minor or incompetent; but if such person will not apply, then, upon the application of~~  
7 ~~some reputable citizen; and the Industrial Commission shall make such appointment only after due inquiry as to the~~  
8 ~~fitness of the person to be appointed. the Commission shall appoint the person as guardian *ad litem*, if the~~  
9 ~~Commission determines it to be in the best interest of the minor or incompetent. The Commission shall appoint the~~  
10 ~~guardian *ad litem* only after due inquiry as to the fitness of the person to be appointed.~~

11 (b) ~~In no event, however, shall any No compensation due or owed to the minor or incompetent shall be paid directly~~  
12 ~~to the guardian *ad litem*. Rather, compensation payable to a minor or incompetent shall be paid as provided in N.C.~~  
13 ~~Gen. Stat. § 97-48 and G.S. 97-49. The use of the word “guardian” in N.C. Gen. Stat. § 97-49 does not mean a~~  
14 ~~guardian *ad litem*. The Commission may assess a fee to be paid by the employer or the carrier, to an attorney who~~  
15 ~~serves as a guardian *ad litem* for actual services rendered upon receipt of an affidavit of actual time spent in~~  
16 ~~representation of the minor or incompetent.~~

17 (c) Consistent with G.S. 1A-1, Rule 17(b)(2), the Commission may assess a fee to be paid by the employer or the  
18 insurance carrier to an attorney who serves as a guardian *ad litem* for actual services rendered upon receipt of an  
19 affidavit of actual time spent in representation of the minor or incompetent as part of the costs.

20 *History Note:* Authority: G.S. 1A-1, Rule 17; 97-50; 97-79(e); 97-80(a); 97-91;

21 Eff. January, 1990;

22 Amended Eff. January 1, 2013; January 1, 2011; June 1, 2000; March 15, 1995.

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1 **4 NCAC 10A .0605 is proposed for amendment as follows:**

2 **4 NCAC 10A .0605 DISCOVERY**

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

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

9 ~~(a)~~(2) Interrogatories may, without leave of the ~~Industrial~~ Commission, be served upon any party after  
10 the filing of a Form ~~48~~, 18 Notice of Accident to Employer and Claim of Employee,  
11 Representative, or Dependent, Form ~~48B~~, 18B Claim by Employee, Representative, or Dependent  
12 for Benefits for Lung Disease, or Form ~~33~~, 33 Request that Claim be Assigned for Hearing, or  
13 after approval of Form ~~21~~. after the acceptance of a claim.

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

24 ~~(c)~~(4) If there is an objection to or other failure to answer an interrogatory, the party submitting the  
25 interrogatories may move the ~~Industrial~~ Commission for an order compelling answer. If the  
26 ~~Industrial~~ Commission orders answer to an interrogatory within a time certain and no answer is  
27 made or the objection is still lodged, the ~~Industrial~~ Commission may issue an order with  
28 appropriate sanctions, including ~~but not limited to~~ the sanctions specified in ~~Rule 37 of the North~~  
29 ~~Carolina Rules of Civil Procedure.~~ G.S. 1A-1, Rule 37.

30 ~~(2)~~(5) Interrogatories may relate to matters ~~which that~~ are not privileged, ~~which that~~ are relevant to an  
31 issue ~~presently~~ in dispute, or ~~which that~~ the requesting party reasonably believes may later be  
32 disputed. ~~Signature~~ The signature of a party or attorney serving interrogatories constitutes a  
33 certificate by such person that he or she has personally read each of the interrogatories, that no  
34 such interrogatory will oppress a party or cause any unnecessary expense or delay, that the  
35 information requested is not known or equally available to the requesting party, and that the  
36 interrogatory relates to an issue presently in dispute or which the requesting party reasonably

1 believes may later be in dispute. A party may serve an interrogatory, however, to obtain  
2 verification of facts relating to an issue presently in dispute. Answers to interrogatories may be  
3 used to the extent permitted by ~~the rules of evidence.~~ Chapter 8C of the North Carolina General  
4 Statutes.

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

7 ~~(3)-(7)~~ Additional methods of discovery as provided by the North Carolina Rules of Civil Procedure may  
8 be used only upon motion ~~and approval by the Industrial Commission~~ or by agreement of the  
9 parties. The Commission shall approve the motion to prevent manifest injustice, promote judicial  
10 economy, or expedite a decision in the public interest.

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

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

- 18 (A) notices of depositions;
- 19 (B) discovery requests and responses pertinent to a pending motion;
- 20 (C) responses to discovery following a motion or order to compel; and
- 21 (D) post-hearing discovery requests and responses.

22 The above listed documents shall be filed with the Commission, as well as served on the opposing  
23 party.

24 ~~(5)-(9)~~ Sanctions ~~may~~ shall be imposed under this Rule for failure to comply with a Commission order  
25 compelling discovery. A motion by a party or its attorney to compel discovery under this Rule  
26 and ~~4 NCAC 10A .607~~ Rule .0607 of this Subchapter shall represent that informal means of  
27 resolving the discovery dispute have been attempted in good faith and state ~~briefly~~ the opposing  
28 parties' position or that there has been a reasonable attempt to contact the opposing party and  
29 ascertain its position. The parties shall not submit motions to compel production of information  
30 otherwise obtainable under G.S. 97-25.6.

31 *History Note:*

*Authority* G.S. 97-80(a); 97-80(f);

*Eff.* January 1, 1990;

*Amended Eff.* January 1, 2013; January 1, 2011; June 1, 2000

1 **4 NCAC 10A .0606 is proposed for amendment as follows:**

2 **4 NCAC 10A .0606 DISCOVERY - POST HEARING**

3 Discovery may not be conducted after the initial hearing on the merits of a case unless allowed by order of a  
4 Commissioner or Deputy Commissioner. In determining whether to allow further discovery, the Commissioner or  
5 Deputy Commissioner shall consider whether further discovery is necessary:

- 6 (1) to prevent manifest injustice;  
7 (2) to promote judicial economy; or  
8 (3) to expedite a decision in the public interest.

9 *History Note:* Authority G.S. 97-80(a); 97-80(f);  
10 *Eff.* January 1, 1990;  
11 *Amended Eff.* January 1, 2013.

12  
13  
14

1 **4 NCAC 10A .0607 is proposed for amendment as follows:**

2 **4 NCAC 10A .0607 DISCOVERY OF RECORDS AND REPORTS**

3 ~~(a) Upon written request, any party shall furnish, without cost, provide to the requesting party without cost, a copy~~  
4 ~~of any and all medical, vocational and rehabilitation reports, employment records, Industrial Commission forms, and~~  
5 ~~written communications with medical providers in its possession, within 30 days of the request, unless objection is~~  
6 ~~made within that time period. This obligation~~ The duty to respond exists whether or not a request for hearing has  
7 ~~been filed. This obligation~~ filed and is a continuing one, and any such reports and records ~~which that~~ come into the  
8 possession of a party after receipt of a request pursuant to this Rule shall be provided to the requesting party within  
9 15 days from ~~its~~ the party's receipt of these reports and records. ~~Upon receipt of a request, an insurer or~~  
10 ~~administrator for an employer's workers' compensation program shall inquire of the employer concerning the~~  
11 ~~existence of records encompassed by the request.~~

12 (b) Upon receipt of a request, a carrier or administrator for an employer's workers' compensation program shall  
13 inquire of the employer concerning the existence of records encompassed by the request.

14 *History Note:* Authority G.S. 97-80(a); 97-80(b); 97-80(f);  
15 *Eff.* January 1, 1990;  
16 *Amended Eff.* January 1, 2013; June 1, 2000; March 15, 1995.

17  
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1 **4 NCAC 10A .0608 is proposed for amendment as follows:**

2 **4 NCAC 10A .0608 STATEMENT ABOUT OF INCIDENT LEADING TO CLAIM**

3 (a) ~~At the outset of taking a statement,~~ Upon the request of the employer or his agent to take a written or a recorded  
4 statement, the employer or his agent shall advise the employee that the statement ~~is being taken to~~ may be used ~~in~~  
5 ~~part~~ to determine whether the claim will be paid or denied. Any plaintiff who gives his or her employer, ~~or~~ its  
6 carrier, or any agent either a written or recorded statement of the facts and circumstances surrounding his or her  
7 injury shall be furnished a copy of ~~such~~ the statement within 45 days after request. Further, any plaintiff who shall  
8 give a written or recorded statement of the facts and circumstances surrounding his injury shall, without request, be  
9 furnished a copy no less than 45 days from the filing of a Form 33 *Request that Claim be Assigned for Hearing.*  
10 ~~Such~~ The copy shall be furnished at the expense of the person, firm or corporation at whose direction the statement  
11 was taken.

12 (b) If any person, firm or corporation fails to comply with this Rule, ~~then an order may be entered by a~~  
13 Commissioner or Deputy Commissioner shall enter an order prohibiting that person, firm or corporation, or its  
14 representative, from introducing the statement into evidence or using any part of ~~it.~~ the statement.

15 *History Note:* Authority G.S. 97-80(a);  
16 Eff. January 1, 1990;  
17 Amended Eff. January 1, 2013; June 1, 2000.

18

1 **4 NCAC 10A .0609 is proposed for amendment as follows:**

2 **4 NCAC 10A .0609 MOTIONS PRACTICE IN CONTESTED CASES**

3 (a) Motions ~~brought before the a Deputy Commissioner;~~ shall be addressed as follows:

4 (1) ~~All motions~~ in cases which are currently calendared for hearing before ~~a the Full Commission or~~  
5 Deputy Commissioner shall be sent by the filing party directly to the assigned Chair of the Full  
6 Commission panel or Deputy Commissioner, ~~before whom the case is pending.~~

7 (2) ~~\_\_\_\_\_~~ to reconsider or amend an Opinion and Award, made prior to giving notice of appeal to the Full  
8 Commission, shall be directed by the filing party to the Deputy Commissioner who authored the  
9 Opinion and Award.

10 (b) ~~Motions filed before a case is calendared before a Deputy Commissioner, or once a case has been~~  
11 ~~continued, or removed from a Deputy Commissioner Calendar, or after the filing of an Opinion and Award when~~  
12 ~~the time for taking appeal has run,~~ shall be directed sent by the filing party directly to the Office of the Executive  
13 Secretary; of the Industrial Commission. ~~Motions to reconsider or amend an Opinion and Award, made prior to~~  
14 ~~giving notice of appeal to the Full Commission, shall be directed to the Deputy Commissioner who authored the~~  
15 ~~Opinion and Award.~~

16 (1) ~~\_\_\_\_\_~~ when a case is not calendared before a Deputy Commissioner;

17 (2) ~~\_\_\_\_\_~~ once a case has been continued or removed from a Deputy Commissioner calendar; or

18 (3) ~~\_\_\_\_\_~~ after the filing of an Opinion and Award when the time for taking appeal has run.

19 (c) Motions before the Full Commission:

20 (1) ~~\_\_\_\_\_~~ in cases calendared for hearing before the Full Commission shall be sent by the filing party  
21 directly to the Chair of the Full Commission panel.

22 (3)-(2) ~~Motions~~ filed after notice of appeal to the Full Commission has been given but prior to the  
23 calendaring of the case shall be directed by the filing party to the Chair of the ~~Industrial~~  
24 Commission.

25 (4)-(3) ~~If a in case has been cases~~ continued from the Full Commission hearing docket, ~~motions~~ shall be  
26 directed by the filing party to the Chair of the panel of Commissioners who ordered the  
27 continuance.

28 (5)-(4) ~~Motions~~ filed after the filing of an Opinion and Award by the Full Commission but prior to giving  
29 notice of appeal to the Court of Appeals shall be ~~directed~~ sent by the filing party directly to the  
30 Commissioner who authored the Opinion and Award.

31 (b)-(d) A motion shall state with particularity the grounds on which it is based, the relief sought, and ~~a brief~~  
32 ~~statement of~~ the opposing party's position, if known. Service shall be made on all opposing attorneys of record, or  
33 on all opposing parties, if not represented.

34 (e)-(e) Motions to continue or remove a case from the hearing calendar on which the case is set ~~must~~ shall be  
35 made ~~well in advance~~ as much in advance as possible of the scheduled hearing and may be made in written or oral  
36 form. In all cases, the moving party ~~must~~ shall provide ~~just cause~~ the basis for the motion and state that the other

1 parties have been advised of the motion and relate the position, if known, of the other parties regarding the motion.  
2 Oral motions ~~must~~ shall be followed with a written ~~confirmation~~ motion from the moving party.

3 ~~(d)-(f)~~ The responding party to a motion shall have 10 days after a motion is served during which to file and serve  
4 copies of response in opposition to the motion. The ~~Industrial~~ Commission may shorten or extend the time for  
5 responding to any ~~motion~~. motion to prevent manifest injustice, promote judicial economy, or expedite a decision in  
6 the public interest.

7 ~~(e)-(g)~~ ~~Notwithstanding the provisions of Paragraph 4 Paragraph (e) of this Rule, a motion may be acted upon at~~  
8 ~~any time by the Commission, despite the absence of notice to all parties, and without awaiting a response thereto. A~~  
9 party who has not received actual notice of such a motion or who has not filed a response at the time such action is  
10 taken and who is adversely affected by the action may request that it be reconsidered, vacated, or modified. Motions  
11 ~~will~~ shall be determined without oral argument, unless the ~~Industrial~~ Commission ~~orders otherwise.~~ determines that  
12 oral argument is necessary for a complete understanding of the issues.

13 ~~(f)-(h)~~ ~~In all cases where~~ Where correspondence relative to a case before the ~~Industrial~~ Commission is sent to the  
14 ~~Industrial~~ Commission, copies of such correspondence shall be contemporaneously sent by the same method of  
15 transmission to the opposing party or, if represented, to opposing counsel. Written communications, whether  
16 addressed directly to the Commission or copied to the Commission, may not be used as an opportunity to introduce  
17 new evidence or to argue the merits of the case, with the exception of the following: ~~instances:~~

- 18 (1) ~~Written-written~~ communications, such as a proposed order or legal memorandum, prepared  
19 pursuant to the Commission's instructions;
- 20 (2) ~~Written-written~~ communications relative to emergencies, changed circumstances, or scheduling  
21 matters that may affect the procedural status of a case such as a request for a continuance due to  
22 the health of a litigant or an attorney;
- 23 (3) ~~Written-written~~ communications sent to the tribunal with the consent of the opposing lawyer or  
24 opposing party, if unrepresented; and
- 25 (4) ~~Any~~ any other communication permitted by law or the ~~rules~~ Rules ~~or procedures~~ of the  
26 Commission.

27 ~~At no time may written communications, whether addressed directly to the Commission or copied to the~~  
28 ~~Commission, be used as an opportunity to cast the opposing party or counsel in a bad light.~~

29 ~~(g)-(i)~~ All motions and responses thereto ~~made before the Industrial Commission must~~ shall include a proposed  
30 Order to be considered by the ~~Industrial~~ Commission.

31 ~~(h)~~ ~~Except as otherwise expressly provided by statute, rule, or by order of the Commission, in computing any period~~  
32 ~~of time prescribed or allowed by the Commission Rules, by order of the Commission, or by any applicable statute,~~  
33 ~~the day of the act, event, or default after which the designated period of time begins to run is not to be included. The~~  
34 ~~last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which~~  
35 ~~event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the~~  
36 ~~period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be~~



1 ~~excluded in the computation. Whenever a party has the right to do some act or take some proceedings within a~~  
2 ~~prescribed period after the service of any document, three days shall be added to the prescribed period.~~

3 *History Note:* Authority G.S. 97-79(b); 97-80(a); 97-84; 97-91;  
4 *Eff.* January 1, 1990;  
5 *Amended Eff.* January 1, 2013; June 1, 2000; March 15, 1995.  
6

1 **4 NCAC 10A .0609A is proposed for amendment as follows:**

2 **4 NCAC 10A .0609A Medical Motions and Emergency Medical Motions**

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

4 ~~(1)(a) Medical Medical motions pursuant to G.S. 97-25 brought before the Office of the Executive Secretary for an~~  
5 ~~administrative a ruling shall comply with applicable provisions of Rule .0609 of this Subchapter and shall be~~  
6 ~~submitted electronically to medicalmotions@ic.nc.gov, unless electronic submission is unavailable to the party.~~

7 ~~(2)(b) A party may file with the Deputy Commissioner Docket Section a request for an ~~administrative a~~ ruling on a~~  
8 ~~medical motion. A party, also, may appeal an Order from the Executive Secretary's Office on an Expedited Medical~~  
9 ~~Motion by giving notice of appeal to the ~~Dockets Department~~ Docket Section within 15 days of receipt of the Order~~  
10 ~~or receipt of the ruling on a Motion to Reconsider the Order filed pursuant to Rule ~~703(1)~~. .0703(b) of this~~  
11 ~~Subchapter. The Motion shall contain a designation as an ~~administrative~~ "Expedited Medical Motion",~~  
12 ~~documentation in support of the request, including the most recent medical ~~record/s~~ record(s), and a representation~~  
13 ~~that informal means of resolving the issues have been attempted in good faith, and the opposing party's position, if~~  
14 ~~known.~~

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

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

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

24 (c) A Deputy Commissioner shall conduct a Pre-Trial Conference as soon as possible to clarify the issues. Parties  
25 may consent to a review of the contested issues by electronic mail submission of only relevant medical records and  
26 opinion letters. Depositions deemed necessary by the Deputy Commissioner shall be set on an expedited schedule at  
27 the expense of defendants. Requests for independent medical examinations shall be denied unless there is a  
28 demonstrated need for the evaluation. The parties shall provide the deposition transcript to the Deputy  
29 Commissioner as soon as possible. Written arguments and briefs shall be filed within five days after the record is  
30 closed.

31 ~~(3)(d) A party may appeal an Order by a Deputy Commissioner on an Expedited Medical Motion by giving notice~~  
32 ~~of appeal to the Full Commission within 15 days of receipt of the Order or receipt of the ruling on a Motion to~~  
33 ~~Reconsider the Order filed pursuant to Rule ~~703(1)~~. .0703(b) of this Subchapter.~~

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

1 ~~(B)~~—After receipt of notice of appeal, the appeal will be acknowledged by the Dockets Department within three  
2 ~~(3)~~ days by sending an appropriate Order under the name of the Chair of the Panel to which the appeal is assigned.  
3 The parties may be permitted to file briefs on an abbreviated schedule in the discretion of the panel chair. The panel  
4 chair will also determine if oral arguments are to be by telephone, in person, or waived. All correspondence, briefs,  
5 or motions related to the appeal shall be addressed to the panel chair with a copy to the law clerk of the panel chair.  
6 A letter expressing an intent to appeal a Deputy Commissioner’s Order on an Medical Motion shall be considered  
7 notice of appeal to the Full Commission, provided that the letter specifies the Order from which appeal is taken.  
8 After receipt of notice of appeal, the appeal shall be acknowledged by the Docket Section within three days by  
9 sending an Order under the name of the Chair of the Panel to which the appeal is assigned. The parties may file  
10 briefs on an abbreviated schedule when necessary for a determination of the issues. The panel chair shall also  
11 determine if oral arguments are to be by telephone, in person, or waived. All correspondence, briefs, or motions  
12 related to the appeal shall be addressed to the panel chair with a copy to the law clerk of the panel chair.  
13 (e) If the motion requests a second opinion examination pursuant to G.S. 97-25, the motion shall specify whether  
14 the plaintiff has made a prior written request to the defendants for the examination, as well as the date of the request  
15 and the date of the denial, if any.  
16 ~~(b) Emergency Medical Motions:~~  
17 ~~(1)-(f)~~ Motions requesting emergency medical relief ~~administratively~~ shall contain the following:  
18       ~~(A)-(1)~~ A a boldface, or otherwise emphasized, designation as “Emergency Medical ~~Motion.~~”Motion”;  
19       ~~(B)-(2)~~ An an explanation of the need for a shortened time period for review, including any hardship that  
20 warrants immediate ~~attention/action~~ attention or action by the ~~Commission.~~ Commission;  
21       ~~(C)-(3)~~ A a statement of the time-sensitive nature of the ~~request, with specificity.~~ request;  
22       ~~(D)-(4)~~ ~~Detailed~~ dates and times related to the issue raised and to the date a ruling is ~~requested.~~ requested;  
23       ~~(E)-(5)~~ ~~Documentation~~ documentation in support of the request, including the most recent medical  
24 ~~records.~~ records; and  
25       ~~(F)-(6)~~ A a representation that informal means of resolving the issue have been attempted in good faith,  
26 and the opposing party’s position, if known.  
27 ~~(2)-(g)~~ A party may file an Emergency Medical Motion with the Executive Secretary’s Office, the Chief Deputy  
28 Commissioner, or the Office of the Chair. A proposed Order shall be provided with the motion. The non-moving  
29 party(ies) ~~will~~ shall be advised by the Commission regarding any time allowed for response and ~~may be advised~~  
30 whether informal telephonic oral argument is necessary.  
31 ~~(3)-(h)~~ Unless electronic submission is unavailable to the party, Emergency Medical Motions and responses  
32 ~~thereto~~ shall be submitted electronically, ~~unless electronic submission is unavailable to the party, as follows:~~  
33       ~~(A)-(1)~~ ~~Emergency Medical Motions and responses thereto~~ if filed with the Executive Secretary’s Office,  
34 shall be submitted to [medicalmotions@ic.nc.gov](mailto:medicalmotions@ic.nc.gov); medicalmotions@ic.nc.gov;  
35       ~~(B)-(2)~~ ~~Emergency Medical Motions~~ if filed with the Chief Deputy Commissioner, ~~shall be submitted~~  
36 ~~electronically directly~~ to the Chief Deputy Commissioner and ~~his/her~~ his or her legal assistant.

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assistant; or

~~(C)(3) Emergency Medical Motions~~ if filed with the Chair of the Commission ~~shall be submitted~~  
~~electronically~~ to the Chair, ~~his/her~~ his or her legal assistant, and ~~his/her~~ his or her law clerk.

*History Note:*

*Authority:* G.S. 97-25; 97-78(f)(2); 97-78(g)(2); 97-80(a);

*Eff.* January 1, 2011;

*Amended Eff.* January 1, 2013.

1 **4 NCAC 10A .0610 is proposed for amendment as follows:**

2 **4 NCAC 10A .0610 PRE-TRIAL CONFERENCE AGREEMENT**

3 ~~(e)-(a)~~ A Commissioner or a Deputy Commissioner may issue a Pre Trial Order requiring the parties to submit a  
4 ~~Pre Trial Agreement.~~ A Pre-Trial Agreement shall be signed by the attorneys and submitted to the Commissioner or  
5 Deputy Commissioner before whom the case is pending 10 days before the hearing, unless a shorter time period is  
6 ordered upon agreement of the parties. The parties shall have 15 days following the hearing within which to  
7 schedule the taking of medical depositions unless otherwise extended by the Commission in the interest of justice  
8 and judicial economy.

9 (1) ~~———— If not specified in the Pre Trial Agreement, the parties shall file with the Deputy Commissioner~~  
10 ~~within 15 days following the trial a list specifically identifying all expert witnesses to be deposed~~  
11 ~~and the dates of their depositions.~~

12 (2) ~~———— Within ten days after each expert witness deposition, defendants' counsel shall submit to the~~  
13 ~~Deputy Commissioner, via email, a request to approve such expert's fee. In these requests, counsel~~  
14 ~~shall provide to the Deputy Commissioner, in a cover letter along with the invoice (if provided to~~  
15 ~~counsel), the following: (1) the name of the expert deposed; (2) his/her practice's name; (3) his/her~~  
16 ~~fax number; (4) his/her area of specialty and board certifications, if any; and (5) the exact length of~~  
17 ~~the deposition and the length of time the expert spent preparing for the deposition. Counsel shall~~  
18 ~~submit a proposed Order that shows the expert's name, practice name and fax number under the~~  
19 ~~"Appearances" section. Failure to make prompt payment to an expert witness following the entry~~  
20 ~~of a fee order will result in the assessment of a 10 percent penalty.~~

21 ~~(3)-(b)~~ The Pre-Trial Agreement shall be prepared in a form which substantially complies conforms with the Order  
22 on Final Pre-Trial Conference adopted in the North Carolina Rules of Practice for the Superior and District Courts.  
23 Should the parties fail to comply with a Pre-Trial Order, the Commissioner or Deputy Commissioner ~~may shall~~  
24 ~~remove the case from the hearing docket.~~ docket if required to prevent manifest injustice and to promote judicial  
25 economy. Should the parties thereafter comply with the Pre-Trial Order after the removal of the case, the Pre-Trial  
26 Agreement ~~must shall~~ be directed to the Commissioner or Deputy Commissioner who removed the case from the  
27 docket; and the Commissioner or Deputy Commissioner ~~will shall~~ order the case returned to the hearing ~~docket.~~ as if  
28 a Request for Hearing had been filed on the date of the Order to return the case to the hearing docket. No new Form  
29 *33 Request that Claim be Assigned for Hearing* is required.

30 ~~(a)-(c)~~ If the parties need a conference, A a Commissioner or Deputy Commissioner ~~may shall~~ order the parties to  
31 ~~appear at participate in~~ a pre-trial conference, ~~to determine specific matters.~~ This conference ~~may shall~~ be  
32 conducted at such place and by such method as the Commissioner or Deputy Commissioner deems appropriate,  
33 including conference telephone calls.

34 ~~(b)-(d)~~ Any party may request a pre-trial conference ~~when that party deems that such a conference would to~~ aid in  
35 settling the case or resolving ~~some~~ contested issues prior to trial. Requests for such pre-trial conferences shall be  
36 directed to the Commissioner or Deputy Commissioner before whom the claim has been calendared, ~~or to the Team~~

1 ~~Coordinator for the geographical area, if any.~~

2 *History Note:* Authority G.S. 97-80(a); 97-80(b); 97-83;

3 *Eff.* January 1, 1990;

4 *Amended Eff.* January 1, 2013; January 1, 2011; June 1, 2000; March 15, 1995.

1 **4 NCAC 10A .0611 is proposed for amendment as follows:**

2 **4 NCAC 10A .0611 HEARINGS BEFORE THE INDUSTRIAL COMMISSION**

3 (a) The ~~Industrial~~ Commission may, on its own motion, order a hearing or rehearing of any case in dispute. The  
4 Commission shall set a contested case for hearing in a location deemed convenient to witnesses and the  
5 Commission.

6 ~~(b) The Industrial Commission shall set a contested case for hearing in a location deemed convenient to witnesses~~  
7 ~~and the Industrial Commission, and conducive to an early and just resolution of disputed issues.~~

8 ~~(c)(b) In setting contested cases for hearing, cases in which the payment of workers' compensation benefits is at~~  
9 ~~issue shall take precedence over those cases in which the payment of workers' compensation benefits is not at issue.~~

10 ~~(d)(c) The Industrial Commission will shall give reasonable notice of hearings in every case. Postponement or~~  
11 ~~continuance of a duly scheduled hearing will rest entirely shall be allowed only in the discretion of a Commissioner~~  
12 ~~or Deputy Commissioner. Commissioner before whom the case is set if required to prevent manifest injustice.~~

13 Where a party has not notified the ~~Industrial~~ Commission of the attorney representing the party prior to the mailing  
14 of calendars for hearing, notice to that party ~~shall constitute~~ constitutes notice to the party's attorney.

15 ~~(e)(d) The only parts of the Industrial Commission file in a contested case which are a part of the record on which~~  
16 ~~a decision will be rendered are~~ In a contested case, the record includes all prior Opinion and Awards, filed  
17 Commission forms, form agreements, awards, and orders of the Commission. Industrial Commission; provided,  
18 however, that if provisions of the Workers' Compensation Act designate other documents as part of the record, such  
19 documents shall also be a part of the record. Any other documents which the parties wish to have included in the  
20 record ~~must~~ shall be introduced and received into evidence.

21 ~~(f)(e) Hearing costs shall be assessed in each case set for hearing, including those cases which are settled after~~  
22 ~~being calendared and notices mailed, and shall be payable upon receipt of a statement from the Industrial~~  
23 ~~Commission.~~

24 ~~(g)(f) In the event of inclement weather or natural disaster, hearings set by the Commission shall be cancelled or~~  
25 ~~delayed if the proceedings in before the General Court of Justice in the that county in which the hearings are set are~~  
26 ~~cancelled. cancelled or delayed.~~

27 *History Note:* Authority G.S. 97-79; 97-80(a); 97-84; 97-91;

28 Eff. January 1, 1990;

29 Amended Eff. January 1, 2013; June 1, 2000

1 **4 NCAC 10A .0612 is proposed for amendment as follows:**

2 **4 NCAC 10A .0612 DEPOSITIONS AND ADDITIONAL HEARINGS**

3 (a) The parties may, by agreement or stipulation with notice to the Commission, conduct depositions for discovery  
4 prior to the hearing before the Deputy Commissioner.

5 ~~(a)~~(b) When additional testimony is necessary to the disposition of a case, a Commissioner or Deputy  
6 Commissioner ~~may~~ shall order the deposition of witnesses to be taken on or before a day certain not to exceed 60  
7 days from the date of the ruling; provided, the time allowed may be enlarged ~~for good cause shown, in the interest of~~  
8 justice and judicial economy. The costs of such depositions shall be borne by defendants for those medical  
9 witnesses who examined the plaintiff at defendants' expense, ~~in those instances in which defendants are requesting~~  
10 ~~the depositions, and in any other case which,~~ or when ordered ~~in the discretion of~~ by the Commissioner or Deputy  
11 Commissioner. ~~Commissioner, it is deemed appropriate.~~

12 ~~(b)~~(c) In cases where a party, or an attorney for either party, refuses to stipulate medical reports and the case ~~must~~  
13 ~~be~~ is reset or depositions ordered for testimony of medical witnesses, a Commissioner or Deputy Commissioner may  
14 ~~in his discretion~~ assess the costs of such hearing or depositions, including reasonable attorney fees, against the party  
15 who refused the ~~stipulation.~~ stipulation, pursuant to G.S. 97-88 and G.S. 97-88.1.

16 ~~(c)~~(d) ~~Except under unusual circumstances, all~~ All ~~lay~~ lay evidence and witnesses other than those tendered as an  
17 expert witness ~~must~~ shall be offered at the ~~initial hearing.~~ hearing before the Deputy Commissioner. ~~Lay Non-~~  
18 ~~expert~~ expert evidence ~~can only~~ may be offered after the ~~initial~~ hearing before the Deputy Commissioner by order of a  
19 Commissioner or Deputy Commissioner. The costs of obtaining ~~lay non-expert~~ testimony by deposition shall be  
20 borne by the party making the request unless otherwise ordered by the ~~Commission.~~ Commission as required to  
21 prevent manifest injustice and to promote judicial economy.

22 *History Note:* Authority G.S. 97-80(a); 97-88; 97-88.1;  
23 Eff. June 1, 1990;  
24 Amended Eff. January 1, 2013; June 1, 2000.

25  
26  
27



1 **4 NCAC 10A .0613 is proposed for amendment as follows:**

2 **4 NCAC 10A .0613 DISMISSAL AND REMOVALS EXPERT WITNESSES AND FEES**

3 ~~(a) Dismissals:~~

4 ~~(1) No claim filed under the Workers' Compensation Act shall be dismissed without prejudice at~~  
5 ~~plaintiff's instance except upon order of the Industrial Commission and upon such terms and~~  
6 ~~conditions as justice requires; provided, however, that no voluntary dismissal shall be granted after~~  
7 ~~the record in a case is closed.~~

8 ~~(2) Unless otherwise ordered by the Industrial Commission, a plaintiff shall have one year from the~~  
9 ~~date of the Order of Voluntary Dismissal to refile his claim.~~

10 ~~(3) Upon proper notice and an opportunity to be heard, any claim may be dismissed with or without~~  
11 ~~prejudice by the Industrial Commission on its own motion or by motion of any party for failure to~~  
12 ~~prosecute or to comply with these Rules or any Order of the Commission.~~

13 ~~(b) Removals:~~

14 ~~(1) A claim may be removed from the hearing docket by motion of the party requesting the hearing or~~  
15 ~~by the Industrial Commission upon its own motion.~~

16 ~~(2) Upon settlement of a case or approval of a form agreement, the parties shall submit a request for~~  
17 ~~removal and/or a dismissal and proposed Order.~~

18 ~~(3) A removed case may be reinstated by motion of either party; provided that cases wherein the~~  
19 ~~issues have materially changed since the Order of Removal or where the motion to reinstate is~~  
20 ~~filed more than one year after the Order of Removal, a Form 33 Request for Hearing will be~~  
21 ~~required.~~

22 ~~(4) When a plaintiff has not requested a hearing within two years of the filing of an Order of Removal~~  
23 ~~requested by the plaintiff or necessitated by the plaintiff's conduct, and not pursued the claim,~~  
24 ~~upon proper notice and an opportunity to be heard, any claim may be dismissed with prejudice by~~  
25 ~~the Industrial Commission, in its discretion, on its own motion or by motion of any party.~~

26 (a) The parties shall file with the Deputy Commissioner within 15 days following the trial, a list identifying all  
27 expert witnesses to be deposed and the dates of their depositions.

28 (b) Within 10 days after each expert witness deposition, defendants' counsel shall submit to the Deputy  
29 Commissioner, via email, a request to approve the expert's fee. In these requests, counsel shall provide to the  
30 Deputy Commissioner, in a cover letter along with the invoice (if provided to counsel), the following:

31 (1) the name of the expert deposed;

32 (2) his or her practice's name;

33 (3) his or her fax number;

34 (4) his or her area of specialty and board certifications, if any;

35 (5) the length of the deposition; and

36 (6) the length of time the expert spent preparing, excluding any time meeting with parties' counsel, for

1           the deposition.

2   Counsel shall submit a proposed Order that shows the expert’s name, practice name and fax number under the  
3   “Appearances” section.

4   (c) Failure to make payment to an expert witness within 30 days following the entry of a fee order shall result in the  
5   assessment of a 10 percent penalty payable to the expert witness.

6   (d) A proposed fee for cancellation of a deposition within five days of scheduled deposition may be submitted to the  
7   Deputy Commissioner for consideration and approval if in the interest of justice and judicial economy.

8   *History Note:*                    *Authority* G.S. 97-18(i); 97-80(a); 97-80(f)

9    *Eff.* January 1, 1990;

10    *Amended Eff.* January 1, 2013; January 1, 2011; June 1, 2000.

1 4 NCAC 10A .0614 is proposed for amendment as follows:

2 4 NCAC 10A .0614 ~~ATTORNEYS RETAINED FOR PROCEEDINGS~~ MEDICAL PROVIDER  
3 FEE DISPUTE PROCEDURE

4 ~~(a) Any attorney who is retained by a party in a proceeding before the Industrial Commission shall immediately file~~  
5 ~~a notice of appearance with the Industrial Commission. A copy of this notice shall be served on all other counsel and~~  
6 ~~on all unrepresented parties. Thereafter, all notices required to be served on a party shall be served upon the~~  
7 ~~attorney. No direct contact or communication concerning contested matters may be made with a represented party~~  
8 ~~by the opposing party or any person on its behalf, without the attorney's permission except as permitted by law or~~  
9 ~~Industrial Commission Rules.~~

10 ~~(b) Any attorney who wishes to withdraw from representation in a proceeding before the Industrial Commission~~  
11 ~~shall file with the Industrial Commission, in writing:~~

12 ~~(1) A Motion to Withdraw which shall contain a statement of reasons for the request and that the~~  
13 ~~request has been served on the client. The attorney shall make reasonable efforts to ascertain the~~  
14 ~~last known address of the client and shall include this information in the motion.~~

15 ~~(2) A Motion to Withdraw before an award is made shall state whether the withdrawing attorney~~  
16 ~~requests an attorney fee from the represented party once an award of compensation is made or~~  
17 ~~approved.~~

18 ~~(c) An attorney may withdraw from representation only by written order of the Industrial Commission. The~~  
19 ~~issuance of an award of the Industrial Commission does not release an attorney as the attorney of record.~~

20 (a) Medical providers seeking to resolve a dispute regarding payment of charges for medical compensation shall  
21 make an inquiry directly to the employer or employer's workers' compensation insurance carrier responsible for the  
22 payment of medical fees by using an Industrial Commission Form 26I Medical Provider Dispute Resolution  
23 Questionnaire.

24 (b) The Commission shall assist a medical provider who has been unsuccessful in obtaining carrier contact  
25 information. No information regarding a specific claim shall be provided by the Commission to the medical  
26 provider.

27 (c) When an employer or carrier does not respond to a medical provider's Form 26I inquiry regarding a medical fee  
28 dispute within 20 days, or denies liability as a Form 26I response, the medical provider may file a written request  
29 seeking assistance from the Commission regarding the fee dispute.

30 (d) The Commission shall conduct a conference between the medical provider and the employer or carrier in an  
31 effort to resolve the dispute.

32 (e) When the medical provider, with assistance from the Commission is unable to resolve the dispute, the medical  
33 provider may request limited intervention in the workers' compensation claim for the sole purpose of resolving the  
34 fee dispute.

35 (f) A medical provider seeking limited intervention in a workers' compensation claim shall file a motion to  
36 intervene with the Commission. The Motion to Intervene must include the following:

- 1           (1) the Commission file number, if known;  
2           (2) the employee's name, address, and last four digits of his or her social security number;  
3           (3) the date of injury and a description of the workplace injury, including the body parts known to be  
4           affected;  
5           (4) an itemized list of the medical fees in dispute, including CPT codes relating specific charges to the  
6           Workers' Compensation Medical Fee Schedule, and explanations directly relating each charge to  
7           the employee's workplace injury;  
8           (5) a copy of the Form 26I Medical Provider Dispute Resolution Questionnaire submitted by the  
9           Medical Provider, including all accompanying materials, and any response received back by the  
10           Medical Provider from the employer or carrier contacted;  
11           (6) a copy of the written request for assistance submitted to the Medical Fees Section;  
12           (7) a copy of the written summary by the Medical Fees Section of the informal resolution process and  
13           outcome;  
14           (8) a sworn affidavit by the Medical Provider that states:  
15                   (A) the Medical Provider has treated the employee;  
16                   (B) the medical fees itemized by the Medical Provider are current and unpaid; and  
17                   (C) the Medical Provider reasonably believes that the employer or carrier named on the Form  
18                   26I Medical Provider Dispute Resolution Questionnaire is obligated to pay the fees under  
19                   the Workers' Compensation Act; and  
20           (9) a certification of service upon both the employee and the employer or carrier named on the Form  
21           26I Medical Provider Dispute Resolution Questionnaire.  
22           (g) A medical provider who has been denied intervention may request a review by the Commission by filing a  
23           written request with the Docket Section of the Industrial Commission within 10 days of receipt of the order denying  
24           intervention.  
25           (h) The request for review by the Commission shall be served on all parties to the workers' compensation claim and  
26           include:  
27                   (1) a statement of facts necessary to an understanding of the issue(s);  
28                   (2) a statement of the relief sought;  
29                   (3) a copy of the motion to intervene, including all attachments required by Paragraph (f) of this  
30                   Rule; and  
31                   (4) a copy of the order denying intervention.  
32           (i) Within 10 days after service of a request for review by the Commission, any party to the workers' compensation  
33           claim may file a response, including supporting affidavits or documentation not previously file with the  
34           Commission.  
35           (j) The Commission's determination shall be made on the basis of the request for review and any response(s),  
36           including supporting documentation. No briefs or oral argument are allowed by the Commission.

1 (k) In accordance with the G.S. 97-90.1(b), when a medical provider is allowed to intervene by the Commission, the  
2 intervention is limited to the medical fee dispute.

3 (l) Following intervention, a medical provider may request and obtain information from the Commission related to  
4 the medical fee. The request for information must be in writing, include a copy of the order allowing the medical  
5 provider to intervene, and be directed to the Claims Section of the Commission.

6 (m) Discovery by a medical provider shall be allowed following a Commission order allowing intervention but is  
7 limited to matters related to the medical fee dispute.

8 (n) A medical provider who has intervened in a workers' compensation claim may obtain a hearing before the  
9 Commission on a medical fee dispute by filing an Industrial Commission Form 33I *Intervenor's Request that Claim*  
10 *be Assigned for Hearing* and paying a filing fee.

11 (o) Upon resolution of a medical fee dispute, costs shall be determined and assessed by the Commission and the  
12 medical provider shall be dismissed from the claim. The medical provider shall retain standing to request review of  
13 an order from the Commission.

14 *History Note:* Authority G.S. 97-26(i); 97-80(a);  
15 Eff. January 1, 1990;  
16 Amended Eff. January 1, 2013; January 1, 2011; June 1, 2000; March 15, 1995.

17

1 4 NCAC 10A .0615 is proposed for amendment as follows:

2 4 NCAC 10A .0615 **DISQUALIFICATION OF DEPUTY COMMISSIONER OR**  
3 **COMMISSIONER CASES REMOVED FROM A HEARING CALENDAR**

4 In their discretion, Commissioners or Deputy Commissioners may recuse themselves from the hearing of any case  
5 before the Industrial Commission. For good cause shown, a majority of the Full Commission may remove a  
6 Commissioner or Deputy Commissioner from hearing a case

7 (a) A claim may be removed from a hearing calendar by motion of the party requesting the hearing or by the  
8 Commission upon its own motion to prevent manifest injustice, promote judicial economy, or expedite a decision in  
9 the public interest.

10 (b) Upon settlement of a case or approval of a form agreement, the parties shall submit a request to remove a case  
11 from a hearing calendar and a proposed Order.

12 (c) After a case has been removed from a hearing calendar, the case may be reset on a hearing calendar by Order of  
13 the Commission or filing of a Form 33 Request that Claim be Assigned for Hearing by the party requesting a  
14 hearing.

15 *History Note:* Authority G.S. 97-80(a); 97-84; 97-91;  
16 *Eff.* January 1, 1990;  
17 *Amended Eff.* January 1, 2013; June 1, 2000.

18

1 **4 NCAC 10A .0616 is proposed for amendment as follows:**

2 **4 NCAC 10A .0616 FOREIGN LANGUAGE INTERPRETERS DISMISSALS**

3 ~~(a) Services of Foreign Language Interpreters Required When a person who does not speak or understand the~~  
4 ~~English language is called to testify in a hearing, other than in an informal hearing conducted pursuant to G.S. 97-~~  
5 ~~18.1, the person, whether a party or a witness shall be assisted by a qualified foreign language interpreter.~~

6 ~~(b) Qualifications of Interpreters To qualify as a foreign interpreter, a person must possess sufficient experience~~  
7 ~~and education, or a combination of experience and education, speaking and understanding English and the foreign~~  
8 ~~language to be interpreted, to qualify as an expert witness pursuant to G.S. 1C-1, Rule 702. A person qualified as an~~  
9 ~~interpreter under this Rule shall not be interested in the claim and must make a declaration under oath or affirmation~~  
10 ~~to interpret accurately, truthfully and without any additions or deletions, all questions propounded to the witness and~~  
11 ~~all responses thereto.~~

12 ~~(c) Notice to Industrial Commission and Opposing Party of Need for Interpreter Any party who is unable to speak~~  
13 ~~or understand English, or who intends to call as a witness a person who is unable to speak or understand English,~~  
14 ~~shall so notify the Industrial Commission and the opposing party, in writing, not less than 21 days prior to the date~~  
15 ~~of the hearing. The notice shall state with specificity the language(s) that must be interpreted for the Commission.~~

16 ~~(d) Designation of Interpreter Upon receiving or giving the notice required in Paragraph (3) of this Rule, the~~  
17 ~~employer or insurer shall retain a qualified, disinterested interpreter, either agreed upon by the parties or approved~~  
18 ~~by the Industrial Commission, to appear at the hearing and interpret the testimony of all persons for whom the notice~~  
19 ~~in Paragraph (3) of this Rule has been given or received.~~

20 ~~(e) Interpreter Fees The interpreter's fee shall constitute a cost as contemplated by G.S. 97-80. A qualified~~  
21 ~~interpreter who interprets testimony for the Industrial Commission shall be entitled to payment of the fee agreed~~  
22 ~~upon by the interpreter and employer or insurer that retained the interpreter. Except in cases where a claim for~~  
23 ~~compensation has been prosecuted without reasonable ground, the fee agreed upon by the interpreter and employer~~  
24 ~~or insurer shall be paid by the employer or insurer. Where it is ultimately determined by the Commission that the~~  
25 ~~request for an interpreter was unfounded, attendant costs may be assessed against the movant.~~

26 (a) No claim filed under the the Workers' Compensation Act shall be dismissed without prejudice, except upon  
27 order of the Commission in the interest of justice. No voluntary dismissal shall be granted after the record in a case  
28 is closed. Unless otherwise ordered by the Commission in the interest of justice, a plaintiff shall have one year from  
29 the date of the Order of Voluntary Dismissal Without Prejudice to refile his claim.

30 (b) Upon notice and opportunity to be heard, any claim may be dismissed with or without prejudice by the  
31 Commission on its own motion or by motion of any party if the Commission finds that the party failed to prosecute  
32 or to comply with the Rules in this Subchapter or any Order of the Commission.

33 (c) When a plaintiff has not requested a hearing within two years of the filing of the Order removing the case from a  
34 hearing calendar and has not pursued the claim, upon notice and opportunity to be heard, any claim shall be  
35 dismissed with prejudice by the Commission, on its own motion or by motion of any party.

36 *History Note:* Authority G.S. 97-80(a); 97-84; 97-91;

1

*Eff.* June 1, 2000;

2

*Amended Eff.* January 1, 2013; January 1, 2011.



1 **4 NCAC 10A .0617 is proposed for amendment as follows:**

2 **4 NCAC 10A .0617** **~~ELECTRONIC SERVICE AND VERIFICATION OF SERVICE~~**

3 **ATTORNEYS RETAINED FOR PROCEEDINGS**

4 Consistent with the provisions in G.S. 97-84, 97-85, and 97-86, the Commission shall establish guidelines for the  
5 electronic submission, including electronic mail and facsimile, of documents and communications.

6 (a) Any attorney who is retained by a party in a proceeding before the Commission shall comply with the applicable  
7 rules of the North Carolina State Bar. A copy of a notice of representation shall be served upon all other counsel  
8 and all unrepresented parties. Thereafter, all notices required to be served on a party shall be served upon the  
9 attorney. No direct contact or communication concerning contested matters may be made with a represented party  
10 by the opposing party or any person on its behalf, without the attorney's permission except as permitted by G.S. 97-  
11 32 or other applicable law.

12 (b) Any attorney who wishes to withdraw from representation in a proceeding before the Commission shall file with  
13 the Commission, in writing a Motion to Withdraw that contains a statement of reasons for the request and that the  
14 request has been served on the client. The attorney shall make reasonable efforts to ascertain the last known address  
15 of the client and shall include this information in the motion. A Motion to Withdraw before an award is made shall  
16 state whether the withdrawing attorney requests an attorney's fee from the represented party once an award of  
17 compensation is made or approved.

18 (c) An attorney may withdraw from representation only for good cause shown and by written order of the  
19 Commission. The issuance of an award of the Commission does not release an attorney as the attorney of record.

20 (d) An attorney withdrawing from representation whose client wishes to appeal an Order, Decision, or Award to the  
21 Full Commission shall timely file a notice of appeal, as set out by this Subchapter, on behalf of his or her client  
22 either before or with his or her Motion to Withdraw.

23 (e) Motions to Withdraw shall be submitted electronically to [attorneywithdrawals@ic.nc.gov](mailto:attorneywithdrawals@ic.nc.gov), unless electronic  
24 submission is unavailable to the parties. The Motion to Withdraw shall include a proposed Order that includes, in  
25 the appearances, the last known address of any *pro se* party, or the contact information of new counsel, if such  
26 counsel has been retained. The proposed Order shall include fax numbers for all parties, if known.

27 *History Note:* Authority G.S. 97-80(a); 97-90; 97-91;

28 *Eff.* January 1, 2011;

29 *Amended Eff.* January 1, 2013.

30

1 **4 NCAC 10A .0618 is proposed for amendment as follows:**

2 **4 NCAC 10A .0618** **DISQUALIFICATION OF A COMMISSIONER OR DEPUTY**

3 **COMMISSIONER**

4 Commissioners or Deputy Commissioners may recuse themselves from the hearing of any case before the  
5 Commission. In the interest of justice, a majority of the Full Commission may remove a Commissioner or Deputy  
6 Commissioner from the hearing of a case.

7 History Note: Authority G.S. 97-79(b); 97-80(a);

8 Eff. January 1, 2013.

9

1 **4 NCAC 10A .0619 is proposed for amendment as follows:**

2 **4 NCAC 10A .0619 FOREIGN LANGUAGE INTERPRETERS**

3 (a) When a person who does not speak or understand the English language is called to testify in a hearing,  
4 other than in an informal hearing conducted pursuant to G.S. 97-18.1, the person, whether a party or a  
5 witness, shall be assisted by a qualified foreign language interpreter.

6 (b) To qualify as a foreign language interpreter, a person shall possess sufficient experience and education,  
7 or a combination of experience and education, speaking and understanding English and the foreign  
8 language to be interpreted, to qualify as an expert witness pursuant to G.S. 8C-1, Rule 702. A person  
9 qualified as an interpreter under this Rule shall not be interested in the claim and shall make a declaration  
10 under oath or affirmation to interpret accurately, truthfully and without any additions or deletions, all  
11 questions propounded to the witness and all responses thereto.

12 (c) Any party who is unable to speak or understand English, or who intends to call as a witness a person  
13 who is unable to speak or understand English, shall so notify the Commission and the opposing party, in  
14 writing, not less than 21 days prior to the date of the hearing. The notice shall state the language(s) that  
15 shall be interpreted for the Commission.

16 (d) Upon receiving or giving the notice required in Paragraph (c) of this Rule, the employer or insurer shall  
17 retain a disinterested interpreter, who possesses the qualifications listed in Paragraph (b) of this Rule, to  
18 appear at the hearing and interpret the testimony of all persons for whom the notice in Paragraph (c) of this  
19 Rule has been given or received.

20 (e) The interpreter's fee shall constitute a cost as contemplated by G.S. 97-80. A qualified interpreter who  
21 interprets testimony for the Commission is entitled to payment of the fee agreed upon by the interpreter and  
22 employer or insurer that retained the interpreter. Except in cases where a claim for compensation has been  
23 prosecuted without reasonable ground, the fee agreed upon by the interpreter and employer or insurer shall  
24 be paid by the employer or insurer. Where the Commission ultimately determines that the request for an  
25 interpreter was unfounded, attendant costs shall be assessed against the movant.

26 (f) Foreign language interpreters shall abide by the Code of Conduct and Ethics of Foreign Language  
27 Interpreters and Translators, contained in Part 4 of *Policies and Best Practices for the Use of Foreign*  
28 *Language Interpreting and Translating Services in the North Carolina Court System* and promulgated by  
29 the North Carolina Administrative Office of the Courts, and shall interpret, as word for word as is  
30 practicable, without editing, commenting, or summarizing, testimony or other communications. The Code  
31 of Conduct and Ethics of Foreign Language Interpreters and Translators is hereby incorporated by  
32 reference and includes subsequent amendments and editions. A copy may be obtained at no charge from  
33 the North Carolina Administrative Office of the Court's website,  
34 <http://www.nccourts.org/Citizens/CPrograms/Foreign/Documents/guidelines.pdf>, or upon request, at the  
35 offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North  
36 Carolina, between the hours of 8:00 a.m. and 5:00 p.m.

1 History Note: Authority G.S. 97-79(b); 97-80(a);  
2 Eff. January 1, 2013.

1 **4 NCAC 10A .0701 is proposed for amendment as follows:**

2 **SECTION .0700 - APPEALS**

3 **4 NCAC 10A .0701 APPEAL TO THE REVIEW BY THE FULL COMMISSION**

4 (a) A letter expressing ~~an intent to appeal shall be~~ a request for review is considered notice of appeal an  
5 application of review to the Full Commission within the meaning of G.S. §-97-85, provided that ~~it~~ the letter  
6 specifies the Order or Opinion and Award from which appeal is taken.

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

18 (c) The time for filing a request for review from the decision of a Deputy Commissioner under the Rules in  
19 this Subchapter shall be tolled until a timely motion to reconsider or to amend the decision has been ruled  
20 upon by the Deputy Commissioner. A motion to reconsider or to amend the decision of a Deputy  
21 Commissioner shall be filed within 15 days of receipt of notice of the award.

22 ~~(e)-(d) Particular grounds~~ Grounds for appeal review not set forth in the ~~application for review~~ Form 44  
23 Application for Review ~~shall be~~ are deemed abandoned, and argument thereon shall not be heard before the  
24 Full Commission.

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

1 ~~(e)-(f)~~ After ~~notice of appeal~~ request for review has been given to the Full Commission, any motions  
2 related to the issues for review before the Full Commission shall be filed ~~in triplicate~~ with the Full  
3 Commission, with service on the other parties. Motions related to the issues for review including motions  
4 for new trial, to amend the record, or to take additional evidence, filed during the pendency of a request for  
5 review to the Full Commission shall be argued before the Full Commission at the time of the hearing of the  
6 request for review.

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

9 (g) Cases ~~should~~ shall be cited to the North Carolina Reports, the North Carolina Court of Appeals  
10 Reports, or the North Carolina Reporter, and preferably, when possible, to the Southeastern Reporter.  
11 Counsel shall not discuss matters outside the record, assert personal opinions or relate personal  
12 experiences, or attribute ~~unworthy~~ wrongful acts or motives to opposing counsel.

13 ~~(h) The Industrial Commission or any one of the parties with permission of the Industrial Commission may~~  
14 ~~waive oral argument before the Full Commission. Upon the request of a party or on its own motion, the~~  
15 Commission may waive oral argument to prevent manifest injustice, promote judicial economy, or expedite  
16 a decision in the public interest. In the event of such waiver, the Full Commission ~~will~~ shall file ~~a decision,~~  
17 an award, based on the ~~record, assignments of error~~ record and briefs.

18 ~~(j)-(i)~~ Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit ~~shall~~  
19 ~~apply~~ applies to the length of attachments. Briefs shall be prepared ~~entirely~~ using a 12 point ~~font~~ type, shall  
20 be double spaced, and shall be prepared with non-justified right margins. Each page of the brief shall be  
21 numbered at the bottom right of the page. When a party quotes or paraphrases ~~quoting or paraphrasing~~  
22 testimony or other evidence from a transcript of the evidence or from an exhibit in the party's brief, the  
23 party shall include, at the end of the sentence in the brief that quotes or paraphrases the testimony or other  
24 evidence, a parenthetic entry in the text that designates the source of the quoted or paraphrased material and  
25 the page number location within the applicable source. to include the exact page number location within the  
26 transcript of the evidence of the information being referenced shall be placed at the end of the sentence  
27 citing the information [Example: (T p.38)]. The party shall use "T" for transcript, "Ex" for exhibit, and  
28 "p" for page number. For example, if a party quotes or paraphrases material located in the transcript on  
29 page 11, the party shall use the following format "(T p 11)", and if a party quotes or paraphrases material  
30 located in exhibit three on page 12, the party shall use the following format "(Ex 3 p 12)". When a party  
31 quotes or paraphrases ~~quoting or paraphrasing~~ testimony or other evidence in the transcript of a deposition  
32 in the party's brief, the party shall include, at the end of the sentence in the brief that quotes or paraphrases  
33 the testimony or other evidence from the deposition, a parenthetic entry in the text to include that contains  
34 the name of the name of the person deposed and exact the page number location within the transcript of the  
35 deposition. of the information being referenced shall be placed at the end of the sentence citing the  
36 information. [Example: (Smith p.15)]. For example, if a party quotes or paraphrases the testimony of John

1 Smith, located on page 11 of the transcript of the deposition, the party shall use the following format  
2 “(Smith p 11)”.  
3 ~~(i)-(j) A plaintiff~~ An employee appealing requesting a review of the amount of a disfigurement award shall  
4 personally appear before the Full Commission to permit the Full Commission to view the disfigurement.  
5 *History Note:* Authority G.S. 97-80(a); 97-85;  
6 Eff. January 1, 1990;  
7 Amended Eff. January 1, 2013; January 1, 2011; June 1, 2000.

1 **4 NCAC 10A .0702 is proposed for amendment as follows:**

2 **4 NCAC 10A .0702 ~~APPEAL TO THE COURT OF APPEALS~~ REVIEW OF**  
3 **ADMINISTRATIVE DECISIONS**

4 (a) ~~Except as otherwise provided in G.S. § 97-86, in every case appealed to the North Carolina Court of~~  
5 ~~Appeals, the Rules of Appellate Procedure shall apply. The running of the time for filing and serving a~~  
6 ~~notice of appeal is tolled as to all parties by a timely motion filed by any party to amend, to make additional~~  
7 ~~findings or to reconsider the decision, and the full time for appeal commences to run and is to be computed~~  
8 ~~from the entry of an Order upon any of these motions, in accordance with Rule 3 of the Rules of Appellate~~  
9 ~~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~~  
12 ~~alternative record on appeal along with a timely request to settle the record on appeal. The hearing to settle~~  
13 ~~the record on appeal shall be held at the offices of the Industrial Commission or by telephone conference.~~  
14 ~~The record on appeal shall be settled in accordance with the provisions of Rule 18(d) of the North Carolina~~  
15 ~~Rules of Appellate Procedure.~~

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

18 (a) Administrative decisions include orders, decisions, and awards made in a summary manner, without  
19 findings of fact, including decisions on applications to approve agreements to pay compensation and  
20 medical bills, applications to approve the termination or suspension or the reinstatement of compensation,  
21 applications for change in treatment or providers of medical compensation, applications to change the  
22 interval of payments, and applications for lump sum payments of compensation shall be reviewed upon the  
23 filing of a Motion for Reconsideration with the Commission addressed to the Administrative Officer who  
24 made the decisions or may be reviewed by requesting a hearing within 15 days of receipt of the decisions or  
25 receipt of the ruling on a Motion to Reconsider. These issues may also be raised and determined at a  
26 subsequent hearing.

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

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



1 consider all issues de novo, and no issue shall be considered moot solely because the order has been fully  
2 executed during the pendency of the hearing.

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

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

9 or

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

12 *History Note:*

*Authority* G.S. 97-80(a); 97-85;

*Eff.* January 1, 1990;

*Amended Eff.* January 1, 2013; January 1, 2011; June 1, 2000.

1 **4 NCAC 10A .0703 is proposed for amendment as follows:**

2 **4 NCAC 10A .0703** **REVIEW OF APPEALS FROM ADMINISTRATIVE**

3 **DECISIONS-APPEAL TO THE COURT OF APPEALS**

4 ~~(a) Orders, Decisions, and Awards made in a summary manner, without detailed findings of fact, including~~  
5 ~~Decisions on applications to approve agreements to pay compensation and medical bills, applications to~~  
6 ~~approve the termination or suspension of compensation, applications for change in treatment or providers~~  
7 ~~of medical compensation, applications to change the interval of payments, and applications for lump sum~~  
8 ~~payments of compensation may be appealed by filing a Motion for Reconsideration with the Industrial~~  
9 ~~Commission and addressed to the Administrative Officer who made the Decision or may be reviewed by~~  
10 ~~requesting a hearing within 15 days of receipt of the Decision or receipt of the ruling on a Motion to~~  
11 ~~Reconsider. These issues may also be raised and determined at a subsequent hearing.~~

12 ~~(b) Motions for Reconsideration shall not stay the effect of the Order, Decision or Award; provided, that~~  
13 ~~the Administrative Officer making the decision or a Commissioner may enter an Order staying its effect~~  
14 ~~pending the ruling on the Motion for Reconsideration or pending a Decision by a Commissioner or Deputy~~  
15 ~~Commissioner following a formal hearing. In determining whether or not to grant a stay, the~~  
16 ~~Commissioner or Administrative Officer will consider whether granting the stay will frustrate the purposes~~  
17 ~~of the Order, Decision, or Award.~~

18 ~~(c) Any review made by requesting a hearing shall be made to the Industrial Commission and filed with~~  
19 ~~the Industrial Commission's Docket Director. The Industrial Commission shall designate a Commissioner~~  
20 ~~or Deputy Commissioner to hear the review. The Commissioner or Deputy Commissioner hearing the~~  
21 ~~matter shall consider all issues de novo, and no issue shall be considered moot solely because the Order has~~  
22 ~~been fully executed during the pendency of the hearing.~~

23 ~~(d) Orders filed by a single Commissioner, including Orders dismissing appeals to the Full Commission or~~  
24 ~~denying the right of immediate appeal to the Full Commission, are administrative orders and are not final~~  
25 ~~determinations of the Industrial Commission. As such, an Order filed by a single Commissioner is not~~  
26 ~~immediately appealable to the North Carolina Court of Appeals. A one signature Order filed by a single~~  
27 ~~Commissioner may be reviewed by filing a Motion for Reconsideration addressed to the Commissioner~~  
28 ~~who filed the Order or may be appealed to a Full Commission panel by requesting a hearing within 15 days~~  
29 ~~of receipt of the Order or receipt of the ruling on a Motion for Reconsideration.~~

30 (a) The time to file a notice of appeal, and bonds therefrom, including in forma pauperis affidavits, to the  
31 North Carolina Court of Appeals from the Full Commission is governed by the provisions of G.S. 97-86

32 (b) A motion to reconsider or to amend an award of the Full Commission shall be filed within 15 days of  
33 receipt of notice of the award. An award of the Full Commission is not final until the disposition is filed by  
34 the Commission on the pending motion to reconsider or to amend an award.

35 *History Note:* Authority G.S. 97-80(a); 97-86;

36 *Eff.* March 15, 1995;



1 **4 NCAC 10A .0704 is proposed for amendment as follows:**

2 **4 NCAC 10A .0704 REMAND FROM THE APPELLATE COURTS**

3 When a case is remanded to the Commission from the appellate courts, each party may file a statement,  
4 with or without a brief, to the Full Commission setting forth its position on the actions or proceedings,  
5 including evidentiary hearings or depositions, required to comply with the court's decision. This statement  
6 shall be filed within 30 days of the issuance of the court's mandate and shall be filed with the  
7 Commissioner who authored the Full Commission decision or the Commissioner designated by the  
8 Chairman of the Commission if the Commissioner who authored the decision is no longer a member of the  
9 Industrial Commission.

10 History Note: Authority G.S. 97-80(a); 97-86;

11 Eff. January 1, 2013.

12

1 4 NCAC 10A .0801 is proposed for amendment as follows:

2 SECTION .0800 - RULES OF THE COMMISSION

3 4 NCAC 10A .0801 ~~WAIVER OF THE RULES~~ SUSPENSION OF RULES

4 In the interest of justice, these rules may be waived by the Industrial Commission. The rights of any  
5 unrepresented plaintiff will be given special consideration in this regard, to the end that a plaintiff without  
6 an attorney shall not be prejudiced by mere failure to strictly comply with any one of these rules.

7 To prevent manifest injustice to a party, or to expedite a decision in the public interest, the Commission  
8 may, except as otherwise provided by the Rules in this Subchapter, suspend or vary the requirements or  
9 provisions of any of the Rules in this Subchapter in a case pending before the Commission upon application  
10 of a party or upon its own initiative, and may order proceedings in accordance with its directions.

11 *History Note:* Authority G.S. 97-80(a);  
12 Eff. January 1, 1990;  
13 Amended Eff. January 1, 2013.

14  
15

1 **4 NCAC 10A .0802 is proposed for amendment as follows:**

2 **4 NCAC 10A .0802 SANCTIONS**

3 (a) ~~Upon failure to comply with any of the aforementioned rules, the Industrial Commission may subject~~  
4 ~~the violator to any of the sanctions outlined in Rule 37 of the North Carolina Rules of Civil Procedure,~~  
5 ~~including reasonable attorney fees to be taxed against the party or his counsel whose conduct necessitates~~  
6 ~~the order.~~ The Commission may, on its own initiative or motion of a party, impose a sanction against a  
7 party, or attorney or both when the Commission determines that such party, or attorney, or both failed to  
8 comply with the Rules in this Subchapter. The Commission may impose sanctions of the type and in the  
9 manner prescribed by Rule 37 of the North Carolina Rules of Civil Procedure.

10 (b) Failure to timely file forms as required by either ~~these the~~ Rules in this Subchapter or pursuant to the  
11 Workers' Compensation Act may result in fines or other ~~appropriate~~ sanctions.

12 *History Note:* Authority G.S. 1A-1, Rule 37; 97-18; 97-80(a); 97-88.1;

13 *Eff.* January 1, 1990;

14 *Amended Eff.* January 1, 2013; June 1, 2000.

15

1 **4 NCAC 10A .0803 is proposed for amendment as follows:**

2 **4 NCAC 10A .0803** **RULEMAKING**

3 ~~Prior to adopting, deleting, or amending any Workers' Compensation Rule of the Industrial Commission which~~  
4 ~~affects the substantive rights of parties, the Industrial Commission will give at least 30 days' notice of the proposed~~  
5 ~~change in rules. Such notice will be given by publishing, in a newspaper or newspapers of general circulation in~~  
6 ~~North Carolina, notice of such proposed change. Such notice will include an invitation to any interested party to~~  
7 ~~submit in writing any objection, suggestion or other comment with respect to the proposed rule change or to appear~~  
8 ~~before the Full Commission at a time and place designated in the notice for the purpose of being heard with respect~~  
9 ~~to the proposed rule change.~~

10 *History Note:* *Authority* G.S. 97-80(a);  
11 *Eff.* January 1, 1990;  
12 *Repealed Eff.* January 1, 2013.

13

1 **4 NCAC 10A .0901 is proposed for amendment as follows:**

2 **SECTION .0900 - REPORT OF EARNINGS**

3 **4 NCAC 10A .0901 CHECK ENDORSEMENT**

4 If a self-insured employer, carrier or third party administrator places “check endorsement” language on the back of  
5 an employee’s check, the following language (or ~~similar~~ language approved by the ~~Industrial Commission~~  
6 Commission as equivalent) shall be used:

7 **By endorsing this check, I certify that I have not worked for or earned wages from any**  
8 **business or individual during the period covered by this check, or that I have reported any**  
9 **earnings to the ~~employer/carrier~~ employer or carrier paying me workers’ compensation**  
10 **benefits. I understand that making a false statement by endorsing this benefit check may**  
11 **result in civil ~~or~~ and criminal penalties.**

12 *History Note:* Authority G.S. 97-80(a); 97-88.2;

13 Eff. June 1, 2000;

14 Amended Eff. January 1, 2013.

15

16



1 **4 NCAC 10A .0902 is proposed for amendment as follows:**

2 **4 NCAC 10A .0902 NOTICE**

3 A self-insured employer, carrier or third party administrator shall not use check endorsement language on  
4 the back of an employee's workers' compensation benefit check unless the employee has been provided the  
5 following Notice sent by certified mail return receipt requested:

6 **NOTICE TO EMPLOYEE RECEIVING WORKERS' COMPENSATION**  
7 **BENEFITS**

8 **This NOTICE is intended to advise you of important information you ~~need to~~ must**  
9 **know if you are receiving workers' compensation benefits.**

10 **Please TAKE NOTICE of the following:**

11 (a) **When you are receiving weekly workers' compensation benefits, you must**  
12 **report any earnings you receive to the insurance company (or employer if the**  
13 **employer is self-insured) that is paying you the benefits. "Earnings" include any**  
14 **cash, wages or salary received from self-employment or from any employment other**  
15 **than the employment where you were injured. Earnings also include commissions,**  
16 **bonuses, and the cash value for all payments received in any form other than cash**  
17 **(e.g., a building custodian receiving a rent-free apartment). ~~Commission bonuses,~~**  
18 **etc., Incentives, commissions, bonuses, or other compensation earned before**  
19 **disability but received during the time you are also receiving workers'**  
20 **compensation benefits do not constitute earnings that must be reported.**

21 (b) **You must report any work in any business, even if the business lost money or if**  
22 **profits or income were reinvested or paid to others.**

23 (c) **Your endorsement on a benefit check or deposit of the check into an account is**  
24 **your statement certification that you have not worked for or earned wages from any**  
25 **business or individual during the period covered by the check, or that you have**  
26 **reported any earnings to the employer or carrier paying you workers' compensation**  
27 **benefits and that ~~believe that~~ you are entitled to receive workers' compensation**  
28 **benefits. Your signature on a benefit check is a further affirmation certification**  
29 **that you have made no material false statement or concealed any material fact**  
30 **regarding your right to receive the benefit check.**

31 (d) **Making false statements for the purpose of obtaining workers' compensation**  
32 **benefits may result in civil and criminal penalties.**

33 *History:* G.S. 97-80(a); 97-88.2;

34 *Eff.* June 1, 2000;

35 *Amended Eff.* January 1, 2013.  
36  
37

1 **4 NCAC 10A .0903 is proposed for amendment as follows:**

2 **4 NCAC 10A .0903 EMPLOYEE'S OBLIGATION TO REPORT EARNINGS**

3 (a) A self-insured employer, carrier or third-party administrator may require the employee who has filed a claim to  
4 complete a Form 90 *Report of Earnings* when reasonably necessary but not more than once every six months.

5 (b) The Form 90 *Report of Earnings* ~~must~~ shall be sent to the employee by certified mail, return receipt requested,  
6 and include a self-addressed stamped envelope for the return of the form. When the employee is represented by an  
7 attorney, the Form 90 *Report of Earnings* shall be sent to the attorney for the employee and not to the employee.

8 (c) The employee shall complete and return the Form 90 *Report of Earnings* within 15 days after receipt of a Form  
9 ~~90.~~ 90 Report of Earnings. If the employee fails to complete and return the Form 90 Report of Earnings within 30  
10 days of receipt of the form, the self-insured employer, carrier or third-party administrator may seek an order from  
11 the Executive Secretary allowing the suspension of benefits. The self-insured employer, carrier or third-party  
12 administrator shall not suspend benefits without Commission ~~approval.~~ approval pursuant to the Workers'  
13 Compensation Act. If the Commission suspends benefits for failure to complete and return a Form 90 *Report of*  
14 *Earnings*, the self-insured employer, carrier or third-party administrator shall ~~immediately~~ reinstate benefits to the  
15 employee with back payment as soon as the Form 90 Report of Earnings is submitted by the employee. If benefits  
16 are not ~~immediately~~ reinstated, the employee ~~should~~ shall submit a written request for an Order from the Executive  
17 Secretary instructing the self-insured employer, carrier or third-party administrator to reinstate benefits. If the  
18 employee's earnings report does not indicate continuing eligibility for partial or total disability compensation, ~~then~~  
19 the self-insured employer, carrier or third-party administrator may apply to the Commission to terminate or modify  
20 benefits ~~pursuant to Commission procedure, including by filing a Form 24,~~ 24 Application to Terminate or Suspend  
21 Payment of Compensation 26, or 33, or Form 33 Request that Claim be Assigned for Hearing.

22 *History Note:*

*Authority* G.S. 97-80(a); 97-88.2;

23 *Eff.* June 1, 2000;

24 *Amended Eff.* January 1, 2013; August 1, 2006

1 **4 NCAC 10A .1001 is proposed for amendment as follows:**

2 **SECTION .1000 – PREAUTHORIZATION FOR MEDICAL TREATMENT**

3 **4 NCAC 10A .1001 PREAUTHORIZATION FOR SURGERY AND INPATIENT**  
4 **TREATMENT**

5 (a) An insurer that requires preauthorization must establish a preauthorization review policy that describes the  
6 process for requesting preauthorization review. The policy must be publicly available on the insurer’s website.

7 (b) As used in this Section,

8 (1) “insurer” means an insurance carrier, self-insured administrator, managed care organization,  
9 employer, or any other entity that conducts preauthorization review;

10 (2) “preauthorization” means the determination by an insurer that proposed surgical or inpatient  
11 treatment is medically necessary; and

12 (3) “preauthorization review” means a prospective review process conducted by an insurer to determine  
13 whether a proposed surgical or inpatient treatment is medically necessary.

14 (c) As used in this Section, “preauthorization” means the determination by an insurer that proposed surgical or  
15 inpatient treatment is medically necessary.

16 (d) As used in this Section “preauthorization review” means a prospective review process conducted by an insurer  
17 to determine whether a proposed surgical or inpatient treatment is medically necessary.

18 (e) Insurers shall, on an annual basis, electronically submit an electronic copy or link for any medical practice  
19 guidelines the insurer utilizes in the preauthorization review process to the Commission at the following electronic  
20 site (<ftp://ftp.ic.nc.gov>.) by July 1 of each year.

21 (f) The insurer shall list in detail each surgical procedure and each inpatient service for which preauthorization  
22 review is required. These procedures and services shall be publicly available on the insurer’s website.

23 (g) The preauthorization review policy shall include:

24 (1) procedures for requesting preauthorization, responding to and approving requests for  
25 preauthorization, and appealing a denial of preauthorization;

26 (2) procedures via telephone, fax and email for communicating with the preauthorization agent with  
27 decision making powers on a pending request for preauthorization (including Peer Review  
28 Physicians) on a continuous basis on every business day (which excludes weekends and holidays)  
29 between the hours of 8:00 a.m. and 8:00 p.m. eastern standard time;

30 (3) Delivery of a request for preauthorization to the claims adjuster or other designated  
31 Preauthorization Agent at the place (email address, fax number, telephone number) provided by  
32 the insurer shall constitute receipt of the preauthorization request by the claims adjuster;

33 (4) methods by which the insurer shall respond to requests for preauthorization and methods by which  
34 a health care provider, claimant, person, or entity requesting preauthorization may respond to  
35 inquiries or determinations by the insurer;

- 1           (5)     Upon receipt of a request for preauthorization, the insurer shall provide to the health care provider  
2                     or person making the request the name, telephone number, fax number and email address of the  
3                     Preauthorization Agent. The Preauthorization Agent must be available on a continuous basis,  
4                     every business day (which excludes weekends and holidays) from 8:00 a.m. to 8:00 p.m. Eastern  
5                     Standard Time to facilitate responses to insurer communications or determinations.
- 6           (6)     a statement that the insurer shall provide a statement with supporting documentation of the  
7                     substantive clinical justification for a denial of preauthorization, including the relevant clinical  
8                     criteria upon which the denial is based. Denials based upon lack of information shall specify what  
9                     information is needed to make a determination;
- 10          (7)     an outline of the appeal rights and procedures with instructions on how to submit appeals by mail,  
11                     email or fax;
- 12          (8)     a statement that advises the appealing party of the right to seek authorization for any denied  
13                     treatment from the Commission; and
- 14          (9)     the name, title, address, telephone number, fax number, email address and other contact  
15                     information for the person with authority over all decision-making for preauthorization  
16                     determinations (in addition to the claims adjuster), and the normal business hours and time zone of  
17                     this contact person.
- 18   (h) preauthorization agents shall acknowledge receipt of all communications within two business days of the  
19   request, and the acknowledgment shall satisfy G.S. 97-25.3(a)(2);
- 20   (i) Insurers that utilize a Peer Review Physician in making preauthorization decisions shall indicate in their  
21   preauthorization review policy the name, licensure, and specialty area of that Peer Review Physician and shall  
22   provide a profile (“Peer Review Physician Profile”) of that Peer Review Physician. The Peer Review Physician  
23   shall be licensed in either North Carolina, South Carolina, Georgia, Virginia, or Tennessee and shall hold  
24   professional qualifications, certifications, and fellowship training in a like specialty that is at least equal to that of  
25   the treating provider who is requesting preauthorization of surgery or inpatient treatment.
- 26   (j) Insurers shall, on an annual basis, electronically submit their Peer Review Physician Profiles to the Commission  
27   at the following electronic site (<ftp://ftp.ic.nc.gov>) by July 1 of each year.
- 28   (k) All requests for preauthorization by medical providers, claimant’s attorneys, or unrepresented claimants, and all  
29   preauthorization determinations made by insurers on the preauthorization requests is submitted on Industrial  
30   Commission Form 25PR. The Preauthorization Agent shall be responsible for providing the preauthorization review  
31   (PR) claim number and for forwarding medical records, communications, and preauthorization review  
32   determinations to the proper entities upon receipt, unless the insurer’s Preauthorization Plan designates and  
33   identifies another person to perform this requirement.
- 34   (l) The failure of an insurer to make a determination on a request for preauthorization within seven business days as  
35   specified in G.S. 97-25.3 shall result in an automatic waiver of the insurer’s right to contest the requested treatment,  
36   unless:

1           (1) an extension of time, not to exceed seven business days, is agreed upon by the insurer and the  
2           medical provider requesting preauthorization (or the claimant's attorney or unrepresented  
3           claimant, if no medical provider has requested preauthorization); or

4           (2) an additional extension of time is granted by the Commission pursuant to G.S. 97-25.3(a)(3).

5 (m) Requests made to the Commission for an extension of time shall be directed to the Office of the Executive  
6 Secretary, and shall be simultaneously copied to the requesting medical provider, if any, and to the claimant's  
7 attorney or to the claimant, if unrepresented.

8 (n) In accordance with G.S. 97-18(i), insurers are obligated to pay for any surgery or inpatient treatment provided  
9 under G.S. 97-25.3, for which preauthorization was requested for an admitted condition after the right to contest the  
10 preauthorization request is waived.

11 *History Note:* Authority G.S. 97-25.3; 97-80(a)

12 Eff. January 1, 2013.

13