

NEW MEDICAL MOTION PROCEDURE GUIDELINES – July 2014

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

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

- **ADMINISTRATIVE MEDICAL MOTIONS**

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

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

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

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

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

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

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