

SPECIAL RULES RELATING TO WORKERS' COMPENSATION

Chapter 5

Section 1. **General Construction.** These special rules relating to workers' compensation contested case proceedings before the Office are intended to supplement the foregoing provisions of Chapter 2. To the extent that any difference exists, the special rule takes precedence over any foregoing provision.

Section 2. **Filing and Service of Papers.** In all workers' compensation contested cases, the parties shall file all original documents, pleadings, and motions with the Workers' Compensation Division, with true and complete copies of the particular document, pleading, or motion properly served on all other parties or their attorneys, and this Office. Wyo. Stat. Ann. §§ 27-14-601(n) and 27-14-602.

Section 3. **Appointed Attorney.**

(a) The hearing examiner may appoint an attorney to represent an employee or claimant.

(b) Upon entry of a final order, an appointed attorney may request payment of reasonable fees and costs. All requests for fees and costs shall be verified and shall detail time spent and work performed. Permitted fees include:

(i) attorney's fees billed at an hourly rate of one hundred fifty dollars (\$150.00);

(ii) paralegal and legal assistant fees billed at an hourly rate of forty dollars (\$40.00). Reimbursable paralegal and legal assistant fees are those tasks requiring legal skill and knowledge. Clerical and secretarial tasks are not reimbursable and shall not be billed at a paralegal or legal assistant rate;

(iii) costs: appointed attorneys may request reimbursement of actual expenses reasonably incurred, with respective invoices/bills attached (e.g. expert witness fees, costs to obtain pertinent medical records, reasonable and customary postage costs, and subpoena costs). Copying costs shall be paid at no more than fifteen cents (15¢) per copy. If reasonably incurred, attorney's travel time shall be paid at one-half the hourly rate for attorney's fees; and

(iv) prevailing employer's attorney fees and costs billed at the rates established in this section in any contested case where the issue is the compensability of an injury.

(c) All requests for fees and costs shall be submitted to the Office within ninety (90) days of the final order. Any request for fees and costs not timely submitted shall be denied unless good cause is shown. Requests for fees and expenses of appointed attorneys shall include the attorney's certification that the fee statement is true and correct. The request shall additionally indicate the source (i.e., from the workers' compensation account, from amounts

awarded to the employee or claimant, or from the employer) from which the fees and expenses are proposed to be paid. Requests shall be properly served on all parties.

(d) No fee shall be awarded in any case in which the hearing examiner determines the claim to be frivolous or without legal or factual justification.

Section 4. Record of Proceedings. The presiding hearing officer shall assure that a record of the proceeding is kept pursuant to Wyoming Statute § 16-3-107(p). The cost of reporting the contested case evidentiary hearing shall be paid in accordance with Wyoming Statute § 27-14-602(c).

Section 5. Referral to the Medical Commission.

(a) Upon agreement of all the parties to a case, the hearing examiner may refer a medically contested case to the Medical Commission for hearing and final decision of all issues in the case.

(b) Upon agreement of all the parties to a case, the hearing examiner may refer a case to the Medical Commission for advice on specified medical issues. The hearing examiner will make the final decision on all issues in the case, and referrals for advice will be made only after the evidence in the case is closed. The parties shall have an opportunity to file written exceptions to the advice received from the Medical Commission and any exceptions, along with the advice received, shall become part of the record in the case.

Section 6. Hearing Deadline. In all workers' compensation cases, the contested case hearing shall be conducted, and the official record closed, no more than eleven (11) months after the first order setting hearing is issued. The hearing examiner shall issue final findings of fact, conclusions of law, and order no more than thirty (30) days after the record is closed.